

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
July 1, 2008

Present: Jean Hallahan; Deputy Town Clerk, Kenneth Spillias, Town Atty, and Sgt. Eubanks.

Meeting called to order at approximately 10:00 A.M.

There was an audience.

A. ADOPTION OF JUNE 3, 2008 MINUTES

The minutes were approved and adopted.

Special Magistrate Lara Donlon explained that this was an informal hearing and rules of evidence were not required, however, the Town may have exhibits that a respondent has the right to make objections to. She added that the Town would present their case and she would render a decision and issue a Final Order.

At this point all individuals planning on providing testimony were sworn in

B. VIOLATION HEARING
CASE NO. CE#2008-015

Fernando Carmons and Shelby St. James, 6780 N Ocean Blvd., Ocean Ridge FL 33435
RE: Lot 43, McCormick Mile Subdivision (6780 N Ocean Blvd.)

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by removing bathroom and kitchen plumbing fixtures and cabinets without first obtaining a permit

Atty. Spillias summarized the case and stated that the property has not been brought into compliance, and no permit had been applied for. He added that Sgt. Eubanks will testify that the violation still exists. He produced a copy of the affidavit of service by posting and notice of violation code section.

Sgt. Eubanks testified that on April 15th, 2008, she was a back-up officer responding to a neighbor's complaint of an open door at 40 Hibiscus. Upon investigation it was discovered that the property was in violation, finding the removal of the fixtures and cabinets without first obtaining a permit. She also stated that the property had been abandoned by the property owner, and submitted photos dated April 15th, 2008, and proof of ownership of property.

Atty. Spillias stated that the Town was requesting that they be brought into compliance within 20 days and be scheduled for a fine assessment hearing at the next hearing with a fine up to \$250 day, and reimbursement for the administrative costs in the amount of

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\$213.44. He requested that the permit be at least applied for at the next status hearing. If the property was in foreclosure, the permit must be applied for by the owner, or if the owner could not be located the bank may need a court order to allow them to represent the owner.

Gerard Scalf, Safeguard Properties was present and testified that the bank, Aurora Loan Services had filed an insurance claim for the interior damage, and that his company would maintain the exterior. It was unknown to him if the property was in foreclosure at this time.

Special Magistrate Donlon accepted the following Town exhibits: Code Enforcement Order Finding Violation and certified mail receipts as #A; photos taken on April 15th, 2008 as #B; Proof of Ownership as #C; and the administrative recovery worksheet in the amount of \$213.44 as #D. She asked that a public records search for foreclosure be performed by next status hearing on August 5th, 2008.

Special Magistrate Donlon stated that she did find there was proper notice and that they were in violation of Code 57-51 and advised that the owner to comply within 20 days or face a fine up to \$250.00 a day to be determined at the fine assessment and or status hearing. She also stated that the administrative recovery costs in the amount of \$213.44 shall be assessed and paid in full within 20 days. She stated that a Fine Assessment Hearing will be scheduled for the 5th day of August, 2008 at 10:00 AM.

C. VIOLATION HEARING
CASE NO. CE#2008-016

Gary Kafka and Sondra Pastore, 40 Hibiscus Way, Ocean Ridge FL 33435

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by replacing the wooden deck with concrete in the rear of the house, replacing the open wooden deck by the gazebo with concrete, installing a new wooden deck along the seawall, and installing a boatlift, all done without permits

Atty. Spillias summarized the violation that a deck and dock had been installed without a building permit. The Power of Attorney the family presented was with limited requirements, as it was not notarized, but was signed with 2 witnesses. It would be sufficient for today's hearing, but for the purpose of the permit, the permit would need the owner's signature, or the family would need to present a notarized affidavit. Atty. Spillias presented the proof of service for the notice of violation, and an affidavit of service.

Sgt. Eubanks testified that the Town Clerk received a complaint on May 12, 2008 concerning the water run-off onto the neighboring property. The Town Manager and Town Engineer had discovered that the owner had installed a dock and concrete deck without obtaining a permit. Sgt Eubanks presented a 1994 survey of the property. Showing and area marked in red by the town engineer. The red area showed the improvements that had been made without a permit. She also presented a copy of the clerk's ledger showing the entry of Permit #5943, dated May 4, 1994 to replace 160ft of

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seawall. The description of the scope of work did not mention a dock or a concrete deck; there were also no record of any inspections being performed. She also presented 5 photos taken of the property on May 13th, 2008, and proof of ownership.

Atty. Spillias requested that a permit be applied for and asked for administrative costs in the amount of \$198.28.

Mr. Faller, was present with a Power of Attorney from Gary Kafka. He reported that the owner, Gary Kafka was currently incarcerated in the Federal Detention at Fort Dix for the last 1½ years, and his spouse, Sondra Pastore was also incarcerated in the Federal Detention at Coleman, Florida. He presented an affidavit from Gary Kafka that he had just received the previous day, stating that proper permits and inspections had been performed. Atty. Spillias noted that this affidavit was not notarized, but would be admissible for the purpose of this hearing. A 1995 sealed survey was presented showing the completed work. He questioned why the drainage was a new issue, as in the last 13 years there had been several hurricanes and heavy rain storms. This work was done before the neighboring homes were built. He requested a continuance until November, as Sondra Pastore was scheduled to be released at that time.

Atty. Spillias asked if Gary Kafka would be able to sign/authorize for a permit while he was being incarcerated. The new permit application would need the owner's signature. Mr. Faller replied that he may be able to accomplish this through Mr. Kafka's lawyer.

Special Magistrate Donlon questioned the Deputy Clerk as to the procedures for applying for a seawall or dock permit. Deputy Clerk Hallahan testified that Ocean Ridge will not issue a dock permit without DEP approval. She added that if Mr. Kafka had a dock permit, it may only have been from DEP, and an Ocean Ridge permit may have never been applied for or approved for the dock, deck and concrete patio. Atty. Spillias asked how much detail did the ledger provide, and was the permit or permit application available. Deputy Clerk Hallahan stated that she was not an employee during 1994 & 1995, and was familiar with the ledger, or how items were posted, or the length that dock permits were held. Town Clerk Hancsak was here during 1994/1995, as she had been an employee for approx. 28 years, and might have more insight.

Special Magistrate Donlon accepted the following Town exhibits: A) Affidavit of service, Affidavit of Notice of Violation and Attached Ordinance #57-51. B) Map survey dated 1/23/93 with notations. C) Town Clerk Ledger showing receipt of permit on May 1994. D) Photos dated May 13, 2008. E) Proof of ownership. F) Administrative Recovery worksheet in the amount of \$241.98.

Mr. Faller, representative for Gary Kafka, stated that the sworn affidavit states that the Town Manager/Building Official signed off on the work and was on the property. He asked that the Town try to contact him regarding the permit issue. Special Magistrate Donlon asked if the town was still in contact with Gary Lanker. Atty. Spillias advised that even if he was there and allowed him to perform the work without a permit, it would not be a factor, but we could try to contact him and ask for any insight.

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Special Magistrate Donlon accepted the following Respondents exhibits: A) Affidavit of Support of Fact that they followed proper permitting procedures. B) Limited Power of Attorney.

Special Magistrate Donlon granted a continuation and requested that further information be presented at the next meeting on August 5th at 10am with the Town Clerk present.

C. ADJOURNMENT

The meeting was adjourned at approximately 10:40 AM.

Deputy Town Clerk