

MINUTES
FORT MYERS BEACH
Special Magistrate Hearings
Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Thursday, June 28, 2018

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Mr. Madden swore in those providing testimony.

Mr. Jack Peterson and Mr. John Turner, Town Attorneys, represented the Town in cases with opposing counsel.

BEACH PATROL CASES TO BE HEARD:

Property Owner: Aaron Oldsfield
SUBJECT: Overtime Meter
CODE SECTION: 28-51(A)
LOCATION: Old San Carlos
BASE OFFICER: Mark Pergoli
REFERENCE NO: Citation 73207024

Mr. Madden determined that Mr. Oldsfield was not present. He entered an order to confirm the citation without a hearing. The amount entered for the citation was \$70.00 and administrative fees were \$175.00.

Property Owner: Bruce Gottschalk
SUBJECT: Overtime Meter
CODE SECTION: 28-51 (A)
LOCATION: Palm Ave.
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation 73108114

Todd Sears, BASE Officer, indicated that Mr. Cernoia was out of town. Mr. Sears relayed that on June 17, 2018, Mr. Cernoia observed that Space 198 on Palm Ave. was expired. He issued an overtime meter citation at 1:04 p.m. to a white Mercedes Benz with a Florida plate CYY Z96. He took pictures and placed the citation under the driver's side windshield wiper.

Mr. Gottschalk provided a copy of the front of the citation. He stated that the parking meter box was inoperable so he downloaded the app to pay for parking. He did not have a credit card with him so he called the phone number on the on meter but it sent him to a voice mail. He did not have a problem paying for parking, but he did have a problem with being penalized for the inoperable meter.

Mr. Sears confirmed that the pay station was inoperable at the time and there was a sign on the meter stating that one had to pay via the passport app. He noted that there were meters that accepted cash in other areas.

Mr. Gottschalk indicated that he was in the space for 2 hours and 20 minutes. He mentioned that he could have tried to find another spot, but there was no guarantee that he would have found one. Mr. Madden entered an order of \$9.00 to be paid by Mr. Gottschalk. He dismissed the administrative fee of \$175.00.

Property Owner: PERSAUD PROPERTIES FL INVESTMENTS
SUBJECT: LDC Section: 14-5 Operating without a permit
LOCATION: 1028 Estero Blvd
STRAP NO: 24-46-23-W3-00017-0000
CODE OFFICER: Rae Burns
REFERENCE NO: CE18-0234

Ms. Burns noted that Todd Sears, Code Officer, inspected the property on April 13, 2018 and he found the following condition: operating chair rentals without a permit. Ms. Burns referred to Exhibit K, which listed the dates of previous citations. The action necessary to correct the violation is to stop the beach activities immediately, secure any required permits and pass subsequent inspections for a chair rental business. The notice of violation was sent to the owner via certified mail on April 18, 2018 and it was claimed. It was posted at the property on April 19, 2018. The notice of hearing was sent to the owner via certified mail on April 26, 2018 and it was not claimed. It was posted to the property on May 31, 2018. A notice of the amended hearing date was posted at the property on June 19, 2018. Pictures of the individual postings were included in the file. Ms. Burns provided a map showing the two properties that abutted the case on Estero Blvd. The abutting property at 1046 Estero was owned by Persaud Properties and the property on the other side was owned by someone else. She indicated the property was inspected on June 20, 2108 and the condition still existed. She noted that the property was occupied and they had contact with the attorney representing the owner. She stated that the case was reported by a citizen.

If the hearing found a violation, the Town requested a finding of fact, pay all issued citations in the amount of \$17,200.00, discontinue chair rentals until a permit is obtained and all subsequent inspections passed by July 18, 2018; otherwise a fine per day of \$500.00 pursuant to code, a \$450.00 administrative fee and a recall date of July 26, 2018. The Town presented 36 citations.

Mr. Moon, attorney for the property owner, stated that they had multiple objections concerning the evidence. He indicated that they never asked that the evidence be accepted and he stated that it contained improper hearsay, specifically his pleas that he filed in Circuit Court. There was not a proper predicate laid to ask the court to accept the records as business records. He noted there was an extensive due process violation; they were there for one violation, not 36.

Ms. Burns stated that the photographs were taken during the normal course of business by employees of Fort Myers Beach and the photos accurately depicted the condition of the property. The photos were maintained in the normal course of business and were public record. Ms. Burns noted that she did not take any of the photographs nor was she present when they were taken. Ms. Burns stated that she was typically given the photos the day they were taken and she verified the conditions the photos depicted the same day. Mr. Moon questioned whether Ms. Burns was the

records custodian for the Town of Fort Myers Beach. Town Attorney Turner objected and stated that she was an employee. Ms. Burns indicated that she was asked to supervise the case but she was not the records custodian for the Town. Mr. Madden noted Mr. Moon's objection to their entry. Mr. Madden noted that they would be entered for the purposes of being helpful to the case. Mr. Moon clarified that the photos were from Times Square. Ms. Burns noted that she had not received an application for a permit and no one from the Town had contacted her about the permit. She stated that she was in charge of permits for beach chair vending.

Mr. Madden confirmed that the previous citations had not been appealed, the Town brought forward a code enforcement case through the code enforcement channels, not the citation channels, to illustrate the point that they are leasing beach furniture and equipment without a permit at 1028 Estero and they asked for a finding of fact that this was a repeat violation indicated by the past citations. If the permit was not issued by July 18, 2018 and the use continued, the Town asked for a fine of \$500.00 per day for each violation as a repeat violation. The Town requested an order that the respondent pay the \$17,200.00 in citation fees. Mr. Madden stated that they were hearing one violation at the location of 1028 Estero Blvd. and the 36 unpaid citations was evidence of that violation.

Mr. Persaud indicated that he applied for permits several times but he was refused. Robert Bogart, Building Services, refused his latest application on April 17, 2018 and he did not explain why he refused the application. Mr. Persaud stated that the application was originally presented on April 11, 2018 by Joe Orlandini and the Town refused it twice. Mr. Persaud met with Mr. Bogart and submitted the application. When Mr. Bogart refused to accept the application, Mr. Persaud stated that he could not refuse and he cited the Statute in the Ordinance. Mr. Bogart walked away. Mr. Persaud indicated that Mr. Bogart provided a business card verifying his presence. Mr. Persaud met with Town Manager Hernstadt and presented him with the Ordinances. Town Manager Hernstadt reviewed the information and sent an email. Mr. Moon distributed copies of the email. Mr. Persaud was not able to obtain a permit and was not referred to Mr. Bogart. He requested that the Town provide him with a permit and he was prepared to pay for it. He was never given a reason for the denial of his application. Mr. Persaud noted that he previously had a chair rental permit for the property but it expired when the previous vendor left. He stated that chairs had been on his property for the last 40 years and he did not operate his property as a resort.

Town Attorney Turner questioned whether Mr. Persaud or his entities had ever held a permit for chair rentals at that location. Mr. Persaud replied that he did not, but his lessee did. Town Attorney Turner questioned whether the property in question abutted a resort. Mr. Persaud replied that it abutted a parking lot for the restaurant.

Mr. Madden questioned why the application was denied. Town Attorney Turner noted there was no basis to issue a permit because the owner of the property had not been an existing license holder and they did not meet the terms of the Ordinance. Mr. Madden summarized that the owner of the property never had a license and the current LDC and zoning regulations did not allow a new license to be issued in that location; therefore, the application was null and void. Mr. Moon noted that under Section 34 under Code was amended in 2016 and it laid out how to go about renting chairs. That section would allow Mr. Persaud to rent the chairs as owner of the private property. Ordinance 14-05 did not preclude Mr. Persaud from renting chairs. Mr. Persaud referred to Exhibit A, Subsection F, Paragraph 2, permitted merchandise and types of outdoor displays. The code that was in effect at the time of the alleged violation on April 13, 2018 was Section 34-678, paragraph

F (2) (c) of Section 2 – Beach Accessories and Chairs. He referred to subparagraph 6 under 34-678 - Permit Required.

Jason Green, Community Development Director, referred to 34-652 D (6) – Environmentally Critical Zoning District and limitations for Recreation Activities. He stated that the location of the beach chair rental was in the Environmentally Critical Zoning District.

Mr. Moon questioned whether the property was adjacent to a multi-family residential building containing more than 50 dwelling units. Mr. Green replied in the negative and he confirmed that Mr. Persaud’s property was not a multi-family residential unit. He questioned whether Mr. Green could cite a code that would restrict Mr. Persaud’s rental business. Mr. Green replied in the negative. Mr. Moon questioned who would issue the permit. Mr. Green replied that Ms. Burns issued the permit. Mr. Green did not have any knowledge of the reason why the permit was denied. Mr. Moon stated that the section the Town referred to was not applicable in Times Square. Beach furniture was allowed in Times Square per LDC 14-5. Ms. Burns noted that the Times Square District did not extend to the Gulf. Mr. Moon submitted that Mr. Persaud’s property was not in the environmentally controlled area.

Mr. Madden found that a beach chair rental operation existed on 1028 Estero Blvd. without a permit and he ordered that \$450.00 in administrative costs be paid. If the condition was not abated by July 18, 2018 a fine of \$250.00 per day will be assessed. The recall date was July 26, 2018. He stated that the order was silent as to the citations, they stood on their own and were collectable by the Town of Fort Myers Beach. He entered an order to that effect. Mr. Moon requested that the citations not be collected by the Town since Mr. Persaud attempted to comply. Mr. Madden replied that he was not going to deal with the citations. Mr. Moon requested 60 days. Mr. Madden ordered that they comply by August 22, 2018 with a recall date of August 30, 2018. Mr. Moon submitted the application to the Town for the record. Town Attorney Turner refused to accept the application. Mr. Moon submitted the application to Ms. Burns.

Property Owner: PERSAUD PROPERTIES FL INVESTMENTS
SUBJECT: LDC Section:14-5 Operating without a permit - Beach Vendor
LOCATION: 1046 Estero Blvd
STRAP NO: 24-46-23-W3-00016-0000
CODE OFFICER: Rae Burns
REFERENCE NO: CE18-0235

Ms. Burns noted that Todd Sears, Code Officer, inspected the property on April 13, 2018 and he found the following condition: operating without a beach vendor permit. Ms. Burns referred to Exhibit K, which listed the dates of previous inspections. The action necessary to correction the violation is to stop all beach activities immediately, secure any required permits and pass subsequent inspections. The notice of violation was provided to the property owner on April 16, 2018. It was posted on the property on April 18, 2018. The notice of hearing was provided to the property owner on April 26, 2018. It was posted to the property on May 31, 2018. A notice of the amended hearing date was posted on the property on June 19, 2018. The violation had not been abated.

Mr. Madden verified that the application provided to him in the previous case applied to CE18-0235 and contained both addresses.

Ms. Burns noted that the physical location of the building was located in Times Square but photos showed that the rental chairs were on the beach in the environmentally controlled district. She indicated that she did not take the photos, she was not present when the photos were taken and she was not the records custodian for the Town. She described a photo (K 10) that showed money being exchanged between Mr. Persaud and a gentleman sitting in a beach chair. Mr. Moon questioned whether she was aware of Mr. Persaud serving drinks or food on the beach. Ms. Burns did not think drinks were allowed on the beach. Mr. Moon questioned whether she was aware that Mr. Persaud served water on the beach from his restaurant. Ms. Burns replied that from previous discussions she heard, it was brought up that drinks were not allowed on that section of the beach but she did not see the direct documents. Mr. Moon questioned whether Ms. Burns had an independent knowledge of Mr. Persaud renting chairs in the environmentally critical area of the beach. Ms. Burns replied that a picture of a beach chair rental sign was located in the environmentally critical zone. She did not see chairs being rented in that area. Ms. Burns noted that she had pictures of a gentleman taking chair rental payments on the beach (K 54). Mr. Moon questioned whether Ms. Burns was aware that the adjoining property rented chairs on the beach. Ms. Burns was aware and she stated that they had a valid permit. Mr. Moon noted that the adjoining business placed chairs in the environmentally critical area. Ms. Burns indicated that the property was grandfathered. Mr. Moon questioned whether Ms. Burns knew the gentleman who was taking payments for chair rentals. She did not. Mr. Kirkesner from Rebel Water Sports stated that the gentleman in the photo was employed by Mr. Persaud.

Mr. Moon stated that the Town refused to take his application for a permit and Mr. Persaud was entitled to a permit based on Section 34-652, which dealt with the environmentally critical zoning district. Mr. Moon noted that a chair rental business was on the property without a permit. Mr. Persaud stated that his property was partially in the EC zone and Times Square. The EC zone addressed residential properties but not restaurants. He noted that if they stopped putting chairs on the property, the Town would consider the property nonconforming after 30 days. He indicted that he had three cases in court over the issue. Mr. Moon noted that the current case was not before the court yet.

Mr. Madden found that a violation existed in the form of a chair rental business operating without a permit. He ordered that Mr. Persaud cease the operation or obtain a permit by August 22, 2018 with a recall date of August 30, 2018. If the permit was not issued, a fine in the amount of \$250.00 per day will accrue after August 22, 2018. He noted that the application was attempted to be made on April 11, 2018 and April 17, 2018 for this location. Administrative costs of \$450.00 will be assessed. Mr. Madden will send out an order to that effect and the order would be silent as to the matter of citations. Mr. Moon requested that the matter be dismissed due to the Town failing to enter anything into evidence, the court refused to accept evidence and Ms. Burns was not the proper party to authenticate the records. Mr. Madden accepted the photos attached to the citations in Exhibit K and the code enforcement file that was tendered as evidence.

Town Attorney Turner noted that Mr. Persaud will be cited each day if they continue to operate their business without a permit. Mr. Moon was aware that Mr. Persaud would be cited. Town Attorney Turner made it clear that if there was a violation, they would be cited.

Property Owner: Lighthouse Island Resort Inc

SUBJECT: LDC Sec. 34-3203 Operating a Parking Lot
LOCATION: 332 Crescent St.
STRAP NO: 19-46-24-W4-0150E-016A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE18-0170

Ms. Jacobs inspected the property on March 15, 16, 20, 2018, April 7, 2018 and June 26, 2018. Joe Kontomanolis inspected the property on March 17, 2018. The following condition was found: operating a parking lot. The action necessary to correct the violation is to refrain from parking vehicles on the property and utilizing the lot as a parking lot or storage lot. A notice of violation was provided to the property owner on April 14, 2018 and it was claimed. It was posted at the property on April 9, 2018 and posted at Town Hall on April 11, 2018. A notice of hearing was provided to the property owner on April 25, 2018 and it was claimed. Ms. Jacobs took pictures that accurately reflected the condition of the property. She inspected the property on June 26, 2018 and indicated that the structure was inaccessible; therefore, not a residence and no vehicles were permitted on the lot. She stated that there was no legal ingress or egress to the structure and vehicles were using the property as a parking lot.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit for existing uses or cease operation as a parking lot and pass all subsequent inspections by July 18, 2018; otherwise a fine per day pursuant to Code with \$275.00 in administrative costs.

Mr. Madden found that a violation did exist and he ordered that \$275.00 in administrative costs be paid. If the condition was not abated by April 18, 2018 a fine of \$250 per day will be assessed. The recall date was July 26, 2018. He entered an order to that effect.

Property Owner: MARKOVICH GEORGE & AMY
SUBJECT: LDC Sec. 34-3203 Operating Parking Lot w/out a USE Permit
LOCATION: 1510 Estero Blvd.
STRAP NO: 19-46-24-W4-0070C-0020
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE18-0035

Mr. Moon represented Joe Orlandini, partner in the property. He requested that the case be moved to next month to allow Mr. Orlandini to appear. Town Attorney Turner objected. He stated that the case was continued from last month under their objection. Mr. Moon accepted responsibility for informing Mr. Orlandini that he did not have to appear at the hearing; subsequently, Mr. Orlandini was out of town. Mr. Madden stipulated that in the event there was a finding of violation next month, it would date back to today. Mr. Moon was hesitant to accept the stipulation for his client. Town Attorney Turner asked that it be retroactive to last month when it was first continued. Mr. Madden asked Mr. Moon to advise his client that there will be no continuance after next month, if there is a finding of violation next month, he will take into consideration the 28-30 days from today going forward as for time for abatement. If a violation is found, there will be a short period of time offered to produce the proper permits or cease the operation.

Mr. Madden entered an order that the case will continue on July 26, 2018 and the time for compliance will be calculated using the dates June 26, 2018 to July 28, 2018 for abatement time.

RE-HEARING CASE TO BE HEARD:

Property Owner: WHITE SWAN INVESTMENTS LLC
SUBJECT: LDC Section 34-621 Non-Permitted USE - Converted SFR to Quad-Plex
LOCATION: 203/205 Fairweather Ln.
STRAP NO: 19-46-24-W3-0110C-0090
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE16-0445

Ms. Jacobs stated that Mr. Moon requested a re-hearing based on the amended notice of code enforcement hearing, item B3. Mr. Madden confirmed that the amended order to impose lien was dated December 27, 2017.

Mr. Moon explained that procedurally it was heard on February 22, 2017 and the order issued on December 27, 2017 specifically indicated that the property owner had 20 days from the date of the hearing to request a re-hearing. Mr. Moon requested a re-hearing three times within the 20-day time period and code enforcement denied each request. It was put on the docket two months ago to enter the lien and Mr. Moon raised due process arguments. Mr. Madden indicated that he did not have the authority to hear it and Mr. Moon disagreed. He felt that Mr. Madden had the authority to either re-hear it or mitigate the fines before the lien was entered.

Ms. Jacobs indicated that all requests for re-hearing were denied until an order was produced. She indicated that by that order, he was within the time frame. Mr. Madden agreed to re-hear the matter of imposing the lien with the knowledge that he did not have the authority to mitigate liens. Mr. Moon disagreed.

Mr. Moon cited Attorney General Opinion 93-91 regarding a timeframe for mitigations. He was not aware of any Town code that restricted Mr. Madden's ability to mitigate fines. He mentioned an Act of God defense to explain why fines should be reduced and/or mitigated. Mr. Madden stated that there was a special provision in the code that took the discretion to mitigate away from the Magistrate. Mr. Moon noted that it was his intent to attack the constitutionality of that because the Attorney General ruled differently. He stated that the Town took away Mr. Madden's ability to reduce a lien, but not his ability for a hearing to impose a lien. He stated that it was a fine at this point and Mr. Madden did have the ability to reduce or eliminate a fine at any time. Mr. Moon agreed that it went to Town Council after the lien was recorded.

Mr. Moon stated that the final fire inspection was on December 18, 2017. He explained events in the timeline regarding permits, inspections and disruption by the hurricane. He noted that they had to bring the entire property to code, which also took time. He stated that the owners spent over \$100,000.00 to make the property better and the property was in compliance. He suggested a fine of \$2,000.00 to compensate the Town.

Town Attorney Turner questioned whether the same facts were argued in December of 2017. Mr. Moon stated that he did not attend the December hearing. Mr. Madden did not think anyone attended for the respondent. Ms. Jacobs agreed. Mr. Madden clarified that this was the re-hearing

on the amended order to impose the lien. Town Attorney Turner questioned whether Mr. Madden's jurisdiction was limited. Mr. Madden replied that Mr. Moon was requesting mitigation of the fine amount prior to recording the lien. Mr. Madden did not think Mr. Moon's request was unusual based on the history of the case. He felt that the Town improperly denied them the opportunity for a second hearing. Mr. Madden felt that \$2,000.00 was reasonable and he entered an order to that effect. If a lien was recorded, he advised that they satisfy the lien with payment of the \$2,000.00. Ms. Jacobs stated that they were not in compliance for 203 days. Mr. Madden noted that a hurricane struck in the middle of the timeline. Ms. Jacobs stated that \$2,000.00 did not cover staff time. She noted that the \$275.00 in administrative costs had been paid. She requested a fine of \$5,000.00 was reasonable. Mr. Moon disagreed. Mr. Madden entered an order of \$2,500.00 to be paid within 20 days or July 18, 2018.

LIEN CASES TO BE HEARD:

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 NOH-SWO - Reroof w/out permit
LOCATION: 1710/1740 Estero Blvd.
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE15-0260

Ms. Jacobs stated that the case was brought before the Magistrate on October 28, 2015, a finding of fact was established and an order was issued citing the respondent was in violation of work without a permit – roof. The respondent was ordered to obtain required permits and pass required inspections. The administrative costs were waived. In the event the violation was not abated by November 15, 2015, a fine of \$250.00 per day was to be imposed. As of June 27, 2016, permit COM15-0260 was finalized, a 225-day difference from November 15, 2015 to June 27, 2016. The lien total was \$56,250.00. The Town requested an order to lien.

Mr. Moon argued that the Town dug its feet issuing permits.

Mr. Madden entered an order imposing the lien.

Discussion was held regarding swearing in Mr. Moon.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work done Without Permits
LOCATION: 1710/1740 Estero Blvd.
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE15-0385

Ms. Jacobs stated that the case was brought before the Magistrate on October 28, 2015, a finding of fact was established and an order was issued citing the respondent was in violation of work without a permit. The respondent was ordered to obtain required permits and pass required

inspections. Administrative costs were not assessed. In the event the violation was not abated by December 1, 2015, a fine of \$250.00 per day was to be imposed. As of May 30, 2018, application for permit COM15-0385 had not been issued. The last action recorded occurred on August 11, 2017 when plans were picked up. The Town asked for an order to lien.

Mr. Moon noted that there were considerable delays regarding issuing the permit. He asked that Mr. Madden consider Mr. Orlandini's prior testimony. He requested that Mr. Madden consider the lien of \$56,250.00 already entered against the property was more than enough to lien the property and place it into compliance. He stated that they were waiting for the Town to issue a permit.

Mr. Madden entered an order imposing the lien of \$56,250.00.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 10-7 & 10-122 Pavers Replaced w/out Permit
LOCATION: 1710/1740 Estero Blvd.
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE15-0397

Ms. Jacobs stated that the case was brought before the Magistrate on December 30, 2015, a finding of fact was established and an order was issued citing the respondent was in violation of work without a permit – pavers. The respondent was ordered to obtain required permits and pass required inspections. Administrative costs were not assessed. In the event the violation was not abated by January 25, 2016, a fine of \$250.00 per day was to be imposed. As of March 30, 2016, permit DRV15-0055 was finalized, a 65-day difference from January 25, 2016 to March 30, 2016. The lien total was \$16,250.00. The Town requested an order to lien.

Mr. Moon relied on the same arguments that the Town was responsible for withholding permits. He felt that the prior liens were more than sufficient to press compliance.

Mr. Madden entered an order imposing the lien of \$26,250.00.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out a Permit - Remodel of interior units
LOCATION: 1710 Estero Blvd
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE16-0099

Ms. Jacobs stated that the case was brought before the Magistrate on April 27, 2016, a finding of fact was established and an order was issued citing the respondent was in violation of work without a permit – remodel of interior units. The respondent was ordered to obtain required permits and pass required inspections. Administrative costs of \$175.00 were assessed and had not been paid. In the event the violation was not abated by June 1, 2016, a fine of \$100.00 per day was to be

imposed. As of May 30, 2018, permit COM16-0166 had not been issued but was applied for. The Town requested an order to lien.

Mr. Moon questioned why the permit had not been issued. Ms. Jacobs noted a comment letter was sent on December 15, 2016 and there was no resubmittal. Mr. Moon questioned when the Town received the permit. Ms. Jacobs responded that the application was received on May 31, 2016.

Mr. Moon relied on the same arguments that the Town was responsible for withholding permits. He felt that the prior leans were more than sufficient to press compliance.

Mr. Madden entered an order imposing the lien.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/Out a permit-stairs
LOCATION: 1710/1740 Estero Blvd.
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0066

Ms. Jacobs stated that the case was brought before the Magistrate on April 27, 2017, a finding of fact was established and an order was issued citing the respondent was in violation of work without a permit – stairs. The respondent was ordered to obtain required permits and pass required inspections. Administrative costs of \$175.00 were assessed and were paid. In the event the violation was not abated by June 20, 2017, a fine of \$150.00 per day was to be imposed. As of May 30, 2018, no application had been submitted. The Town requested an order to lien.

Mr. Moon questioned whether the building permits under CE16-0099 and CE15-0385 included this work. Ms. Jacobs noted that CE16-0099 pertained to one unit and CE15-0385 pertained to a remodel that was completed, another remodel occurred and the stairs were separate. Mr. Moon questioned whether there was a pending permit for remodeling the outside of the building. Ms. Jacobs replied that there was one to replace windows and plywood.

Mr. Moon relied on the same arguments that the Town was responsible for withholding permits. He felt that the prior leans were more than sufficient to press compliance.

Mr. Madden entered an order imposing the lien.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 REPEAT - Remodel of Interior Units (1710)
LOCATION: 1710/1740 Estero Blvd.
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0297

Ms. Jacobs stated that the case was brought before the Magistrate on August 30, 2017, a finding of fact was established and an order was issued citing the respondent was in violation of repeat work without a permit – remodel of interior units. The respondent was ordered to obtain required permits and pass required inspections. Administrative costs of \$207.00 were assessed and were

not paid. In the event the violation was not abated December 5, 2017, a fine of \$500.00 per day was to be imposed. As of May 30, 2018, permit application COM16-0166 was still under review. The Town requested an order to lien.

Mr. Moon questioned whether the Town was in possession of the building permit since May 31, 2016. Ms. Jacobs stated that it was applied for on May 31, 2016. Mr. Moon questioned whether it was the same remodel permit sought for CE16-0099. Ms. Jacobs replied affirmatively. Mr. Moon questioned the difference of what was being done in CE17-0297 as far as new steps being taken for a remodel. Town Attorney Turner objected that there was no motion for a rehearing.

Mr. Moon relied on the same arguments that the Town was responsible for withholding permits. He felt that the prior leans were more than sufficient to press compliance.

Mr. Madden entered an order imposing the lien.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 REPEAT - Remodel of Interior Units (1740)
LOCATION: 1710/1740 Estero Blvd. STRAP NO: 19-46-24-W4-0070A-0010 CODE
OFFICER: Molly Jacobs
REFERENCE NO: CE17-0301

Ms. Jacobs stated that the case was brought before the Magistrate on August 30, 2017, a finding of fact was established and an order was issued citing the respondent was in violation of repeat work without a permit – remodel of interior units. The respondent was ordered to obtain required permits and pass required inspections. Administrative costs were waived. In the event the violation was not abated December 5, 2017, a fine of \$250.00 per day was to be imposed. As of May 30, 2018, permit application COM16-0166 was still under review. The Town requested an order to lien.

Mr. Moon questioned whether it was the same permit being sought for CE15-0385 and CE16-0099. Ms. Jacobs replied that it was and she was waiting for a resubmittal.

Mr. Moon relied on the same arguments that the Town was responsible for withholding permits. He felt that the prior leans were more than sufficient to press compliance.

Mr. Madden entered an order imposing the lien.

Property Owner: UNKNOWN HEIRS OF MANNER RICHARD (SAMUN LLC)
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 REPEAT - Work w/out Permit - Remodel
LOCATION: 1667 I St.
STRAP NO: 19-46-24-W4-0070B-005A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE18-0185

Ms. Jacobs inspected the property on March 19, 2018 and April 23, 2018. The following condition was found: repeat work without a permit – remodel. The action necessary to correct the violation is to stop all work, obtain required permits and pass required inspections. A notice of violation

and a notice of hearing were provided to the property owner on May 11, 2018 and they were unclaimed. It was posted at the property on May 11, 2018 and posted at Town Hall on May 18, 2018. Ms. Jacobs included pictures from Vacation Rental by Owner. A remodel application for a permit had not been submitted.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass all subsequent inspections by September 19, 2018; otherwise a fine per day pursuant to Code with \$275.00 in administrative costs with a recall date of October 25, 2018.

Ms. Jacobs noted that this is not a repeat because they did not receive the order since the case was continued. She noted it was an oversight. Mr. Madden questioned what work was done that needed a permit. She replied bathrooms and kitchen. Mr. Madden stated that he did not have before and after photos. He noted that floor tile did not trigger a permit. Ms. Jacobs responded that it had been unoccupied for two years and work was not done prior to that. It was being remodeled and offered for rental. Ms. Jacobs stated that the unsafe structure was triggered due to a lack of ingress and egress. Mr. Madden noted that they were ordered to fix the deck in 2015. Ms. Jacobs did not have any contact with the new owners.

Mr. Madden found that a violation did exist and he ordered that \$275.00 in administrative costs be paid. If the condition was not abated by September 19, 2018 a fine of \$250.00 per day will be assessed. The recall date was October 25, 2018. He entered an order to that effect.

Property Owner: UNKNOWN HEIRS OF MANNER RICHARD (SAMUN LLC)
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Unsafe Building
LOCATION: 1667 I Street
STRAP NO: 19-46-24-W4-0070B-005A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE16-0645

Mr. Madden questioned whether the new owners were noticed. Ms. Jacobs replied in the negative. Mr. Madden entered an order to renotice.

Property Owner: Richard Mannor (SAMUN LLC)
SUBJECT: FMB PMC 304.1 & 304.2 & 302.4 SWO-Work w/out permit
LOCATION: 1667 I Street
STRAP NO: 19-46-24-W4-0070B-005A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE14-0191

Mr. Madden entered an order to renotice to establish an order to lien.

Property Owner: FREIER MICHAEL + THOMM STEFAN
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit - Below
BFE
LOCATION: 121 Sand Dollar Dr.

STRAP NO: 03-47-24-W3-00227-0000
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0722

Ms. Jacobs noted that a compliance agreement was signed on November 17, 2017 for work without a permit - below BFE. The compliance date was April 27, 2018; otherwise a fine of \$250.00 per day would be assessed. As of June 27, 2018, BLD180073 and all associated trades were not finalized. The administrative fee of \$275.00 was due. The Town will waive administrative costs in the event the case was abated. The Town requested an order to lien.

Mr. Madden entered an order to impose a lien.

Compliance agreements were reached with the following cases: CE17-0722, CE18-0052, CE18-0007, CE18-0171, CE17-0674, CE18-0140, CE18-0142, CE18-0143 and CE18-0145. Abated: CE18-0163, CE18-0280 and CE17-0672. CE17-0705 was withdrawn.

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