

**MINUTES  
FORT MYERS BEACH  
Code Enforcement**

Town Hall – Council Chambers  
2523 Estero Boulevard  
Fort Myers Beach, FL 33931

**Wednesday, January 15, 2014**

**Hearing Examiner - Special Magistrate:** Mr. Joe Madden

**Code Enforcement Officer for Fort Myers Beach:** Mr. Robert Mercado

Mr. Madden swore in those providing testimony.

**CASES TO BE HEARD:**

- 1)      **PROPERTY OWNER:**           Judith Kenary  
          **SUBJECT:**                    LDC Section: 6-111  
  103.3 Stop Work Orders  
          **SITE ADDRESS:**           5840 Lauder St., Fort Myers Beach, FL  
          **STRAP NO.:**                33-46-24-W2-0030E.0060  
          **CODE OFFICER:**           Robert Mercado  
          **REFERENCE NO.:**         CE13-0247

Code Enforcement Officer Mercado reviewed violations and history of the case.

Mr. Jason Van Roekel, owner of Modern Building Concepts, stated that the property owner hired him to assist her with the permit process. Mr. Van Roekel reported that the stairs would be replaced to code and that a required survey had been scheduled. Mr. Madden questioned if the stairs were still being used. Mr. Van Roekel replied in the affirmative. Mr. Van Roekel revealed that he would tear down the stairs as soon as he received the permit.

Mr. Madden stated that there was a finding of fact that a violation existed in the form of work done after the posting of the stop work order. The respondent has 30 days to permit the improvements and obtain a final inspection. In the event that the respondent does not comply, there would be a daily fine of \$100 and \$285 in enforcement costs. Mr. Madden stated that they obtain the permit and final inspection or remove the improvements.

- 2)      **PROPERTY OWNER:**           Briarwood Properties, Inc.  
          **SUBJECT:**                    Unauthorized installation of approximately 200' of rip rap  
  placed on the beach, seaward of the 1978 Coastal  
  Construction Control Line and Stormwater discharge onto  
  the beach.

LDC Sections: 26-77(d)(2). Seawalls and retaining walls along natural water bodies.  
6-366(a). Location of construction near beaches.  
14-3(a)(13). Destruction or diminishment of dune or beach system.  
6-13. Stormwater drainage on the beach.  
LOCATION: 6530 Estero Blvd.  
STRAP NO.: 33-46-24-W300016.0000  
CODE OFFICER: Keith Laakkonen  
REFERENCE NO.: CE13-0220

Code Enforcement Officer Laakkonen reviewed violations and history of the case, as well as impacts of violations and the Town's request. Mr. Laakkonen requested a fine of \$2,000.00 and prosecution costs. Mr. Madden questioned the basis for the fine. Mr. Laakkonen stated that staff had put time and effort into the case and that the violations made a significant impact to the beach system. Town Attorney Miller referenced Sec. 2-427(b)(1), which stated the fines could not exceed \$5,000.00.

Mr. Sorin Lupu, an officer of the company, denied the allegations by Mr. Laakkonen. Mr. Lupu requested a continuance so he could obtain legal advice and consult with experts. Mr. Lupu stated that the requirements would probably do more damage to the beach. Mr. Lupu disagreed with the chronology of events and the characterization of interviews with manager Mr. Ken Dixon. Mr. Madden questioned the need for a continuance since this had been going on since May of 2013. Mr. Lupu stated that he wanted to involve an expert and he had contacted an ecologist and would consult an engineer. Mr. Madden questioned how quickly Mr. Lupu could be prepared to address the issue. Mr. Lupu replied that he could remove the rocks quickly, but the proper expertise would be needed to come up with a proper result. Mr. Lupu did not believe that the rocks posed the damage that Mr. Laakkonen claimed and he would like to prove it. Town Attorney Miller pointed out that the rocks would have to be permitted. Mr. Lupu stated that he would like to apply for a permit. Town Attorney Miller stated that he must apply for the permit or remove the rocks within 30 days and submit a stormwater plan for permitting in 60 days or the Town would request running a fine.

Mr. Madden granted a 30-day continuance without a finding of fact and without entering an order. Mr. Lupu requested 60 days. Mr. Madden denied his request.

3) PROPERTY OWNER: Lani Kai LP, Robert Conidaris, LKLB of Florida, Inc.  
SUBJECT: Robert Conidaris  
LDC Sections: 30-56(A). Non-conforming signs  
30-153. Maximum sign area  
30-154(c). Maximum sign height  
LOCATION: 1400 Estero Blvd.  
STRAP NO.: 19-46-24-W4-0070D.0020  
CODE OFFICER: Robert Mercado  
REFERENCE NO.: CE-12-0440

Ex parte motion for continuance with a stay of prosecution. Mr. Madden revealed that the Special Magistrate's office was contacted by the representative for Lani Kai in the sign ordinance violation. They represented to the Special Magistrate's office that they have filed suit challenging the constitutionality of the sign regulations that were being asserted against them. Mr. Madden stated that based upon their representation, the stay was proper under the statute and they were advised that the stay was granted.

Vote: \_\_\_\_\_ Signature: \_\_\_\_\_

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