

**MINUTES  
FORT MYERS BEACH  
Code Enforcement**

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

**Wednesday, February 19, 2014**

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

**Code Enforcement Officer for Fort Myers Beach:** Mr. Keith Laakkonen

Mr. Madden swore in those providing testimony.

**CASE TO BE HEARD:**

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 stated that an inspection on 2/18/2014 revealed that the storm water discharge and rocks had not been removed. Mr. Laakkonen requested 15 days to remove the rip rap rocks and a \$500 fine every day the rip rap is not removed as well as cost of prosecution, to plant the area with native dune vegetation, 30 days to submit an approved engineered stormwater plan to remove the point of discharge, and the treatment system must be constructed within 120 days.

Mr. Laakkonen noted that Mr. Lupu had not submitted a permit application nor had he contacted Mr. Laakkonen regarding dune vegetation planting. Mr. Laakkonen requested a fine of \$1,500.00.

Mr. Sorin Lupu, a representative of Briarwood Properties, disputed Mr. Laakkonen's expertise and findings regarding adverse affects. Town Attorney Miller reminded Mr. Lupu of the violations of the case.

Mr. Lupu indicated that he requested a continuance from Code Enforcement. Mr. Lupu stated that a permit for the rocks had not been pulled, and that he would remove the rocks. Mr. Lupu stated that the stormwater discharge had always been there and that there was no organic load from the discharge. Mr. Lupu revealed that he did not have the original permit. Town Attorney Miller referred to Stormwater Discharge Section 6-13, which made the permit issue irrelevant. Mr. Lupu mentioned a solution, but he agreed that he was not in compliance with Town Code.

Mr. Madden questioned Mr. Lupu regarding how long it would take for him to be in compliance with code. Mr. Lupu stated that he had been working with Hans Wilson and that he would need 30 days to apply for an application.

Mr. Madden gave Mr. Lupu 30 days to complete the permit application for improvements that were made unlawfully to the beach and 30 days to complete the permit application for the removal of the stormwater or variance to keep the stormwater discharge there.

Mr. Madden gave Mr. Lupu 30 days to submit both of the permit applications to the Town of Fort Myers Beach and the Florida Department of Environmental Protection. In the event that the permit applications are not submitted by a competent Florida licensed engineer within 30 days, Mr. Lupu will be fined \$250.00 per day if the rocks are still there and an additional \$250.00 per day if the water discharge has not been done. Mr. Madden awarded the Town \$1,500.00 in prosecutorial costs to be paid within 30 days. Town Attorney Miller referenced Section 2-77 regarding seawalls and retaining walls along natural water bodies, which requires a variance before a permit can be accepted.

Mr. Madden stated there was a finding of fact that both violations exist and the prosecution expenses are \$1,500.00. Mr. Lupu approached the bench and showed a survey to Mr. Madden.

Mr. Madden requested recommendations from the Town for the stormwater discharge. Mr. Madden gave 45 days to submit an engineered permit application to all applicable parties for the stormwater component and 60 days to complete the application process. Once the permit is issued, one year to complete the construction. Upon receipt of the permit, a copy must be delivered to code enforcement.

Mr. Madden gave Mr. Lupu 30 days to complete the permit application for a variance and/or special exception to interview marine engineers regarding moving the rocks. If the permit application is not complete in 30 days, Mr. Madden gave Mr. Lupu 45 days to move the rocks. In the event that the timeframes are not met and a continuance has not be received, there will be a daily fine of \$250.00.

Mr. Madden amended the daily fines for each violation to \$125.00. Mr. Lupu was granted 30 days for the variance application, 60 days for a sufficiency review, and a public hearing. In the

event that Mr. Lupu does not apply for a variance in 30 days, Mr. Lupu must remove the rocks within 15 days.

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

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