

MINUTES
FORT MYERS BEACH
Code Enforcement - Parking
Town Hall – Council Chambers
2523 Estero Boulevard
Fort Myers Beach, FL 33931

Wednesday, May 15, 2015

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Code Enforcement Officer: Ambassador Kevin Przbyszewski

Mr. Madden swore in those providing testimony.

CASE TO BE HEARD: **VIOLATION NO.:** 71900220

TOWN OF FORT MYERS BEACH, FLORIDA

Petitioner,

vs.

NICK DESTEFANO

Respondent.

Mr. Przybyszewski provided his narrative of the violation. He stated that the parked vehicle, a black Cadillac Escalade, was fully in the right-of-way. He issued a summons for parking in the right-of-way per Code Section 28-19. Mr. Przybyszewski provided pictures to the Respondent. Mr. Madden referred to Sections 28-19 and 28-20. Mr. Madden questioned whether that section of the road was marked for parallel parking. Mr. Przbyszewski replied in the negative.

Nick DeStefano, Respondent, stated that he parked in his driveway, off the road, for 15 minutes. There were no signs prohibiting parking in that location. Mr. Madden asked Mr. Przbyszewski whether he knew what the blue pipe was in one of the pictures. Mr. Przbyszewski replied that he assumed it was part of the construction, but he wasn't sure. Mr. Madden questioned whether Mr. DeStefano had his property surveyed. Mr. DeStefano confirmed that he had a survey and he was parked on his property in his driveway. Mr. Przbyszewski indicated that the house was under construction and there was not a designated driveway. Mr. Przbyszewski referred to Sections 28-20 2(a) and (n). Mr. Madden stated that there appeared to be about 2.5 feet between the gravel and the white line and he verified that the vehicle had all four wheels on the gravel. Mr. DeStefano indicated construction on his home should be completed in August. Mr. Madden found the Respondent was not in violation of the Code and the citation was quashed.

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Code Enforcement Officer: Ambassador Dean Heasley

CASE TO BE HEARD: **VIOLATION NO.:** 72000784

TOWN OF FORT MYERS BEACH, FLORIDA

Petitioner,

vs.

DENNIS HOELZEL

Respondent.

Mr. Madden swore in those providing testimony.

Mr. Heasley reviewed the violation. He stated that while he was patrolling the Times Square area and surrounding meters, he noticed that the meter was over the time limit for the red Chrysler convertible. He took pictures of the vehicle license plate, the ticket that the Respondent paid for and the meter. Mr. Heasley submitted the information and issued a citation. Mr. Madden questioned how much the meter was expired by. It was determined that the meter was expired by approximately a half-hour.

Mr. Hoelzel indicated that he thought he paid for two hours instead of one. Mr. Madden found that the violation did exist based on the overtime at the time the citation was written. Contrary to that, Mr. Madden left the \$25.00 fine where it was with the provision that the fine be paid within three days.

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Code Enforcement Officer: Ambassador Dean Heasley

Mr. Madden swore in those providing testimony.

CASE TO BE HEARD: VIOLATION NO.: 72000773

TOWN OF FORT MYERS BEACH, FLORIDA

Petitioner,

vs.

TERESA O'TOOLE-CUMMINGS

Respondent.

Mr. Heasley stated that the white Volkswagen Beetle, Florida Plate No. 320LAU, was parked in the wrong direction against the flow of traffic. He proceeded to write a citation and he took three pictures showing the license plate and the vehicle parked in the wrong direction. Mr. Heasley noted the violation was per Code Section 03-052(m). Mr. Madden replied that he had a codified Section that put the referenced Code in Section 28-20. Mr. Heasley confirmed that Section 28-20 was the position he was citing.

Ms. O'Toole-Cummings commented that she was parked in that spot for maybe three minutes while she picked up her son. She thought she was parking in the right direction on San Carlos Blvd. because all the other cars were parked in the same direction. She stated that there were no signs indicating which direction to park or that it was illegal to park in the wrong direction.

Mr. Madden was put on hold while the Town explained the duties of a Special Magistrate to the Respondent.

Mr. Madden recognized the hardship to the Respondent; however, the Special Magistrate had very limited discretion. The State of Florida had a Code Section that prohibited parallel parking in the opposite direction and the Town of Fort Myers Beach codified that in their form. If the Respondent parallel parked in the opposite direction of traffic, Mr. Madden did not have any way of providing leniency based upon an appeal. Ms. O'Toole-Cummings stated that the direction of traffic was not marked on the street and she was parked parallel to the travel lane. Mr. Madden replied that licensed drivers were held to understand that the Uniform Traffic Code of Florida prohibited stopping or parking in the wrong direction. Mr. Madden found the Respondent in violation of the Code and he gave the Respondent thirty (30) days to pay the \$50.00 fine.

Vote:_____ Signature:_____

- End of document