

MINUTES
FORT MYERS BEACH
Special Magistrate Hearings
DiamondHead Beach Resort
2000 Estero Boulevard
Fort Myers Beach, FL 33931

Thursday, August 17, 2023

Hearing Examiner - Special Magistrate: Myrnabelle Roche

Magistrate Roche swore in those providing testimony.
Town Attorney Vose represented the Town.
Staff: Flood Plain Coordinator Kristin Schumacher.

BEACH PATROL CASES TO BE HEARD:

Respondent: CLEVINGER, BRUCE
SUBJECT: Overtime Meter
CODE SECTION: Sec. 28-51 (A)
LOCATION: Dakota Ave.
BASE OFFICER: David Scott
REFERENCE NO: 70043875

Officer Scott issued a citation on July 25, 2023, to a black Porche from Kentucky for an overtime meter. The respondent was not in attendance. The town requested a fine of \$77.00 plus an administration fee of \$175.00 for a total of \$252.00.

Special Magistrate Roche found that a violation did exist and imposed a one-time fine of \$77.00 plus \$175.00 in administrative fees for a total of \$252.00, which shall be paid within 30 days.

Respondent: VOEPEL, DOUGLAS C.
SUBJECT: Overtime Meter
CODE SECTION: Sec.28-51 (A)
LOCATION: Old San Carlos Blvd.
BASE OFFICER: Mike Surick
REFERENCE NO: 70734790

At approximately 4:30 p.m. on July 22, 2023, Officer Surick cited a vehicle parked in space 12 for an overtime meter. The town requested a fine of \$77.00 plus an administrative fee of \$175.00 for a total of \$252.00. The respondent was not present.

Special Magistrate Roche found that a violation did exist and imposed a one-time fine of \$77.00 plus \$175.00 in administrative fees for a total of \$252.00, which shall be paid within 30 days.

Respondent: ALCANTARA, WILLIAM
SUBJECT: Parking Prohibited by Sign

CODE SECTION: Sec. 28-20 (2)H
LOCATION: I Street
BASE OFFICER: David Scott
REFERENCE NO: 70042151

Officer Scott issued a citation on May 29, 2023, to a red Nissan parked in a prohibited space. The town requested a fine of \$77.00 plus an administrative fee of \$175.00 for a total of \$252.00. The respondent was not present.

Special Magistrate Roche found that a violation did exist and imposed a one-time fine of \$77.00 plus \$175.00 in administrative fees for a total of \$252.00, which shall be paid within 30 days.

Respondent: FARRAJ, MUHAMMAD
SUBJECT: Overtime Meter
CODE SECTION: Sec. 28-51 (A)
LOCATION: Old San Carlos Blvd.
BASE OFFICER: David Scott
REFERENCE NO: 70043083

On June 27, 2023, Officer Scott issued a citation to a black Chevy parked at an expired meter. The town requested a fine of \$77.00 plus an administrative fee of \$175.00 for a total of \$252.00. The respondent was not present.

Special Magistrate Roche found that a violation did exist and imposed a one-time fine of \$77.00 plus \$175.00 in administrative fees for a total of \$252.00, which shall be paid within 30 days.

Respondent: FARRAJ, MUHAMMAD
SUBJECT: Overtime Meter
CODE SECTION: Sec. 28-51 (A)
LOCATION: Old San Carlos Blvd.
BASE OFFICER: Bob Monahan
REFERENCE NO: 70334854

Officer Monahan issued a citation on June 27, 2023, to a black Chevy pickup truck parked at an expired meter. The town requested a fine of \$77.00 plus an administrative fee of \$175.00 for a total of \$252.00. The respondent was not present.

Special Magistrate Roche found that a violation did exist and imposed a one-time fine of \$77.00 plus \$175.00 in administrative fees for a total of \$252.00, which shall be paid within 30 days.

Respondent: GIPSON, VERONICA MARY
SUBJECT: Obstruction of Roadway
CODE SECTION: Sec. 28-20 (2)N
LOCATION: Fifth Street
BASE OFFICER: Sahbah Gonzalez
REFERENCE NO: 71202224

Officer Gonzalez noticed a white Audi obstructing the roadway and issued a citation on May 12, 2023. The citation was left on the vehicle.

Veronica Gipson, respondent, was the owner of the car but was not in possession of the vehicle at the time of the violation. She explained her situation with an ex-boyfriend who did not have a driver's license. She said she sold him the car, but he did not return the license plate, and, in the meantime, he got a citation. She stated that she parked for free at Snug Harbor as an employee. Special Magistrate Roche asked the Town Attorney to review the documents. Town Attorney Vose indicated that the respondent did not own the car and withdrew the case.

Respondent: DUVALL, MICHAEL ALLEN
SUBJECT: Parking Prohibited by Sign
CODE SECTION: Sec. 28-20 (2)H
LOCATION: Estero Blvd.
BASE OFFICER: Mike Surick
REFERENCE NO: 70730505

On May 12, 2023, at about 9:59 a.m. Officer Surick noticed an 18-wheeler being unloaded. A silver Honda was parked adjacent to the semi in a No Parking-Loading Zone and was issued a citation after 10 minutes.

The respondent, Mike Duvall, stated he sold food and was there with his truck. He described a key drop process before Ian that no longer existed. He was filling out the paperwork for another key drop process and when he went to his vehicle, an officer was writing a ticket. The officer said he was there longer than 15 minutes. Mr. Duvall agreed and noted that they had 95 cases of food to unload. As they were talking, the officer tried to give them a citation for his semi too.

Officer Surick noted they were unloading the truck, but the cars were parked in the zone and not being unloaded.

Mr. Duvall stated that he was issued a citation because the officer time-stamped him at 15 minutes, not because of where the other cars were parked. Officer Surick disagreed and noted a free parking lot 15 feet away and the cars could have parked there. The town requested a fine of \$77.00 plus an administrative fee of \$175.00 for a total of \$252.00.

Special Magistrate Roche found that a violation did exist and imposed a one-time fine of \$77.00 plus \$175.00 in administrative fees for a total of \$252.00, which shall be paid within 30 days.

MOTION FOR REHEARING CASES TO BE HEARD:

Property Owner: PERSAUD PROPERTIES FL INVESTMENT, LLC
SUBJECT: LDC Section: 14-5, Paragraph J; BFVP Repeat- Beach Chair Rental Without Permit
LOCATION: 1028 Estero Blvd.
STRAP NO: 24-46-23-W3-00017.0000
CODE OFFICER: Vincent Berta for Bill Stout
REFERENCE NO: 20220462 & 20220655

Attorney Sarah Spector with Roetzel & Andress represented Persaud Properties. She stated that the case was a companion to case 20220655 and requested that they be consolidated because it was

the same issue at a different address. Special Magistrate Roche replied that she would have to file an appeal within 30 days and they were past 30 days. Attorney Spector cited an LDC section allowing for a rehearing if it was filed within 10 days of the rendition and it was filed on July 28, 2022, and this was the first hearing. Special Magistrate allowed her presentation and the town allowed for the cases to be consolidated.

Attorney Spector reviewed the history of the cases. She noted she had not heard anything from the town in response to their filed motion. She was unsure whether any documents were forwarded to the Special Magistrate.

Special Magistrate Roche questioned what was different. Attorney Spector replied that Mr. Persaud was denied due process and the fines were unconstitutionally excessive. She explained why Special Magistrate Roche should grant a rehearing.

Town Attorney Vose noted she did not receive any paperwork. Attorney Spector responded that she emailed all the paperwork. Special Magistrate Roche questioned whether Town Attorney Vose wanted to proceed or whether she needed time to review the motion. Town Attorney Vose requested an extension.

Attorney Spector said she requested a continuance two weeks ago but was denied. After conferring with Mr. Persaud, she agreed to a continuance. Town Attorney Vose requested a continuance for case 20220652 as well.

IMPOSITION OF LIEN CASES TO BE HEARD:

Property Owner: RODRIGUEZ, WILFREDO
SUBJECT: LDC Section: 34-2391, Weekly Rental Restrictions Repeat- Daily/ Weekly Rentals During a One Month Period
LOCATION: 5765 Lauder St.
STRAP NO: 33-46-24-W2-005M0.0020
CODE OFFICER: Patrick Morris for Bill Stout
REFERENCE NO: 20220355

Coordinator Schumacher stated that the lien had yet to be certified and the total amount was \$9,075.00. She indicated that the property owner was compliant, but the fine has yet to be paid. Respondent Mr. Rodriguez stated the case was from last year, but the hurricane came and he was out of the country at the last lien hearing. Special Magistrate Roche referred to the timeline and noted that the previous order stood. She stated he had 30 days to appeal, but that was a long time ago and the record reflected that the order to lien was way before Hurricane Ian.

Special Magistrate Roche found that the order from June 30, 2022, had not been complied with, and as such, she certified the order in the amount of \$9,075.00 shall become a lien against the property and recorded in the official records of Lee County, Florida.

NEW CASES TO BE HEARD:

Property Owner: REILLY, MICHAEL J. & REILLY, ROSANNA E L/E
SUBJECT: LDC Section: 6-111, Adopting FBC, Sec. 6-441, Permits req'd Work on Lower Level Without Permit
LOCATION: 222 Mango St.

STRAP NO: 19-46-24-W3-0120C.0050
CODE OFFICER: Vincent Berta
REFERENCE NO: 20230641

Special Magistrate Roche recused herself because the property owners might be related to her ex-husband. The town continued the case.

Cases continued: 20220462, 20220655, 20220652, 20230656 and 20230641. Cases withdrawn: 71400206, 71402166, 71202224 and 20230552.

Signature: 

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