



**CODE COMPLIANCE
SPECIAL MAGISTRATE HEARING**

Special Magistrate, Jack Bridges
Marathon Council Chambers
9805 Overseas Highway, Marathon
Wednesday, January 16, 2019 at 2:00 P.M.
Action Minutes

A. CALL TO ORDER

The Code Compliance Special Magistrate Hearing of January 16, 2019, was called to Order by the Special Magistrate, Jack Bridges at 2:00 P.M., at the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida.

Staff Present:

Growth Management Director Douglas Lewis
Code Recording Secretary Maria Thorley
Code Officer Patti Childress
Code Officer Cody Ward
City Attorney, David Migut

Also in attendance were members of the public.

B. PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was recited.

C. ADDITIONS/DELETIONS/CORRECTIONS/ANNOUNCEMENTS

DELETIONS:

THE FOLLOWING CASES WERE WITHDRAWN BY COMPLIANCE:

- | | |
|----------------|----------------|
| 4. C2017-0295 | 16. C2018-0182 |
| 6. C2018-0213 | 19. C2018-0350 |
| 8. C2018-0357 | 20. C2018-0386 |
| 12. C2018-0123 | 22. C2018-0358 |
| 13. C2017-0305 | |

CASES CONTINUED TO NEXT HEARING OF FEBRUARY 20, 2019

- | |
|----------------|
| 5. C2018-0032 |
| 14. C2017-0308 |

D. APPROVAL OF AGENDA AND MINUTES

E. SWEARING IN OF WITNESSES TO TESTIFY

- Special Magistrate Bridges called for witnesses to be sworn in and administered the Oath.

F. NOTICES

- Notices were read into the record.
- There was no Ex-parte Communication.

G. CASES FOR PUBLIC HEARING:

Code Officer, Cody Ward

9. C2018-0409 (REPEAT VIOLATIONS)

Sally Ann Mishmash

620 99th Street, Ocean, Marathon, FL 33050 (RE #00351990-000000)

The Respondent was present at the hearing, was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak; however, Attorney William Heffernen Jr., spoke on her behalf and explained that Ms. Mishmash has limited resources and he is trying to help her comply with the City's request to clean-up the property; however, he was puzzled by the noxious material mentioned in Section 22-20 of the City Code, as she has made great effort to maintain the property clean.

Special Magistrate Bridges, suggested to set Section 22-20 "Premises to be Cleaned of Debris and Noxious Material" to trial and Attorney Heffernen Jr. concurred.

RECOMMENDATION(S): The City requested a continuance of two months to give the Respondent enough time to resolve all the issues and bring the property into compliance.

Code Officer, Patti Childress

10. C2016-0359 (NEW CASE)

Angel Broche and Barbarita R/S Morales

597 74th St., Ocean, Marathon, FL (RE# 00342810-000000)

Based on the evidence and testimony that were presented, the Respondents have violated Section 6-52 (a) (2) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondents, for the construction of a wooden deck without the benefit of a permit.

On February 3, 2017, the Respondents had applied for a permit, but the permit was never picked-up. An extension to the permit was approved by the Building Dept. on August 17, 2017; however, due to the lack of response from the Respondents, on February 14, 2018, the permit had expired.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondents were present at the hearing; sworn-in and admitted to the violation. They were properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondents to reapply for and obtain permits for all work done for the construction of the wooden deck, within thirty (30) days starting from the date of January 17, 2019; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of January 17, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, February 16, 2019, Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

Code Officer, Cody Ward

11. C2016-0034 (NEW CASE)

Angel Broche and Barbarita R/S Morales

597 74th St., Ocean, Marathon, FL (RE# 00342810-000000)

Based on the evidence and testimony that were presented, the Respondents have violated Section 6-52 (a) (2) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondents, for remodeling work done without the benefit of a permit; as a result of such action a Stop Order was posted on January 31, 2018.

On March 22, 2018, Respondent had applied for a permit to do the repair and remodel work; however, the permit was never picked-up and had expired on October 17, 2018. No additional permits were pulled and permit, P2018-0761 has not been re-instated.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondents were present at the hearing; sworn-in and admitted the violation. They were properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondents to reapply for and obtain permits for all work done for the construction of the wooden deck, within thirty (30) days starting from the date of January 17, 2019; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of January 17, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, February 16, 2019, Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

Code Officer, Patti Childress

3. C2018-0028 (NON-COMPLIANCE)

Brownlow L Hyder Living Trust Agreement 9/20/2012
1000 97th St., Marathon, FL (RE#00351760-000000)

This case was originally heard by the Special Magistrate on September 19, 2018; and an Order was entered giving the Respondent a compliance date of November 4, 2018. An Affidavit of Non-Compliance was filed after an inspection performed by Code Officer Patti Childress on November 13, 2018; a case review on December 18, 2018 and concluded that the violation was not corrected and the Administrative Fee of Three Hundred Dollars (\$300.00) remains unpaid.

Exhibits A was entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in non-compliance of the stated code and ordered the Respondent to pay a Fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the date set for compliance November 4, 2018; and shall pay the Administrative Fee of Three Hundred Dollars (\$300.00) previously Ordered by the Special Magistrate for the hearing dated, September 19, 2018; and an additional Administrative Fee of Three Hundred Dollars (\$300.00) for the hearing of non-compliance dated, January 16, 2019.

Code Officer, Cody Ward

15. C2018-0111 (NEW CASE)

Ronald J Mc Ewan and Margaret L McEwan H/W
917 80th St., Marathon, FL (RE#00347410-000000)

Based on the evidence and testimony that were presented, the Respondents have violated violated Section 6-52 (a) (1) b. of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondents, for the construction of a new deck built around the structure without the benefit of a permit; as a result of such action a Stop Work Order was posted on March 29, 2018.

Code Compliance Officer, Cody Ward performed a case review on November 15, 2018 and determined that no permit application has been submitted for said work; therefore, the violation has not been corrected and is not in compliance with the City Code.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondents were present at the hearing; sworn in and admitted the violation; were properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondent to reapply for and obtain a building permit for the construction of a new deck, within thirty (30) days starting from the date of January 17, 2019; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of January 17, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, February 16, 2019, Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

Code Officer, Cody Ward

1. C2017-0186 (NON-COMPLIANCE)

JM & MM Properties LLC

Guy Moreau, Registered Agent

60 Pelican Rd., Grassy Key, FL (RE# 00375940-000000)

This case was originally heard by the Special Magistrate on September 19, 2018; and an Order was entered giving the Respondent a compliance date of November 4, 2018 for the construction of a Tiki-Hut without the benefit of a permit. An Affidavit of Non-Compliance was filed after a review of records was performed by Code Officer Cody Ward on November 6, 2018 and determined that the property remained in violation for sixty-one (61) days past the date set for compliance, November 4, 2018.

The Administrative Fee previously Ordered in the amount of Three Hundred Dollars (\$300.00) was paid by the Respondent on September 19, 2018.

Exhibit A was entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was present at the hearing and sworn-in; was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak. The Respondent was represented by Attorney Lesley Rhyne, who spoke regarding the subject property.

Attorney Rhyne crossed examined Code Officer Ward regarding the permitting process.

Attorney Rhyne called Mr. Guy Moreau to testified. He explained the tedious efforts he had to go through to get to the permitting process. He stated he has done everything the City requested and he doesn't feel he should be paying a fine.

Special Magistrate Bridges explained to Mr. Moreau that since this is a non-compliance case, he cannot reduce the fines; however, he can set a mitigation hearing date to reduce the fines.

Attorney Rhyne requested to set a mitigation hearing for February 20, 2018 and in the interim the Respondent will work with the City to correct the violation.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in non-compliance of the stated code and ordered the Respondent to pay a Fine for sixty-one (61) days of non-compliance, equaling Six Thousand One Hundred Dollars (\$6,100.00) as of the date of this Order, January 16, 2019; and shall pay and Administrative Fee of Three Hundred Dollars (\$300.00) for this hearing of non-compliance dated, January 16, 2019.

Code Officer, Cody Ward

17. C2018-0275 (NEW CASE)

Keys RV Rentals LLC

6099 Overseas Hwy 110W, Marathon, FL (RE#00338830-003000)

Based on the evidence and testimony that were presented, the Respondent has violated Section 103.22 of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, by the use of a Recreational Vehicle (RV) connected to utilities and used for habitation.

A follow-up inspection by Code Compliance Officer Ward on November 28, 2018, showed that the Respondent had disconnected the RV from utilities and was not being used for habitation; however, on December 7, 2018, the alleged owner came in to the City to complain about the RV and provided a deed for the RV that did not match the owner of the land, Keys RV Rentals LLC.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was present at the hearing and sworn in; was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak. Mr. Adkins was not sure about admitting the violation and stated there was a bit of confusion as to what he needed to do to comply with the City; however, he is willing to work with the City to correct the violation.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondent to remove the Recreational Vehicle (RV) from the property within thirty (30) days starting from the date of January 17, 2019; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days starting from the date of January 17, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, February 16, 2019, Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

Code Officer, Cody Ward

2. C2018-0028 (NON-COMPLIANCE)

Beverly J Guitar Living Trust 6/13/2001

111 W Bruce Ct., Marathon, FL (RE# 00331061-016200)

This case was originally heard by the Special Magistrate on October 17, 2018; and an Order was entered giving the Respondent a compliance date of November 19, 2018 for a back deck and staircase that had been constructed without a building permit. An Affidavit of Non-Compliance was filed after an inspection was performed by Code Officer Cody Ward on November 19, 2018 and determined that violation has not been corrected and is not in compliance with the City Code and and the Administrative Fee of Three Hundred Dollars (\$300.00) remained unpaid.

Exhibits A was entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in non-compliance of the stated code and ordered the Respondent to pay a Fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the date set for compliance November 19, 2018; and shall pay the Administrative Fee of Three Hundred Dollars (\$300.00) previously Ordered by the Special Magistrate for the hearing dated, October 17, 2018; and an additional Administrative Fee of Three Hundred Dollars (\$300.00) for the hearing of non-compliance dated, January 16, 2019.

Code Officer, Patti Childress

7. C2018-0259 (UNSAFE STRUCTURE)

Bank of New York Mellon, c/o Shapiro, Fishman & Gache, LLP
11585 6th Ave, Marathon, FL (RE#00345950-000000)

Based on the evidence and testimony that were presented, the Respondent have violated Section 6-91 (a), (b) (1), (2), (c) (3), (5), (9), (d), (f), (g) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, in reference to a ground level home that sustained damage in Hurricane Irma, and the Building Official deemed the property unsafe for its intended use; however, the property has been secured.

Code Compliance Officer, Patti Childress performed a review of records on November 16, 2018; December 6, 2018 and determined that no permit application has been submitted for said work.

Exhibits A was entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondent to apply for and obtain a building permit to demolish the structure, within thirty (30) days starting from the date of January 17, 2019; or to apply for and obtain a building permit to for all repairs necessary to make the structure safe for its intended use as designed by a Florida licensed architect or engineer within thirty (30) days starting from the date of January 17, 2019. These violations are hereby declared a serious threat to public health, safety, and welfare; thereby, authorizing the City Manager to make necessary corrections to bring the Property into compliance; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of January 17, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, February 16, 2019, Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

Code Officer, Patti Childress

18. C2018-0305 (NEW CASE)

Robert E Mowder Jr
2207 Yellowtail Dr., Marathon, FL (RE# 00332130-000000)

Based on the evidence and testimony that were presented, the Respondent have violated Section of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, in reference to a ground level home that sustained damage in Hurricane Irma, and the Building Official deemed the property unsafe for its intended use; however, the property has been secured.

Code Compliance Officer, Patti Childress performed a re-inspection of the property on November 1, 2018 and determined that the property had been mowed; however, boats and trailers remained.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondent to register all vessels and trailers on the property or remove all vessels and trailers from the property within thirty (30) days from the date of January 17, 2019; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of January 17, 2019. In

the event the violation(s) is/are not corrected by the date set for compliance, February 16, 2019, Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

H. OLD BUSINESS - None

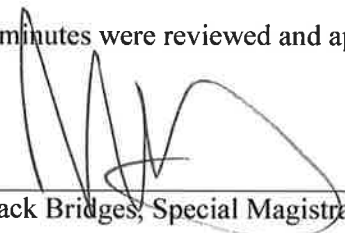
I. NEW BUSINESS - Special Magistrate Bridges approved the agenda and the minutes of November 28, 2018 hearing.

J. DISCUSSION ITEMS - None

K. ADJOURNMENT - With no further business to come before the Special Magistrate the meeting was adjourned 3:45 P.M.

The above represents a summary of the Code Compliance Hearing held January 16, 2019. This is not a verbatim record. A recorded disc is available upon request.

These minutes were reviewed and approved by Jack Bridges, Special Magistrate.



Jack Bridges, Special Magistrate

02/20/2019

Date