



**CODE COMPLIANCE
SPECIAL MAGISTRATE HEARING**

Marathon Council Chambers
9805 Overseas Highway, Marathon
Thursday, August 19, 2021, at 2:00 P.M.

Minutes

A. CALL TO ORDER

The Code Compliance Special Magistrate Hearing of August 19, 2021 was called to Order by Special Magistrate, Dirk M. Smits, Esq. at 2:00 P.M., at the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida.

Staff Present:

City Attorney Steven Williams
Code Compliance Officer Erin Dafoe
Code Compliance Officer Don Law
Code Admin. Asst./SMRS Maria Thorley

Members of the public present.

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

C. ADDITIONS/DELETIONS/CORRECTIONS/ANNOUNCEMENTS

- The following cases were withdrawn by compliance: 1. C-21-22 and 2. C-19-138

D. APPROVAL OF MINUTES

- Minutes of July 15, 2021, hearing pending approval.

E. SWEARING IN OF WITNESSES TO TESTIFY

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

F. NOTICES

- Notices were read into the record.
- There were no Ex-Parte Communications.

G. CASES FOR PUBLIC HEARING:

CODE OFFICER, ERIN DAFOE

3. C-21-43 (New Case)

Gary W Pollard and Catherine L Pollard

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

An online investigation on April 30, 2021, showed a one-bedroom, one-bathroom condo converted into two-bedrooms, two-bathrooms without permits.

Exhibits A through D were entered and accepted into evidence by Special Master Smits.

Correspondence from Mr. Pollard read into the record by Attorney Williams and introduced as Exhibit 1
Page 1 of 5.

Based on the evidence presented at the hearing, it is determined that the violation of §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 Respondent(s) has not been corrected.

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 Respondent(s) shall obtain an after-the-fact building permit for renovation work performed to turn a one-bedroom, one-bathroom condo into two-bedrooms, two-bathrooms, within thirty (30) days from the date of the Order, August 19, 2021. Respondent(s) shall pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of the Order, August 19, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, September 18, 2021, Respondent(s) shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation(s) continues to exist past the compliance date set forth herein. This fine is calculated by taking into consideration: the gravity of the violation; the steps taken by the Respondent to correct the violation; and any previous violations, pursuant to Chapter 162.09 (2) (b) (1) - (3), F.S.

CODE OFFICER, ERIN DAFOE

4. C-19-56 (C2019-0057) (New Case)

Vivangie Properties LLC, c/o Rodolfo J. Suarez, Registered Agent
59712 Paradise Pl., Grassy Key, Fl 33050, (RE #00376451-001400)

The Respondent(s) was present at the hearing, was sworn in, and was properly noticed of the hearing by certified mail and afforded the opportunity to appear and speak.

An Initial inspection of the subject property on March 25, 2019, revealed exterior remodeling work of the stairs, including new siding, deck and roof work without the benefit of permits. As a result of such action a Stop Work Order was posted for said work.

An after-the-fact permit was applied for on March 31, 2019; however, it was pending information and the permit was issued November 23, 2020. On June 21, 2021, hence there was no action on the part of the Respondent, the general contractor requested that the permit be cancelled as there was no work or inspections performed. On June 29, 2021, the Building Official considered the permit closed and a new application would have to be submitted for said work.

Exhibits A through D were entered and accepted into evidence by Special Master Smits.

Mr. Suarez admitted to the violation and accepted responsibility for the actions of his tenant, and further added that his contractor is in the process of applying for an after-the-fact permit to correct the violation.

Mr. Suarez stated that he has changed Vivange Properties LLC to his personal name, Rodolfo J Suarez, as sole proprietorship.

Special Master Smits asked questions of Mr. Suarez regarding permitting.

Based on the evidence presented at the hearing, it is determined that the violation of §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 Respondent(s) has not been corrected.

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. The Respondent(s) shall have ten (10) days to apply for and obtain an after-the-fact building permit or demolition permit, with all permit inspections completed and closed out within sixty (60) days from the date

of the Order August 19, 2021. Respondent(s) shall pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of the Order, August 19, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, October 18, 2021, Respondent(s) shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation(s) continues to exist past the compliance date set forth herein. This fine is calculated by taking into consideration: the gravity of the violation; the steps taken by the Respondent to correct the violation; and any previous violations, pursuant to Chapter 162.09 (2) (b) (1) - (3), F.S.

CODE OFFICER, DON LAW

5. C-21-67 (New Case - Working through a Stop Work Order)

Robert E Mowder Jr

2207 Yellowtail Dr., Marathon, FL (RE# 00332130-000000)

Robert E Mowder Jr (the "Respondent(s)") was present at the hearing through his niece, Victoria Schweizer, via power of attorney, and was properly noticed of the hearing by certified mail and afforded the opportunity to appear and speak.

An initial inspection of the subject property on July 7, 2021, revealed roofing work being performed without a permit. A Stop Work Order was posted on the same date for said violation.

A reinspection of the subject property on July 21, 2021, by Code Officer Law, observed that work was continuing to be performed through a Stop Work Order and because of such action a Working Through a Stop Work Order was posted on July 22, 2021.

Exhibits A through D were entered and accepted into evidence by Special Master Smits.

Attorney Williams asked Officer Law if a roof permit for said work had been applied for.

Officer Law stated since the second posting of "Working Through a Stop Work Order", the homeowner had submitted an after-the-fact permit on August 6, 2021.

Attorney Williams clarified that just for the sole purpose of knowing if there were any outstanding fines on this parcel, he asked Officer Law that in reviewing the code case files, if this was the first offense on this property.

Officer Law stated there is an outstanding code case from 2018.

Durable Power of Attorney was introduced into the record as Respondent's Exhibit 1 Page 1 of 2.

Ms. Schweizer agreed that a prior case from 2016-2019 pertaining to boats/trailers left at the property by unknown persons, did not belong to her uncle, which were later removed from the property.

Ms. Schweizer explained that unfortunately her uncle has an underlying health condition and could not be present at the hearing; however, she is aware of the fines that needs to be cured.

Ms. Schweizer brought to Special Master Smits the Property Appraiser's photo of the boat trailer on Exhibit A Page 1 of 4 during the time frame of 2016-2019.

Ms. Schweizer pointed out photos from Exhibit D Page 4 of 9 and stated she had seen the first Stop Work Order and had spoken to Mr. Law about the situation. Her father had torn down the roof and they were at the end of drying-in the roof when she noticed the second Stop Work Order. She was not aware that she needed a permit to do roof work in the Keys. She thought there was an agreement with Officer Law that she could finish drying-in the roof, as she could not afford leaks; however, neither Ms. Schweizer nor Officer Law made any distinctions between drying-in or putting plastic covering on the roof. Officer Law informed Ms. Schweizer, she needed to apply for an after-the-fact permit. Ms. Schweizer explained to Officer Law she could not apply for a permit, as she is not a certified roofer in Monroe County.

Ms. Schweizer stopped the roof work as soon as she found out she needed a permit for said work.

Ms. Schweizer contacted a roofing contractor who is willing to finish the roof. She also pointed out that the photo on Exhibit D Page 9 of 9 are the remnants of underlayment boxes that carried the dried-in materials that was put out for recycling.

Special Master Smits inquired about the old case file from 2019-2020 that has accumulated fines in the amount of \$37,600.00.

Attorney Williams read into the record code Section 6-61 "Working Through a Stop Work Order/Red Tag" as Exhibit C Page 12 of 14.

There were many questions regarding the definition of underlayment verses drying-in the roof; however, based on the evidence presented at the hearing, it is determined that the violation of §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 Respondent(s) has not been corrected.

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 Respondent(s) to pay a Fine in the amount of Two Hundred Fifty Dollars (\$250.00) per day for fifteen (15) days of working through a Stop Work Order, equaling, Three Thousand Seven Hundred Fifty (\$3,750.00) from the date of the Order, August 19, 2021. This fine is calculated by taking into consideration: the gravity of the violation; the steps taken by the Respondent to correct the violation; and any previous violations, pursuant to Chapter 162.09 (2) (b) (1) - (3), F.S.; Respondent(s) shall apply for and obtain an after-the-fact building permit for roofing work with all permit inspections completed and closed within sixty (60) days from the date of the Order, August 19, 2021; Respondent(s) shall pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days from the date of the Order, August 19, 2021.

H. OLD BUSINESS - None

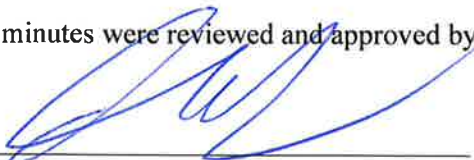
I. NEW BUSINESS - None

J. DISCUSSION ITEMS - None

K. ADJOURNMENT - With no further business to come before the Special Magistrate, the meeting was adjourned at 3:10P.M.

The above represents a summary of the Code Compliance Hearing held August 19, 2021. This is not a verbatim record. A recorded disc is available upon request.

These minutes were reviewed and approved by Dirk M. Smits, Esq., Special Magistrate.



Dirk M. Smits, Esq., Special Magistrate



Date