



**CODE COMPLIANCE  
SPECIAL MAGISTRATE HEARING**

Marathon Council Chambers  
9805 Overseas Highway, Marathon  
Thursday, September 16, 2021, at 2:00 P.M.

**Minutes**

**A. CALL TO ORDER**

The Code Compliance Special Magistrate Hearing of September 16, 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:**

Code Director Theodore Lozier  
City Attorney Steven Williams  
Code Compliance Officer Erin Dafoe  
Code Compliance Officer Don Law  
Code Administrative Assistant Maria Thorley

Members of the public present.

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

**C. ADDITIONS/DELETIONS/CORRECTIONS/ANNOUNCEMENTS**

1. C-20-242 (C2020-0247) continued
2. C-21-37 withdrawn by compliance

**D. APPROVAL OF MINUTES**

- Minutes of August 19, 2021 was approved by the Special Magistrate.

**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-20-248 (New Case)**

Xiao Family Partnership LLC, c/o Gang Xiao, Registered Agent  
7885 Overseas Hwy, Marathon FL 33050 (RE# 00347010-000000)

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 Initial inspection of the subject property on November 3, 2020, revealed the placement of an unauthorized sign without the benefit of permits.

An after-the-fact permit was applied for on February 3, 2021; however, it was pending information that was never received. Code Officer Dafoe explained to the owner that the contractor must complete the permit application before it can be obtained.

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

Based on the evidence presented, 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 apply for and obtain an after-the-fact building permit the placement of an unauthorized sign within thirty (30) days from the date of the Order September 16, 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, September 16, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, October 16, 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-21-68 (New Case)**

Spencer C Blanton

900 Camino Real, Marathon, FL 33050 (RE# 00356230-000000)

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.

Stop Work Order was posted on July 7, 2021, after an inspection of the property revealed spalling repair, concrete work and decking without the benefit of permits.

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

Based on the evidence and testimony presented, 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 obtain an after-the-fact building permit for spalling repair, concrete work and decking, within thirty (30) days from the date of the Order, September 16, 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, September 16, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, October 16, 2021, Respondent(s) shall pay a fine in the amount of Two Hundred Dollars (\$200.00) 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**

**5. C-21-83 (New Case)**

Edilberto Lopez and Malena Vazquez  
10001 Gulf of Mexico Blvd (RE#00358230-000101)

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. The Respondent(s) sought a continuance; however, the Special Magistrate denied the request.

An initial inspection and an online investigation of the property on August 16, 2021, revealed the following violations:

- Advertising and renting the property without a vacation rental license;
- A structure built without permits;
- Installation of pavers;
- Violation of the flood zone regulations;
- Violation of easement and deed restrictions filed with the city for conservation;
- Removal of native trees without a permit;
- A structure built over the dock;
- Violation of the City's Building Permit Allocation System (BPAS);
- Failure to connect/tampering with sewer connection system.

Citation No 5000 in the amount of Five Hundred Dollars (\$500.00) was paid by the Respondent(s) on September 9, 2021, for renting and advertising without a vacation rental license. The online advertising/renting was cancelled.

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

Based on the evidence that was presented at the hearing, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent(s), it was determined that the violations of §8-12 (a) (1); §8-14 (16); §6-52 (a) (1) a. b. c.; §107.102; §106.57; §104.64; §107.09; and §34-26 of the City of Marathon Code 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 immediately cease and desist all advertisement and rental use of the accessory structure on the parcel until a Vacation Rental License has been issued. The Respondent(s) shall apply for and obtain after-the-fact building permits for any and/or all accessory structures built, including but not limited to pavers, removal of native trees, connection/tampering of the sewer connection system, any and/or all environmental/development permits as required by state, federal and municipal law within sixty (60) days from the date of this hearing, September 16, 2021. The Respondent(s) shall pay a one-time fine in the amount of Four Thousand Dollars (\$4,000.00) for irreparable harm violation of renting without the use of a Vacation Rental License. Respondent(s) shall pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days starting from the date of September 16, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, November 15, 2021, Respondent(s) shall pay a fine in the amount of Four Hundred Dollars (\$400.00) per day (eight violation charges at \$50 each count), 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**

**6. C-21-71 (New Case)**

Margaret A. Broz  
427 26th Street, Ocean, Marathon (RE.# 00321270-000000)

The Respondent(s) was present at the hearing, was sworn in, 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 19, 2021, revealed the accumulation of yard waste, trash and debris as well as someone living on a sailboat docked in the canal.

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

On September 10, 2021, Officer Law had communications with Ms. Broz regarding cleaning up the property and mentioned to Ms. Broz that if the property was cleaned up before the hearing, he would consider withdrawing it from hearing.

Officer Law stated the live-aboard vessel was removed from the premises; therefore, the violation of §102.18 of the City of Marathon Code has been corrected.

Ms. Broz questioned the signature on the certified mail under Exhibit C page 4 of 9 as she has not seen the Notice of Violation. Ms. Broz stated that the live-aboard vessel that was docked in her canal belongs to a person that was paying rent regularly to keep the boat there and it was sold. Ms. Broz was not aware that the new owner was living aboard.

Ms. Broz agreed with Mr. Law that the live-aboard vessel was removed from the premises.

Ms. Broz mentioned that the stuff on the side of the house belongs to her significant other who likes to collect items to make use of leftover parts.

Ms. Broz asked the special master some time to correct the violation and not to be penalized.

Based on the evidence and testimony presented at the hearing, it is determined that the violation of §22-20 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 remove and properly dispose of all accumulated yard waste, trash and debris from the property and maintain as required within ten (10) days from the date of the Order, September 16, 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, September 16, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, October 6, 2021, Respondent(s) shall pay a fine in the amount of Fifty Dollars (\$50.00) 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**

**6. C-21-71 (New Case)**

Ronald Freeman  
105 26th Street, Marathon (RE# 00321290-000000)

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 Initial inspection of the subject property on July 19, 2021, revealed the accumulation garbage/debris and abandoned vehicles.

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

Officer Law stated that the abandoned vehicles were removed and/or registered; however, there was still appliances and other debris that exists by the hedges next to the road.



Based on the evidence and testimony presented, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent(s), it is determined that violation §103.18 of the City of Marathon Code has been complied with; however, §22-20 of the City of Marathon Code, has not been corrected.

Mr. Williams stated for the record that §103.18 of the City of Marathon Code was dismissed based on compliance.

**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 remove and properly dispose of all accumulated garbage and debris from the property and maintain as required within ten (10) days from the date of the Order, September 16, 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, September 16, 2021. In the event the violation(s) is/are not corrected by the date set for compliance, October 6, 2021, Respondent(s) shall pay a fine in the amount of Fifty Dollars (\$50.00) 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.

**H. OLD BUSINESS** - None

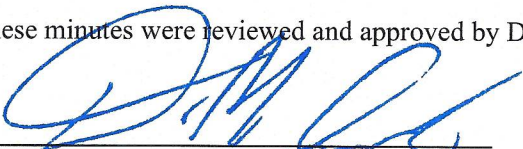
**I. NEW BUSINESS** - Next Special Magistrate meeting October 21, 2021 at 2:00pm.

**J. DISCUSSION ITEMS** - None

**K. ADJOURNMENT** - With no further business to come before the Special Magistrate, the meeting was adjourned at 2:31P.M.

The above represents a summary of the Code Compliance Hearing held September 16, 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.

  
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Dirk M. Smits, Esq., Special Magistrate

10/25/21  
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Date