



**CODE COMPLIANCE
SPECIAL MAGISTRATE HEARING**

Special Magistrate, Jack Bridges
Marathon Council Chambers
9805 Overseas Highway, Marathon
Wednesday, April 17, 2019 at 2:00 P.M.

Action Minutes

A. CALL TO ORDER

The Code Compliance Special Magistrate Hearing of April 17, 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/Building Official Douglas Lewis
Code Admin/Recording Secretary Maria Thorley
Code Compliance Officer Patti Childress
Code Compliance Officer Forest King
Code Compliance 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

ANNOUNCEMENTS: Cody Ward has moved to the Legal Department, working in the capacity of a Paralegal and Forest King is our new Code Compliance Officer.

DELETIONS:

The following cases were withdrawn by compliance:

- | | |
|---------------|---------------|
| 3. C2018-0381 | 5. C2018-0033 |
| 4. C2018-0030 | |

D. APPROVAL OF AGENDA AND MINUTES

- Special Magistrate Bridges approved the agenda and the minutes of February 20, 2019 hearing.

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 were no Ex-parte Communications.

G. CASES FOR PUBLIC HEARING:

Code Officer, Patti Childress

1. C2018-0259 (NON-COMPLIANCE/UNSAFE STRUCTURE)

Bank of New York Mellon C/O Shapiro
11585 6th Ave, Marathon, FL (RE#00345950-000000)

This case was originally heard by the Special Magistrate on January 16, 2019; and an Order was entered giving the Respondent a compliance date of February 16, 2019. The Respondent failed to apply for and obtain a building permit to demolish the structure; or to apply for and obtain a building permit for all repairs necessary to make the structure safe for its intended use, as designed by a Florida licensed architect or engineer.

An Affidavit of Non-Compliance was filed after an inspection performed by Code Officer Patti Childress on March 15, 2019, and concluded that the violation was not corrected, and the Administrative Fee of Three Hundred Dollars (\$300) for the hearing of January 16, 2019 remained unpaid.

The violations were 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.

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. The Respondent was represented by Jill Gold who spoke on behalf of the bank and stated they were not in compliance on February 16, 2019, as they were in the process of getting bids; however, they are working toward compliance and will let the bank know this a storm-damaged property.

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 February 16, 2019; and shall pay the Administrative Fee of Three Hundred Dollars (\$300.00) previously Ordered by the Special Magistrate starting from date of January 17, 2019; and an additional Administrative Fee of Three Hundred Dollars (\$300.00) for the hearing of non-compliance dated, April 17, 2019.

Code Officer, Cody Ward

6. C2018-0426 (NEW CASE/UNSAFE STRUCTURE)

Lisa Ann and David B Marciniak
592 83rd St., Marathon FL (RE#00347630-000000)

Based on the evidence and testimony that were presented, the Respondents have violated Section 6-91 (a); (b) (1), (2); (c) (1), (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, due to a structure located on the Property that had sustained substantial damage in Hurricane Irma, and on November 16, 2018, the Building Official deemed the property unsafe for its intended use.

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

The Respondents were present at the hearing and sworn in, were properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak. The Respondents admitted to the violation. Mr. Marciniak spoke regarding the unforeseen situation he had endured with the property; however, he is willing to work with the City to bring the property into compliance.

Jill Gold asked the special magistrate to extend the compliance time of thirty (30) days up to ninety (90) days, as there is pending litigation with the insurance company and the bank.

Attorney Neil Gary Rosensweig for the firm of Shapiro, Fishman and Gaché was instructed by such, to request more time for compliance, as the property is under foreclosure. Mr. Rosensweig, stated the bank would like an additional sixty (60) days for compliance, and asked the special magistrate to take into consideration that the property had sustained serious storm damage.

Growth Management Director/Building Official Douglas Lewis, stated the City's biggest concern is safety issues and the condition of the structure; therefore, a ninety (90) day extension will give both parties enough time to comply.

Attorney Rosensweig stated that both parties want to work together and come to some agreement to comply, as there is no benefit to a foreclosure.

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 secure the Property, to apply for and obtain a building permit to demolish the structure; or apply for and obtain a building permit for all repairs necessary to make the structure safe for its intended use, as designed by a Florida licensed architect or engineer, including a completed substantial improvement packet showing that necessary repairs are less than 50% of the value of the structure within ninety (90) days starting from the date of April 18, 2019. The violations were 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 starting from the date of April 18, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, July 17, 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

7. C2019-0003 (NEW CASE/VACATION RENTAL)

Capitana Realty LLC
Donald P. Rodrigues, Registered Agent
11095 5th Avenue, Marathon FL (RE#00343950-000000)

Based on the evidence and testimony that were presented, the Respondents have violated Section 8-12 (a) (1) and Section 8-14 (16) of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, by advertising the Property as a Vacation Rental with confirmed bookings on the online calendar, without a valid Vacation Rental License.

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

On February 9, 2019, the Respondent paid Citation No. 3402, and applied for a Vacation Rental License; however, the application was incomplete as submitted and the Respondent was advised, he could not proceed in obtaining a license with open permits on the Property. Code Compliance Officer, Cody Ward performed a case review, on March 6, 2019 and determined that the Respondent was still advertising and renting the Property, as a vacation rental without a valid license. On April 8, 2019, Respondent submitted the missing documentation for the Vacation Rental application, but did not resolve the open permits issue and remained renting the Property.

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. Donald Rodrigues stated that he stopped renting the property as a vacation rental immediately after he received the notice, and he wants to comply with the City.

Code Officer Ward explained to Mr. Rodrigues that if he ceased all rentals and/or advertising of the property this would be the only compliance issue at this point, and not to rent the property until he obtains a vacation rental license.

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 cease all advertisement and rental of the Property as a Vacation Rental immediately, until a Vacation Rental license has been issued; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days starting from the date of April 18, 2019.

Code Officer, Patti Childress

2. C2018-0305 (NON-COMPLIANCE)

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

This case was originally heard by the Special Magistrate on January 16, 2019; and an Order was entered giving the Respondent a compliance date of January 16, 2019. The property was mowed; however, the Respondent had failed to register all vessels and trailers on the property; or to remove all vessels and trailers from the property as required, on or before the compliance date of February 16, 2019,

An Affidavit of Non-Compliance was filed after a reinspection performed by Code Officer Patti Childress on February 19, 2019, and concluded that the violation was not corrected, and the Administrative Fee of Three Hundred Dollars (\$300) for the hearing of January 16, 2019 remained unpaid.

Exhibit 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 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 February 16, 2019; and shall pay the Administrative Fee of Three Hundred Dollars (\$300.00) previously Ordered by the Special Magistrate for the hearing dated, January 16, 2019; and an additional Administrative Fee of Three Hundred Dollars (\$300.00) within thirty days (30) for the hearing of non-compliance dated, April 17, 2019.

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 2:45 P.M.

The above represents a summary of the Code Compliance Hearing held April 17, 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



Date