



**CODE COMPLIANCE
SPECIAL MAGISTRATE HEARING**

Marathon Council Chambers
9805 Overseas Highway, Marathon
Thursday, March 17, 2022 at 2:00 P.M.
Action Minutes

A. CALL TO ORDER

The City held its regular Code Compliance hearing March 17, 2022 at 2:00 p.m., in the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida. Special Magistrate Jeff D. Vastola, Esq., called the meeting to order at 2:41 p.m.

CITY STAFF PRESENT:

Code Director Theodore Lozier
City Attorney Steven Williams
Recording Secretary Maria Thorley
Code Compliance Officer Don Law
Code Compliance Officer Matt Salata

There were members of the public present.

B. PLEDGE OF ALLEGIANCE - The Special Magistrate led the Pledge of Allegiance.

C. ADDITIONS/DELETIONS/CORRECTIONS

1. **C-21-112 (New Case)** Kenneth J Horton
69 Avenue C, Coco Plum Key (RE# 00366100-000000)

Mr. Williams stated for the record that Mr. Horton's attorney and the city have reached an agreement and will enter into a written stipulated agreement that will returned to the magistrate for review and execution.

- Respondent has agreed to immediately cease and desist the rental of the Property.
- Pay a fine in the amount of Two Thousand Five Hundred Dollars (\$2,500.00).
- Apply and obtain proper permits to remove downstairs bedroom and to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00).

5. **C-21-147** withdraw by compliance.

6. **C-21-130** property owner working with the city toward a stipulated agreement to resolve the case.

D. APPROVAL OF MINUTES

- Minutes of February 17, 2021, hearing was approved by Special Magistrate Vastola.

E. SWEARING IN OF WITNESSES TO TESTIFY

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

F. NOTICES

- Notices were incorporated into the record.

G. CASES FOR PUBLIC HEARING:

CODE OFFICER, MATT SALATA

7. C-22-2 (New Case)

Andrea Parker Ayres | Biza Corp. c/o Gold, Stuart M, Esq., Registered Agent
1361 Overseas Hwy Lot G23 Marathon Fl (RE#00320190-000000)

Mr. Kaufman explained that he was not at the hearing to submit and/or admit by proxy any of the Tenant's exhibits or testimony, but to put the defense on behalf of the home park owner, Biza Corporation.

Mr. Williams explained that Ms. Ayres was the one cited for the violation; however, any liens that would occur because of such hearing, would go as to the property owner, in this case the park owner, Biza Corp.

Code Director Lozier presented a case summary describing the two (2) shed style structures.

Biza Corporation (the "Respondent(s)") was properly noticed of the hearing by certified mail and afforded the opportunity to appear and speak. Attorney Lance Kaufman spoke on behalf of Biza Corporation and explained that there is a pending lawsuit related to the mobile home on Lot G23. Attorney Kaufman in good faith asked the magistrate for ninety (90) days extension of time to demolish the structures and bring the property into compliance.

Andrea Parker Ayres (the "Tenant(s)") was present at the hearing, was sworn in, and properly noticed of the hearing by certified mail. Attorney Gregory Friedman who spoke on behalf of his client, Andrea Parker Ayres, stated that the two structures on Lot G23 have been there since she purchased the property in November of 2020, and were not built by Ms. Ayres.

Mr. Friedman stated that Ms. Ayres, had no objection with Biza Corporation demolishing the two structures and gaining access to the property to remedy the violations.

Prior tenant Rachel Zimmerman commented on the violations; however, Mr. Williams indicated that there was no need to call Ms. Zimmerman as a witness, since her concerns were addressed through Mr. Lozier and the testimony that was presented.

Mr. Vastola asked Mr. Kaufman if he was aware that a permit had been obtained.

Mr. Kaufman stated he was not aware of such permit.

On December 18, 2021, after receiving a complaint, the Code Compliance Department completed an online investigation of the subject's property, in reference to an illegal/unpermitted apartment located behind the mobile home situated Lot G23 of Galway Bay Mobile Home Park, inside of two (2) shed style structures, which were built without permits. It is determined that the violation of §6-52 (a) (1) b. c. and §107.101 of the City of Marathon Code has not been corrected.

After evidence and testimony presented, both parties were given the opportunities to be heard and ask questions. Both parties stipulated to the allegations brought against the subject's property and expressed a genuine desire to rectify the code violations and come into compliance. It was thereafter agreed to by the parties that the Respondent(s) would be given one hundred twenty (120) days to demolish the two (2) shed structures and come into compliance before any fines would be levied, other than the costs of the hearing.

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

Based on the evidence presented, it is determined that the property remains in violation of §6-52 (a) (1) b. c. and §107.101 of the City of Marathon Code

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 that both parties have agreed that the Tenant shall cease and desist sub-leasing the two (2) shed style structures. Respondent shall apply for and obtain a building permit to demolish the two (2) shed style structures with final inspection approved and permit closed out within one hundred twenty (120) days from the date of the Order, March 17, 2022. 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, March 17, 2022.

CODE OFFICER, DON LAW

3. C-21-135 (New Case)

Hector Patino Solo 401k c/o Hernandez Roxanna
1155 James Ct, Marathon (RE# 00323700-000000)

Hector Patino Solo 401k (the “Respondent(s)”) c/o Hernandez Roxana, was present at the hearing, was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak. Mr. Patino spoke regarding the unfortunate situation he had with a contractor. He has since contacted another contractor to obtain a permit to remedy the violation and bring the property into compliance.

An initial inspection conducted of the subject’s property on November 21, 2021, revealed the installation of a newly built wooden fence without the benefit of a permit.

After evidence presented by the City, the Respondents would be given ninety (90) days to apply for and obtain an after-the-fact building permit with final inspections approved and permit closed out, before any fines would be levied, other than the costs of the hearing.

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

Based on the evidence and testimony presented, it is determined that the violation of §6-52 (a) (1) b. c. and §102.81 of the City of Marathon Code has not been resolved.

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(s) to apply for and obtain an after-the-fact building permit for the installation of a wooden fence with final inspections approved and permit closed out, within ninety (90) days from the date of the Order, March 17, 2022. 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, March 17, 2022. In the event the violation(s) is/are not corrected by the date set for compliance, June 16, 2022, 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

4. C-22-4 (New Case)

Warren Young Russell Jr
1999 Grouper Dr, Marathon (RE# 00331550-000000)

Warren Young Russell Jr (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 conducted of the subject’s property on January 7, 2022, revealed the property overgrown with grass/weeds, junk/trash/debris including a fence in disrepair, and in need of maintenance.

There have been no communications with the property owner.

After evidence presented by the city, the Respondent would be given until April 17, 2022, to come into compliance before any fines would be levied, other than the costs of the hearing.

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

Based on the evidence presented, it is determined that there has been no effort by the owner to resolve the issue; therefore, the property remains in violation of §22-24, §22-20 and §18-28 of the City of Marathon Code.

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(s) to mow/trim the property and maintain as needed, remove and properly dispose of junk/trash/debris, repair or remove the fence within thirty (30) days from the date of the Order, March 17, 2022. 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, March 17, 2022. In the event the violation(s) is/are not corrected by the date set for compliance April 17, 2022, 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, MATT SALATA

8. C-22-5 (NEW CASE)

Irene Moreira
760 62ND St, Marathon (RE#00338730-000100)

Irene Moreira (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 conducted of the subject's property on January 10, 2022, revealed the property was overgrown with grass/weeds, vegetation and in need of maintenance and appeared to be abandoned.

Code Officer Salata while in the process of researching the address, he noticed an active 2019 Code Case: C2019-0122 and discovered that a Courtesy Notice to correct said violations were sent to the owner of the property on November 26, 2019.

A follow-up reinspection by Code Officer Salata, showed no change to the property and has not been mowed or trimmed.

After evidence presented by the city, the Respondent would be given until April 17, 2022, to come into compliance before any fines would be levied, other than the costs of the hearing.

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

Based on the evidence presented, it is determined that there has been no effort by the owner to resolve the issue; therefore, the property remains in violation of §22-24 of the City of Marathon Code

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(s) to mow/trim the property and maintain as needed within thirty (30) days from the execution of the Order dated April 5, 2022. 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, March 17, 2022. In the event the violation(s) is/are not corrected by the date set for compliance May 5, 2022, 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, MATT SALATA

9. C-22-21 (NEW CASE)

Islamorada Pool Service & Maintenance LLC
1200 30th Street Marathon FL 33050 (RE#: 00324060-000000)

Islamorada Pool Service and Maintenance LLC (the "Respondent(s)") c/o Daniel J. Dillon, Registered Agent, 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 conducted on February 7, 2022, for property located at 1200 30th Street within the city limits of Marathon, FL, revealed a pool being installed by Islamorada Pool Service & Maintenance LLC. It was observed that the water was being pumped/drained directly from the pool excavation site onto the street without any type of filtration, causing a very visible amount of grayish colored mud/silt to cover the street where the water sat.

A Stop Work Order was posted on February 9, 2022, pending clean-up.

On February 16, 2022, the Stop Work Order was removed after Islamorada Pool Service and Maintenance LLC completed the clean-up; however, the incident was reported to the Florida Department of Environmental Protection (DEP) Marathon office.

Based on historical records, Islamorada Pool Service and Maintenance LLC, has received Verbal Compliance/ Assistance Notice from the Department of Environmental Protection, as well as on-site inspections to ensure continued compliance.

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

Based on the evidence presented, and pursuant to Chapter 162.09 (2) (b) (1) - (3), F.S it is determined that the violation is irreparable in nature.; therefore, the Respondent is in violation of §34-135 of the City of Marathon Code.

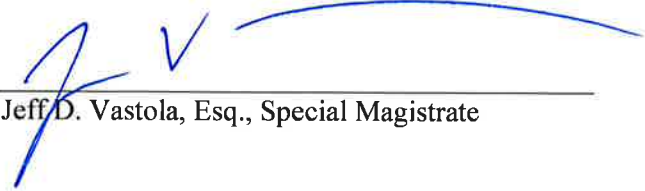
RECOMMENDATION(S): The Special Magistrate heard the testimony, and a Findings of Fact, Conclusion of Law and Order was entered finding Islamorada Pool Service and Maintenance LLC in violation of the stated code and Ordered the Respondent(s) to pay a one-time fine in the amount of Five Thousand Dollars (\$5,000.00) for irreparable harm violation from execution of the Order dated, April 5, 2022. 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, March 17, 2022.

H. OTHER BUSINESS - Next Special Magistrate meeting April 21, 2022.

I. ADJOURNMENT OF MEETING - With no further business to come before the Special Magistrate, the meeting was adjourned at 3:39 P.M.

The above represents a summary of the Code Compliance Hearing held March 17, 2022 . This is not a verbatim record. A recorded disc is available upon request.

These minutes were reviewed and approved by Jeff D. Vastola, Esq., Special Magistrate for the City of Marathon, Florida.



Jeff D. Vastola, Esq., Special Magistrate



Date