

CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING

MINUTES

AUGUST 13, 2018

10:00 A.M.

PRESENT

Amber Ashton, Special Magistrate
Andrew Dickman, City Attorney
Wesley Wright, Community Development Department Director
Mary Jo Murphy, Deputy City Clerk
William Palmer, Building Official
Peyt Dewar, Code Enforcement Manager
Shaunna Anick, Code Enforcement Officer
Laura Marley, Planner II

1. CALL TO ORDER

Special Magistrate Ashton called the City of St. Pete Beach Code Enforcement Special Magistrate Hearing to order at 10:00 a.m.

2. PLEDGE OF ALLEGIANCE

Special Magistrate Ashton invited everyone present to recite the Pledge of Allegiance.

3. ADMINISTER OATH

Special Magistrate Ashton administered the oath or affirmation to witnesses present.

4. OLD CASES

Special Magistrate Ashton heard the following cases and entered the following orders:

- A. Case No. 20170201**
City of St. Pete Beach v. Elizabeth and James Devito
Address: 3528 Casablanca Avenue, St. Pete Beach, FL 33706
District 3
Violations: Sec. 9.2. – Permitted principal uses and structures, (a).

Peyt Dewar, Code Enforcement Officer, informed Special Magistrate Ashton that the property was compliant in regard to the previous owner. The property is now in violation with the new property owners and the case will be listed on the September agenda.

5. REPEAT VIOLATIONS:

- A. Case No. 20180116**
City of St. Pete Beach v. Shirley Lockwood
Address: 7700 Boca Ciega Drive, St. Pete Beach, FL 33706
District 1
Violations: Sec. 32.5 – Prohibited uses and structures.

Mr. Dewar gave a presentation in regard to Case No. 20180116.

Special Magistrate Ashton found the following:

- Entered an order to re-impose the original \$3,500.00 fine based upon the prior violation
- Forfeited the lien reduction for failure to pay within the required time
- Imposed an additional \$500.00 fine against the property
- Total fine of \$4,000.00 is payable within 30 days of the order
- The order will be a lien on the property

- B. Case No. 20150196**
City of St. Pete Beach v. Wilma Saunders and Kenneth Donovan
Address: 820 59th Avenue, St. Pete Beach, FL 33706
District 2
Violations: Sec. 98-66. - Residential and commercial property maintenance, (a), (b), (19), (d).

Mr. Dewar gave a presentation in regard to Case No. 20150196.

Special Magistrate Ashton found the following:

- Imposed a fine of \$500.00 against the property for the repeat violation which will be payable in 30 days
- There will be a lien on the property as a repeat violation

6. NEW CASES:

- A. Case No. 20180162**
City of St. Pete Beach v. John Glasscock
Address: 295 46th Avenue, St. Pete Beach, FL 33706
District 3
Violations: Sec. 98-66. Residential and commercial property maintenance, (18).

Mr. Dewar gave a presentation in regard to Case No. 20180162.

John Glasscock, spoke in regard to the maintenance and care of the subject swimming pool and requested an extension of time.

Special Magistrate Ashton found the following:

- Entered an order providing 30 days to bring the property into compliance by 9/13/18
- If the property is not brought into compliance by 9/13/18, Mr. Glasscock will be brought back for another hearing and a fine will be imposed at that time.

B. Case No. 20180166

City of St. Pete Beach vs. G S A M P Trust 2006 HE5/US Bank Natl Assn Tre

Address: 345 71st Avenue, St. Pete Beach, FL 33706

District 2

Violation: Sec. 46-33 - Enumeration, (1), (2), (3), (4), (a), (b), (9); Sec. 98-65. – Unsightly conditions, (1), (2), (3), (4); Sec. 98-66. – Residential and commercial property maintenance, (a), (b), (2), (3), (5), (7), (18), (c), (3), (d).

Mr. Dewar gave a presentation in regard to Case No. 20180166.

Special Magistrate Ashton found the following:

- Found that service was proper
- Property is in violation of various ordinances based on the evidence presented
- Health and safety concern
- Accepted the City's recommendation of a 7-day compliance period
- The property needs to be in compliance by 8/20/18 or a fine will be imposed
- The fence needs to be repaired and locked
- If the property is not brought into compliance by 8/20/18, it will be set for the September hearing on 9/10/18 for imposition of fines and liens

C. Case No. 20180196

City of St. Pete Beach vs. Lorraine Hubbard Trust

Address: 3401 Casablanca Avenue, St. Pete Beach, FL 33706

District 3

Violations: Sec. 9.2 – Permitted principal uses and structures, (a).

Mr. Dewar gave a presentation in regard to Case No. 20180196.

Corey Hubbard, 3401 Casablanca Avenue, spoke in regard to the property being brought into compliance immediately after the receipt of a Notice of Violation.

Special Magistrate Ashton found the following:

- Entered an order that the property was in violation but noted the property is in compliance now
- No fine will be imposed
- If the property comes out of compliance, it will be considered a repeat violation and the fines will increase to \$500.00 per day

- D. Case No. 20180190**
City of St. Pete Beach vs. Stephanie Churchill and Scott Parker
Address: 210 73rd Avenue, St. Pete Beach, FL 33706
District 1
Violations: Sec. 34.5 – Prohibited uses and structures.

Mr. Dewar gave a presentation in regard to Case No. 20180190.

Special Magistrate Ashton found the following:

- Gave until 8/24/18 to bring the property into compliance
- If the property is not in compliance by 8/24/18, the case will come before the Special Magistrate in the September hearing for an imposition of a daily fine as suggested by the City

- E. Case No. 20180216**
City of St. Pete Beach vs. Jenny Wai-Ching Cheng
Address: 204 43rd Avenue, St. Pete Beach, FL 33706
District 3
Violations: Sec. 9.2 – Permitted principal uses and structures, (a).

Mr. Dewar informed Special Magistrate Ashton that the property is no longer being advertised and is compliant.

Special Magistrate Ashton found the following:

- Property was in violation but is now compliant
- If the property comes out of compliance, it will be considered a repeat violation

- F. Case No. 20180214**
City of St. Pete Beach v. Amy Datz and Leslie Stewart
Address: 3208 E. Maritana Drive, St. Pete Beach, FL 33706
District 3
Violations: Sec. 9.2 - Permitted principal uses and structures, (a).

Mr. Dewar informed Special Magistrate Ashton that the property is no longer being advertised and is compliant.

Special Magistrate Ashton found the following:

- Property was in violation but is now compliant
- If the property comes out of compliance, it will be considered a repeat violation

- G. Case No. 20180211**
City of St. Pete Beach vs. M & D Assets LLC.
Address: 356 S. Tessier Drive, St. Pete Beach, FL 33706
District 4
Violation: Sec. 8.2. – Permitted principal uses and structures, (a).

Mr. Dewar informed Special Magistrate Ashton that the property is no longer being advertised and is compliant.

Special Magistrate Ashton found the following:

- Property was in violation but is now compliant
- If the property comes out of compliance, it will be considered a repeat violation

H. Case No. 20180189

City of St. Pete Beach vs. Lores and Edward Schwind

Address: 280 72nd Avenue, St. Pete Beach, FL 33706

District 2

Violation: Sec. 9.2. - Permitted principal uses and structures, (a).

Mr. Dewar gave a presentation in regard to Case No. 20180189.

Special Magistrate Ashton found the following:

- Property was in violation but is now compliant
- If the property comes out of compliance, it will be considered a repeat violation

At this time, there was a five-minute recess.

I. Case No. 20180198

City of St. Pete Beach v. Morean Trust and the

City of St. Pete Beach v. Don CeSar Property Owners Corporation

Address: Block N, St. Pete Beach, FL 33706

Address: 3618 El Centro, St. Pete Beach, FL 33706

District 3

Violations: Sec. 6.15. - Fences and walls; 105.1 Required; Sec. 1.4.;

Sec. 25.5 – Prohibitions, (d), (1), (2), (3), (4), (a); Sec. 18.6. –

Prohibited uses and structures within the parks.

At the request of Special Magistrate Ashton, the following people introduced themselves for the record:

Sam Heller, Don CeSar Property Owners Corporation

Patricia Fields Anderson, Beth Morean as Trustee for the family trust

Mr. Dewar gave a presentation in regard to Case No. 20180198.

City Attorney Dickman gave a 37-page presentation entitled "City of St. Pete Beach, Special Magistrate Hearing, August 13, 2018" in regard to the subject case.

Special Magistrate Ashton asked Ms. Kimberly Bonati to please come forward and be sworn in; Ms. Bonati complied.

Attorney Heller stated that he represented the Bonatis as well.

Kimberly Bonati, spoke in regard to a newly created path near her property.

City Attorney Dickman continued with his presentation.

Special Magistrate Ashton administered the oath or affirmation to Mr. Bill Palmer.

Bill Palmer, Building Official, attested that the subject fence required a building permit and responded to questions in regard to the fence.

City Attorney Dickman continued with his presentation and submitted a one-page document entitled "Florida Statute 162.09, Administrative fines; costs of repair; liens. -" via the document camera.

Mr. Dewar submitted photographs in regard to the subject case, via the document camera.

City Attorney Dickman concluded the City's presentation and reserved time for rebuttal.

Attorney Sam Heller; Representing the Don CeSar Property Owners Corporation, the Bonatis, and Jeff McMahon, individually; spoke about the subject case, Case No. 20180198. Via the document camera, Attorney Heller submitted a photograph and referred to Page 8 of Attorney Dickman's presentation.

Patricia Fields Anderson, Esq., spoke about the subject case, Case No. 20180198, and submitted photographs, via the document camera.

Attorney Sam Heller; spoke in regard to clarifying issues about the subject case.

Special Magistrate Ashton asked for public comments.

Christopher Hollands, professional engineer with the State of Florida, spoke about being a 35-year resident, House Bill 631, tourism, environment, sea oats, signs and a pad lock code.

Kimberly Bonati, spoke about the Hotel Zamora, no parking signs, wall repair, path, foot traffic, building permits, trespassing and a pad lock.

Attorney Dickman asked the following people to speak: Deputy Robinson, Wesley Wright, Peyt Dewar and Christopher Hollands.

Deputy Robinson, spoke in regard to trespassing and law enforcement issues.

Wesley Wright, Community Development Director, spoke in regard to parking.

Peyt Dewar, Code Enforcement Officer, spoke in regard to the City reacting to code enforcement violations.

Christopher Hollands, spoke in regard to the use of 37th Avenue.

Kimberly Bonati, spoke in regard to signage, a path and police reports.

Attorney Heller spoke in regard to the police reports and offered to provide the reports to Special Magistrate Ashton.

Special Magistrate Ashton requested the police reports and stated that she would continue the hearing to the September hearing.

Special Magistrate Ashton found the following:

- Entered an order that the property was in violation
- Ms. Morean is subject to a fine in the future should she repeat the violation by installing additional signage in that area
- Reserved ruling on the beach side issue but provided that the City take the signs down.
- If there is evidence found that Ms. Morean was responsible for installing the signs, Ms. Morean will be subject to a fine to be determined at the next hearing

Attorney Heller asked for clarification of the order.

Special Magistrate Ashton further found the following:

- Entered an order determining that the fence and gate on the 37th Avenue side is a violation
- The violation has currently been brought into compliance by removal of the fence.
- All other issues raised today at this hearing will be continued to the September hearing
- Everyone is permitted to submit additional evidence
- Requested videos before the hearing
- Requested Ms. Morean to be present to testify
- Subpoenas can be requested
- The City can remove the fences on the beach side

Mr. Dewar asked for clarification of the order.

Special Magistrate Ashton further found the following:

- Any structures placed in the dune system may be removed as they are in violation of the building requirements

Kimberly Bonati, spoke and described the structures placed in the dune system.

City Attorney Dickman requested to revisit the statutes and artwork during the September 10th hearing.

Special Magistrate Ashton further found the following:

- Reserved ruling on the structures placed in the dune system until the September hearing
- The City has the authority to enter upon the land to remove any fence structures that are currently on the property
- On the beach side if a fence is installed, the City has the authority to remove that fence if there is no permit issued for it
- This hearing will be continued to the September 10th hearing
- Parking issues and trespassing issues are to be pursued with the appropriate persons, whether it be the police or the building department

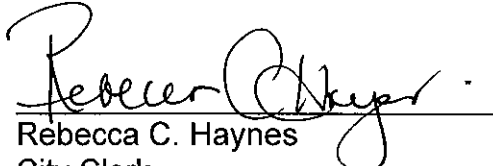
NEXT HEARING

Monday, September 10, 2018, at 10:00 A.M.

7. ADJOURNMENT

There being no further business to come before the Special Magistrate, the hearing was adjourned at 12:30 p.m.

Attest:


Rebecca C. Haynes
City Clerk