

CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING

MINUTES

SEPTEMBER 10, 2018

10:00 A.M.

PRESENT

Amber Ashton, Special Magistrate
Matthew McConnell, Esq., Dickman Law Firm
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

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. CASES COMPLIED OR CONTINUED:

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

- A. Case No. 20170080**
City of St. Pete Beach v. JM Industries LLC
Address: 840 59th Avenue, St. Pete Beach, FL 33706
District 2
Violations: Sec. 3.6 – (a), (c); 104.62; 105.1.

Peyt Dewar, Code Enforcement Officer, informed Special Magistrate Ashton that the property was compliant with no outstanding fines or liens.

- B. Case No. 20180089**
City of St. Pete Beach v. Sungold LLC

Address: 3855 Gulf Boulevard, St. Pete Beach, FL 33706
District 3
Violations: Sec. 42.4, (e), (f).

Mr. Dewar requested a 60-day continuation in regard to Case No. 20180089.

Special Magistrate Ashton found the following:

- Case will be continued to the hearing of November 12, 2018

C. Case No. 20180088
City of St. Pete Beach v. Kazbo LLC
Address: 1901 Pass-A-Grille Way, St. Pete Beach, FL 33706
District 4
Violations: Sec. 4.7, Sec. 4.8, (a); Sec. 15.4, (j).

Mr. Dewar requested a 60-day continuation in regard to Case No. 20180089.

Special Magistrate Ashton found the following:

- Case will be continued to the hearing of November 12, 2018

At this time Mr. Dewar requested that Special Magistrate Ashton review two compliant cases under New Cases as follows: Item No. 6.C., Case No. 20180212, and Item No. 6.D., Case No. 20180234.

6. NEW CASES

C. Case No. 20180212
City of St. Pete Beach v. Beatriz Rzewnicki Revocable Trust
Address: 3216 S. Maritana Drive, St. Pete Beach, FL 33706
District 3
Violations: Sec. 9.2 - (a).

Mr. Dewar informed Special Magistrate Ashton that the property was in compliance.

D. Case No. 20180234
City of St. Pete Beach v. Irene Hayrapetian and Albert Badalian
Address: 9140 Gulf Boulevard, St. Pete Beach, FL 33706
District 1
Violation: Sec. 46.33 – (1), c., (4), b.; Sec. 98-65 – (3); Sec. 98-66 – (7), (22), b., 3.

Mr. Dewar informed Special Magistrate Ashton that the property was in compliance.

Special Magistrate continued with Item No. 4.D. under "Cases Complied or Continued."

4. CASES COMPLIED OR CONTINUED:

D. Case No. 20180198

**City of St. Pete Beach v. Morean Trust and the City of St. Pete Beach
v. Don Ce Sar Property Owners Corporation**

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

District 3

**Violations: Sec. 6.15; 105.1; Sec. 1.4; Sec. 25.5, (d), (1), (2), (3), (4);
Sec. 25.9 - (a); Sec. 18.6.**

Mr. Dewar stated the case was continued from the August hearing and submitted photographs, via the document camera, in regard to Case No. 20180198.

Attorney Sam Heller, Representing the Don CeSar Property Owners Corporation, the Bonatis, and Jeff McMahon; spoke about the subject case, Case No. 20180198, in regard to the following topics: Findings of Fact, subject art installations, and a Quiet Title Action.

Special Magistrate Ashton clarified that Case No. 20180089 and Case No. 20180088 will be continued to the hearing date of November 5, 2018 instead of November 12, 2018 that was previously stated during Item No. 4.B., Case No. 20180089, and Item No. 4.C, Case No. 20180088.

Bill Palmer, Building Official, gave a definition of the word "structure."

Attorney Sam Heller, spoke in regard to the art installations.

Special Magistrate Ashton found the following:

- Provided 30 days for whomever is responsible to remove the dolphins
- Set the deadline to remove the dolphin structures as October 7, 2018
- If the dolphin structures are not removed by October 7, 2018, then the City can enter upon the land and remove the dolphin structures
- City will determine what needs to be done to remove the turtle and if it can be accomplished without causing environmental problems
- During the October 8, 2018 hearing, there will be a status report in regard to the turtle, and as a result, make a determination as to whether the turtle should be removed by the City, Ms. Morean or if there's another appropriate means that needs to take place.
- Further, if the turtle can be removed without any environmental issues, the City is permitted to remove the turtle. It is a structure and it is in violation of the code.

Matthew McConnell, Esq., Dickman Law Firm, requested clarification from Special Magistrate Ashton that without presenting any further evidence before October 7, 2018, that if the City finds the turtle can be removed, then the City has permission to remove the turtle.

Special Magistrate Ashton confirmed the following:

- If the City finds the turtle can be removed without any environmental impact, then the City may remove the turtle anytime between today and the October 8, 2018 hearing. If there is to be any further discussion on October 8, 2018, it will be limited to the environmental impact of the removal.
- If the dolphin structures are not removed by October 7, 2018, then the City can go in on October 8, 2018 and remove the dolphins

Attorney Sam Heller, requested to direct Ms. Morean to appear for the October 8, 2018 hearing.

In regard to issuing a subpoena to Ms. Morean, Attorney McConnell stated he would review the request with City Attorney Dickman.

Mr. Dewar spoke in regard to the removal of fences and the dune system and stated the property was compliant.

Thomas Cangiano, 3614 Casablanca Avenue, spoke in regard to the subject property, the usage of the right-of-way access, a fence and a lock.

5. OLD CASES

- A. Case No. 20180166**
City of St. Pete Beach v. G S AMP Trust 2006 HE5/US Bank Natl Assn Tre
Address: 345 71st Avenue, St. Pete Beach, FL 33706
District 2
Violation: Sec. 46-33, (1), b., (2), (3), (4), a., b., (9); Sec. 98-65, (1) b., (2), (3), (4); Sec. 98.66, (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:

- Proper notice was given
- Property remains out of compliance
- Imposed a fine of \$250.00 per day retroactive to August 20, 2018, the compliance deadline
- Fine will continue to run until property is brought into compliance
- Imposed an additional administrative fine to be determined to cover the cost of bringing this matter to the hearing

- B. Case No. 20180190**
City of St. Pete Beach v. Stephanie Churchill and Scott Parker
Address: 210 73rd Avenue, St. Pete Beach, FL 33706
District 1

Violations: Sec. 34.5.

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

Special Magistrate Ashton found the following:

- Proper notice was given
- Imposed a fine of \$250.00 per day retroactive to August 20, 2018
- Fine will continue to run until property is brought into compliance
- Imposed an additional administrative fine to be determined to cover the cost of bringing this matter to the hearing

In regard to Item 5.A., Case No. 20180166, Mr. McConnell requested that the City be able to abate the property and then charge the cost if Special Magistrate was agreeable.

Special Magistrate Ashton further found the following for Item 5.A., Case No. 20180166:

- The City could enter upon the property and abate the property to address any health and safety issues that may exist on the property.
- If the City does take action to abate, those costs will be assessed against the property as a fine as part of the administrative costs for the hearing.

6. NEW CASES

A. Case# 20180085

City of St. Pete Beach v. Morrissey & Morrissey Enterprises LLC

Address: 7210 Gulf Boulevard, St. Pete Beach, FL 33706

District 1

Violations: 46.33 - (2), (3), (4), b.; Sec. 98-65 - (2), (3), (4); Sec. 98-66 - (2), a., b., (7), (8), (14), (19); 105.1

Mr. Dewar gave a presentation in regard to Case No. 20180085.

Special Magistrate Ashton found the following:

- Proper notice was given
- Property is in violation
- Gave 21 days to bring the property into compliance by October 1, 2018
- If the property is not in compliance by October 1, 2018, which includes pulling a building permit and obtaining a Certificate of Occupancy, then this matter will be heard before the Special Magistrate during the October 8, 2018 hearing for an imposition of a fine or a lien

B. Case No. 20180231

City of St. Pete Beach v. Kathleen Johnson

Address: 620 64th Avenue, St. Pete Beach, FL 33706

District 2

Violations: Sec. 46-33 - (4); Sec. 98-65 - (3); Sec. 98-66 - (a), (b), (2), (7), (12).

Mr. Dewar gave a presentation in regard to Case No. 20180231.

Special Magistrate Ashton found the following:

- Entered an order for an additional 30 days to bring the property into compliance
- October 10, 2018 is the compliance deadline
- If the property is not in compliance by October 10, 2018, then this matter will be heard before the Special Magistrate during the November 5, 2018 hearing

Special Magistrate Ashton reiterated that Case No. 20180212 and Case No. 20180234 were compliant and heard during Item No. 4, "CASES COMPLIED OR CONTINUED."

C. Case No. 20180226

City of St. Pete Beach v. Gina Simonaitis

Address: 8920 Gulf Boulevard, St. Pete Beach, FL 33706

District 1

Violation: Sec. 46-33 – (1), a., b., c., (2), (3), (4), a., b. (6); Sec. 98-65 – (3), (4); Sec. 98-66 – (a), (22), 2., (c), (3).

Mr. Dewar gave a presentation in regard to Case No. 20180226.

Mr. McConnell suggested abatement for the subject property.

Special Magistrate Ashton found the following:

- Gave property owner a compliance deadline of September 21, 2018 to bring the property into compliance
- If the property is not in compliance by September 21, 2018, the City has permission to enter upon the property to abate all health and safety concerns, such as vegetation issues, rodent harborage issues and removal of a metal ladder from the dock
- In regard to repairing the dock, it will be addressed at a later date if needed
- If the property is not in compliance by September 21, 2018 and/or if the City has to take any abatement action, then this matter will be heard before the Special Magistrate during the October 8, 2018 hearing for an imposition of a fine and lien

D. Case No. 20180194

City of St. Pete Beach v. Morgan Stanley ABS Capital Inc. Trust 2007-HE7 Deutsche Bank National Trust Co. Trustee

Address: 3941 Moody Street, St. Pete Beach, FL 33706

District 3

Violations: Sec. 46.33; (4), b.; Sec. 98-64 - (a); 98-65 - (3); Sec. 98-66 – (2), (3), a., b., (7), (11), (14).

Mr. Dewar gave a presentation in regard to Case No. 20180194.

Mr. McConnell updated Special Magistrate Ashton that a foreclosure occurred with the subject property, and a bank has a title to the property. The bank is requesting 30 days to obtain a demolition permit for the subject property, and the City agreed.

Special Magistrate Ashton found the following:

- Compliance deadline is October 10, 2018
- If the property is not in compliance by October 10 2018, then this matter will be heard before the Special Magistrate during the November 5, 2018 hearing for an imposition of fines and liens and potential further actions

Mr. McConnell suggested granting 27 days for the compliance deadline due to having the demolition permit for the October meeting.

Special Magistrate Ashton further found the following:

- Notice was proper
- Compliance deadline is October 7, 2018
- If the property is not in compliance by October 7, 2018, then this matter will be heard before the Special Magistrate during the October 8, 2018 hearing for the imposition of a fine and lien or a status update in regard to the subject property

7. ADDITIONAL ITEMS

- 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.**

Mr. Dewar stated that Ms. Lockwood requested to be on the agenda but was not present for the hearing.

Special Magistrate Ashton found the following:

- Stated no action will be taken and the lien will remain standing on the case until the property is brought into compliance and Ms. Lockwood appears to request a lien reduction

Mr. Dewar submitted a document, via the document camera, showing advertising for rental of the subject property establishing the property is in repeat violation.

Special Magistrate Ashton encouraged Mr. Dewar to send a Notice of Violation.

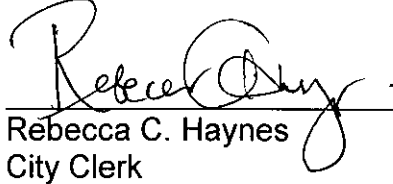
NEXT HEARING

Monday, October 8, 2018, 10:00 A.M.

8. ADJOURNMENT

There being no further business to come before the Special Magistrate, the hearing was adjourned at 10:54 a.m.

Attest:



Rebecca C. Haynes
City Clerk