

CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING

MINUTES

OCTOBER 8, 2018

10:00 A.M.

PRESENT

Amber Ashton, Special Magistrate
Matthew McConnell, Esq., Dickman Law Firm
Wesley Wright, Community Development Department Director
Peyt Dewar, Code Enforcement Manager
Shaunna Anick, Code Enforcement Officer
Brandon Berry, Planner I
Mary Jo Murphy, Deputy City Clerk

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. 20180085**
City of St. Pete Beach v. Morrissey & Morrissey Enterprises LLC
Address: 7210 Gulf Boulevard, St Pete Beach, FL 33706
District 1
Violations: Sec. 46-33. – Enumeration, (2), (3), (4), (b); Sec. 98-65 –
Unsightly conditions, (2), (3), (4); Sec. 98-66. - Residential and
commercial property maintenance, (2), a., b., (7), (8), (9), (14), (19);
105.1 Required.

Peyt Dewar, Code Enforcement Officer, informed Special Magistrate Ashton that the property was in compliance.

- 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. – Enumeration, (4); Sec. 98-65 – Unsightly conditions, (3); Sec. 98-66. - Residential and commercial property maintenance, (a), (b), (2), (7), (12).

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

At this time Mr. Dehner added there was another compliant case under "OLD CASES," Item No. 5.B., Case No. 20180194, as follows:

- B. Case No. 20180194**
City of St. Pete Beach vs. Morgan Stanley ABS Capital I Inc. Trust
2007-HE7/Deutsche Bank National Trust Co Trustee
Address: 3941 Moody Street, St. Pete Beach, FL 33706
District 3
Violations: Sec. 46-143 – Declaration of chronic nuisance property, action plan, (a), (1), (2), (3), (4), (5), (6), (7), (8), (b), (c), (d); Sec. 98-65, Unsightly Conditions, (4); Sec. 98-66 - Residential and commercial property maintenance, b., c., (2), (7), (20), (d).

Mr. Dewar informed Special Magistrate Ashton that the property was going to be demolished and the permit had been obtained for the demolition.

5. OLD CASES

- A. Case No. 20180226**
City of St. Pete Beach vs. Gina Simonaitis
Address: 8920 Gulf Boulevard, St. Pete Beach, FL 33706
District 1
Violation: Sec. 46-33 – Enumeration, (1), a., b., c., (2), (3), (4), a., b., (6); Sec. 98-65 – Unsightly conditions, (3), (4); Sec. 98-66. - Residential and commercial property maintenance, (a), (22), 2. (c), (3).

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

Special Magistrate Ashton found the following:

- Found notice was proper
- Found the City is entitled to its abatement costs in the amount of \$350.00

- The property is now compliant; therefore, there will not be a daily fine running
- City is entitled to administrative costs in an amount to be determined for bringing this matter to hearings two times

B. Case No. 20180194

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

**Address: 3941 Moody Street, St. Pete Beach, FL 33706
District 3**

Violations: Sec. 46-143 – Declaration of chronic nuisance property, action plan, (a), (1), (2), (3), (4), (5), (6), (7), (8), (b), (c), (d); Sec. 98-65, Unsightly Conditions, (4); Sec. 98-66 - Residential and commercial property maintenance, b., c., (2), (7), (20), (d).

This case was addressed during Item No. 4. "CASES COMPLIED OR CONTINUED."

C. Case No. 20180198

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

**Address: Block N, St. Pete Beach, FL 33706
Address: 3618 El Centro Street, St. Pete Beach, FL 33706
District 3**

Violations: Sec. 6.15 – Fences and walls; 105.1 Required; Sec. 1.4, Conflicts with other ordinances, covenants or agreements; Sec. 25.5 – Prohibitions, (d), (1), (2), (3), (4); Sec. 25.9 – Permit required, (a); Sec. 18.6 – Prohibited uses and structures within the parks.

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

The following people spoke in regard to the subject case:

Matthew McConnell, Esq., Dickman Law Firm

Wesley Wright, Community Development Director

Patricia Fields Anderson, Esq., attorney representing Beth Morean

Beth Ann Morean, 3618 El Centro Street, St. Pete Beach, Florida

Attorney Sam Heller, attorney representing the Don CeSar Property Owners Corporation and Jeff McMahon

Charles Kabbash, 3608 Gulf Boulevard

Christopher Hollands, 3606 ½, No. 5, Gulf Boulevard

Special Magistrate Ashton found the following:

- Entered an order that the notice was proper
- Found that it is a structure
- Required that the City obtain an expert opinion from the Florida Department of Environmental Protection to determine whether or not the subject items can be removed without causing damage to the dunes. If the subject items cannot be removed without causing damage to the dunes, then they will not be removed.

After discussion ensued about the above-mentioned order, Special Magistrate further found the following:

- Ordered that the City obtain an expert opinion, and that the City may determine the appropriate expert, to determine whether or not the turtle and the dolphin can be removed from the dune system without causing damage to the dune system.
- If it can be done and the City has an expert opinion that says that it can be removed without causing substantial damage to the dune system, which would be a violation in and of itself, the City can remove it.
- If an expert says that they cannot be removed without causing substantial damage to the dune system, then they will not be removed.

6. **NEW CASES:**

- A. **Case No. 20180164**
City of St. Pete Beach vs. Jenny Tran
Address: 7116 Gulf Boulevard, St. Pete Beach, FL 33706
District 2
Violations: 105.1 Required.

Mr. Dewar gave a presentation in regard to Case No. 20180164.

Brandon Berry, Planner I, spoke in regard to a building permit for a 6-foot vinyl fence; a new concrete sidewalk; the impervious surface ratio, which had been exceeded; and Staff denied approval of the new concrete sidewalk.

Jenny Tran, 7116 Gulf Boulevard, owner, asked Mr. Rovero with Ground Hog Construction to speak for her.

Hunter Rovero, Ground Hog Construction, spoke about obtaining a fence permit and inquired about the issues with the concrete.

Special Magistrate Ashton found the following:

- Gave 27 days to bring the property into compliance
- If the property is not in compliance by November 4, 2018, then the matter will be brought back to the hearing on November 5, 2018 and a fine or a lien will be imposed

Brandon Berry added that the applicant is eligible to apply for a variance as an option, and the next hearing is in December 2018.

Special Magistrate Ashton further found the following:

- The property needs to be in compliance, or the applicant has to apply for a variance by the November 4, 2018 date
- At that point, the City can determine whether or not to continue the hearing to allow the variance process to continue

B. Case No. 20180243

City of St. Pete Beach v. Mad Men Flys LLC

Address: 210 Julia Circle N., St. Pete Beach, FL 33706

District 4

Violations: Sec. 46-33 – Enumeration, (1), a., b., c., (2), (3), (4); Sec. 98-65 – Unsightly conditions, (1), a., b., c., (2), (3), (4); 105.1 Required.

Mr. Dewar gave a presentation in regard to Case No. 20180243.

Special Magistrate Ashton found the following:

- Proper notice was given
- Property is in violation
- Provided 27 days to pull the demolition permit and to bring the property into compliance by November 4, 2018
- Reset for hearing on the November 5, 2018 hearing
- If the City wishes to continue the case at that point, it will be addressed at that time

C. Case No. 20180233

City of St. Pete Beach vs. Susan Ahl

Address: 3408 E. Maritana Drive, St. Pete Beach, FL 33706

District 3

Violation: 105.1 Required, Sec. 98-66. – Residential and commercial property maintenance, (a), (b), (d).

Mr. Dewar gave a presentation in regard to Case No. 20180233.

Susan Ahl, 3408 E. Maritana Drive, stated that it was not their intention to perform work without permits and inquired about her rights to ensure her safety.

Arthur Rougerio, 3408 E. Maritana Drive, spoke about the violation on the property and the details of obtaining a building permit.

Special Magistrate Ashton found the following:

- Property is in violation
- Compliance deadline of October 22, 2018 to bring the property into compliance

- If the property is not in compliance by October 22, 2018, the matter will be brought back to the November 5, 2018 hearing to impose a lien and a fine on the property

D. Case No. 20180249

City of St. Pete Beach vs. Kyle Pozek

Address: 545 78th Ave., St. Pete Beach, FL 33706

District 1

Violation: Sec. 10.2. - Permitted principal uses and structures, (a).

Mr. Dewar gave a presentation in regard to Case No. 20180249.

Special Magistrate Ashton found the following:

- Proper notice was given
- Property is in violation
- Gave 15 days to bring the property into compliance with an October 23, 2018 compliance deadline
- If the property is not brought into compliance by October 23, 2018, the matter will be brought back to the November 5, 2018 hearing

E. Case No. 20180232

City of St. Pete Beach vs. Tina Barnett

Address: 1340 Boca Ciega Isle Drive, St. Pete Beach, FL 33706

Violations: Sec. 98-120.3 – Intent and purpose, (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13); R322.3.4, Walls below design flood elevation, 1., 2., 3., 4., 4.1, 4.2, 5.; 105.1 Required; Sec. 46-33 – Enumeration, (9); Sec. 98-66 – Residential and commercial property maintenance, (a), (b), (18), (20), (22), (24).

Mr. Dewar gave a presentation in regard to Case No. 20180232.

Special Magistrate Ashton found the following:

- Property is in violation
- Proper notice was given
- Compliance deadline is until November 4, 2018 to pull the permit and bring the property into compliance
- If the property is not brought into compliance by November 4, 2018, the matter will be brought back to the November 5, 2018 hearing

7. REPEAT VIOLATIONS:

A. Case No. 20180146

City of St. Pete Beach v. David Green

Address: 4 Alhambra Street, St. Pete Beach, FL 33706

District 3

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

B. Case No. 20180145

City of St. Pete Beach v. David Green

Address: 3408 E. Debazan Avenue, St. Pete Beach, FL 33706

District 3

Sec. 9.2. - Permitted principal uses and structures. Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-2 Residential District are as follows: (a).

Mr. Dewar gave a presentation in regard to Case No. 20180146 and Case No. 20180145.

Luke Lirot, 2240 Belleair Road, Clearwater, Florida 32714, attorney representing David Green, submitted an email from Home Away, via the document camera, and advised that Mr. Green had stopped all of his advertisements in order to bring the property into compliance.

Special Magistrate Ashton found the following:

- The property is in compliance, but if it is advertised for a short-term rental again, it will be a repeat violation
- If this violation occurs again, it will be an instantaneous fine, and the fine will be \$500.00 a day

C. Case No. 20160057

City of St. Pete Beach v. Robert Lauby

Address: 9210 Gulf Blvd., St. Pete Beach, FL 33706

District 1

Sec. 8.2. - Permitted principal uses and structures. Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-1 Residential District are as follows: (a).

Mr. Dewar gave a presentation in regard to Case No. 20160057.

Robert Lauby, 9210 Gulf Boulevard, spoke in regard to the subject violations and stated he was not advertising currently on the property.

Special Magistrate Ashton found the following:

- Imposed a new fine of \$3,000.00 on the property, separate and apart from the accrued \$11,000.00 fine, plus administrative expenses
- When the property is sold or the issues are resolved, may come back for a lien reduction

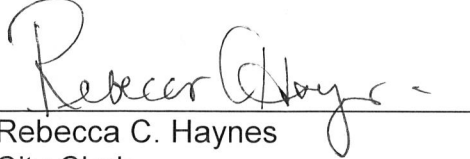
6. NEXT HEARING

Monday, November 5, 2018, 10:00 A.M.

8. ADJOURNMENT

There being no further business to come before the Special Magistrate, the hearing was adjourned at 12:11 p.m.

Attest:

A handwritten signature in cursive script, appearing to read "Rebecca C. Haynes", is written over a horizontal line.

Rebecca C. Haynes
City Clerk