CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING MINUTES

February 12, 2024 - 10:00 A.M.

PRESENT: Erica Augello, Special Magistrate
Matthew McConnell, Assistant City Attorney
Ariana Wilson, Admin. Assistant-City Clerk's Office
Peyt Dewar, Code Enforcement Manager
Luis Cruz, Code Enforcement Officer
Steven Rivera, Code Enforcement Officer
Jo Boland, Permitting Administrator

Special Magistrate Augello called the hearing to order at 10:01 AM, explained the hearing process and administered the oath to all those parties who would be testifying.

1. **Changes to the Agenda** – Assistant City Attorney, Matthew McConnell requested the addition of item 6.C, lien reduction, for a combination of Case No. 20230334 and Case No. 20230485, Soflan Investments.

He also requested the addition of an update on Case No. 20230571 and requested it be heard first.

Attorney McConnell stated that Case No. 20230571 came before the Special Magistrate on December 13, 2023, and an order was issued to have a status update today. Mr. McConnell stated he had been in communication with the respondent for this case and he requested this case be continued indefinitely until the Federal Court has ruled on the complaint.

Special Magistrate Augello was in agreement with the continuation and will write an order stating the same.

2. **Cases Complied or Continued**

A. Case No. 20230450 City of St. Pete Beach v. Mark D Jasperson TRE
Address: 450 75th Ave. St. Pete Beach FL 33706

Attorney McConnell stated he spoke to opposing counsel, and there is a separate issue the City is dealing with related to the Business Tax Receipt for this property. He requested a continuance until it is re-noticed by the city, to allow the city and property owner to work on that issue first.

Special Magistrate Augello was in agreement with the continuation and will write an order stating the same.

B. Case No. 20230610 City of St. Pete Beach v. Daniel McGeehan
Address: 216 45th Ave. St Pete Beach FL 33706

Code Enforcement Officer Rivera gave a status update on the property and presented evidence. This is made part of the record. He stated the property is now in compliance. The City is not requesting fines but they are seeking administrative costs.

Special Magistrate Augello found that the property is now in compliance and will not assess fines but will assess reasonable costs.

C. Case No. 20230661 City of St Pete Beach v. Vernon D Walker and Charlotte B Walker Address:3507 Belle Vista Dr. E St. Pete Beach FL 33706

Code Enforcement Officer Rivera gave a status update on the property and presented evidence. This is made part of the record. He stated the property is now in compliance. The City is not requesting fines but they are seeking administrative costs.

Special Magistrate Augello found that the property is now in compliance and will not assess fines but will assess reasonable costs.

D. Case No. 20230459 City of St. Pete Beach v. Matthew R Macintyre & Kurt Macintyre Address: 561 78th Ave. St. Pete Beach FL 33706

Code Enforcement Officer Cruz gave a status update on the property and presented evidence. This is made part of the record. He stated the property is now in compliance. The City is not requesting fines but they are seeking administrative costs.

Special Magistrate Augello found that the property is now in compliance and will not assess fines but will assess reasonable costs.

E. Case No. 20230458 City of St. Pete Beach v. Citrus Property Inv Inc Address: 7700 Blind Pass Rd. St. Pete Beach FL 33706

Code Enforcement Officer Cruz gave a status update on the property and presented evidence. This is made part of the record. The property is not compliant at this time. The City is requesting fines of $250 per day from 9/22/2023 until compliant.

Property owner Charles Flynt was present and testified to the permit process and the comments he received from the Building Department.

Special Magistrate Augello found, based on evidence, that she would assess fines of $50 per day from the date of her last order, 1/10/2024 until compliant, plus reasonable costs.

F. Case No. 20230559 City of St. Pete Beach v. Lake Merritt Partners LLC Address: 636 Corey Ave. St. Pete Beach FL 33706

Code Enforcement Officer Cruz gave a status update on the property. This is made part of the record. The property was given 60 days to secure the required after-the-fact permits. The property is not compliant at this time. The City is requesting fines of $250 per day from 10/17/2023 until compliant.

Attorney Joseph Kenny of Weber, Crabb, and Wein appeared with the property owner, Jason Matthews. Mr. Matthews testified to submitting documents to the Building Department. Attorney Kenny displayed the overview of the permit that came directly from the Building Department. Attorney Kenny requested that the after-the-fact permit costs be taken into consideration with fines being assessed. He also asked that any fines that are assessed are from 2/9/2024 as that was the date of compliance given in the order. He also requested that any administrative costs be presented at this hearing.

Permitting Administrator, Jo Boland was present and gave a brief overview of the history of approvals and denials. She stated the permit is currently pending approval in Planning and Zoning and then it will be routed for Building Department review.

Mr. McConnell reviewed FS. 162.07(2) which states, "If the local governing body prevails in prosecuting a case before the enforcement board, it shall be entitled to recover all costs incurred in prosecuting the case before the board and such costs may be included in the lien."

He stated that based on the orders, the property was found to be out of compliance and in violation of the City Code. It is the City's position they've already won in prosecuting this case therefore administrative costs will be for all hearings in prosecuting this case.

Special Magistrate Augello stated she would be reserving her right on ruling at this time to review the City Code. She will have an order issued with her findings and final ruling.

3. New Cases

A. Case No. 20230561 City of St. Pete Beach v. SJ Beach Properties LLC
Address: 6901 Sunset Way St. Pete Beach FL 33706

Code Enforcement Officer Cruz presented the evidence for the City's case including a summary of violations, noticing, posting, and dated photographs of the property. The presentation is made part of the record. The property is not compliant and the City is requesting fines of $250 per day from 1/5/2024 until compliant, plus administrative costs.

Attorney Scott Steady of Burr & Forman appeared on behalf of the respondent. He presented photo evidence of the gazebos that have been removed. The photos are made part of the record. He stated there is a third gazebo on the property that was there when it was purchased. They tried to look for the permits and have been unsuccessful. The property owners are willing to remove it and would like 30 days to complete this since the gazebo was installed differently and they want it removed properly.

Code Enforcement Officer Cruz entered into evidence some photos showing the gazebo Attorney Steady was referring to. The photos are made part of the record. He testified that no permits are on file for this gazebo.

Special Magistrate Augello found, based on evidence, that the property is in violation. No fines or fees will be assessed today; the property will have 30 days from the date of her order to come into compliance. Any fines will be assessed after a status check at the April 8th, 2024 Special Magistrate hearing.

B. Case No. 20230513 City of St. Pete Beach v. April Elliott & David Rybarczyk
Address: 423 Corey Ave. St. Pete Beach FL 33706

Code Enforcement Officer Cruz presented the evidence for the City's case including a summary of violations, noticing, posting, and dated photographs of the property. The presentation is made part of the hearing record. The property is not in compliance and the City is requesting fines of $250 per day from 1/5/2024 until compliant, plus administrative costs.

Property owner, April Elliott was present and testified to receiving notice and the list of violations they have been working on. She stated the fence is not on their property and entered into evidence the property survey that was completed in 2018. The survey is made part of the record. She stated the dumpster enclosure is on their property but there is no dumpster in the enclosure. The property

is for sale at this point, therefore they haven't made repairs to the enclosure. Mrs. Elliott asked if they could just remove the fence since there is no dumpster to bring the property into compliance.

She provided photos that show the fence is not on her property. The photos are made part of the record.

Attorney McConnell stated that removing the dumpster enclosure would bring the property into compliance.

Special Magistrate Augello found, based on evidence, that the property is in violation of the wooden dumpster enclosure. The property will have 30 days to come into compliance. Any fines will be assessed after a status check at the March 11th, 2024 Special Magistrate hearing.

C. Case No. 20230616 City of St. Pete Beach v. Anthony J Perrone
Address: 8151 Blind Pass Rd. #8 St. Pete Beach FL 33706

Code Enforcement Officer Cruz presented the evidence for the City's case including a summary of violations, noticing, posting, and dated photographs of the property. The presentation is made part of the record. The property is not in compliance and the City is requesting fines of $250 per day from 11/18/2023 until compliant, plus administrative costs.

No one was present on behalf of the respondent.

Special Magistrate Augello found, based on evidence, that the property is in violation. The property will have 30 days from the date of the order to apply for and secure the after-the-fact permit. Any fines will be assessed after a status check at the April 8th, 2024 Special Magistrate hearing.

D. Case No. 20230602 City of St. Pete Beach v. Ping Pong Partners LLC
Address: 9555 Blind Pass Rd. St. Pete Beach FL 33706

Code Enforcement Officer Cruz presented the evidence for the City's case including a summary of violations, noticing, posting, and dated photographs of the property. The presentation is made part of the record. The property is not in compliance and the City is requesting fines of $250 per day from 1/12/2024 until compliant, plus administrative costs.

Adam Harden, partner with Ping Pong Partners was present and testified to never receiving notice of the violation.

Mr. McConnell stated the notice of violation dated 12/21/23 is addressed to the principal address of the LLC found on SunBiz. Special Magistrate Augello questioned if the address was the same as the address listed on the property appraiser's website. Mr. Dewar stated that they normally send notices of violations to the registered agent on the SunBiz account for businesses.

Code Enforcement Officer Cruz presented evidence of the notice of violation with dates of postings and the address it was sent to. This is made part of the record.

Mr. McConnell reviewed FS.162.12, which states, "for property owned by a corporation, notices may be provided to the registered agent of the corporation".

Special Magistrate Augello stated that the testimony that was given by the City today was that notice was provided to the registered agent by certified mail but it was not provided to the address listed in either the Tax Collectors Office or the County Property Appraisers Office. Special Magistrate Augello found that the notice was not proper under Chapter 162. However, the respondent was present today, therefore he did receive the notice of hearing and procedural due process has been given.

Mr. Harden stated he wanted the opportunity to work with Code Enforcement on the issue prior to an order being written. He requested his case be continued to the March hearing.

Special Magistrate Augello was in agreement with the continuation and will write an order stating the same. Any fines will be assessed after a status check at the March 11th, 2024 Special Magistrate hearing.

4. Old Cases – None.

5. Repeat Violations – None.

6. Lien Reductions

A. Case No. 20220744 City of St. Pete Beach v. Plaza Beach Motel LLC
Address: Gulf Blvd. St. Pete Beach FL 33706

B. Case No. 20220772 City of St. Pete Beach v. Plaza Beach Motel LLC
Address: 46th Ave. St. Pete Beach FL 33706

Case No. 20220744 was combined with Case No. 20220772 by Order on August 15th, 2023 by Special Magistrate Thomas Thanas; therefore these cases were heard as one.

Attorney Mathew Kelly of Hill, Ward, Henderson appeared on behalf of the respondent.

Mr. McConnell requested confirmation that the permit had been pulled.

Code Enforcement Manager Dewar testified that the permit was issued on 1/25/2024 bringing the property into compliance. The lien was $2,800 and administrative costs were $370 bringing the total to $3,170.

Mr. McConnell stated the City is agreeable to a 25% fine reduction plus administrative costs. The City is requesting $1,070 for both the reduction and administrative costs.

Attorney Kelly was in agreement.

Special Magistrate Augello will grant the lien reduction request from the original amount to $1,070 which includes the administrative costs.

C. Case No. 20230334 and Case No. 20230485 - Soflan Investments – ***Added***

Code Enforcement Manager Dewar presented the case for the lien reduction application. Mr. Dewar testified that the property is in compliance. He stated they were in violation from 8/17/2023

to 12/26/2023. The lien was $65,500. Administrative costs were $404.50 and $474, for a total of $878.50 in administrative fees and a grand total of $66,378.50.

Mr. McConnell stated the City is agreeable to a 25% fine reduction plus administrative costs. The City is requesting $17,253.50 which includes the administrative costs.

Property Owner Prashant Vadhulas was present.

The Magistrate called for a brief recess at 11:23 AM and reconvened the hearing at 11:27 AM.

Mr. Vadhulas questioned the process and how the property became a repeat violation. He testified to working with his real estate agent who hired landscapers to keep the property maintained. He stated the property came into compliance on 9/16/2023.

Real Estate Agent Lisa Marie Jerrard and her husband Jeremy Jerrard testified to the property coming into compliance in September. They contracted Lawnstarter on 8/22/2023 and stated they come out every two weeks for lawn maintenance.

Mr. Rivera displayed a photo showing debris on the property on 9/18/2023. The photo is made part of the record.

Mr. Jerrard displayed photos from 9/25/2023 of the debris being removed. The photo is made part of the record.

Mr. McConnell stated given the evidence presented today the property has been cleaned up since 9/25/2023. The property was in violation from 8/17/2023 to 9/25/2023. Mr. McConnell stated the City is agreeable to a 25% fine reduction plus administrative costs. The City is requesting $5,753.50 which includes the administrative costs.

Special Magistrate Augello will grant the lien reduction request from the original amount to $5,753.50 which includes the administrative costs.

7. **Next Meeting** – March 11, 2024.

8. There being no further business, the hearing was adjourned at 11:46 AM.

Attest:

Ginny Bodkin, Deputy City Clerk