



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, January 25, 2017

Time: 9:00 AM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process
2. Consideration of Minutes - January 11, 2017
3. Approval of 2017 Meeting Dates
4. Standing Order/Approval Regarding Service of Process

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

5. **CEB Case No.:** 16-1932
Respondent: Bernadette Davila and Carmen Davila
Address of Violation: 762 Eagle Court, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 12/22/2016

Compliance: No

Cited for violation(s) - Chapter 2 (Definitions and Interpretations), Section 2 (Definitions), Accessory Structure of the City of Port Orange Land Development Code: Accessory structure (appurtenant structure).

Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (b) Principle Use and/or Principal Structure Required, (1), (2), (3) & (4) and (d) Size Limitations, (4) of the City of Port Orange Land Development Code: Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions:

- (b) Principal use and/or principal structure required. Accessory uses and structures shall:
- (1) Be customarily incidental to the principal use established on the same lot;
 - (2) Be subordinate to and serve such principal use;
 - (3) Be subordinate in area, extent and purpose to such principal use; and
 - (4) Contribute to the comfort, convenience or necessity of users of such principal use.

(d) Size Limitations:

- (4) No accessory residential structure shall be used as a guest house, apartment, or other residential quarters, unless otherwise permitted by this code

2014 Florida Building Code, Chapter 1 (Scope and Administration), Part 1 (Scope and Application, Section 105 (Permits), 105.1 (Required): Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.13 (Window, Skylight, and Door Frames) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

C. ORDER IMPOSING FINE/LIEN

6. **CEB Case No.:** 16-1596

Respondent: Florida Community Bank NA

Address of Violation: 190 Sand Pebble Circle, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 10/19/2016

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) Maintenance of Improved Residential Lots of the City of Port Orange Code of Ordinances and

Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.13 (Window, skylight and door frames) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

7. **CEB Case No.:** 16-1695

Respondent: Country Manor Assisted Living

Address of Violation: 1152 Old Hammock Road, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 10/20/2016

Compliance: No

Cited for violation(s) - Chapter 16 Miscellaneous Regulations Section 3, Fences and walls (b) General provisions (4) Design and maintenance, (b) (c) and (f) of the City of Port Orange Land Development Code.

8. **CEB Case No.:** 16-1140

Respondent: Country Manor Assisted Living

Address of Violation: 1152 Old Hammock Road, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 10/20/2016

Compliance: No

Cited for violation(s) - Section 42-26 Cleanliness of property generally-Duty of owner (c) maintenance of commercial and industrial zoned lots and (f) Garbage, waste, trash, etc. prohibited.

9. **CEB Case No.:** 16-1403

Respondent: Linda Kennedy, Maureen Kennedy, and John Kennedy

Address of Violation: 5204 Sydney Street, Port Orange, FL 32127

Code Officer: Deborah Faircloth

First Notified: 10/25/2016

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances), Article II (Garbage, Junk & undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner) (d) Maintenance of improved residential lots & (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances

10. **CEB Case No.:** 16-1612

Respondent: Jaqueline M. & Donald A. Acosta

Address of Violation: 825 Upland Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 09/29/2016

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances) of the City of Port Orange Code of Ordinances, Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots.

11. **CEB Case No.:** 16-1054

Respondent: Bryon Dickerson

Address of Violation: 5434 Hibiscus Ave., Port Orange, FL 32127

Code Officer: Deborah Faircloth

First Notified: 10/14/2016

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 42, Article II, Section 42-26 (d) (f) & (h) and Port Orange Land Development Code, Chapter 16, Section 3 (b)(4)(b)(d) as relates to fencing.

D. PUBLIC COMMENTS

E. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **CODE ENFORCEMENT SPECIAL MAGISTRATE** WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
JANUARY 11, 2017

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Branch at 9:14 a.m.

PRESENT: Raymond Branch, Special Magistrate

ALSO PRESENT: Scott Allman, Code Compliance Inspector
Deborah Faircloth, Code Compliance Inspector
Dena Joseph, Code Compliance Inspector
Amanda Bonin, Code Compliance Inspector
Chris Hutchison, Code Enforcement Manager
Robin Fenwick, City Clerk

Special Magistrate Branch asked for an organizational meeting to be held within the January 25, 2017 Special Magistrate Code Hearing. He asked that a standing order be adopted authorizing the Special Magistrate to accept service by posting when hand delivery is not effected pursuant to Section 162.06(2) and 162.12(2), Florida Statutes. He would also like a calendar of meeting dates for 2017 to be approved on January 25, 2017.

Consideration of Minutes

Special Magistrate Branch approved the December 14, 2016 meeting minutes as presented.

Oaths

Code Compliance Inspectors were sworn in by Special Magistrate Branch.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 16-1638
Respondent: George & Ethel M. Morgan
Address of Violation: 709 Sheldon Cir., Port Orange, FL 32127
Code Officer: Deborah Faircloth
First Notified: 11/07/2016

Compliance: No

Cited for violation(s) - Chapter 3, Section 304.1.1 (7 & 8) (Unsafe Conditions) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code; as well as Chapter 3, 304.2

Protective Treatment, Section 304.5 Foundation Walls, 304.6 Exterior walls, 304.7 Roofs & Drainage, 304.10 Stairways, decks, porches and balconies, 304.15 Doors, 304.18 Building Security and Chapter 42, Article V, Division 3 - Abatement of Unsafe Structures of the City of Port Orange Code of Ordinances.

Deborah Faircloth, Code Compliance Inspector, was sworn in by Special Magistrate Branch and testified as to the notices provided to the property owner and the condition of the property. The violation was to be corrected on or before December 5, 2016 by applying for a demolition permit and having the unsafe structure demolished. Special Magistrate Branch ratified the actions taken regarding posting of the notice.

Photographs of the violations as taken by Ms. Faircloth were tendered into evidence with no objections and were admitted by Special Magistrate Branch. Ms. Faircloth tendered a copy of the Proof of Publication into evidence, which was admitted by Special Magistrate Branch without objection.

Ms. Faircloth called Al Tischler, Interim Building Official, to testify as to the condition of the structure. Mr. Tischler was sworn in by Special Magistrate Branch. He testified that the structure is unsafe and needs to be demolished as the foundation of the structure has been compromised. The Cost Sheet in the amount of \$604.43 was tendered into evidence by Ms. Faircloth and admitted by Special Magistrate Branch with no objections. Costs in the amount of \$604.43 were awarded to the City, which is the cost of publication for the demolition.

Ms. Faircloth recommended the property owner be found in violation of the above referenced code and allow the City the option to abate the violation, up to and including demolition. She requested the property be found a health, safety, and wellness violation.

Special Magistrate Branch granted the recommendations as presented, allowing demolition of the property to occur after the 30 day appeal process is complete due to the health, safety, and wellness violation.

Ms. Faircloth asked that the violation relating to high weeds and grass be changed to have a compliance date of February 13, 2017 with the Order Setting Fine/Lien to February 22, 2017. Special Magistrate Branch granted the request and authorized the posting of the property pursuant to Chapter 160.06(2) and 162.12(2), Florida Statutes.

4. CEB Case No.: 16-1457

Respondent: Terri G. Curatolo

Address of Violation: 3640 Scott Street, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 11/29/2016

Compliance: No

Cited for violation(s) - Chapter 3 (General Requirements), Section 303 (Swimming Pools, Hot Tubs & Spas), 303.1 (Swimming Pools), of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances,

Chapter 3 (General Requirements), Section 303 (Swimming Pools, Hot Tubs & Spas), 303.2 (Enclosures), of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, and

Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots of the City of Port Orange Code of Ordinances.

Dena Joseph, Code Compliance Inspector, was sworn in by Special Magistrate Branch, and testified as to the notices provided to the property owner and the condition of the property. The Assignment of Mortgage was submitted as Exhibit A. This Assignment shows The Bank of New York Mellon as the mortgage holder. Notice was provided to them due to the foreclosure filed in 2012. The foreclosure information (Lis Pendens) was submitted into evidence as Exhibit B and the docket of case number 2012-31073-CICI was submitted as Exhibit C.

Ms. Joseph testified that the violation was to be corrected on or before December 14, 2016 by installing a proper cover over the pool which will be a safe barrier and mowing of the yard, weed eating, and trimming of any and all high weeds and removing all yard debris. Photographs of the violations taken by Ms. Joseph were tendered into evidence with no objections and were admitted by Special Magistrate Branch.

Ms. Joseph recommended the property owner be found in violation of the above referenced code with the violations to be corrected on or before January 21, 2017, or the City shall have the option to abate the violation with a one-time fine of \$500.00 being imposed against the property. The Cost Sheet in the amount of \$56.36 was tendered into evidence and admitted by Special Magistrate Branch with no objections. She requested the property be found a health, safety, and wellness violation.

Special Magistrate Branch granted the recommendations as presented with a compliance date of January 21, 2017. Notice to be provided to the City Council to abate the violation due to the health, safety, and wellness violation. Costs in the amount of \$56.36 were awarded to the City. Special Magistrate Branch granted the \$500 one-time fine and asked that a copy of the Finding of Fact be mailed to TD Bank.

ORDER IMPOSING FINE/LIEN

5. CEB Case No.: 16-1612

Respondent: Jaqueline M. & Donald A. Acosta

Address of Violation: 825 Upland Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 09/28/2016

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances) of the City of Port Orange Code of Ordinances, Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots.

Mr. Allman was sworn in by Special Magistrate Branch and requested an Order Setting Fine/Lien as the property was not in compliance as of November 18, 2016 as ordered by the Special Magistrate. As of November 29, 2016, the property was still not in compliance. The daughter is living in the home and contacted Mr. Allman regarding the City's vendor mowing the property. Mr. Allman and Chris Hutchison, Code Compliance Manager, spoke with her about the violations. Mr. Allman submitted an Affidavit of Non-Compliance which was submitted as Petitioner's Exhibit 1.

Mr. Allman requested a continuance to receive the final invoice from the vendor. The property was mowed on January 10, 2017 but the property has not been inspected. Special Magistrate Branch granted the continuance to January 25, 2017.

6. CEB Case No.: 16-1498

Respondent: Jaqueline M. & Donald A. Acosta

Address of Violation: 825 Upland Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 09/10/2016

Compliance: No

Cited for violation(s) - Chapter 3, Section 303 Swimming Pools, Spas, and Hot Tubs of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 303.1 Swimming Pools

Mr. Allman requested a continuance so the work can be completed and to allow time to receive the final invoice from the vendor. Special Magistrate Branch granted the continuance to February 22, 2017.

7. CEB Case No.: 16-1832

Respondent: Scott T. Gilroy

Address of Violation: 104 Tumbler Drive, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 11/11/2016

Compliance: No

Cited for violation(s) - Chapter 42 Nuisances Article 2 Garbage, Junk and Undergrowth, Section 42-26 - Cleanliness of property generally-Duty of owner, (d) Maintenance of improved residential lots.

Ms. Faircloth requested the case be dismissed as it is in compliance with the Notice. Special Magistrate Branch granted the request.

8. **CEB Case No.:** 16-1833
Respondent: Scott T. Gilroy
Address of Violation: 104 Tumbler Drive, Port Orange, FL 32129
Code Officer: Amanda Bonin
First Notified: 11/11/2016

Compliance: No

Cited for violation(s) - Chapter 16 Miscellaneous Regulations Section 3: Fences and walls Modified (b) General Provisions (4) Design and maintenance (a) and (b) of the City of Port Orange Land Development Code and

Chapter 3, Section 303 Swimming Pools, Spas, and Hot Tubs of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, specially 303.1 Swimming Pools.

Ms. Faircloth requested the case be dismissed as it is in compliance with the Notice. Special Magistrate Branch granted the request.

9. **CEB Case No.:** 16-1054
Respondent: Bryon Dickerson
Address of Violation: 5434 Hibiscus Ave., Port Orange, FL 32127
Code Officer: Deborah Faircloth
First Notified: 10/14/2016

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 42, Article II, Section 42-26 (d) (f) & (h) and Port Orange Land Development Code, Chapter 16, Section 3 (b)(4)(b)(d) as relates to fencing.

Ms. Faircloth testified that the property was not in compliance as of January 2, 2017 as ordered by the Special Magistrate. A re-inspection on January 4, 2017 showed the property was still in violation. The vendor has not abated the property. She requested a continuance until January 25, 2017. Special Magistrate Branch granted the continuance.

10. **CEB Case No.:** 16-1677
Respondent: Karen Baker Antico TR Eva Baker Revoc Trust
Address of Violation: 831 McDonald Road, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 11/08/2016

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances), Article II (Sanitary Conditions), Section 42-54 (Sanitary Nuisance Prohibited) of the City of Port Orange Code of Ordinances;

Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), Section 42-108 (Unsafe Conditions, Nuisance, (a), (4) of the City of Port Orange Code of Ordinances;

Chapter 42 (Nuisances), Article II (Garbage, waste, trash, etc. prohibited), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots of the City of Port Orange Code of Ordinances;

Chapter 42 (Nuisances), Article II (Garbage, waste, trash, etc. prohibited), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances;

Chapter 3 (General Requirements), Section 309 (Pest Elimination), 309.1 (Infestation) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances;

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 504 (Plumbing Systems and Fixtures), 504.3 (Plumbing System Hazards) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances; and

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 (General) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Ms. Joseph requested a dismissal as a transfer of the property has occurred. She has spoken to the new owner and he has indicated he will bring the property into compliance. Special Magistrate Branch granted the dismissal.

PUBLIC COMMENTS – There were no public comments.

ADJOURNMENT – 10:48 a.m.

Special Magistrate Raymond Branch

LIST OF 2017 CODE ENFORCEMENT MEETING DATES

JANUARY 11
JANUARY 25
FEBRUARY 8
FEBRUARY 22
MARCH 8
MARCH 22
APRIL 12
APRIL 26
MAY 10
MAY 24
JUNE 14
JUNE 28
JULY 12
JULY 26
AUGUST 9
AUGUST 23
SEPTEMBER 13
SEPTEMBER 27
OCTOBER 11
OCTOBER 25
NOVEMBER 8
DECEMBER 13

Case Cost Sheet Log

Case No. 16-1932

Name	Activity	Activity_Date	Status	Cost
Bernadette Davila	Mailing cost of Notice of Violation/Notice of Hearings to 728 Hawks Ridge Road, Port Orange, FL 32127 (certified & regular)	12/27/2016	Green card signed on 12/28/16, regular mail was not returned	\$7.34
Carmen Davila	Mailing cost of Notice of Violation/Notice of Hearings to 728 Hawks Ridge Road, Port Orange, FL 32127 (certified & regular)	12/27/2016	Nothing returned	\$7.34
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law, & Order	01/25/2017		\$27.00
Bernadette Davila	Mailing cost of Finding of Fact, Conclusion of Law & Order to 728 Hawks Ridge Road, Port Orange, FL 32127 (certified & regular)	01/25/2017		\$7.34
Carmen Davila	Mailing cost of Finding of Fact, Conclusion of Law & Order to 728 Hawks Ridge Road, Port Orange, FL 32127 (certified & regular)	01/25/2017		\$7.34

Total: 56.36



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1932

To: Bernadette Davila ETAL
Carmen Davila
Property Owners
728 Hawks Ridge Road
Port Orange, FL 32127

Re: 762 Eagle Court
Port Orange, FL 32127
Parcel ID: 6329-01-00-1020

LEGAL DESCRIPTION: LOT 102 HAWKS' RIDGE EST MB 36 PGS 95 & 96 PER OR 4067 PG171 PER OR 5519 PG 724

Volusia County Public Records
Volusia County, FL

An inspection of the premises on November 28, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner/occupant/resident was notified of the violations noted below and given 10 days to correct. A re-inspection was done on December 21, 2016, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by January 2, 2016.

Briefly stated, the property is in violation of the following:

1. Chapter 2 (Definitions and Interpretations), Section 2 (Definitions), Accessory Structure of the City of Port Orange Land Development Code: *Accessory structure (appurtenant structure)*. A *structure* that is located on the same parcel of property as the principal *structure* and the use of which is incidental to the use of the principal *structure*. *Accessory structures* shall constitute a minimal investment, **shall not be used for human habitation**, and shall be designed to have minimal flood damage potential. Examples of *accessory structures* are detached garages, carports, **storage sheds**, pole barns, and hay sheds.

Inspection conducted on November 28th, 2016 with inspector Deborah Faircloth. We inspected the shed from the back side of the complainant's adjoining property and it appeared that the shed was being utilized for something other than storage (curtains on the windows, a wall a/c unit installed). We spoke with one of the tenants at 762 Eagle Court and he would not admit whether someone was or was not living in the shed. We were informed that the owner of the property ****Bernadette**** resides on Hawks Ridge Road and to see her about the situation. We spoke with a gentleman by the name of "Tim" and told him about someone residing in the shed and he admitted that they allowed a homeless person to reside there as he had nowhere to go. We explained that this is against city ordinance and that this must cease immediately. He stated that he would have him out of there in a few days. Since this time, I have received numerous phone calls of a person or persons residing in the shed after seeing TV's on in the middle of the night and early morning hours, people coming and going at all hours of the night and morning, etc.

2. Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (b) Principle Use and/or Principal Structure Required, (1), (2), (3) & (4) and (d) Size Limitations, (4) of the City of Port Orange Land Development Code: Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions:

(b) *Principal use and/or principal structure required.* Accessory uses and structures shall:

- (1) Be customarily incidental to the principal use established on the same lot;
- (2) Be subordinate to and serve such principal use;
- (3) Be subordinate in area, extent and purpose to such principal use; and
- (4) Contribute to the comfort, convenience or necessity of users of such principal use.

No accessory structure or use shall be permitted on any lot which does not have an established principal use conforming to the requirements of this code. No accessory structure shall be permitted on any lot which does not have a permitted principal structure.

(d) *Size Limitations:*

- (4) No accessory residential structure shall be used as a guest house, apartment, or other residential quarters, unless otherwise permitted by this code

Per inspection and narrative from the complainant, people are residing in the shed at all hours of the night. The shed is set up in such a way to be utilized as a residence or "man cave" which is not the use permitted per the accessory structure ordinance. A shed's principal use is for storage, not for watching television or sleeping. The shed must be converted back to its principal use which is a place for storage of tools, equipment, etc. (not TVs, sleeping materials, beds, cots, etc.). No persons shall be occupying the shed for sleeping, entertainment purposes, or any other activity than what the accessory structure is designed for.

3. 2014 Florida Building Code, Chapter 1 (Scope and Administration), Part 1 (Scope and Application), Section 105 (Permits), 105.1 (Required): Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

Per the Volusia County Tax Roll, the property was purchased in 2005 by the current owners through a warranty deed, which is the same year, that according to the tax roll, that the shed was built. The shed was built/erected without first obtaining a permit through the City of Port Orange Building Department. The shed does not currently meet the appropriate setbacks required per city ordinance. A permit will need to be obtained in order for the shed to remain on the property. Proper setbacks will also need to be adhered to.

4. Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.13 (Window, Skylight, and Door Frames) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

During the inspection that was conducted on November 28, 2016, we noticed that the window pane at the backside of the shed has been broken. The window will need to be replaced.

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to **\$1,000.00 per day** for a first violation, **\$5,000.00 per day** per violation for a repeat violation, and up to **\$15,000.00 per violation** if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate January 25, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 15.52 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on January 25, 2017, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement **Special Magistrate on March 8, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5645.

DATED this 22nd day of December, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: 
Dena Joseph, Code Compliance Inspector

X I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Bernadette Davila ETAL & Carmen Davila, Property Owners, 728 Hawks Ridge Road, Port Orange, FL 32127, RE: 762 Eagle Court, Port Orange, FL 32127, was:

- ☒ Hand-delivered
☐ Posted at the property

Recipient of hand delivered documents: Tommy Allen Buehl

this 22nd day of December, 2016.

Time: approx. 11:46 AM

Dena Joseph
Dena Joseph, Code Compliance Inspector

X I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Bernadette Davila ETAL & Carmen Davila, Property Owners, 728 Hawks Ridge Road, Port Orange, FL 32127, RE: 762 Eagle Court, Port Orange, FL 32127 was:

- ☒ Posted at City Hall
☒ Sent via certified and regular

this 27 day of December, 2016.

Barbara J. White
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County
Property Appraiser

Morgan B. Gilreath Jr.
 M.A., C.F.A.



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Parcel Information: 6329-01-00-1020 **2017 Working Tax Roll** Last Updated: 12-18-2016

Owner Name and Address

Alternate Key	3669967	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6329-01-00-1020	Mill Group	402 Port Orange
Full Parcel ID	29-16-33-01-00-1020	2016 Final Mill Rate	20.05190
Created Date	31 DEC 1981		
Property Class	01 Single Family		
Ownership Type		Ownership Percent	100
Owner Name	DAVILA BERNADETTE ETAL		
Owner Name/Address 1	DAVILA CARMEN		
Owner Address 2	728 HAWKS RIDGE ROAD		
Owner Address 3	PORT ORANGE FL		
Owner Zip/Postal Code	32127		
Situs Address	762 EAGLE CT PORT ORANGE 32127		

Legal Description
 LOT 102 HAWKS' RIDGE EST MB 36 PGS 95 & 96 PER OR 4067 PG171 PER OR 5519 PG 724

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
5519	724	03/2005	Warranty Deed	Qualified Sale	Yes	169,900
4067	0171	12/1995	Warranty Deed	Qualified Sale	Yes	88,000
2743	1991	10/1985	Warranty Deed	Qualified Sale	Yes	61,000
2623	1282	10/1984	Warranty Deed	Unqualified Sale	No	12,500

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	12,805	112,754	923	126,482	126,482	126,482	0	126,482	0	126,482
2015	11,681	108,736	1,025	121,442	121,442	121,442	0	121,442	0	121,442

Display Value History

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value	
0101	IMP PVD THRU .49 AC		0.0	0.0	1.00	LOT	19700.00	100	100	65	100	12,805
Neighborhood 5686 HAWKS RIDGE MB 36 PGS 95 & 96												
Total Land Classified											0	
Total Land Just											12,805	

Building Characteristics
 Building Number: 119185 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
119185	Single Family	153	1985	300		21%	0%	0%	2999
Roof Type	HIP	Floors		Carpet	Bedrooms	3	4 Fixture Bath		0
Roof Cover	ASPHALT SHINGL	Wall Type		Drywall	X Fixture Bath	0	5 Fixture Bath		0
Heat Type1	Forced Ducted	Heat Source1		Electricity	2 Fixture Bath	0	6 Fixture Bath		0
Heat Type2		Heat Source2			3 Fixture Bath	2	7 Fixture Bath		0
Foundation	Concrete Slab	Year Remodeled			Fireplaces	0	A/C		Yes

Section Number	Area Type	Exterior Wall Type	Number Stories	Year Built	Attic Finish	Bsmt Area	Bsmt Finish	Floor Area
003	Finished Garage (FGR)	Non-Applicable	1.0	1985	N	0%	0%	462 Sq. Feet
004	Porch, Open Finished (FOP)	Non-Applicable	1.0	1985	N	0%	0%	12 Sq. Feet
005	Patio (PTO)	Non-Applicable	1.0	2006	N	0%	0%	72 Sq. Feet
007	Wood Deck (WDK)	Non-Applicable	1.0	2006	N	0%	0%	264 Sq. Feet
008	Res BASE Area (BAS)	C B STUCCO	1.0	1985	N	0%	0%	1309 Sq. Feet
009	Res BASE Area (BAS)	C B STUCCO	1.0	2006	N	0%	0%	448 Sq. Feet

03/30/2005 08:58 AM
Doc stamps 1189.30
(Transfer Amt \$ 169900)
Instrument# 2005-077206 # 1
Book : 5519
Page : 724

Prepared by
Susan Frazier, an employee of
Associated Land Title Group, Inc.
555 West Granada Boulevard, Suite H-12
Ormond Beach, Florida 32174
(386) 673-6114

Return to: Grantee

File No.: 1061-751851

WARRANTY DEED

This indenture made on **March 10, 2005 A.D.**, by

Jerry W. Lancio, a single man

whose address is: **797 Falcon Drive, Port Orange, FL 32127**
hereinafter called the "grantor", to

Bernadette Davila, a single woman and Carmen Davila, a single woman and Irene Davila, a single woman, as joint tenants with rights of survivorship

whose address is: **762 Eagle Court, Port Orange, FL 32127**
hereinafter called the "grantee":

(Which terms "Grantor" and "Grantee" shall include singular or plural, corporation or individual, and either sex, and shall include heirs, legal representatives, successors and assigns of the same)

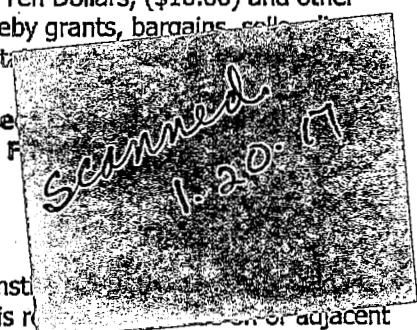
Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, conveys, remises, releases, conveys and confirms unto the grantee, all that certain

Florida, to-wit:
Lot 102, HAWK'S RIDGE ESTATES, according to the plat there
36, Pages 95 and 96, of the Public Records of Volusia County, F

Parcel Identification Number: **6329-01-00-1020**

The land is not the homestead of the Grantor under the laws and constitution of the State of Florida, nor is it the land of any person(s) for whose support the Grantor is responsible, nor is it adjacent to the land.

Subject to all reservations, covenants, conditions, restrictions and easements of record and to all applicable zoning ordinances and/or restrictions imposed by governmental authorities, if any.

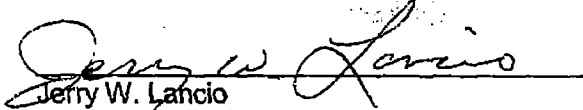


Together with all the tenements, hereditaments and appurtenances thereto belonging or in any way appertaining.

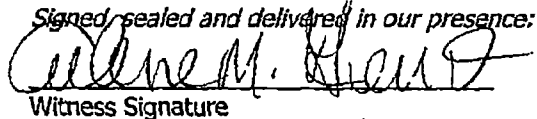
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31st of 2004.

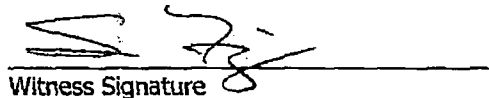
In Witness Whereof, the grantor has hereunto set their hand(s) and seal(s) the day and year first above written.


Jerry W. Lancio

Signed, sealed and delivered in our presence:


Witness Signature

Print Name: Anne M. Ferro

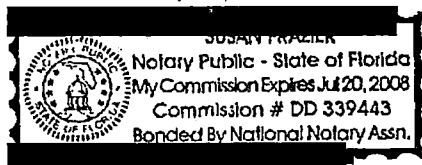

Witness Signature

Print Name: Susan Frazee

State of **FL**

County of **Volusia**

The Foregoing Instrument Was Acknowledged before me on **March 10, 2005**, by **Jerry W. Lancio** who is/are personally known to me or who has/have produced a valid driver's license as identification.




NOTARY PUBLIC

Notary Print Name
My Commission Expires: _____

Section 2: - Definitions.

[For the purpose of this code, the following words and terms shall have the meanings respectively ascribed to them, unless the context requires otherwise:]

Abandon. To cease actively using a structure. In making the determination that a structure has been abandoned, nonuse of a structure for six consecutive months shall be prima facie evidence for abandonment. The administrative official shall consider any or all of the following: existence or absence of a current occupational license, utility service deposit or account, use of premises, and relocation of the use, so that temporary or short-term interruption to an activity shall not be subject to inclusion under this term.

Abandoned sign.

- (a) Any sign face which advertises a business no longer conducted or product no longer sold. In making the determination that a sign advertises a business no longer being conducted, the administrative official shall consider any or all of the following: the existence or absence of a current occupational license, utility service deposit or account, use of the premises, and relocation of the business;
- (b) Any sign structure which has not been used for business purposes for over six months, that is nonconforming as to existing codes regarding height, setback or sign area; or
- (c) Any previously permitted portable or temporary sign of which permitted time has expired.

Accessory structure (appurtenant structure). A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures shall constitute a minimal investment, shall not be used for human habitation, and shall be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Actual cost. The true cost of a transportation concurrency improvement project, determined once the project is entirely completed and all known costs are available including design, right-of-way acquisition, planning, engineering, inspection, utility relocation, construction and any other applicable costs directly associated with the construction of the improvement.

Administrative official. The municipal official appointed by the city manager to administer the land development code.

Section 1: - Accessory uses and structures.

(a) *In general.* Specific accessory uses and structures shall comply with the following regulations.

(b) *Principal use and/or principal structure required.* Accessory uses and structures shall:

- (1)** Be customarily incidental to the principal use established on the same lot;
- (2)** Be subordinate to and serve such principal use;
- (3)** Be subordinate in area, extent and purpose to such principal use; and
- (4)** Contribute to the comfort, convenience or necessity of users of such principal use.

No accessory structure or use shall be permitted on any lot which does not have an established principal use conforming to the requirements of this code. No accessory structure shall be permitted on any lot which does not have a permitted principal structure.

(c) *General provisions.*

- (1) Outdoor storage shall be prohibited, except as specifically permitted herein.
- (2) Signs, fences, walls, parking and loading areas, and other such features which are typically located within required yard areas shall comply with the applicable provisions of this code for such uses and structures.
- (3) Any specific accessory use or structure which is not addressed within this chapter shall not be located on any lot.

(d) *Size limitations.* Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions:

- (1) The size of the accessory residential structure shall not cause the building coverage on the lot to exceed the maximum building coverage established for the zoning district;
- (2) In the event that this code does not establish a maximum building coverage for a zoning district, the maximum building coverage shall be based on the most similar zoning district, as determined by the administrative official;
- (3) The accessory residential structure shall not be located within any required yard, unless otherwise permitted by this chapter. Additionally, no accessory residential structure shall be permitted in the front yard, unless specifically permitted by this code;
- (4)** No accessory residential structure shall be used as a guest house, apartment, or other residential quarters, unless otherwise permitted by this code; and
- (5) No accessory residential structure shall be used in any manner for a home occupation, except for the storage of customary homeowner tools and equipment.

(e) *Outside storage.* Outside storage of new and used equipment and materials shall be

[A] 104.9 **Approved materials and equipment.** Materials, equipment and devices *approved* by the *building official* shall be constructed and installed in accordance with such approval.

[A] 104.9.1 **Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless *approved* by the *building official*.

[A] 104.10 **Modifications.** Reserved.

[A] 104.10.1 **Flood hazard areas.** Reserved.

[A] 104.11 **Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material, design or method of construction shall be *approved* where the *building official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, *fire resistance*, durability and safety.

[A] 104.11.1 **Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

[A] 104.11.2 **Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

SECTION 105 PERMITS

[A] 105.1 **Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the *building official* and obtain the required *permit*.

[A] 105.1.1 **Annual facility permit.** In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical, plumbing or interior nonstructural office sys-

tem(s), the *building official* is authorized to issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The *building official* shall be notified of major changes and shall retain the right to make inspections at the facility site as deemed necessary. An annual facility permit shall be assessed with an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall contain a general description of the parameters of work intended to be performed during the year.

[A] 105.1.2 **Annual permit records.** The person to whom an annual *permit* is issued shall keep a detailed record of *alterations* made under such annual *permit*. The *building official* shall have access to such records at all times or such records shall be filed with the *building official* as designated.

105.1.3 **Food permit.** In accordance with Section 500.12, *Florida Statutes*, a food permit from the Department of Agriculture and Consumer Services is required of any person who operates a food establishment or retail store.

105.1.4 **Public swimming pool.** The local enforcing agency may not issue a building permit to construct, develop, or modify a public swimming pool without proof of application, whether complete or incomplete, for an operating permit pursuant to Section 514.031, *Florida Statutes*. A certificate of completion or occupancy may not be issued until such operating permit is issued. The local enforcing agency shall conduct their review of the building permit application upon filing and in accordance with Chapter 553, *Florida Statutes*. The local enforcing agency may confer with the Department of Health, if necessary, but may not delay the building permit application review while awaiting comment from the Department of Health.

[A] 105.2 **Work exempt from permit.** Exemptions from *permit* requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code. *Permits* shall not be required for the following:

Gas:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.

304.4 Structural members. Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weathertight and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be

included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of

Case Cost Sheet Log

Case No. 16-1596

Name	Activity	Activity_Date	Status	Cost
Florida Community Bank NA	Cost to mail Notice of Violation/Notice of Hearings to 2500 Weston Road, Suite 300, Weston, FL 33331 (via regular & certified mail)	10/21/2016	Certified mail returned unable to forward; regular mail was not returned	\$7.34
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law & Order	12/14/2016		\$27.00
Florida Community Bank NA	Cost to mail Finding of Fact, Conclusion of Law & Order to 2500 Weston Road, Suite 300, Weston, FL 33331 (via regular & certified mail)	12/14/2016	Green card received, signed 12/16/16	\$7.34
Clerk of Court	Fee to record Order Imposing Fine/Lien	01/25/2017		\$44.00
Florida Community Bank NA	Cost to mail Order Imposing Fine/Lien to 2500 Weston Road, Suite 300, Weston, FL 33331 (via regular & certified mail)	01/25/2017		\$7.34

Total: 93.02



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1596

To: Florida Community Bank NA
Property Owner
2500 Weston Road
Suite 300
Weston, FL 33331

Re: 190 Sand Pebble Circle
Port Orange, FL 32129
Parcel ID: 6305-03-00-0470
LEGAL DESCRIPTION: LOT 47 BAREFOOT PARK MB 31 PG 62 PER OR 5261 PG 3564
Volusia County Public Records
Volusia County, FL

An inspection of the premises on **September 26, 2016**, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 5 days to correct. A re-inspection was done on **October 17, 2016**, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by October 29, 2016 by mowing entire property to include weed eating, edging, etc. and removing any fallen trees and limbs. In addition, any broken windows on site must either be secured or repaired.

Briefly stated, the property is in violation of the following:

1. Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) Maintenance of Improved Residential Lots of the City of Port Orange Code of Ordinances: The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches.
2. Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.13 (Window, skylight and door frames) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
 - Received call on hotline about the condition of the park pertaining to people not mowing the lawns. This specific address was not given but I saw that it was severely overgrown when I drove the park. In addition, I noticed that there was a minimum of one broken window on the property. Left 5 day door hanger to mow and maintain entire property and either repair or secure any broken windows.

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate December 14, 2016, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 7.34 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on December 14, 2016, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement **Special Magistrate on January 25, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5645.

DATED this 19th day of October, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Dena Joseph
Dena Joseph, Code Compliance Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to **Florida Community Bank NA, Property Owner, 2500 Weston Road, Suite 300, Weston, FL 33331, RE: 190 Sand Pebble Circle, Port Orange, FL 32129**, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 19th day of October, 2016.

Time: approx. 2:08 pm



Dena Joseph, Code Compliance Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to **Florida Community Bank NA, Property Owner, 2500 Weston Road, Suite 300, Weston, FL 33331, RE: 190 Sand Pebble Circle, Port Orange, FL 32129**, was

☐ Posted at City Hall

☒ Sent via certified and regular

this 21 day of October, 2016.



Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County
Property Appraiser

Morgan B. Gilreath Jr.
M.A., C.F.A.



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[Notice of Proposed Taxes](#)

[Estimate of Taxes](#)

Parcel Information: 6305-03-00-0470 **2017 Working Tax Roll** Last Updated: 10-16-2016

Owner Name and Address

Alternate Key	3584457	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6305-03-00-0470	Mill Group	402 Port Orange
Full Parcel ID	05-16-33-03-00-0470	2016 Final Mill Rate	20.05190
Created Date	30 DEC 1981		
Property Class	02 Mobile Homes		
Ownership Type	Estate	Ownership Percent	100
Owner Name	MARKEY JAMES E		
Owner Name/Address 1			
Owner Address 2	635 POWERS AVE		
Owner Address 3	PORT ORANGE, FL		
Owner Zip/Postal Code	32129		
Situs Address	190 SAND PEBBLE CIR PORT ORANGE 32129		

Legal Description
LOT 47 BAREFOOT PARK MB 31 PG 62 PER OR 5261 PG 3564

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
5261	3564	02/2004	Warranty Deed	Qualified Sale	Yes	55,000
4320	3041	06/1998	Warranty Deed	Qualified Sale	Yes	30,000
4276	0618	11/1996	Quit Claim Deed	Unqualified Sale	Yes	10
3964	1662	11/1994	Quit Claim Deed	Unqualified Sale	Yes	100
3945	2449	08/1994	Warranty Deed	Affiliated Parties	Yes	100
3917	0298	04/1994	Warranty Deed	Qualified Sale	Yes	43,000
3690	0165	09/1991	Unknown	Qualified Sale	Yes	40,000
2896	0111	11/1986	Unknown	Qualified Sale	Yes	32,600
2829	1275	05/1986	Unknown	Qualified Sale	Yes	32,500

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	19,750	13,980	154	33,884	33,884	33,884	0	33,884	0	33,884
2015	19,750	14,725	154	34,629	34,629	33,686	0	34,629	0	33,686

[Display Value History](#)

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0202	MH ON MH SITE PVD	61.0	122.0	1.00	LOT	19750.00	100	100	100	100	19,750
Neighborhood 5984 BAREFOOT PARK M-H MB 31 PG 62											
Total Land Classified											0
Total Land Just											19,750

Building Characteristics

Building Number: 111464 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
111464	Mobile Home	146	1972	200	Mobile Home	72%	0%	0%	2999
Roof Type	GABLE	Floors	Carpet	Bedrooms	3	4 Fixture Bath			0
Roof Cover	METAL	Wall Type	Plywood Panel	X Fixture Bath	0	5 Fixture Bath			0
Heat Type1	Forced Ducted	Heat Source1	Gas	2 Fixture Bath	0	6 Fixture Bath			0
Heat Type2		Heat Source2		3 Fixture Bath	2	7 Fixture Bath			0
Foundation	Wd Conc Piers	Year Remodeled		Fireplaces	0	A/C			Yes
Section Number	Area Type	Exterior Wall Type	Number Stories	Year Built	Attic Finish	Bsmt Area	Bsmt Finish	Floor Area	

In The Circuit Court, Seventh Judicial Circuit
In And For Volusia County, Florida

FLORIDA COMMUNITY BANK N A
Plaintiff(s)

VS.

JAMES E MARKEY; ET AL
Defendant(s)

Case No. 2016 30190 CICI
Div.

CERTIFICATE OF TITLE

The undersigned Clerk of the Circuit Court certifies that a Certificate of Sale has been filed in this action and on the 20th day of September, 2016 for the property described herein and that no objections to the sale have been filed within the time allowed for filing objections. The following property in Volusia County, Florida:

**LOT 47, BAREFOOT PARK MOBILE HOME SUBDIVISION,
ACCORDING TO PLAT THEREOF AS RECORDED IN MAP BOOK 31,
PAGE 62, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY,
FLORIDA.**

**TOGETHER WITH THAT CERTAIN SINGLE MOBILE HOME BEARING
IDENTIFICATION NUMBER: S122830**

was sold to and the Certificate of Title is hereby issued to:

FLORIDA COMMUNITY BANK NA

whose address is: 2500 Weston Road Ste 300 Weston, FL, 33331

Witness my hand and seal on 20th day of September, 2016 in Volusia County, Florida.



Diane M. Matousek, Clerk of the Circuit Court
Volusia County, Florida

By:

Shawnee Smith
Deputy Clerk /s/ Shawnee Smith

Sale Amt. \$100.00 D/S \$0.70 Parcel ID # 05-16-33-03-00-0470

FILED
SEP 20 2016
CLERK OF THE CIRCUIT
& CTY. COURT VOLUSIA CTY., FL.
cc: 64

Sec. 42-26. - Cleanliness of property generally—Duty of owner.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Improved lot means any lot which improvements have been made, including, but not limited to, change of grade through filling or excavation, installation of water or sewer line, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

Undergrowth means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

Unimproved lot means any lot which remains undisturbed and in a natural vegetative state.

- (b) *Purpose and intent.* The city recognizes the need to protect the health, safety and welfare of the citizens of the city through control and elimination of aesthetically displeasing and potentially dangerous accumulations of garbage, waste, trash, debris, junk and undergrowth. It is, therefore, the purpose and intent of this section to reduce or eliminate such conditions within reasonable limits by hereby establishing a duty and responsibility on the part of the owner of designated lots located within the city to keep such lot free and clear of garbage, waste, trash, debris, junk and undergrowth.
- (c) *Maintenance of commercial and industrial zoned lots.* The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- (d) *Maintenance of improved residential lots.* The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.

(e)

304.4 Structural members. Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weathertight and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be

included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1596**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Recorded in the Public Records:
Instrument # 2016 232 769 12/16/16 @ 10:35 a.m.
Book: 7338 Page: 2238

Petitioner,

FLORIDA COMMUNITY BANK, NA
190 SAND PEBBLE CIRCLE, PORT ORANGE, FL 32129
PARCEL ID: 6305-03-00-0470

Respondent.

_____ /

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on December 14, 2016, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent, Florida Community Bank, NA, (hereinafter referred to as "Respondent", whose mailing address is 2500 Weston Road, Suite 300, Weston, FL 33331, is the owner of the property located at 190 Sand Pebble Circle, Port Orange, FL 32129, and more particularly described as:

LOT 47 BAREFOOT PARK MB 31 PG 62 PER OR 5261 PG 3564

B. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches and repair or secure all broken windows. This condition was first observed at the real property described above on September 26, 2016; inspection was made on December 8, 2016 and confirmed the condition as being the same. Respondent(s) received notice via property posting on October 19, 2016 and certified mail and posting at City Hall on October 21, 2016, that the aforesaid conditions constituted a violation of Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) Maintenance of Improved Residential Lots and Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.13 (Window, skylight and door frames) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, and was to be corrected by October 29, 2016.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent, by reason of the foregoing, has violated the above referenced code, in that the Respondent failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

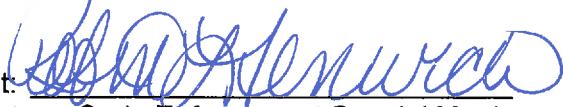
ORDER:

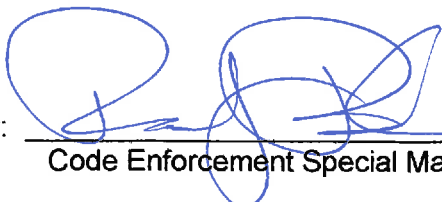
A. Respondent shall correct the aforesaid violation by mowing the entire property, removing all fallen limbs and yard debris and repairing or securing all broken windows on site on or before December 28, 2016. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine of \$250.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$41.68 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 14th day of December, 2016.

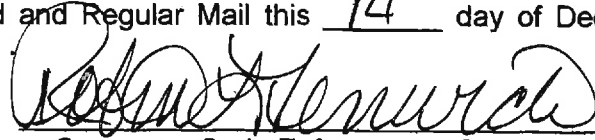
Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.


Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Florida Community Bank NA, 2500 Weston Road, Suite 300, Weston, FL 33331 by Certified and Regular Mail this 14 day of December, 2016.

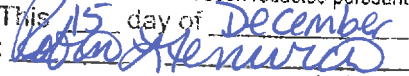


Secretary, Code Enforcement Special Magistrate

CITY OF PORT ORANGE, FLORIDA

I HEREBY CERTIFY the foregoing is a true copy of the original filed in this office.

This document has/has not been redacted pursuant to Florida Law.

This 15 day of December, 2016.
By: 



/s/ Robin L. Fenwick

Case Cost Sheet Log

Case No. 16-1695

Name	Activity	Activity_Date	Status	Cost
Country Manor Assisted Living	Cost to mail Notice of Violation/Notice of Hearings to 3101 Archer Avenue, Orlando, FL 32833 (via regular & certified mail)	10/21/2016	Green card signed on 10/25/16	\$7.34
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law & Order	12/14/2016		\$27.00
Country Manor Assisted Living	Cost to mail Finding of Fact, Conclusion of Law, & Order to 3101 Archer Avenue, Orlando, FL 32833 (via regular & certified mail)	12/14/2016	Green card signed (undated) by Paul Simondac	\$7.34
Clerk of Court	Fee to record Order Imposing Fine/Lien	01/25/2017		\$44.00
Country Manor Assisted Living	Cost to mail Order Imposing Fine/Lien to 3101 Archer Avenue, Orlando, FL 32833 (via regular & certified mail)	01/25/2017		\$7.34

Total: 93.02



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1695

To: Country Manor Assisted Living
3101 Archer Avenue
Orlando, FL 32833

Re: 1152 Old Hammock Road
Port Orange, FL 32129

Parcel ID: 6305-04-00-0021

LEGAL DESCRIPTION: W 221.59 FT OF TRACT 2 REPLAT OF PART OF VASS SUB OF LOT 5 SEC 5 16 33 MB 34 PGS 13 & 14 PER OR 3835 PG 2693 & OR 6289 PG 3245

Volusia County Public Records

Volusia County, FL

An inspection of the premises on October 18, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by November 10, 2016.

Briefly stated, the property is in violation of the following:

City of Port Orange Land Development Code Chapter 16 Miscellaneous Regulations Section 3: - Fences and walls (b) (4) (b) (c) and (f)

(b) General provisions.

(4) Design and maintenance.

(b) All fences shall be maintained in their original upright condition.

(c) Fences and walls designed for painting or similar surface finishes shall be maintained in their original condition as designed.

(f) The side of a fence or wall oriented to an adjoining property shall not create an adverse visual impact on such adjoining property.

Corrective action: The fence separating this property from the residential neighborhood needs to be replaced as it is rotting and the fence is falling apart. A building permit is required.

Chapter 1, Section 109 Emergency Measures of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances

[A] **Section 109.1 Imminent Danger** When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

Corrective action: The Screened enclosure in the rear of the building has been damaged and is deemed an unsafe structure. This enclosure needs to be either removed or repaired. A building permit is required.

Chapter 3, Section 304 Exterior Structure of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

Corrective action: all broken windows on this structure need to be repaired or replaced.

Attachments: ☒ Copy of code ☒ Copy of Deed ☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate December 14, 2016, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 10,588 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **December 14, 2016**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **January 25, 2016, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506- 5616 or at abonin@port-orange.org.

DATED this 20th day of October, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Amanda Bonin
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Country Manor Assisted Living 1152 Old Hammock Road Port Orange, FL 32129, was

☐ Hand-delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 3:47pm

this 20th day of October, 2016.

Amanda Bonin
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Country Manor Assisted Living 3101 Archer Avenue Orlando, FL 32833, RE: 1152 Old Hammock Road Port Orange, FL 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 21 day of October, 2016.

Robert J. Senura
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County Property Appraiser

Morgan D. Gilreath Jr.
M.A., C.F.A.



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Notice of Proposed Taxes
Estimate of Taxes

Parcel Information: 6305-04-00-0021 2017 Working Tax Roll Last Updated: 10-16-2016

Owner Name and Address

Alternate Key	3585747	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6305-04-00-0021	Mill Group	402 Port Orange
Full Parcel ID	05-16-33-04-00-0021	2016 Final Mill Rate	20.05190
Created Date	30 DEC 1981		
Property Class	74 Homes for the Aged		
Ownership Type		Ownership Percent	100
Owner Name	COUNTRY MANOR ASSISTED LIVING		
Owner Name/Address 1	& RETIREMENT HOME LLC		
Owner Address 2	3101 ARCHER AVE		
Owner Address 3	ORLANDO FL		
Owner Zip/Postal Code	32833		
Situs Address	1152 OLD HAMMOCK RD PORT ORANGE 32129		

Legal Description

W 221.59 FT OF TRACT 2 REPLAT OF PART OF VASS SUB OF LOT 5 SEC 5 16 33 MB 34 PGS 13 & 14 PER OR 3835 PG 2693 & OR 6289 PG 3245

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
6289	3245	10/2008	Warranty Deed	Qualified Sale	Yes	800,000
3835	2693	06/1993	Warranty Deed	Qualified Sale	Yes	500,000
2893	1087	10/1986	Warranty Deed	Personal property /business	Yes	860,000
2168	0868	05/1980	Warranty Deed	Qualified Sale	Yes	135,000

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	382,239	122,982	5,537	510,758	510,758	510,758	0	510,758	0	510,758
2015	361,004	120,055	5,533	486,592	486,592	486,592	0	486,592	0	486,592

Display Value History

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
7400	HOMV AGED	0.0	0.0	130680.00	SQUARE_FEET	4.50	100	65	100	100	382,239
Neighborhood C5502 PORT ORANGE- NOVA ROAD											
Total Land Classified											0
Total Land Just											382,239

Building Characteristics

Building Number: 111590 (Building 1 of 1)

Bldg. No.	Property Type	Structure Type	Perimeter	Year Built	Quality Grade	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
111590	Commercial	Concrete or Masonry	1432	1976	300	42%	70%	0%	2999
Section Number	Avg. Wall Height	Number Stories	Year Built	Bsmnt%	Ground Floor Area	Interior Finish	Sect%	Sprinkler	A/C
001	9.00	2	1976	0.00	1250 Home for the Aged, Average (74C)		100.00	No	Yes
002	9.00	1	1976	0.00	132 Porch, Open Unfinished (UOP)		0.00	No	No
003	9.00	1	1984	0.00	133 Porch, Open Finished (FOP)		0.00	No	No
004	9.00	1	1976	0.00	8498 Home for the Aged, Average (74C)		100.00	No	No
005	9.00	1	1976	0.00	626 Porch, Screen Unfinished (USP)		0.00	No	No
006	9.00	1	1976	0.00	28 Porch, Open Finished (FOP)		0.00	No	No

10/27/2008 08:49 AM
Doc stamps 5600.00
(Transfer Amt \$ 800000)
Instrument# 2008-210417 # 1
Book : 6289
Page : 3245
Diane M. Matousek
Volusia County, Clerk of Court

This Instrument Prepared By:

John B. Crowther
Attorney at Law
279 East Graves Avenue
Orange City, Florida 32763
(888) 775-6179

County Appraiser's Parcel Identification Number:
35-04-00-0021

RETURN TO 1813053
VOLUSIA TITLE SERVICES
109 WEST RICH AVENUE
DELAND, FL 32730

THIS SPECIAL WARRANTY DEED, executed this 23RD day of October, 2008, by EDA INVESTMENT CORPORATION, a/k/a EDA INVESTMENT CORPORATION, INC., a Florida corporation, 202 Plumosa Road, DelBary, Florida 32713, Grantor, to COUNTRY MANOR ASSISTED LIVING & RETIREMENT HOME, LLC, a Florida Limited Liability Company, whose post office address is 3101 Archer Avenue, Orlando, Florida 32833, Grantee:

WITNESSETH, that the said Grantor, for and in consideration of the sum of \$10.00, in hand paid by the Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee forever, all right, title, interest, claim and demand which the said Grantor has in and to the following-described lot, piece or parcel of land, situate, lying and being in the County of Volusia, State of Florida, to wit:

The West Three (3) acres of Tract 2 of the replat of the Division of a portion of the Division of Lot 5, Section 5, Township 16 South, Range 33 East, CITY OF PORT ORANGE, Volusia County, Florida, as recorded in Plat Book 34, Pages 13 and 14, Public Records of Volusia County, said West Three (3) acres have also been described as the West Three (3) acres of Lot 2, VOSS SUBDIVISION, as recorded in Deed Book "L", Page 18, Public Records of Volusia County, said property being more particularly described as follows: Begin at the Southwest corner of Government Lot 5, thence North 00°13'35" West a distance of 280.50 feet to the Southwest corner of said Tract 2 and the true Point of Beginning; thence North 00°13'57" West a distance of 589.75 feet; thence North 89°07'09" East a distance of 221.59 feet; thence South 00°13'57" East a distance of 269.75 feet to the Northerly line of a 32 foot utility, ingress and egress easement; thence South 00°13'57" East along the West line of said easement a distance of 32 feet; thence South 00°13'57" East a distance of 290.56 feet; thence South 89°46'53" West a distance of 221.58 feet to the true Point of Beginning.

Subject to the same conditions, reservations and restrictions of record, if any, which previously affected this property and which are in affect at this date, and also subject to zoning and other governmental regulations.

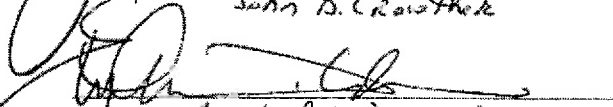
TOGETHER with all the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that, except as above noted, at the time of the delivery of this deed the premises were free from all encumbrances made by the Grantor, except taxes accruing subsequent to December 31, 2007, and the Grantor will warrant and defend the same against the lawful claims and demands of all persons claiming by, through or under the Grantor, but against none other.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:


John B. Crowther

Elizabeth A. Walden
STATE OF FLORIDA
COUNTY OF VOLUSIA

EDA INVESTMENT CORPORATION, a/k/a EDA
INVESTMENT CORPORATION, INC.

By: 
Eleanor B. Ade, as Vice President

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take

Section 3: - Fences and walls.

- (a) In general. All fences and walls shall be constructed in compliance with applicable building codes and in accordance with the following dimensional and use regulations.
- (b) General provisions.
 - (1) Restrictions.
 - (a) No barbed wire, razor wire or similar material shall be allowed for residential uses.
 - (b) Barbed wire, razor wire, or similar material shall be prohibited for commercial and industrial uses, except when installed at an eight-foot height or greater.
 - (c) Temporary construction fencing.
 - (1) Temporary construction fencing shall be allowed for sites in all zoning districts that have been issued a development order by the city.
 - (2) The city shall require the installation of a temporary construction fence in areas where construction activities create impacts to adjoining properties and rights-of-way such as debris, glare, and noise, which cannot otherwise be mitigated.
 - (3) A building permit shall be obtained prior to the erection of the temporary construction fence.
 - (4) The fence shall be constructed according to the adopted standard construction detail for a temporary construction fence. Approved fence materials shall include opaque privacy fencing or other semipermanent materials deemed appropriate by the administrative official.
 - (5) If the fence or gate is not properly maintained in an upright position with all fabric materials fully attached, or the fence or gates are not in working order, a stop work order shall be issued for the construction site until the fence is determined to be in proper working order as originally permitted.
 - (6) The temporary construction fence is intended to remain no longer than necessary to mitigate the conflict with other construction infrastructure for the project. Before a certificate of occupancy is issued, the temporary construction fence shall be removed and replaced with the permanent fence and/or wall as required by chapter 13, section 3.5 of this Code.
 - (7) In the event that the property remains cleared and vacant for a period of one year after the issuance of a development order or a development permit, whichever is in force at the time, the temporary construction fence shall be removed. If vegetation has not been established by the expiration date, the property must be seeded and mulched, or sodded, and vegetation established prior to the removal

of the fence. The removal of the fence and established of vegetation shall be required prior to approval of any requested development order or development permit extension.

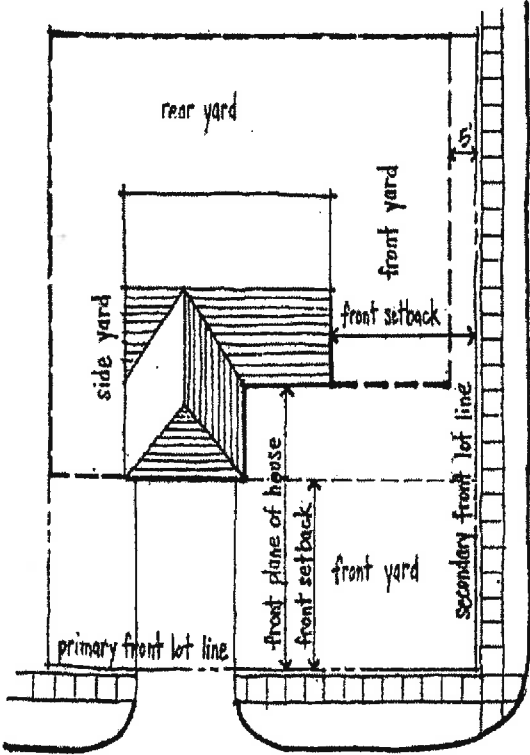
- (8) If the city in its discretion deems it necessary, the city may upon notice to the property owner, install or remove a temporary construction fence to comply with the requirements of this code at the expense of the property owner. The expense shall be recorded as a lien against the property in noncompliance and the lien shall have such priority as prescribed by ordinance.
- (9) A temporary construction fence shall in no way relieve the property owner from performing other construction-related activities that are required by this code or requirements from other jurisdictional agencies.

(2) Height.

- (a) For individual single-family and two-family residential lots, no permanent fence or wall shall exceed six feet in height in rear or side yards, except as provided in subparagraph (e) below. In addition, fences and walls shall not exceed four feet in height when erected on an atypical lot within the required rear yard setback, except as provided in subsection (h) below.
- (b) For individual single-family and two-family residential lots, no permanent fence or wall shall exceed four feet in height in required front yards abutting rights-of-way, except as provided in subsections (e), (f) and (g) below.
- (c) For nonresidential uses, no permanent fence or wall shall exceed ten feet in height unless approved as part of a development plan to meet the buffering requirements between different types of uses, per chapter 13, section 3.5.
- (d) No permanent fence or wall located adjacent to any public right-of-way and designed to be an integral part of a new or existing subdivision improvement, including but not limited to subdivision entrances and subdivision walls, shall exceed 12 feet in height, including columns.
- (e) For residential uses adjacent to Interstate 95 right-of-way, no permanent fence or wall shall exceed 12 feet in height adjacent to any property line abutting such right-of-way.
- (f) For individual single-family and two-family residential corner lots with a secondary front lot line abutting a local street, a six-foot-tall privacy fence may be placed up to the front plane of the house. For corner lots with a secondary front lot line abutting an arterial or collector road, the six-foot-tall fence may further encroach into the required front yard to within five feet of the secondary front lot line. Fence placement per this subsection

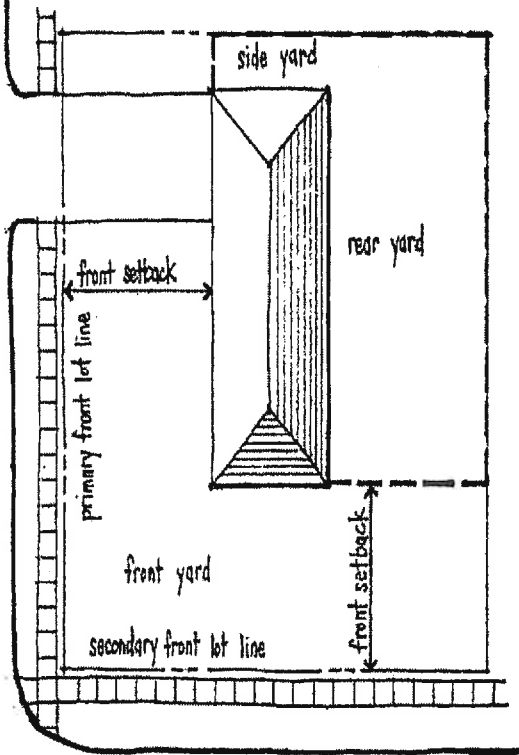
shall also be allowed on legal nonconforming lots, provided visual clearance requirements of section 6 of this chapter can still be met. Please see Figure 16:A below.

Conforming Lot & Structure



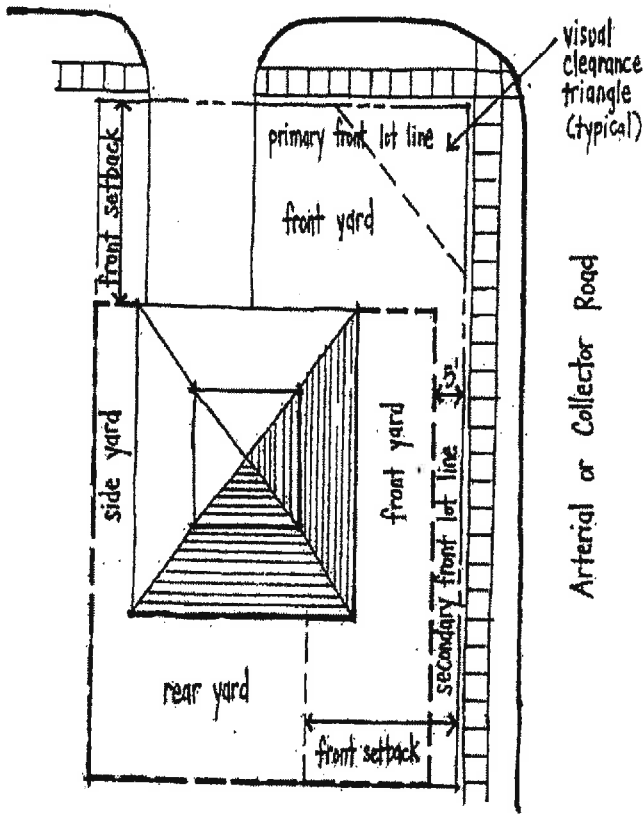
Local Street

Conforming Lot & Structure



Arterial or Collector Road

Local Street



Arterial or Collector Road

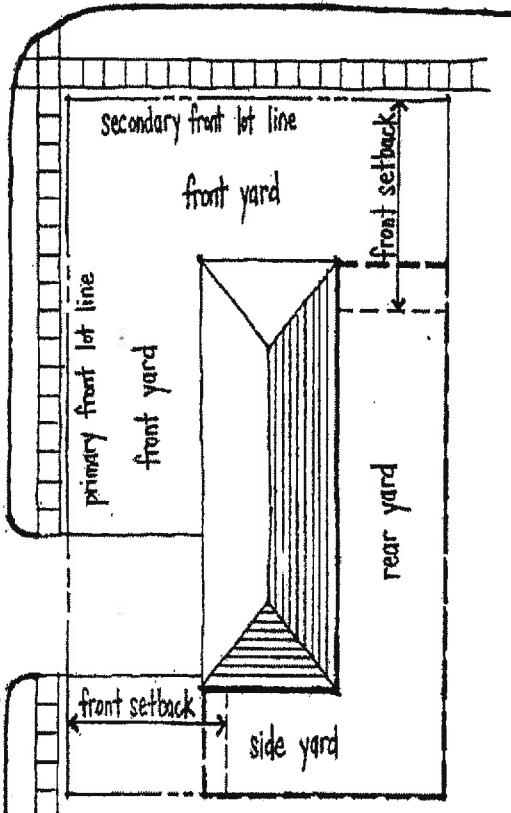


figure16A

- (g) For individual single-family and two-family residential through lots with a rear lot line abutting the right-of-way line of a local street or arterial or collector road, a privacy fence not to exceed six feet in height may be placed on the rear lot line.
 - (h) On atypical lots, chain link fences may not exceed six feet in height when erected within the required rear yard.
 - (i) Where a fence or wall transitions from a higher to a lower height, the transition must be complete at or before the point where the lower height must begin. For example, where a six-foot-tall fence transitions to a four-foot-tall fence, the transition from higher to lower must be completed where the four-foot height limitation begins, such that no portion of the fence exceeds the height limitation.
- (3) Location.
- (a) No permanent fence or wall shall be located closer than five feet to any right-of-way line, unless otherwise permitted in this chapter.
 - (b) No permanent fence or wall shall be located within areas required to provide clearance for visibility in accordance with this chapter.
- (4) Design and maintenance.
- (a) All fences and walls shall be designed to comply with the architectural and landscaping requirements of this code when applicable.
 - (b) All fences shall be maintained in their original upright condition.
 - (c) Fences and walls designed for painting or similar surface finishes shall be maintained in their original condition as designed.
 - (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.
 - (e) Fences or walls having a side with exposed or irregular structural components and a more finished, uniform and aesthetically attractive side shall be constructed so that the more finished, uniform and aesthetically attractive side faces outward from the fenced property toward the adjoining property. This requirement shall not be construed as to require post components of fences to be invisible from the adjoining property. This requirement may be waived by the administrative official upon approval of a written agreement between the two adjoining property owners.
 - (f) The side of a fence or wall oriented to an adjoining property shall not create an adverse visual impact on such adjoining property.

(5) Exemptions.

(a) Customary fencing around tennis courts and other approved recreational amenities shall be exempt from height restrictions.

(b) Reserved.

(Ord. No. 1991-20, 8-27-91; Ord. No. 1993-58, 1-18-94; Ord. No. 1996-33, § 9, 11-19-96; Ord. No. 1998-51, § 2, 8-18-98; Ord. No. 1999-47, § 1, 11-16-99; Ord. No. 2001-84, §§ 2, 3, 10-16-01; Ord. No. 2005-55, § 3, 1-17-06; Ord. No. 2009-23, § 2, 11-10-09; Ord. No. 2015-14, § 1, 4-21-2015)

GENERAL REQUIREMENTS

gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;

9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

304.2 Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] 304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. Structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. Glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be

included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

[A] **108.2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* or owner's authorized agent to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

[A] **108.2.1 Authority to disconnect service utilities.** The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* or owner's authorized agent and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the *owner*, owner's authorized agent or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

[A] **108.3 Notice.** Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

[A] **108.4 Placarding.** Upon failure of the *owner*, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the *code official* shall post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

[A] **108.4.1 Placard removal.** The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

[A] **108.5 Prohibited occupancy.** Any occupied structure condemned and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner*, owner's authorized agent or person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

[A] **108.6 Abatement methods.** The *owner*, owner's authorized agent, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

[A] **108.7 Record.** The *code official* shall cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

[A] **109.1 Imminent danger.** When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

[A] **109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* shall order the necessary work to be done,

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1695**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Recorded in the Public Records:
Instrument # 2016 232 768 12/16/16 @ 10:35 a.m.
Book: 7338 Page: 2235

Petitioner,

COUNTRY MANOR ASSISTED LIVING
1152 Old Hammock Road, Port Orange, FL 32129
PARCEL ID: 6305-04-00-0021

Respondent.

_____ /

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on December 14, 2016, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent(s), COUNTRY MANOR ASSISTED LIVING, (hereinafter referred to as "Respondent(s)", whose mailing address is 3101 Archer Avenue, Orlando, FL 32833, is/are the owner(s) of the property located at 1152 Old Hammock Road, Port Orange, FL 32129, and more particularly described as:

W 221.59 FT OF TRACT 2 REPLAT OF PART OF VASS SUB OF LOT 5 SEC 5 16 33 MB 34 PGS 13 &
14 PER OR 3835 PG 2693 & OR 6289 PG 3245

B. The fence separating this property from the residential neighborhood needs to be repaired/replaced as it is rotting and the fence is falling apart; the screened enclosure in the rear of the building has been damaged and is deemed an unsafe structure and needs to be removed or repaired; and all broken windows on the structure need to be repaired or replaced. These conditions were first observed at the real property described above on October 18, 2016; re-inspections were made on November 10, 2016, November 29, 2016 and December 13, 2016, and confirmed the condition as being the same. Respondent(s) received notice via property posting on October 20, 2016, as well as certified mail and posting at City Hall on October 21, 2016, that the aforesaid conditions constituted a violation of City of Port Orange Land Development Code Chapter 16 Miscellaneous Regulations Section 3: - Fences and walls (b) General provisions (4) Design and maintenance, (b) and (c); Chapter 1, Section 109 Emergency Measures of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances [A] Section 109.1 Imminent Danger; and Chapter 3, Section 304 Exterior Structure of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 304.13 Window, Skylight and Door frames, and was to be corrected by November 10, 2016.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above referenced code, in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

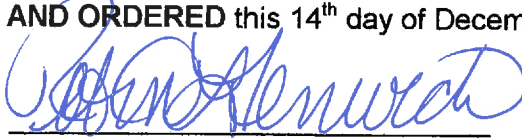
ORDER:

A. Respondent(s) shall correct the aforesaid violation by repairing/replacing the fencing that separates the residential area of Brandy Hills from the assisted living property as it is rotting and the fence is falling apart (a building permit is required); removing/replacing/repairing the screened enclosure in the rear of the building (a building permit is required if replacing); and repairing or replacing the broken and/or missing windows on the building (a building permit is required) on or before December 28, 2016 ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance a notice of the violation will be given to the City Council and the City shall have the option to abate the violations. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$41.68 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 14th day of December, 2016.

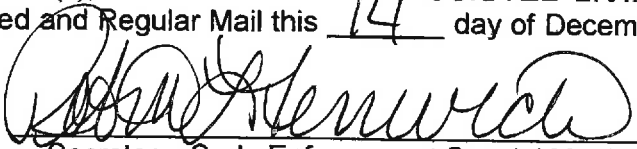
Attest: 
Secretary, Code Enforcement Special Magistrate

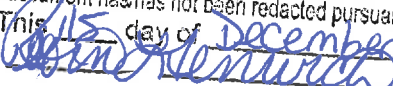
By: 
Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.


Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), COUNTRY MANOR ASSISTED LIVING, 3101 Archer Avenue, Orlando, FL 32833 by Certified and Regular Mail this 14 day of December, 2016.


Secretary, Code Enforcement Special Magistrate

CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.
This document has/has not been redacted pursuant to Florida Law.
This 15 day of December, 2016.
By: 



/s/ Robin L. Fenwick

Case Cost Sheet Log

Case No. 16-1140

Name	Activity	Activity_Date	Status	Cost
Country Manor Assisted Living	Cost to mail Notice of Violation/Notice of Hearings to 3101 Archer Avenue, Orlando, FL 32833 (via regular & certified mail)	10/21/2016	Green card signed on 10/25/16	\$7.34
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law & Order	12/14/2016		\$27.00
Country Manor Assisted Living	Cost to mail Finding of Fact, Conclusion of Law & Order to 3101 Archer Avenue, Orlando, FL 32833 (via regular & certified mail)	12/14/2016	Green card signed (undated) by Paul Simondac	\$7.34
Clerk of Court	Fee to record Order Imposing Fine/Lien	01/25/2017		\$44.00
Country Manor Assisted Living	Cost to mail Order Imposing Fine/Lien to 3101 Archer Avenue, Orlando, FL 32833 (via regular & certified mail)	01/25/2017		\$7.34

Total: 93.02



NOTICE OF REPEAT VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1140

To: Country Manor Assisted Living
3101 Archer Avenue
Orlando, FL 32833

Re: 1152 Old Hammock Road
Port Orange, FL 32129
Parcel ID: 6305-04-00-0021

LEGAL DESCRIPTION: W 221.59 FT OF TRACT 2 REPLAT OF PART OF VASS SUB OF LOT 5 SEC 5 16 33 MB 34 PGS 13 & 14 PER OR 3835 PG 2693 & OR 6289 PG 3245

Volusia County Public Records
Volusia County, FL

An inspection of the premises on October 18, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

Briefly stated, the property is in violation of the following:

Sec. 42-26. - Cleanliness of property generally—Duty of owner.

- (c) Maintenance of commercial and industrial zoned lots. The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- The entire property needs to be mowed and all high weeds and grass trimmed.
- (f) Garbage, waste, trash, etc., prohibited. The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris, and junk.
- The entire property needs to be cleaned up of all garbage, trash, junk, and debris. This also includes down limbs, trees, and branches.

Attachments:

☐ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

A fine up to \$5000 per day per violation for a repeat violation may be assessed by the Special Magistrate.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate December 14, 2016, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as

supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 16100 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **December 14, 2016**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **January 25, 2016, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506- 5616 or at abonin@port-orange.org.

DATED this 20th day of October, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: *Amanda Bonin*
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Country Manor Assisted Living 1152 Old Hammock Road Port Orange, FL 32129, RE: 1152 Old Hammock Road Port Orange, FL 32129, was

- ☐ Hand-delivered
☐ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 3:47 pm

this 20th day of October, 2016.

Amanda Bonin
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Country Manor Assisted Living 3101 Archer Avenue Orlando, FL 32833, RE: 1152 Old Hammock Road Port Orange, FL 32129, was

- ☒ Posted at City Hall
☒ Sent via certified and regular

this 21 day of October, 2016.

Christopher Demure
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County Property Appraiser

Morgan B. Gilreath Jr.
M.A., C.F.A.



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Notice of Proposed Taxes

Estimate of Taxes

Parcel Information: 6305-04-00-0021 2017 Working Tax Roll Last Updated: 10-16-2016

Owner Name and Address

Alternate Key	3585747	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6305-04-00-0021	Mill Group	402 Port Orange
Full Parcel ID	05-16-33-04-00-0021	2016 Final Mill Rate	20.05190
Created Date	30 DEC 1981		
Property Class	74 Homes for the Aged		
Ownership Type		Ownership Percent	100
Owner Name	COUNTRY MANOR ASSISTED LIVING		
Owner Name/Address 1	& RETIREMENT HOME LLC		
Owner Address 2	3101 ARCHER AVE		
Owner Address 3	ORLANDO FL		
Owner Zip/Postal Code	32833		
Situs Address	1152 OLD HAMMOCK RD PORT ORANGE 32129		

Legal Description

W 221.59 FT OF TRACT 2 REPLAT OF PART OF VASS SUB OF LOT 5 SEC 5 16 33 MB 34 PGS 13 & 14 PER OR 3835 PG 2693 & OR 6289 PG 3245

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
6289	3245	10/2008	Warranty Deed	Qualified Sale	Yes	800,000
3835	2693	06/1993	Warranty Deed	Qualified Sale	Yes	500,000
2893	1087	10/1986	Warranty Deed	Personal property /business	Yes	860,000
2168	0868	05/1980	Warranty Deed	Qualified Sale	Yes	135,000

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	382,239	122,982	5,537	510,758	510,758	510,758	0	510,758	0	510,758
2015	361,004	120,055	5,533	486,592	486,592	486,592	0	486,592	0	486,592

Display Value History

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
7400	HOMV AGED	0.0	0.0	130680.00	SQUARE_FEET	4.50	100	65	100	100	382,239
Neighborhood C5502 PORT ORANGE- NOVA ROAD											
Total Land Classified											0
Total Land Just											382,239

Building Characteristics

Building Number: 111590 (Building 1 of 1)

Bldg. No.	Property Type	Structure Type	Perimeter	Year Built	Quality Grade	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
111590	Commercial	Concrete or Masonry	1432	1976	300	42%	70%	0%	2999

Section Number	Avg. Wall Height	Number Stories	Year Built	Bsmnt%	Ground Floor Area	Interior Finish	Sect%	Sprinkler	A/C		
001	9.00	2	1976	0.00	1250 Home for the Aged, Average (74C)				100.00	No	Yes
002	9.00	1	1976	0.00	132 Porch, Open Unfinished (UOP)				0.00	No	No
003	9.00	1	1984	0.00	133 Porch, Open Finished (FOP)				0.00	No	No
004	9.00	1	1976	0.00	8498 Home for the Aged, Average (74C)				100.00	No	No
005	9.00	1	1976	0.00	626 Porch, Screen Unfinished (USP)				0.00	No	No
006	9.00	1	1976	0.00	28 Porch, Open Finished (FOP)				0.00	No	No

1 of 3

10/20/2016 2:12 PM

10/27/2008 08:49 AM
Doc stamps 5600.00
(Transfer Amt \$ 800000)
Instrument# 2008-210417 # 1
Book : 6289
Page : 3245
Diane M. Matousek
Volusia County, Clerk of Court

This Instrument Prepared By:

John B. Crowther
Attorney at Law
279 East Graves Avenue
Orange City, Florida 32763
(863) 775-6179

Property Appraiser's Parcel Identification Number:
31-04-00-0021

RETURN TO 1815053
VOLUSIA TITLE SERVICES
109 WEST BICH AVENUE
DELAND, FL 32720

THIS SPECIAL WARRANTY DEED, executed this 23RD day of October, 2008, by **EDA INVESTMENT CORPORATION, a/k/a EDA INVESTMENT CORPORATION, INC., a Florida corporation**, 202 Plumosa Road, DelBury, Florida 32713, Grantor, to **COUNTRY MANOR ASSISTED LIVING & RETIREMENT HOME, LLC, a Florida Limited Liability Company**, whose post office address is 3101 Archer Avenue, Orlando, Florida 32833, Grantee:

WITNESSETH, that the said Grantor, for and in consideration of the sum of \$10.00, in hand paid by the Grantee, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee forever, all right, title, interest, claim and demand which the said Grantor has in and to the following-described lot, piece or parcel of land, situate, lying and being in the County of Volusia, State of Florida, to wit:

The West Three (3) acres of Tract 2 of the replat of the Division of a portion of the Division of Lot 5, Section 5, Township 16 South, Range 33 East, CITY OF PORT ORANGE, Volusia County, Florida, as recorded in Plat Book 34, Pages 13 and 14, Public Records of Volusia County, said West Three (3) acres have also been described as the West Three (3) acres of Lot 2, VOSS SUBDIVISION, as recorded in Deed Book "L", Page 18, Public Records of Volusia County, said property being more particularly described as follows: Begin at the Southwest corner of Government Lot 5, thence North 00°13'35" West a distance of 280.50 feet to the Southwest corner of said Tract 2 and the true Point of Beginning; thence North 00°13'57" West a distance of 589.75 feet; thence North 89°07'09" East a distance of 221.59 feet; thence South 00°13'57" East a distance of 269.75 feet to the Northerly line of a 32 foot utility, ingress and egress easement; thence South 00°13'57" East along the West line of said easement a distance of 32 feet; thence South 00°13'57" East a distance of 290.56 feet; thence South 89°46'53" West a distance of 221.58 feet to the true Point of Beginning.

Subject to the same conditions, reservations and restrictions of record, if any, which previously affected this property and which are in affect at this date, and also subject to zoning and other governmental regulations.

TOGETHER with all the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that, except as above noted, at the time of the delivery of this deed the premises were free from all encumbrances made by the Grantor, except taxes accruing subsequent to December 31, 2007, and the Grantor will warrant and defend the same against the lawful claims and demands of all persons claiming by, through or under the Grantor, but against none other.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:


John B. Crowther

Elizabeth A. Waiden
STATE OF FLORIDA
COUNTY OF VOLUSIA

EDA INVESTMENT CORPORATION, a/k/a EDA
INVESTMENT CORPORATION, INC.

By:  L.S.
Eleanor B. Ade, as Vice President

I HEREBY CERTIFY that on this day before me, an officer duly authorized to administer oaths and take

Sec. 42-26. - Cleanliness of property generally—Duty of owner.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Improved lot means any lot which improvements have been made, including, but not limited to, change of grade through filling or excavation, installation of water or sewer line, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

Undergrowth means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

Unimproved lot means any lot which remains undisturbed and in a natural vegetative state.

- (b) Purpose and intent. The city recognizes the need to protect the health, safety and welfare of the citizens of the city through control and elimination of aesthetically displeasing and potentially dangerous accumulations of garbage, waste, trash, debris, junk and undergrowth. It is, therefore, the purpose and intent of this section to reduce or eliminate such conditions within reasonable limits by hereby establishing a duty and responsibility on the part of the owner of designated lots located within the city to keep such lot free and clear of garbage, waste, trash, debris, junk and undergrowth.
- (c) Maintenance of commercial and industrial zoned lots. The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- (d) Maintenance of improved residential lots. The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.
- (e) Maintenance of unimproved residential lots. The owner of an unimproved lot in a residential zone with lot sizes of one acre or less shall keep that portion of his property abutting and within

ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area.

- (f) Garbage, waste, trash, etc., prohibited. The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.
- (g) No property maintenance permit required; other restrictions and requirements applicable. No permit shall be required for the limited property maintenance required by this section; however, the requirements, restrictions and limitations imposed by other sections of this Code and applicable provisions of the land development code pertaining to environmental preservation, tree removal, change of grade, etc., shall be effective. In the event of any conflict between this section and any other provision of this Code or applicable provision of the land development code, the other sections of this Code or applicable provisions of the land development code shall prevail and govern.
- (h) Abutting property owner maintenance of parkages. It shall be the duty of every owner of real property within the city to at all times cause to be cut and moved the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in subsection (d) of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in subsection (e) of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.

(Code 1981, § 10-1; Ord. No. 1994-5, § 1, 3-15-94)

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1140**

Recorded in the Public Records:
Instrument # 2016 232 770 12/16/16 @ 10:35 a.m.
Book: 7338 Page: 2241

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

COUNTRY MANOR ASSISTED LIVING
1152 Old Hammock Road, Port Orange, FL 32129
PARCEL ID: 6305-04-00-0021

Respondent.

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came for public hearing before the Code Enforcement Special Magistrate on December 14, 2016, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent, COUNTRY MANOR ASSISTED LIVING, (hereinafter referred to as "Respondent", whose mailing address is 3101 Archer Avenue, Orlando, FL 32833, is the owner of the property located at 1152 Old Hammock Road, Port Orange, FL 32129, and more particularly described as:

W 221.59 FT OF TRACT 2 REPLAT OF PART OF VASS SUB OF LOT 5 SEC 5 16 33 MB 34 PGS 13 &
14 PER OR 3835 PG 2693 & OR 6289 PG 3245

B. The entire property needs to be mowed and all high weeds and grass trimmed, as well as removing all garbage, trash, junk, and debris from the entire property. This condition was first observed at the real property described above on October 18, 2016; re-inspections were made on November 29, 2016 and December 13, 2016 and confirmed the condition as being the same. Respondent(s) received notice via property posting on October 20, 2016, as well as certified mail and posting at City Hall on October 21, 2016, that the aforesaid conditions constituted a violation of Section 42-26 -Cleanliness of property generally-duty of owner (c) and (f) of the City of Port Orange Code of Ordinances, and was to be corrected immediately as this is a repeat violation.

C. At the time of this hearing, the violations cited above: ☒ continued to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent, by reason of the foregoing, has violated the above referenced code, in that the Respondent failed, on or before the date set in the notice of repeat violation, to remedy the conditions as stated, is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

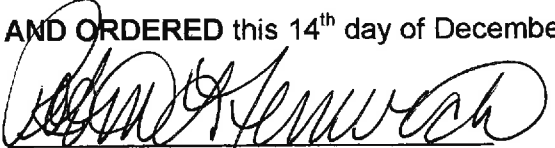
A. Respondent shall correct the aforesaid repeat violation by mowing the entire property and trimming all high weeds and grass and removing all trash and debris on site including lawn/tree debris immediately. If paragraph D. above is checked and the Respondent(s) does not abate the condition immediately, then notice of the violation will be given to the City Council and the City shall have the option to abate the violations. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$41.68 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 14th day of December, 2016.

Attest:


Secretary, Code Enforcement Special Magistrate

By:


Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

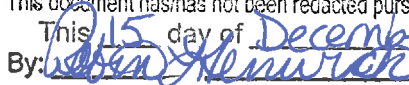

Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), COUNTRY MANOR ASSISTED LIVING, 3101 Archer Avenue, Orlando, FL 32833 by Certified and Regular Mail this 14 day of December, 2016.

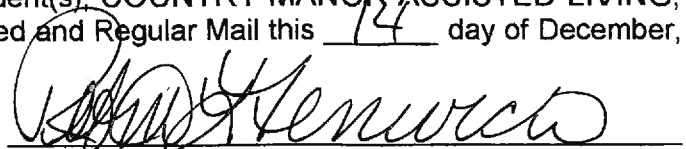
CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.

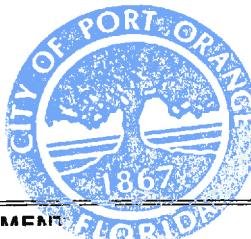
This document has/had not been redacted pursuant to Florida Law.

This 15 day of December, 2016.

By: 

/s/ Robin L. Fenwick


Secretary, Code Enforcement Special Magistrate



Case Cost Sheet Log

Case No. 16-1403

Name	Activity	Activity_Date	Status	Cost
Maureen Kennedy & Linda Kennedy	Cost to mail Notice of Repeat Violation/Notice of Hearings to 40 Burlison Avenue, Apt. 2, Ellenville, NY 12428 (via regular & certified to each respondent)	10/27/2016	All mailings were return "unable to forward"	\$14.68
John Kennedy	Cost to mail Notice of Repeat Violation/Notice of Hearings to 17 Brook Trail, Wurtsboro, NY 12790 (via regular & certified mail)	10/27/2016	Regular mailing was not returned; certified mailing returned "unable to forward"	\$7.34
Clerk of Court	Cost to record Finding of Fact, Conclusion of Law & Order	12/14/2016		\$27.00
Maureen Kennedy & Linga Kennedy	Cost to mail recorded Finding of Fact, Conclusion of Law & Order to 40 Burlison Avenue, Apt. 2, Ellenville, NY 12428 (via regular & certified to each respondent)	12/14/2016		\$14.68
John Kennedy	Cost to mail recorded Finding of Fact, Conclusion of Law & Order to 17 Brook Trail, Wurtsboro, NY 12790 (via regular & certified mail)	12/14/2016		\$7.34
Clerk of Court	Cost to record Order Imposing Fine/Lien	01/25/2017		\$44.00
Maureen Kennedy & Linda Kennedy	Cost to mail recorded Order Imposing Fine/Lien to 40 Burlison Avenue, Apt. 2, Ellenville, NY 12428 (via regular & certified to each respondent)	01/25/2017		\$14.68
John Kennedy	Cost to mail recorded Order Imposing Fine/Lien to 40 Burlison Avenue, Apt. 2, Ellenville, NY 12428 (via regular & certified to each respondent)	01/25/2017		\$7.34

Total: 137.06



**NOTICE OF REPEAT VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1403

To: Linda Kennedy and Maureen Kennedy
40 Burlison Ave. Apt 2
Ellenville, NY 12428

John Kennedy
17 Brook Trail
Wurtsboro, NY 12790

Re: 5204 Sydney Street
Port Orange, FL 32127

Parcel ID: 6315-07-21-0080

LEGAL DESCRIPTION: LOT 8 BLK 21 COMMONWEALTH MOBILE ESTS 2ND ADD MB 31 PGS 104-106 INC PER OR
4644 PGS 1030-1031 PER OR 6447 PGS 1442-1443

Volusia County Public Records

Volusia County, FL

An inspection of the premises on August 23, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

Briefly stated, the property is in violation of the following:

1. Chapter 42 (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner)(d)Maintenance of improved residential lots) & (f)Garbage, waste, trash, etc., prohibited of the City of Port Orange Code of Ordinances.
 - On August 23, 2016 I observed this entire property as being overgrown with yard debris scattered throughout. A complaint from a neighbor states there are rodents and snakes coming from the overgrowth.
 -

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate** December 14, 2016, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 22.02 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on December 14, 2016, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on January 25, 2017, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5644.

DATED this 25th day of October, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Deborah Faircloth
Deborah Faircloth

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Linda Kennedy and Maureen Kennedy, 40 Burlison Ave. Apt 2, Ellenville, NY 12428 & John Kennedy 17 Brook Trail, Wurtsboro, NY 12790, RE: 5204 Sydney Street, Port Orange, FL 32127, was

☐ Hand-delivered

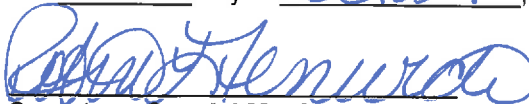
☒ Posted at the property

Time: approx. 2:00 pm

this 25th day of October, 2016.

Deborah Faircloth
Deborah Faircloth

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Linda + Maureen Kennedy @ 40 Burlington Ave, Apt. 2, Ellenville, NY 12428
☒ Posted at City Hall
☒ Sent via certified and regular + John Kennedy @ 17 Brook Tr., Wurtsboro, NY 12790 was
this 27 day of October, 2016.


Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County
Property Appraiser

Morgan B. Gilreath Jr.
M.A., C.F.A.



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Notice of Proposed Taxes
Estimate of Taxes

Parcel Information: 6315-07-21-0080 **2017 Working Tax Roll** Last Updated: 10-23-2016

Owner Name and Address

Alternate Key	3637674	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6315-07-21-0080	Mill Group	402 Port Orange
Full Parcel ID	15-16-33-07-21-0080	2016 Final Mill Rate	20.05190
Created Date	31 DEC 1981		
Property Class	02 Mobile Homes		
Ownership Type		Ownership Percent	33.3
Owner Name	KENNEDY LINDA &		
Owner Name/Address 1			
Owner Address 2	40 BURLISON AVE APT 2		
Owner Address 3	ELLENVILLE NY		
Owner Zip/Postal Code	12428		
Situs Address	5204 SYDNEY ST PORT ORANGE 32127		

Additional Owners

Ownership Type		Ownership Percent	33.30
Additional Owner Name	KENNEDY JOHN &		
Ownership Type		Ownership Percent	33.30
Additional Owner Name	KENNEDY MAUREEN &		

Legal Description
 LOT 8 BLK 21 COMMONWEALTH MOBILE ESTS 2ND ADD MB 31 PGS 104-106 INC PER OR 4644 PGS 1030-1031 PER OR 6447 PGS 1442-1443

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
6447	1442	12/2009	Personal Rep.	Unqualified Sale	Yes	100
4644	1030	01/2001	Warranty Deed	Qualified Sale	Yes	42,912
4110	0099	05/1996	Warranty Deed	Qualified Sale	Yes	42,500
3930	3323	06/1994	Warranty Deed	Qualified Sale	Yes	32,000
3722	3665	01/1992	Warranty Deed	Unqualified Sale	Yes	28,000
3714	2483	10/1991	Warranty Deed	Qualified Sale	Yes	30,000

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	18,470	19,106	0	37,576	37,576	35,325	0	37,576	0	35,325
2015	18,470	16,738	0	35,208	35,208	32,114	0	35,208	0	32,114

[Display Value History](#)

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0202	MH ON MH SITE PVD	60.0	155.0	60.00	FRONT FEET	259.99	118	100	100	100	18,470
Neighborhood 5773 COMMONWEALTH M-H EST MB 26-PG											
Total Land Classified											0
Total Land Just											18,470

Building Characteristics

Building Number: 116244 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review	
116244	Mobile Home		180	1973	150	Mobile Home	70%	0%	0%	2999
Roof Type	GABLE	Floors		Carpet	Bedrooms	3	4 Fixture Bath		0	
Roof Cover	METAL	Wall Type		Plywood Panel	X Fixture Bath	0	5 Fixture Bath		0	
Heat Type1	Forced Ducted	Heat Source1		Gas	2 Fixture Bath	0	6 Fixture Bath		0	
Heat Type2		Heat Source2			3 Fixture Bath	2	7 Fixture Bath		0	

Prepared by and return to:

Janet M. Strickland
Attorney at Law
Law Office of Janet M. Strickland, P.A.
4643 Clyde Morris Boulevard Suite 307
Port Orange, FL 32129
386-763-5083
File Number: B08-031
Will Call No.: [REDACTED]

[Space Above This Line For Recording Data]

Personal Representative's Deed

This Personal Representative's Deed made this 31 day of December, 2009, between **John Kennedy, Personal Representative of the Estate of Joseph O'Dwyer, deceased** whose post office address is 17 Brook Trail, Wurtsboro, NY 12790, grantor, and **Linda Kennedy, a married person and John Kennedy, a single person and Maureen Kennedy, a single person** whose post office address is 40 Burlison Ave., Apt. 2, Ellenville, NY 12428, grantee:

(Whenever used herein the terms grantor and grantee include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantees heirs and assigns forever, the following described land, situate, lying and being in Volusia County, Florida, to-wit:

LOT 8, BLOCK 21, COMMONWEALTH MOBILE ESTATES-2ND ADDITION, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 31, PAGE 104, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, TOGETHER WITH A 1973 TAHO DOUBLE WIDE MANUFACTURED HOME HAVING IDENTIFICATION NUMBERS 3T60LJ35122A&B.

Parcel Identification Number: 6315-07-21-0080

Subject to taxes for 2008 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

This document was prepared at the request of the Grantor(s) and no title search was requested or rendered.

More Commonly Known As: 5204 Sydney Street, Port Orange, FL 32127.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor has good right and lawful authority to sell and convey said land; that the grantor warrants the title to said land for any acts of Grantor and will defend the title against the lawful claims of all persons claiming by, through, or under Grantor.

In Witness Whereof, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Marta Rivas
Witness Name: MARTA RIVAS

Linda Rivas
Witness Name: LINDA RIVAS

John Kennedy
John Kennedy, Personal Representative

State of Florida
County of Volusia

The foregoing instrument was acknowledged before me this 16th day of JANUARY, 2010 by John Kennedy, Personal Representative of the Estate of Joseph O'Dwyer, deceased, who ☐ is personally known to me or ☒ has produced a driver's license as identification.

[Notary Seal]

Robert Gomez Jr.
Notary Public

Printed Name: Robert Gomez Jr.

My Commission Expires: October 31, 2010

ROBERT GOMEZ, JR.
Notary Public, State of New York
Qualified in Ulster County
No. 4943623
Commission Expires October 31, 2010

Sec. 42-26. Cleanliness of property generally—Duty of owner.

- (a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Improved lot means any lot which improvements have been made, including, but not limited to, change of grade through filling or excavation, installation of water or sewer line, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

Undergrowth means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

Unimproved lot means any lot which remains undisturbed and in a natural vegetative state.

- (b) ***Purpose and intent.*** The city recognizes the need to protect the health, safety and welfare of the citizens of the city through control and elimination of aesthetically displeasing and potentially dangerous accumulations of garbage, waste, trash, debris, junk and undergrowth. It is, therefore, the purpose and intent of this section to reduce or eliminate such conditions within reasonable limits by hereby establishing a duty and responsibility on the part of the owner of designated lots located within the city to keep such lot free and clear of garbage, waste, trash, debris, junk and undergrowth.
- (c) ***Maintenance of commercial and industrial zoned lots.*** The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- (d) ***Maintenance of improved residential lots.*** The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.
- (e) ***Maintenance of unimproved residential lots.*** The owner of an unimproved lot in a residential zone with lot sizes of one acre or less shall keep that portion of his property abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area.
- (f) ***Garbage, waste, trash, etc., prohibited.*** The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.
- (g) ***No property maintenance permit required; other restrictions and requirements applicable.*** No permit shall be required for the limited property maintenance required by this section; however, the requirements, restrictions and limitations imposed by other sections of this Code and applicable provisions of the land development code pertaining to environmental

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1403**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

Linda Kennedy, Maureen Kennedy & John Kennedy
5204 Sydney Street, Port Orange, FL 32127
PARCEL ID: 6315-07-21-0080

Respondent.

_____ /

Recorded in the Public Records:
Instrument # 2016 232 773 12/16/16 @ 10:35 a.m.
Book: 7338 Page: 2247

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on December 14, 2016, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondents, Linda Kennedy and Maureen Kennedy, whose mailing address is 40 Burlison Ave., Apt. 2, Ellenville, NY 12428 and John Kennedy, whose mailing address is 17 Brook Trail, Wurtsboro, NY 12790 (hereinafter referred to as "Respondent(s)", are the owner(s) of the property located at 5204 Sydney Street, Port Orange, FL 32127, and more particularly described as:

LOT 8 BLK 21 COMMONWEALTH MOBILE ESTS 2ND ADD MB 31 PGS 104-106 INC PER OR 4644
PGS 1030-1031 PER OR 6447 PGS 1442-1443

B. The property needs to be mowed and all undergrowth cut back, as well as all trash and debris removed from the entire property. This condition was first observed at the real property described above on August 23, 2016; re-inspection was made on October 25, 2016 and confirmed the condition as being the same. Respondents received notice via certified and regular mail on October 27, 2016, via property posting on October 25, 2016; and City Hall posting on October 27, 2016, that the aforesaid conditions constituted a violation of Chapter 42 (Nuisances), Article II (Garbage, Junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) Maintenance of improved residential lots & (f) Garbage, waste, trash, etc., prohibited of the City of Port Orange Code of Ordinances, and was to be corrected by immediately as this was a repeat violation.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondents, by reason of the foregoing, have violated the above referenced code, in that the Respondents failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

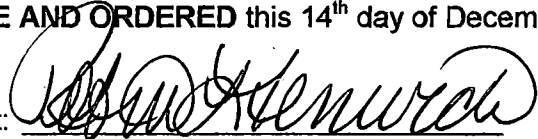
A. Respondents shall correct the aforesaid repeat violation by mowing and cutting back all undergrowth on the entire property and removing all trash and debris immediately. In the event that the property is not brought into compliance immediately, and/or not maintained in a state of compliance, the City shall have the option to abate the violation. If paragraph D. above is checked and the Respondents have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$71.04 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

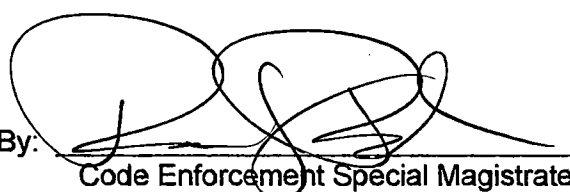
C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 14th day of December, 2016.

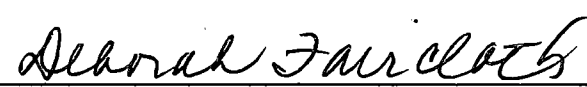
Attest:


Secretary, Code Enforcement Special Magistrate

By:


Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.


Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Linda Kennedy & Maureen Kennedy, 40

Burlison Ave., Apt. 2, Ellenville, NY 12428 and John Kennedy, 17 Brook Trail, Wurtsboro, NY 12790 by
Certified and Regular Mail this 14 day of December, 2016.


Secretary, Code Enforcement Special Magistrate

CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.

This document has/has not been redacted pursuant to Florida Law.

This 15 day of December, 2016
By 

/s/ Robin L. Fenwick



Case Cost Sheet Log

Case No. 16-1612

Name	Activity	Activity_Date	Status	Cost
Jaqueline M. & Donald A Acosta	Cost to mail Notice of Repeat Violation/Notice of Hearings to 825 Upland Drive, Port Orange, FL 32127 (via certified & regular)	10/05/2016	Certified mailings returned UNCLAIMED; regular mail not returned	\$14.68
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law & Order	11/09/2016		\$18.50
Jaqueline M. & Donald A Acosta	Cost to mail Finding of Fact, Conclusion of Law & Order to 825 Upland Drive, Port Orange, FL 32127 (via certified & regular)	11/09/2016		\$14.68
Clerk of Court	Fee to record Order Setting Fine/Lien	01/25/2017		\$44.00
Jaqueline M. & Donald A Acosta	Cost to mail Order Imposing Fine/Lien to 825 Upland Drive, Port Orange, FL 32127 (via certified & regular)	01/25/2017		\$14.68

Total: 106.54



**NOTICE OF REPEAT VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1612

To: Jaqueline M. & Donald A. Acosta

Re: 825 Upland Dr

Port Orange, FL 32127

Parcel ID: 6321-04-00-1150

LEGAL DESCRIPTION: LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER OR 4975 PG 1225
PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PER OR 5910 PG 1211 PER OR 5947 PGS
4351-4352 PER OR 5952 PGS 0372-0373 PER OR 5969 PGS 2888-2890 INC

Volusia County Public Records

Volusia County, FL

An inspection of the premises on September 27, 2016, indicates that certain repeat violation(s) of the City of Port Orange Code exists.

Briefly stated, the property is in violation of the following:

- Chapter 42 (Nuisances) of the City of Port Orange Code of Ordinances, Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots: The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten (10) inches.
- An inspection of the property was conducted on September 27, 2016. During that inspection, I observed a repeat violation. See attached Finding of Fact and Conclusion of Law and Order. Case # 15-048. To correct the repeat violation, the property needs to be mowed, maintained and all high weeds trimmed.

Attachments: ☒ Copy of code ☒ Copy of Deed ☒ Copy of Tax Roll

A fine up to \$5000 per day per violation for a repeat violation may be assessed by the Special Magistrate.

The burden shall rest upon the Respondents to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate** November 9, 2016 at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the

Special Magistrate may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$14.68 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on November 9, 2016 enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on December 14, 2016, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5641.

DATED this 28th day of September, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: J. Scott Allman
J. Scott Allman

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Jaqueline M. & Donald A. Acosta, RE: 825 Upland Dr, Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property

Time: 11:50 A.M. this 29 day of September, 2016.

J. Scott Allman
J. Scott Allman

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Jaqueline M. & Donald A. Acosta, RE: 825 Upland Dr, Port Orange, FL 32127, was

☐ Posted at City Hall
☒ Sent via certified and regular

this 5 day of October, 2016.
[Signature]
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County
Property Appraiser

Morgan B. Gilreath Jr.
M.A., C.F.A.



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[Notice of Proposed Taxes](#)

[Estimate of Taxes](#)

Parcel Information: 6321-04-00-1150 **2016 Preliminary Tax Roll** Last Updated: 09-27-2016

Owner Name and Address

Alternate Key	3660951	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6321-04-00-1150	Mill Group	402 Port Orange
Full Parcel ID	21-16-33-04-00-1150	2015 Final Mill Rate	20.86510
Created Date	31 DEC 1981		
Property Class	01 Single Family		
Ownership Type		Ownership Percent	100
Owner Name	ACOSTA JACQUELINE M &		
Owner Name/Address 1	DONALD A ACOSTA		
Owner Address 2	825 UPLAND DRIVE		
Owner Address 3	PORT ORANGE FL		
Owner Zip/Postal Code	32127		
Situs Address	825 UPLAND DR PORT ORANGE 32127		

Legal Description

LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PER OR 5910 PG 1211 PER OR 5947 PGS 4351-4352 PER OR 5952 PGS 0372-0373 PER OR 5969 PGS 2888-2890 INC

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
5969	2888	12/2006	Warranty Deed	Unqualified Sale	Yes	100
5952	0372	11/2006	Quit Claim Deed	Unqualified Sale	Yes	100
5947	4351	11/2006	Quit Claim Deed	Unqualified Sale	Yes	100
5910	1211	09/2006	Personal Rep.	Unqualified Sale	Yes	100
5864	4185	06/2006	Warranty Deed	Affiliated Parties	Yes	15,000
5865	4113	03/2003	Death Certificate	Unqualified Sale	Yes	100
4975	1225	10/2002	Warranty Deed	Qualified Sale	Yes	150,000
2562	1689	05/1984	Warranty Deed	Addition after sale	Yes	53,500
2467	1812	08/1983	Warranty Deed	Unqualified Sale	No	100
2467	1813	07/1983	Warranty Deed	Qualified Sale	No	13,200

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2015	15,019	120,281	12,281	147,581	147,581	147,581	0	147,581	0	147,581
2014	15,019	109,167	10,107	134,293	134,293	134,293	0	134,293	0	134,293

[Display Value History](#)

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0101	IMP PVD THRU .49 AC	84.0	167.0	84.00	FRONT FEET	160.00	112	100	100	100	15,019
Neighborhood 5680 DEVONWOOD, HAMLET, HAMLET 1ST											0
Total Land Classified											0
Total Land Just											15,019

Building Characteristics

Building Number: 118384 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
118384	Single Family		208 1984	300		19%	0%	0%	2999
Roof Type	GABLE	Floors		Carpet	Bedrooms	3	4 Fixture Bath		0
Roof Cover	ASPHALT SHINGL	Wall Type		Drywall	X Fixture Bath	0	5 Fixture Bath		0
Heat Type1	Forced Ducted	Heat Source1		Electricity	2 Fixture Bath	0	6 Fixture Bath		0
Heat Type2		Heat Source2			3 Fixture Bath	2	7 Fixture Bath		0
Foundation	Concrete Slab	Year Remodeled			Fireplaces	1	A/C		Yes

Prepared by:
Stepniak & Wrenn, P.A.
958 S. Ridgewood Avenue
Daytona Beach, Florida 32114

Return to:
Stepniak & Wrenn, P.A.
958 S. Ridgewood Avenue
Daytona Beach, Florida 32114

QUITCLAIM DEED

This Quitclaim Deed made this 13th day of November, 2006, by STEPANIAK & WRENN, P.A. a Corporation, as Grantor, to JACQUELINE M. ACOSTA & DONALD A. ACOSTA, of 5808 Wales Ave. Port Orange, Florida 32127, as Grantee.

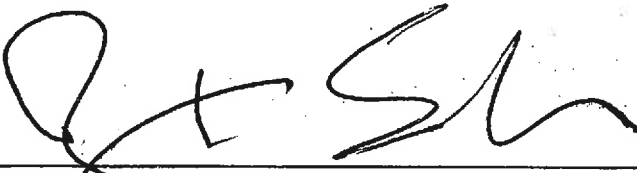
NOW THEREFORE, Grantor, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand, paid by Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim to Grantee forever, all the right, title, interest, claim and demand which she has in and to that real property located in Volusia County, Florida, and more particularly described as follows:

THE FOLLOWING DESCRIBED LOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE COUNTY OF VOLUSIA STATE OF FLORIDA:

LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER
OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PE

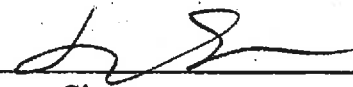
TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, to the only proper use and benefit of Grantee forever.

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed on the day and year first written above.

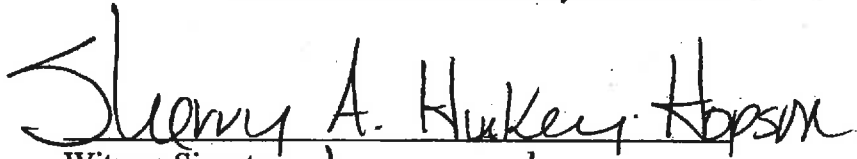


Grantor

WITNESSES:



Witness Signature
Print Name: Jane Stepiak



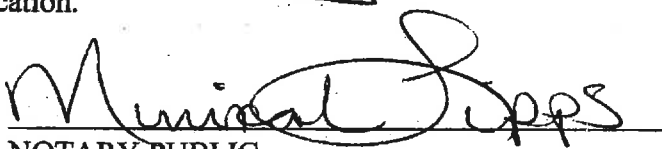
Witness Signature
Print Name: Sherry A. Huskey
Hopsom

STATE OF FLORIDA)

COUNTY OF VOLUSIA)

The foregoing instrument was acknowledged before me, this 13th day of November 2006, by Robert F. Stepiak who is personally known to me or who has produced as identification.

NOTARY PUBLIC-STATE OF FLORIDA
 Minokah Lipps
Commission # DD525382
Expires: MAR. 06, 2010
Bonded Thru Atlantic Bonding Co., Inc.



NOTARY PUBLIC

Sec. 42-26. - Cleanliness of property generally—Duty of owner.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Improved lot means any lot which improvements have been made, including, but not limited to, change of grade through filling or excavation, installation of water or sewer line, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

Undergrowth means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

Unimproved lot means any lot which remains undisturbed and in a natural vegetative state.

- (b) *Purpose and intent.* The city recognizes the need to protect the health, safety and welfare of the citizens of the city through control and elimination of aesthetically displeasing and potentially dangerous accumulations of garbage, waste, trash, debris, junk and undergrowth. It is, therefore, the purpose and intent of this section to reduce or eliminate such conditions within reasonable limits by hereby establishing a duty and responsibility on the part of the owner of designated lots located within the city to keep such lot free and clear of garbage, waste, trash, debris, junk and undergrowth.
- (c) *Maintenance of commercial and industrial zoned lots.* The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- (d) *Maintenance of improved residential lots.* The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.

(e)

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 15-048**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

Jacqueline M. & Donald A. Acosta
825 Upland Drive
Port Orange, FL 32127
6321-04-00-1150

Respondent.

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on March 25, 2015, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent(s), Jacqueline M. & Donald A. Acosta, whose mailing address is 825 Upland Drive, Port Orange, FL 32127, is/are the owner(s) of the property located at 825 Upland Drive, Port Orange, FL 32127, and more particularly described as:

LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER
OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PE
R OR 5910 PG 1211 PER OR 5947 PGS [REDACTED] PER OR 5952 PGS
[REDACTED] PER OR 5969 PGS [REDACTED] INC

B. The property is overgrown and full of yard debris. This condition was first observed at the real property described above on January 16, 2015; re-inspections made on February 16, 2015 and March 24, 2015 confirmed the condition as being the same. Respondent(s), Jacqueline M. & Donald A. Acosta, received notice via certified mail and posted at City hall on February 6, 2015 as well as property posting on February 5, 2015. The aforesaid conditions constituted a violation of Chapter 42, Article II, Section 42-26(d)(f)(h) of the City of Port Orange Code of Ordinance, and was to be corrected by February 12, 2015.

C. At the time of the hearing on March 25, 2015, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), Jacqueline M. & Donald A. Acosta, by reason of the foregoing, has/have violated Chapter 42, Article II, Section 42-26(d)(f)(h) of the City of Port Orange Code of Ordinance, in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of the overgrowth and yard debris, is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

A. Respondent(s) shall correct the aforesaid violation by mowing and maintaining the entire property to the street and cleaning up and removing all yard debris along with any garbage or trash on or before April 2, 2015. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by April 2, 2015, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$54.30 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this Order.

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 25 day of March, 2015

Attest: [Signature]
Secretary, Code Enforcement Special Magistrate

By: [Signature]
Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

[Signature]
Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Jacqueline M. & Donald A. Acosta, 825 Upland Drive, Port Orange, FL 32127 by Certified and Regular Mail this 20 day of March, 2015.

[Signature]
Secretary, Code Enforcement Special Magistrate

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1612**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Recorded in the Public Records:
Instrument # 2016 207 576 11-10-16 @ 11:20 a.m.
Book:7324 Page: 989

Petitioner,

Jaqueline M. & Donald A. Acosta
825 Upland Drive, Port Orange, FL 32127
PARCEL ID: 6321-04-00-1150

Respondent.

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on November 9, 2016, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent(s), Jaqueline M. & Donald A. Acosta, (hereinafter referred to as "Respondent(s)", whose mailing address is 825 Upland Drive, Port Orange, FL 32127, is/are the owner(s) of the property located at 825 Upland Drive, Port Orange, FL 32127, and more particularly described as:

LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PER OF 5910 PG 1211 PER OR 5947 PGS 4351-4352 PER OR 5952 PGS 0372-0373 PER OR 5969 PGS 2888-2890 INC

B. The property is overgrown and needs to be completely mowed and high weeds trimmed. This condition was first observed at the real property described above on September 27, 2016; re-inspection was made on November 8, 2016 and confirmed the condition as being the same. Respondent(s) received notice via regular and certified mail on October 5, 2016, posting of the property on September 29, 2016 and posting at City Hall on October 5, 2016, that the aforesaid conditions constituted a repeat violation of Chapter 42 (Nuisances) of the City of Port Orange Code of Ordinances, Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots, and was to be corrected immediately.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above referenced code, in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

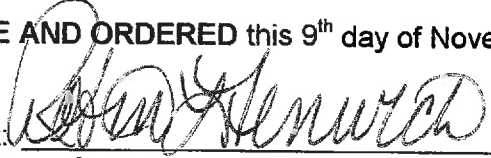
ORDER:

A. Respondent(s) shall correct the aforesaid repeat violation by mowing the entire property and trimming all high weeds, as well as maintaining the property on or before November 18, 2016. In the event that the property is not brought into compliance on or before November 18, 2016, and/or not maintained in a state of compliance, the City shall have the option of abating the repeat violation as this is a health, safety and welfare violation. Notice of the repeat violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$56.36 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

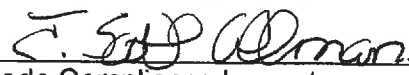
C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 9th day of November, 2016.

Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

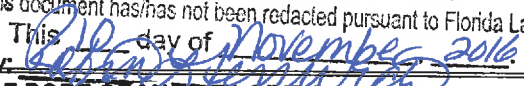

Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Jaqueline M. & Donald A. Acosta, 825 Upland Drive, Port Orange, FL 32127 by Certified and Regular Mail this 10th day of November, 2016.

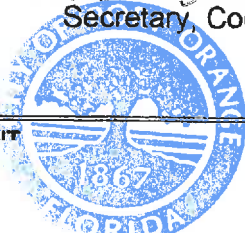
CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy of the original filed in this office.

This document has/has not been redacted pursuant to Florida Law.

This 10th day of November, 2016.

By: 
CITY OF PORT ORANGE, FLORIDA - CODE ENFORCEMENT

/s/ Robin L. Fenwick



Case Cost Sheet Log

Case No. 16-1054

Name	Activity	Activity_Date	Status	Cost
Bryon Dickerson	Cost to mail Notice of Violation/Notice of Hearings to 5434 Hibiscus Ave., Port Orange, FL 32127 (via regular & certified mail)	10/18/2016	Green card signed for on 10/20/16	\$8.24
TD Bank NA	Cost to mail Notice of Violation/Notice of Hearings to 32 Chestnut Street, Lewiston, ME 04240 (via regular & certified mail)	10/18/2016	Green card signed for but undated. Received by the City Clerk on 10/24/16	\$7.76
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law, & Order	12/14/2016		\$27.00
Bryon Dickerson	Cost to mail Finding of Fact, Conclusion of Law & Order to 5434 Hibiscus Ave., Port Orange, FL 32127 (via regular & certified mail)	12/14/2016		\$8.24
TD Bank NA	Cost to mail Finding of Fact, Conclusion of Law & Order to 32 Chestnut Street, Lewiston, ME 04240 (via regular & certified mail)	12/14/2016		\$7.76
Clerk of Court	Cost to record Order Setting Fine/Lien	01/25/2017		\$44.00
Bryon Dickerson	Cost to mail Finding of Fact, Conclusion of Law & Order to 5434 Hibiscus Ave., Port Orange, FL 32127 (via regular & certified mail)	01/25/2017		\$8.24
TD Bank NA	Cost to mail Order Imposing Fine/Lien to 32 Chestnut Street, Lewiston, ME 04240 (via regular & certified mail)	01/25/2017		\$7.76

Total: 119.00



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1054

To: Bryon Dickerson
5434 Hibiscus Ave.
Port Orange, FL 32127

Re: 5434 Hibiscus Ave.
Port Orange, FL 32127
Parcel ID: 6340-03-03-0070

LEGAL DESCRIPTION: LOT 7 BLK C BAYWOOD REPLAT MB 23 PGS 44-45 INC PER OR 3107 PG 1857 PER OR 6314
PG 3708 PER D/C 6853 PG 4478 PER D/C 6853 PG 4479 PER OR 7027 PG 4518
Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 29, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given three (3) days to correct. A re-inspection was done on July 15, 2016 and as recently as October 13, 2016, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by October 31, 2016.

Briefly stated, the property is in violation of the following:

1. City of Port Orange Code of Ordinances, Chapter 42, Article II, Section 42-26 (d) (f) & (h)

On June 29, 2016, I observed this property as being entirely overgrown and needing to be mowed and all overgrowth cut back. All garbage, trash, and debris (including storm debris) shall be removed (debris observed 10/13/16 from neighbor's yard). Additionally, the parkage needs to be mowed and maintained to the street.

2. Port Orange Land Development Code, Chapter 16, Section 3 (b)(4)(b)(d) as relates to fencing.

On October 13, 2016, I observed the fencing between this property and the adjoining property has been damaged.

Attachments: ☒ Copy of code ☒ Copy of Deed ☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate** December 14, 2016, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 14.67 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on December 14, 2016, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on January 11, 2017, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5644.

DATED this 14th day of October, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Deborah Faircloth
Deborah Faircloth

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Bryon Dickerson, 5434 Hibiscus Ave., Port Orange, FL 32127, RE: 5434 Hibiscus Ave., Port Orange, FL 32127, was

- ☐ Hand-delivered
☒ Posted at the property

Time: approx. 2:00 pm

this 14th day of October, 2016.

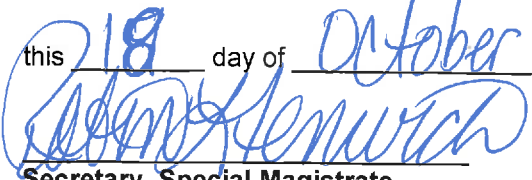
Deborah Faircloth
Deborah Faircloth

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Bryon Dickerson, 5434 Hibiscus Ave., Port Orange, FL 32127, RE: 5434 Hibiscus Ave., Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 18 day of October, 2016.


Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

cc: TD Bank N.A.
32 Chestnut St.
Lewiston, ME 04240



Volusia County
Property Appraiser

Morgan B. Gilreath Jr.
M.A., C.F.A.



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Notice of Proposed Taxes

Estimate of Taxes

Parcel Information: 6340-03-03-0070 **2016 Preliminary Tax Roll** Last Updated: 10-09-2016

Owner Name and Address

Alternate Key	3690273	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6340-03-03-0070	Mill Group	402 Port Orange
Full Parcel ID	40-16-33-03-0070	2015 Final Mill Rate	20.86510
Created Date	31 DEC 1981		
Property Class	01 Single Family		
Ownership Type	Fee Simple	Ownership Percent	100
Owner Name	DICKERSON BRYON		
Owner Name/Address 1			
Owner Address 2	5434 HIBISCUS AVE		
Owner Address 3	PORT ORANGE FL		
Owner Zip/Postal Code	32127		
Situs Address	5434 HIBISCUS AV PORT ORANGE 32127		

Legal Description

LOT 7 BLK C BAYWOOD REPLAT MB 23 PGS 44-45 INC PER OR 3107 PG 1857 PER OR 6314 PG 3708 PER D/C 6853 PG 4478 PER D/C 6853 PG 4479 PER OR 7027 PG 4518

Sales History

Book	Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
7027	4518	08/2014	Warranty Deed	Qualified Sale	Yes	128,100
6853	4479	01/2013	Death Certificate	Unqualified Sale	Yes	100
6853	4478	08/2011	Death Certificate	Unqualified Sale	Yes	100
6314	3708	01/2009	Warranty Deed	Unqualified Sale	Yes	100
3107	1857	02/1988	Warranty Deed	Qualified Sale	Yes	68,000
2860	0792	08/1986	Warranty Deed	Qualified Sale	Yes	71,000
2375	0901	07/1982	Warranty Deed	Qualified Sale	Yes	68,000
2180	0061	07/1980	Warranty Deed	Qualified Sale	No	5,500

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2015	14,357	88,654	0	103,011	85,738	85,738	25,000	60,738	25,000	35,738
2014	13,783	82,816	0	96,599	96,599	96,599	0	96,599	0	96,599

Display Value History

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0101	IMP PVD THRU .49 AC	60.0	125.0	60.00	FRONT FEET	260.01	96	100	100	100	14,932
Neighborhood	5769 HARBOR OAKS UNIT 2 (6340-01)										
Total Land Classified											0
Total Land Just											14,932

Building Characteristics

Building Number: 120906 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
120906	Single Family	160	1981	300		24%	0%	0%	2999
Roof Type	GABLE	Floors		Carpet	Bedrooms	3	4 Fixture Bath		0
Roof Cover	ASPHALT SHINGL	Wall Type		Drywall	X Fixture Bath	0	5 Fixture Bath		0
Heat Type1	Forced Ducted	Heat Source1		Electricity	2 Fixture Bath	0	6 Fixture Bath		0
Heat Type2		Heat Source2			3 Fixture Bath	2	7 Fixture Bath		0
Foundation		Year Remodeled			Fireplaces	1	A/C		Yes
Section Number	Area Type	Exterior Wall Type	Number Stories	Year Built	Attic Finish	Bsmt Area	Bsmt Finish	Floor Area	
	001 Res BASE Area (BAS)	WOOD ON SHEATING OR PLYWD	1.0	1981	N	0%	0%	1575 Sq. Feet	

Prepared By and Return To:
Lighthouse Title of East Florida, Inc.
104 LaCosta Lane Suite 100
Daytona Beach, FL 32114

Parcel No. 6340-03-03-0070

09/03/2014 01:28 PM
Doc stamps 896.70
(Transfer Amt \$ 128100)
Instrument# 2014-158373 # 1
Book : 7027
Page : 4518

WARRANTY DEED

THIS WARRANTY DEED dated August 29, 2014 by **Michael L. Thompson and John H. Thompson**, hereinafter called the grantor, to **Bryon Dickerson**, whose post office address is **5434 Hibiscus Ave., Port Orange, FL 32127**, hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, that the said grantor, for and in consideration of the sum of \$128,100.00, and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the grantee, all the certain land situated in the County of Volusia, State of Florida, viz:

Lot 7, Block "C", Baywood Replat, as per map in Map Book 23, Pages 44 and 45, of the Public Records of Volusia County, Florida.

Parcel ID#: 6340-03-03-0070

****THIS IS NOT THE CONSTITUTIONAL HOMESTEAD OF THE GRANTOR MICHAEL L. THOMPSON WHO RESIDES AT 2703 HUGH ST, PARKERSBURG, WV 26101 AND JOHN H. THOMPSON WHO RESIDES AT 24305 DIXON ROAD, COOLVILLE, OHIO 45723****

Subject to easements, restrictions, reservations and limitations of record, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in any wise appertaining.

TO HAVE AND TO HOLD the same in Fee Simple forever.

AND the grantor hereby covenants with said grantee that grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to: December 31, 2013.

WARRANTY DEED

(Continued)

Instrument# 2014-158373 # 2

Book : 7027

Page : 4519

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

WITNESSETH:

• Tina D Reeder

(Witness Signature)

• Tina D Reeder

(Print Name of Witness)

• Barbara C Pack

(Witness Signature)

• Barbara C. Pack

(Print Name of Witness)

Michael L Thompson

Michael L. Thompson

2703 Hugh St.

Parkersburg, WV 26101

STATE OF WEST VIRGINIA

COUNTY OF Wood

The foregoing instrument was acknowledged before me this 27 day of August, 2014, by Michael L. Thompson, who is / are personally known to me or who has / have produced WV DL C201944 as identification and who did take an oath.

• Tina D Reeder
Notary Public

My Commission Expires: 9-10-20



WARRANTY DEED

(Continued)

Instrument# 2014-158373 # 3
Book : 7027
Page : 4520
Diane M. Matousek
Volusia County, Clerk of Court

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

WITNESSETH:

• [Signature]

(Witness Signature)

• Hollie H. Barnethay

(Print Name of Witness)

• Christie Anderson

(Witness Signature)

• C. Anderson

(Print Name of Witness)

• [Signature]

John H. Thompson

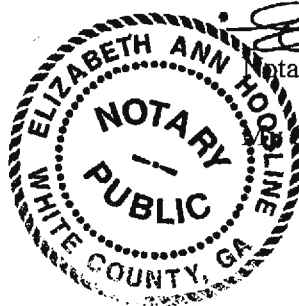
24305 Dixon Road

Coolville, Ohio 45723

STATE OF GEORGIA

COUNTY OF White

The foregoing instrument was acknowledged before me this 27th day of August, 2014, by John H. Thompson, who is / are personally known to me or who has / have produced Ohio license as identification and who did take an oath.



• [Signature]

Notary Public

Commission Expires: 11.05.17

Return To:
TD Bank N.A.

32 Chestnut St.
Lewiston, Maine 04240

09/03/2014 01:28 PM
Doc stamps 434.70
Intangible Tax 248.40
Instrument# 2014-158374 # 1
Book : 7027
Page : 4521

This document was prepared by:

Donn Rogers

Lewiston, ME 04240

[Space Above This Line For Recording Data]

MORTGAGE

MIN 1003418 [REDACTED] 4

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated August 29, 2014, together with all Riders to this document.

(B) "Borrower" is Bryon Dickerson, a single man

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the mortgagee under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is TD Bank, N.A.

FLORIDA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS

Form 3010 1/01

VMP -6A (FL) (1302)

Page 1 of 16

Initials:

BRD

VMP Mortgage Solutions, Inc.

Sec. 42-26. Cleanliness of property generally—Duty of owner.

- (a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Improved lot means any lot which improvements have been made, including, but not limited to, change of grade through filling or excavation, installation of water or sewer line, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

Undergrowth means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

Unimproved lot means any lot which remains undisturbed and in a natural vegetative state.

- (b) **Purpose and intent.** The city recognizes the need to protect the health, safety and welfare of the citizens of the city through control and elimination of aesthetically displeasing and potentially dangerous accumulations of garbage, waste, trash, debris, junk and undergrowth. It is, therefore, the purpose and intent of this section to reduce or eliminate such conditions within reasonable limits by hereby establishing a duty and responsibility on the part of the owner of designated lots located within the city to keep such lot free and clear of garbage, waste, trash, debris, junk and undergrowth.
- (c) **Maintenance of commercial and industrial zoned lots.** The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- (d) **Maintenance of improved residential lots.** The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.
- (e) **Maintenance of unimproved residential lots.** The owner of an unimproved lot in a residential zone with lot sizes of one acre or less shall keep that portion of his property abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area.
- (f) **Garbage, waste, trash, etc., prohibited.** The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.
- (g) **No property maintenance permit required; other restrictions and requirements applicable.** No permit shall be required for the limited property maintenance required by this section; however, the requirements, restrictions and limitations imposed by other sections of this Code and applicable provisions of the land development code pertaining to environmental

preservation, tree removal, change of grade, etc., shall be effective. In the event of any conflict between this section and any other provision of this Code or applicable provision of the land development code, the other sections of this Code or applicable provisions of the land development code shall prevail and govern.

- (h) *Abutting property owner maintenance of parkages.* It shall be the duty of every owner of real property within the city to at all times cause to be cut and moved the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in subsection (d) of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in subsection (e) of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.

(Code 1981, § 10-1; Ord. No. 1994-5, § 1, 3-15-94)

→ Section 3: - Fences and walls.

- (a) *In general.* All fences and walls shall be constructed in compliance with applicable building codes and in accordance with the following dimensional and use regulations.

→ (b) *General provisions.*

(1) *Restrictions.*

- (a) No barbed wire, razor wire or similar material shall be allowed for residential uses.
- (b) Barbed wire, razor wire, or similar material shall be prohibited for commercial and industrial uses, except when installed at an eight-foot height or greater.
- (c) Temporary construction fencing.
 - (1) Temporary construction fencing shall be allowed for sites in all zoning districts that have been issued a development order by the city.
 - (2) The city shall require the installation of a temporary construction fence in areas where construction activities create impacts to adjoining properties and rights-of-way such as debris, glare, and noise, which cannot otherwise be mitigated.
 - (3) A building permit shall be obtained prior to the erection of the temporary construction fence.
 - (4) The fence shall be constructed according to the adopted standard construction detail for a temporary construction fence. Approved fence materials shall include opaque privacy fencing or other semipermanent materials deemed appropriate by the administrative official.
 - (5) If the fence or gate is not properly maintained in an upright position with all fabric materials fully attached, or the fence or gates are not in working order, a stop work order shall be issued for the construction site until the fence is determined to be in proper working order as originally permitted.
 - (6) The temporary construction fence is intended to remain no longer than necessary to mitigate the conflict with other construction infrastructure for the project. Before a certificate of occupancy is issued, the temporary construction fence shall be removed and replaced with the permanent fence and/or wall as required by chapter 13, section 3.5 of this Code.
 - (7) In the event that the property remains cleared and vacant for a period of one year after the issuance of a development order or a development permit, whichever is in force at the time, the temporary construction fence shall be removed. If vegetation has not been established by the expiration date, the

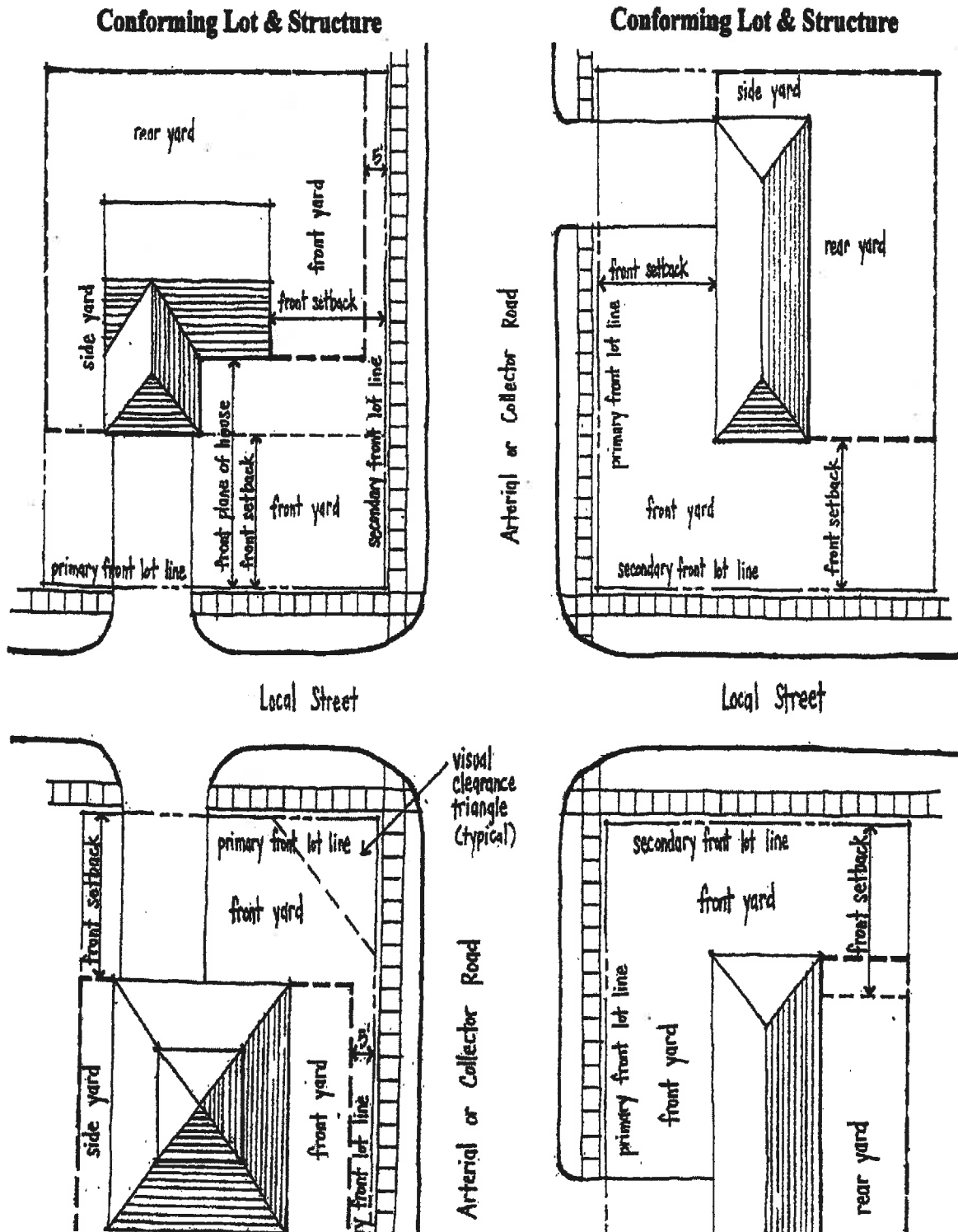
property must be seeded and mulched, or sodded, and vegetation established prior to the removal of the fence. The removal of the fence and established of vegetation shall be required prior to approval of any requested development order or development permit extension.

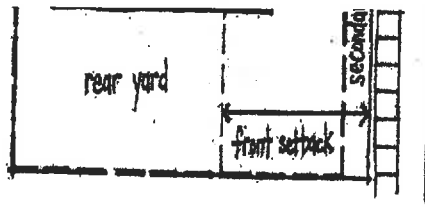
- (8) If the city in its discretion deems it necessary, the city may upon notice to the property owner, install or remove a temporary construction fence to comply with the requirements of this code at the expense of the property owner. The expense shall be recorded as a lien against the property in noncompliance and the lien shall have such priority as prescribed by ordinance.
- (9) A temporary construction fence shall in no way relieve the property owner from performing other construction-related activities that are required by this code or requirements from other jurisdictional agencies.

(2) *Height.*

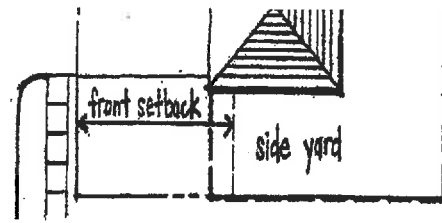
- (a) For individual single-family and two-family residential lots, no permanent fence or wall shall exceed six feet in height in rear or side yards, except as provided in subparagraph (e) below. In addition, fences and walls shall not exceed four feet in height when erected on an atypical lot within the required rear yard setback, except as provided in subsection (h) below.
- (b) For individual single-family and two-family residential lots, no permanent fence or wall shall exceed four feet in height in required front yards abutting rights-of-way, except as provided in subsections (e), (f) and (g) below.
- (c) For nonresidential uses, no permanent fence or wall shall exceed ten feet in height unless approved as part of a development plan to meet the buffering requirements between different types of uses, per chapter 13, section 3.5.
- (d) No permanent fence or wall located adjacent to any public right-of-way and designed to be an integral part of a new or existing subdivision improvement, including but not limited to subdivision entrances and subdivision walls, shall exceed 12 feet in height, including columns.
- (e) For residential uses adjacent to Interstate 95 right-of-way, no permanent fence or wall shall exceed 12 feet in height adjacent to any property line abutting such right-of-way.
- (f) For individual single-family and two-family residential corner lots with a secondary front lot line abutting a local street, a six-foot-tall privacy fence may be placed up to the front plane of the house. For corner lots with a secondary front lot line abutting

an arterial or collector road, the six-foot-tall fence may further encroach into the required front yard to within five feet of the secondary front lot line. Fence placement per this subsection shall also be allowed on legal nonconforming lots, provided visual clearance requirements of section 6 of this chapter can still be met. Please see Figure 16:A below.





Non-Conforming Lot & Structure



Non-Conforming Lot & Structure

Figure 16:A

----- = allowed 6' high fence location

figure16A

- (g) For individual single-family and two-family residential through lots with a rear lot line abutting the right-of-way line of a local street or arterial or collector road, a privacy fence not to exceed six feet in height may be placed on the rear lot line.
- (h) On atypical lots, chain link fences may not exceed six feet in height when erected within the required rear yard.
- (i) Where a fence or wall transitions from a higher to a lower height, the transition must be complete at or before the point where the lower height must begin. For example, where a six-foot-tall fence transitions to a four-foot-tall fence, the transition from higher to lower must be completed where the four-foot height limitation begins, such that no portion of the fence exceeds the height limitation.

(3) Location.

- (a) No permanent fence or wall shall be located closer than five feet to any right-of-way line, unless otherwise permitted in this chapter.
- (b) No permanent fence or wall shall be located within areas required to provide clearance for visibility in accordance with this chapter.

→ (4) Design and maintenance.

- (a) All fences and walls shall be designed to comply with the architectural and landscaping requirements of this code when applicable.
- (b) All fences shall be maintained in their original upright condition.
- (c) Fences and walls designed for painting or similar surface finishes shall be maintained in their original condition as designed.
- (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material

of the same type and quality.

- (e) Fences or walls having a side with exposed or irregular structural components and a more finished, uniform and aesthetically attractive side shall be constructed so that the more finished, uniform and aesthetically attractive side faces outward from the fenced property toward the adjoining property. This requirement shall not be construed as to require post components of fences to be invisible from the adjoining property. This requirement may be waived by the administrative official upon approval of a written agreement between the two adjoining property owners.
- (f) The side of a fence or wall oriented to an adjoining property shall not create an adverse visual impact on such adjoining property.

(5) *Exemptions.*

- (a) Customary fencing around tennis courts and other approved recreational amenities shall be exempt from height restrictions.
- (b) Reserved.

(Ord. No. 1991-20, 8-27-91; Ord. No. 1993-58, 1-18-94; Ord. No. 1996-33, § 9, 11-19-96; Ord. No. 1998-51, § 2, 8-18-98; Ord. No. 1999-47, § 1, 11-16-99; Ord. No. 2001-84, §§ 2, 3, 10-16-01; Ord. No. 2005-55, § 3, 1-17-06; Ord. No. 2009-23, § 2, 11-10-09; Ord. No. 2015-14, § 1, 4-21-2015)

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1054**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

BRYON DICKERSON
5434 HIBISCUS AVE., PORT ORANGE, FL 32127
PARCEL ID: 6340-03-03-0070

Recorded in the Public Records:
Instrument #2016 232 774 12-16-16 @ 10:35 a.m.
Book: 7338 Page: 2250

Respondent.

_____ /

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on December 14, 2016, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent(s), Bryon Dickerson, (hereinafter referred to as "Respondent(s)", whose mailing address is 5434 Hibiscus Ave., Port Orange, FL 32127 , is/are the owner(s) of the property located at 5434 Hibiscus Ave., Port Orange, FL 32127 , and more particularly described as:

LOT 7 BLK C BAYWOOD REPLAT MB 23 PGS 44-45 INC PER OR 3107 PG 1857 PER OR 6314 PG 3708 PER D/C 6853 PG 4478 PER D/C 6853 PG 4478 PER OR 7027 PG 4518

B. The property needs to be mowed and cleaned up and all storm debris removed and fencing repaired or replaced. This condition was first observed at the real property described above on June 29, 2016; re-inspections were made on July 15, 2016, October 12, 2016, and December 12, 2016 and confirmed the condition as being the same. Respondent(s) received notice via certified and regular mail and City Hall posting on October 18, 2016, and property posting on October 14, 2016, that the aforesaid conditions constituted a violation of City of Port Orange Code of Ordinances, Chapter 42, Article II, Section 42-26 (d) (f) & (h) and Port Orange Land Development Code, Chapter 16, Section 3, (b)(4)(b)(d) as relates to fencing, and was to be corrected by October 31, 2016.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☒ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above referenced code, in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

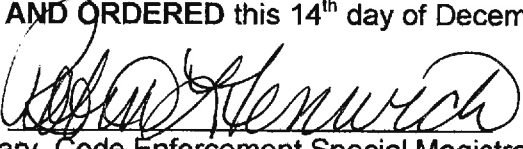
ORDER:

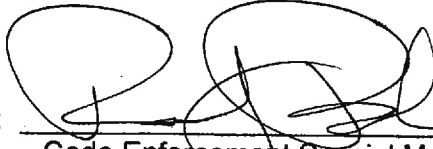
A. Respondent(s) shall correct the aforesaid violation by mowing and cleaning up all undergrowth and yard debris, storm debris, and repairing/replacing the fence on or before January 2, 2017. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine of \$100.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$59.00 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

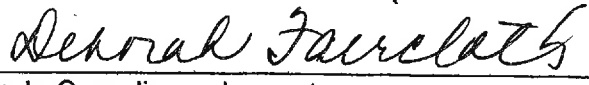
C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 14th day of December, 2016.

Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate

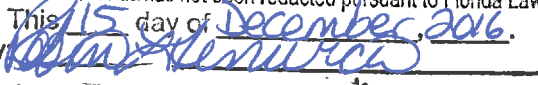
I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.


Code Compliance Inspector

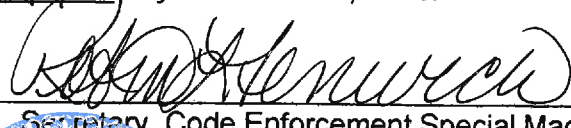
I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Bryon Dickerson, 5434 Hibiscus Ave., Port Orange, FL 32127 by Certified and Regular Mail this 14 day of December, 2016.

CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.

This document has/has not been redacted pursuant to Florida Law.

This 15 day of December, 2016.
By: 

/s/ Robin L. Fenwick


Secretary, Code Enforcement Special Magistrate

