# AGENDA

# CODE ENFORCEMENT SPECIAL MAGISTRATE

# CITY OF PORT ORANGE

**Meeting Date:** Wednesday, January 22, 2020 **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

## B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 19-1315
   **Respondent:** Joseph M. Sr. & Jami Somereve
   **Address of Violation:** 851 Chickadee Drive, Port Orange, FL 32127
   **Code Officer:** Scott Allman
   **First Notified:** 9/5/2019

Compliance: Yes

**Cited for violation(s)** - **City of Port Orange Land Development Code, Chapter 9 (Environmental Protection), Article II (Tree Preservation), Section 10 (Permit requirements for tree removal), (a)** it is hereby unlawful for any person to cut down, move, remove or destroy through damaging or to authorize the same, of any tree or natural vegetation referenced in this article without obtaining a tree removal permit in accordance with the provisions of this article.

4. **CEB Case No.:** 19-943
   **Respondent:** Port Orange Petro LLC
   c/o Nilesh Shah
   **Address of Violation:** 6223 S Williamson Blvd., Port Orange, FL 32128
   **Code Officer:** Amanda Bonin
   **First Notified:** 6/14/2019

Compliance: No

**Cited for violation(s)** - City of Port Orange Land Development Code, Chapter 14 Buildings and Building Regulations, Article VII Commercial Property Maintenance Standards, Section 14-314. - Landscaping and buffers - Maintenance criteria. (a) Approved landscape plan **(1)** trees **(2)** Shrubs **(3)** Lawns **(5)** other planting areas **(d) (1) (2) (3) (4) (5) (6) & (7)**

Section 14-315. - Same - Replacement Criteria **(a)** landscape planting **(b)** buffer planting **(c)** natural areas
Section 14-317. - Parking, sidewalk and driveway areas. **(a)** Maintenance criteria **(1) (2) & (3)**
(b) City of Port Orange Land Development Code, Chapter 11 Utilities, Section 7 Solid Waste Collection Service; **(b) (3) (3)** Enclosure.

5. **CEB Case No.:** 18-1686
   **Respondent:** Anthony M. Malena
   **Address of Violation:** 1394 Surrey Park Drive, Port Orange, FL 32128
   **Code Officer:** Amanda Bonin
   **First Notified:** 10/2/2018

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls),. Modified (a), (b) General Provisions, (4) Design and Maintenance & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

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, 304.6 Exterior Walls.

6. **CEB Case No.:** 19-1572
   **Respondent:** Lalumfland Port Orange LLC
   **Address of Violation:** 5784 Taylor Branch Road, Port Orange, FL 32127
   **Code Officer:** Amanda Bonin
   **First Notified:** 6/4/2019

Compliance: No

**Cited for violation(s)** - City of Port Orange Land Development Code, Chapter 14 Buildings and Building Regulations, Article VII Commercial Property Maintenance Standards, Section 14-314. - Landscaping and buffers - Maintenance criteria (a) approved landscape plans (2) Shrubs (d) (2) (3) (5) (7)

Section 14-315. - Same - Replacement Criteria (a) Landscape plantings.
Section 14-317. - Parking, sidewalks and driveway areas (a) Maintenance criteria (1) (2) (3)

2015 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.6 Exterior walls.

7. **CEB Case No.:** 19-1750
   **Respondent:** Bank of New York Mellon Trust
   Company NA TR
   In Care of Bank of America
   **Address of Violation:** 3809 Cherry Grove Court, Port Orange, FL 32129
   **Code Officer:** Amanda Bonin
   **First Notified:** 12/10/2019

Compliance: No

**Cited for violation(s)** - **2018 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure, 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.
**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.

**2018 International Property Maintenance Code, Chapter 7, Section 702 Means of Egress, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 702.3 Locked Doors.** Shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort, except where the door hardware conforms to that permitted by the International Building Code.

## C. ORDER IMPOSING FINE/LIEN

8. **CEB Case No.:** 19-249
   **Respondent:** Susan C Prisaznick
   **Address of Violation:** 3736 Sunrise Oaks Drive, Port Orange, FL 32129
   **Code Officer:** Amanda Bonin
   **First Notified:** 2/18/2019

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.

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 and 303.2 Enclosures.

City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management, Article 1 Clearing and Grading, Section 1 Purpose and Intent.

City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management, Article 1 Clearing and Grading, Section 2 Permits Required for change of Grade.

9. **CEB Case No.:** 19-0873
   **Respondent:** Alexandra C. Neubauer
   **Address of Violation:** 932 Sabalwood Ct., Port Orange, FL 32127
   **Code Officer:** Scott Allman
   **First Notified:** 6/17/2019

Compliance: Yes

**Cited for violation(s)** - 2017 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to obtain a building permit.

10. **CEB Case No.:** 19-1592
    **Respondent:** Linda B. Caswell, Trustee
    **Address of Violation:** 13 Lawrence Court, Port Orange, FL 32127
    **Code Officer:** Scott Allman
    **First Notified:** 11/5/2019

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.

11. **CEB Case No.:** 19-0908

**Respondent:** Michael J. Parker & Carolyn R. Champine
**Address of Violation:** 6129 Half Moon Drive, Port Orange, FL 32127
**Code Officer:** Scott Allman
**First Notified:** 6/21/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

2018 International Property Maintenance Code, Chapter 3, Section 304 (Exterior Structure) 304.1 (General) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.6 Exterior Walls.

12. **CEB Case No.:** 19-1524
**Respondent:** Estate of Samuel C. Sebergandio Jr.
**Address of Violation:** 5453 Pineland Ave., Port Orange, FL 32127
**Code Officer:** Dena Joseph
**First Notified:** 10/17/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

13. **CEB Case No.:** 19-1355
**Respondent:** Scott T. & Rhonda Maiorano
**Address of Violation:** 404 Orange Avenue, Port Orange, FL 32127
**Code Officer:** Dena Joseph
**First Notified:** 9/11/2019

Compliance: No

**Cited for violation(s)** - 2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit.

14. **CEB Case No.:** 19-1210
**Respondent:** John J. Fondacaro
**Address of Violation:** 5718 Riverside Drive, Port Orange, FL 32127
**Code Officer:** Dena Joseph
**First Notified:** 8/15/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

## D. 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 AN 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, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY 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 7-1-1 or 1-800-955-8771. UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JANUARY 8, 2020

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:00 a.m.

| | |
|---|---|
| PRESENT: | David Fuller, Special Magistrate |
| ALSO PRESENT: | Scott Allman, Code Compliance Inspector<br>Dena Joseph, Code Compliance Inspector<br>Debbie Pearson, Code Enforcement Manager<br>Shelby Field, Assistant City Clerk |

Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller gave an overview of the code enforcement process as there were members of the public present.

Consideration of Minutes

Special Magistrate Fuller approved the December 11, 2019 meeting minutes as presented.

Oaths

Code Compliance Inspectors Scott Allman, Dena Joseph and Deborah Pearson Code Compliance Manager were sworn in by Special Magistrate Fuller.

## B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 19-1633
   **Respondent:** Jason Thomas Conrey & Christina Darlene Conrey
   **Address of Violation:** 505 Powers Ave., Port Orange, FL 32127
   **Code Officer:** Dena Joseph
   **First Notified:** 11/12/2019

Compliance: Yes

**Cited for violation(s)** - Chapter 70 (Traffic), Article II (Stopping, standing, and parking), Section 70-36 (Stopping, standing or parking prohibited in specified places) (a) (1) (k) (1), (2) & (3) of the City of Port Orange Code of Ordinances.

*Dena Joseph, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.*

4. **CEB Case No.:** 19-1348
   **Respondent:** Basil Jaisingh
   **Address of Violation:** 5160 Ridgewood Ave, Port Orange, FL 32129
   **Code Officer:** Dena Joseph
   **First Notified:** 9/10/2019

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), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Chapter 70 (Traffic), Article II (Stopping, Standing, and Parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances.

*Ms. Joseph testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by November 21, 2019 by cleaning up and removing all garbage, trash, waste, debris and junk, properly storing all outside items in an enclosed building, and tagging and registering, storing in an enclosed building, covering with an approved car cover or removing the box truck that is currently not registered. In addition, the other vehicle on site with the ripped car cover must be replaced with one in good condition. A re-inspection on January 6, 2020 resulted in all violations being corrected except for some outside stored items that remain on site.*

*Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before January 19, 2020 by removing any outside items and storing them in an enclosed building. In the event 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 in the amount of $100.00 per day shall be assessed for each day the property is in violation beyond the compliance date. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.*

*Special Magistrate Fuller granted the recommendation as presented. The property owner has until January 19, 2020 to remove any outside items and store them in an enclosed building or a daily fine in the amount of $100.00 per day shall be imposed. Costs in the amount of $43.60 were awarded to the City.*

5. **CEB Case No.:** 19-1621
   **Respondent:** Catherine M. Thomas
   **Address of Violation:** 717 Marshall Circle, Port Orange, FL 32127

**Code Officer:** Dena Joseph
**First Notified:** 11/8/2019

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.

*Ms. Joseph testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately, as it is a repeat violation, by mowing the entire property to include the rights of way, weed eating, and blowing debris off the roadway and back onto the property.*

*Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before January 15, 2020 by mowing the entire property to include the rights of way, weed eating, and blowing debris off the roadway and back onto the property. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a one-time fine in the amount of $1,000.00 shall be assessed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.*

*Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner has until January 15, 2020 to mow the entire property to include the rights of way, weed eating, and blowing debris off the roadway and back onto the property or a one-time fine in the amount of $1,000.00 shall be imposed. Costs in the amount of $43.60 were awarded to the City.*

6. **CEB Case No.:** 19-1680
   **Respondent:** Edwina V. Schaffer (deceased)
   **Address of Violation:** 5348 Landis Ave., Port Orange, FL 32127
   **Code Officer:** Dena Joseph
   **First Notified:** 12/2/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), 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 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

*Ms. Joseph testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately, as it is a repeat violation, by mowing the area where the items were under the tarp, removal of the pile of clothes behind the unit, and removal of all outside stored items on the outside of the property.*

*Thomas Schaffer, property owner, was sworn in by Special Magistrate Fuller and testified about the work he has been trying to do on the property. It is currently in probate to be placed in Mr. Schaffer's name along with his brother.*

*Ms. Joseph recommended the property owners be found in repeat violation of the above referenced code as the property was not in compliance with the Notice of Hearing. A one-time fine in the amount of $1,000.00 shall be assessed due to repeat non-compliance. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.*

*Special Magistrate Fuller granted the recommendation with an amendment. A daily fine in the amount of $50.00 per day beginning December 2, 2019 and running through and including December 4, 2019 for a total of $100.00 shall be imposed for the repeat violation. Costs in the amount of $43.60 were awarded to the City.*

Special Magistrate Fuller asked Deborah Pearson, Code Compliance Manager, about the track record the City has with collecting on the imposed Fine/Liens especially after the property has been sold. Ms. Pearson responded that if the Lien is placed before the foreclosure process has started they are collectable, but often when many other variables are involved it becomes more difficult. Ms. Pearson also spoke about the Code Lien Reduction Program that is available once to individuals not responsible for the lien.

7. **CEB Case No.:** 19-1660
   **Respondent:** Stacey L. Algieri
   **Address of Violation:** 5245 Sydney Street, Port Orange, FL 32127
   **Code Officer:** Dena Joseph
   **First Notified:** 11/22/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

*Ms. Joseph testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately, as it is a repeat violation, by mowing the entire property to include the rights of way, weed eating, and blowing debris off the roadway and back onto the property and removing any trash and debris on site.*

*Ms. Joseph recommended the property owners be found in repeat violation of the above referenced codes with the violations to be corrected on or before January 15, 2020 by mowing the entire property to include the rights of way, weed eating, and blowing debris off the roadway and back onto the property and removing any trash and debris on site. In the event 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 in the amount of $1,000.00 per day shall be assessed for each day the property is in violation beyond the compliance date. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.*

*Special Magistrate Fuller granted the recommendation with an amendment and deemed the property a health and safety concern. The property owner has until January 15, 2020 to mow the entire property to include the rights of way, weed eating, and blowing debris off the roadway and back onto the property and remove any trash and debris on site or a daily fine in the amount of $200.00 per day shall be imposed. Costs in the amount of $43.60 were awarded to the City.*

8. **CEB Case No.:** 19-1618
   **Respondent:** John H. Clark & Barbara J. Clark
   **Address of Violation:** 301 Lafayette Street, Port Orange, FL 32129
   **Code Officer:** Dena Joseph
   **First Notified:** 11/11/2019

Compliance: No

**Cited for violation(s)** - Chapter 70 (Traffic), Article II (Stopping standing and parking), Section 70-47 (Parking of Commercial Vehicles on Residential Premises) of the City of Port Orange Code of Ordinances: (a) (b) (1) (2) (3) (c) (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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 303 (Swimming Pools, Spas and Hot Tubs), 303.1 (Swimming Pools) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

*Ms. Joseph testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by December 13, 2019 by removing the (2) commercial vehicles over the one ton capacity from the residence, mowing the yard to include weed eating and blowing of grass clippings back onto the property, removing any outside storage from around the property and storing in an enclosed building, and chemically treating or covering the green, unsanitary pool on site.*

*Per an e-mail received on December 16, 2019, the tenant that resides at this location was home from Virginia over the weekend. At that time, the e-mail stated that one of the commercial vehicles was removed, the outside items removed, and the pool was covered and being treated with chemicals. Therefore, these violations were not completed by the deadline on the notice, which was December 13, 2019. The grass was mowed within a few days of the notice being hand delivered to Mr. Clark.*

*Re-inspection was conducted on January 6, 2020 and the property is now in compliance; however, Ms. Joseph recommended the property owners be found in violation of the above referenced codes as the property was not in compliance with the Notice of Hearing. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of $43.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.*

*Special Magistrate Fuller granted the recommendation as presented. Costs in the amount of $43.60 were awarded to the City.*

## C. ORDER IMPOSING FINE/LIEN

9. **CEB Case No.:** 19-0511
   **Respondent:** Mildred E. Davidson Life Estate
   **Address of Violation:** 5828 Spruce Creek Woods Drive, Port Orange, FL 32127
   **Code Officer:** Scott Allman
   **First Notified:** 4/3/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26

(Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

*Mr. Allman requested an Order Setting Fine/Lien as the property was not in compliance November 25, 2019 as ordered in the previous hearing on November 13, 2019 by the Special Magistrate. He requested a daily fine in the amount of $500.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on November 26, 2019 and running through and including December 10, 2019 for a total of $7,500.00. The City retained vendor Yellowstone Landscaping who abated the violation at the cost of $266.28. A cost sheet for mailing and recording costs in the amount of $96.90 was tendered and submitted into evidence without objection.*

*Special Magistrate Fuller found the property in non-compliance and awarded $7,500.00 in daily fines beginning on November 26, 2019 and running through and including December 10, 2019, $266.28 in abatement costs and mailing and recording costs to date of $96.90. A lien is imposed on the property in the amount of $7,863.18.*

10. **CEB Case No.:** 18-1449 (continued from 6/12/19)
**Respondent:** MHC Pickwick L.L.C., Owner
Attn: David Eldersveld
CT Corporation System, Registered Agent
**Address of Violation:** 4500 Clyde Morris Blvd. - Pickwick Village Mobile Home Park, Port Orange FL 32129
**Code Officer:** Amanda Bonin
**First Notified:** 9/4/2018

Compliance: No

**Cited for violation(s)** - City of Port Orange Land Development Code, Chapter 10 (Clearing, Grading, and Storm Water Management), Article II(Storm Water Management), Section 13 (Maintenance).

City of Port Orange Code of Ordinances, Chapter 14 (Buildings and Building Regulations), Article VII (Commercial Property Maintenance Standards), Section 14-318 (Other Property improvements; maintenance criteria): Drainage and utility improvements.

City of Port Orange Code of Ordinances, Chapter 14 (Buildings and Building Regulations), Article VII (Commercial Property Maintenance Standards), Section 14-317 (Parking, sidewalk and driveway) Subsection (3): Pavement surfaces.

*Ms. Pearson requested a continuation of the case to the February 26, 2020 hearing. Special Magistrate Fuller granted the continuation request.*

11. **CEB Case No.:** 19-1240
**Respondent:** Edward T. Garvin, Roy H. Garvin, & Phyllis T. Garvin
**Address of Violation:** 1389 N. Dexter Drive, Port Orange, FL 32129
**Code Officer:** Amanda Bonin
**First Notified:** 8/13/2019

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.

Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages.

Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances.

Chapter 70 (Traffic), Article II (Stopping, standing, and parking), Section 70-36 (Stopping, standing or parking prohibited in specified places) of the City of Port Orange Code of Ordinances.

Chapter 70 (Traffic), Article II (Stopping, Standing, and Parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances.

*Ms. Pearson requested a dismissal of the case. Special Magistrate Fuller granted the dismissal request.*

12. **CEB Case No.:** 16-2024
**Respondent:** Milan Khanna
**Address of Violation:** 3813 Birch Mountain Road, Port Orange, FL 32129
**Code Officer:** Dena Joseph
**First Notified:** 12/28/2016

Compliance: No

**Cited for violation(s)** - **2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain Building Permit:** 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 required 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.

*Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance December 15, 2019 as ordered in the previous hearing on November 13, 2019 by the Special Magistrate.* She *requested a daily fine in the amount of $250.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on December 16, 2019 and running until the property is brought into compliance. A cost sheet for mailing and recording costs in the amount of $89.60 was tendered and submitted into evidence without objection.*

*Special Magistrate Fuller found the property in non-compliance and awarded $250.00 in daily fines beginning on December 16, 2019 and running until the property is brought into compliance. Mailing and recording costs to date of $89.60.*

13. **CEB Case No.:** 17-0332
**Respondent:** Milan Khanna
**Address of Violation:** 3813 Birch Mountain Road, Port Orange, FL 32129
**Code Officer:** Dena Joseph
**First Notified:** 3/13/2017

Compliance: No

**Cited for violation(s)** - **2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain Building Permit:** 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 required 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.

*Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance December 15, 2019 as ordered in the previous hearing on November 13, 2019 by the Special Magistrate.* She *requested a daily fine in the amount of $250.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on December 16, 2019 and running until the property is brought into compliance. A cost sheet for mailing and recording costs in the amount of $89.60 was tendered and submitted into evidence without objection.*

*Special Magistrate Fuller found the property in non-compliance and awarded $250.00 in daily fines beginning on December 16, 2019 and running until the property is brought into compliance. Mailing and recording costs to date of $89.60.*

14. **CEB Case No.:** 19-1086
**Respondent:** Mark E. Davidson
**Address of Violation:** 310 Grant Street, Port Orange, FL 32127
**Code Officer:** Dena Joseph
**First Notified:** 7/23/2019

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.

*Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance November 20, 2019 as ordered in the previous hearing on November 13, 2019 by the Special Magistrate.* She *requested a one-time fine in the amount of $1,000.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on November 21, 2019. The City retained vendor*

*Mark Solomon Properties who abated the violation at the cost of $100.00. A cost sheet for mailing and recording costs in the amount of $104.20 was tendered and submitted into evidence without objection.*

*Special Magistrate Fuller found the property in non-compliance and awarded $1,100.00 in fines and abatement costs and mailing and recording costs to date of $104.20. A lien is imposed on the property in the amount of $1,204.20.*

15. **CEB Case No.:** 19-1087
**Respondent:** Mark E. & Cecelia K. Davidson
**Address of Violation:** 312 Grant Street, Port Orange, FL 32127
**Code Officer:** Dena Joseph
**First Notified:** 7/23/2019

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.

*Ms. Joseph requested an Order Setting Fine/Lien as the property was not in compliance November 20, 2019 as ordered in the previous hearing on November 13, 2019 by the Special Magistrate.* She *requested a one-time fine in the amount of $1,000.00 as ordered in the Finding of Fact, Conclusion of Law & Order to begin on November 21, 2019. The City retained vendor Mark Solomon Properties who abated the violation at the cost of $100.00. A cost sheet for mailing and recording costs in the amount of $104.20 was tendered and submitted into evidence without objection.*

*Special Magistrate Fuller found the property in non-compliance and awarded $1,100.00 in fines and abatement costs and mailing and recording costs to date of $133.40. A lien is imposed on the property in the amount of $1,233.40.*

**D. ADJOURNMENT** – 10:21am

_____

Special Magistrate Fuller

Case Cost Sheet Log

Case No. 19-1315

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Joseph M. Somereve Sr | Cost to mail Notice of Violation/Notice of Hearing | 12/20/2019 | Certified mail not yet returned | $7.30 |
| Jami Somereve | Cost to mail Notice of Violation/Notice of Hearing | 12/20/2019 | Certified mail not yet returned | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 1/22/2020 | | $29.00 |
| Joseph M. Somereve Sr | Cost to mail Finding of Fact, Conclusion of Law & Order | 1/22/2020 | | $7.30 |
| Jami Somereve | Cost to mail Finding of Fact, Conclusion of Law & Order | 1/22/2020 | | $7.30 |

Total: 58.20

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1315

To: Joseph M. Sr. & Jami Somereve
21 Bloomingdale Rd.
White Plains, NY 10605

Re: 851 Chickadee Drive
Port Orange, FL 32127
Parcel ID: 6317-06-00-0190
LEGAL DESCRIPTION: LOT 19 CYPRESS COVE PHASE II MB 36 PGS 85-86 INC PER OR 3080 PG 1315 PER OR 6535 PG 0022 PER OR 7401 PG 1336
Volusia County Public Records
Volusia County, FL

An inspection of the premises on September 5, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given several opportunities to correct, but the case has resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **January 16, 2020.**

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

**City of Port Orange Land Development Code, Chapter 9 (Environmental Protection), Article II (Tree Preservation), Section 10 (Permit requirements for tree removal), (a)** It is hereby unlawful for any person to cut down, move, remove or destroy through damaging or to authorize the same, of any tree or natural vegetation referenced in this article without obtaining a tree removal permit in accordance with the provisions of this article.

- The initial inspection of this property found a tree removed without an approved permit. To correct the violation, a tree removal permit must be applied for, approved, and paid for through the City of Port Orange Building Department.

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 Enforcement Officer 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 22, 2020, 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 $ 14.60 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 22, 2020,** 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 **February 26, 2020, 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 Enforcement Officer at (386) 506-5641.

DATED this 19 day of December, 2019.

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 Joseph M. Sr. & Jami Somereve, 21 Bloomingdale Rd., White Plains, NY, 10605, RE: 851 Chickadee Drive, Port Orange, FL, 32127, was

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

Time: approx. 10:20 A.m.

this 20 day of December, 2019.

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 Joseph M. Sr. & Jami Somereve, 21 Bloomingdale Rd., White Plains, NY, 10605, RE: 851 Chickadee Drive, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 20 day of December, 2019

Shelly Fiedler

**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.

Case Cost Sheet Log

Case No. 19-943

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Port Orange Petro LLC | Cost to mail Notice of Violation/Notice of Hearing | 10/1/2019 | Certified mail returned signed, illegible | $7.30 |
| Nilesh Shah | Cost to mail Notice of Violation/Notice of Hearing | 10/1/2019 | Certified mail returned signed, illegible | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 11/13/2019 | | $29.00 |
| Port Orange Petro LLC | Cost to mail Finding of Fact, Conclusion of Law & Order | 11/13/2019 | | $7.30 |
| Nilesh Shah | Cost to mail Finding of Fact, Conclusion of Law & Order | 11/13/2019 | | $7.30 |

Total: 58.20

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-943

To: Port Orange Petro LLC
4220 King Street
Cocoa, FL 32926

c/o
Nilesh Shah
4802 Solitary Drive
Rockledge, FL 32955

Re: 6223 S Williamson Blvd
Port Orange, FL 32128
Parcel ID: 633200000011
LEGAL DESCRIPTION: 32 16 33 IRREG PARCEL BEING N 247.18 FT ON WILLIAMSON BLVD OF W 124.97 FT ON N/L & MEAS 405.34 FT ON S/L IN NW 1/4 OF NW 1/4 OF NW 1/4 INC PER OR 5127 PG 2266 PER OR 5406 PGS 4270-4271 PER OR 5711 PG 106 PER OR 6258 PG 2645 PER OR 6319 PG 0006
Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 14, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified on June 25, 2019, of the violations noted below and given 30 days to correct. A re-inspection was done on August 8, 2019, resulting in non-compliance. The most recent inspection was completed on September 30, 2019, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **November 1, 2019.**

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

1. **City of Port Orange Land Development Code, Chapter 14 Buildings and Building Regulations, Article VII Commercial Property Maintenance Standards, Section 14-314. - Landscaping and buffers—Maintenance criteria.**

   **(a) Approved landscape plans.** All properties which developed under specifically approved landscape plans shall be required to maintain the materials shown on such plans according to subsection (d) below, within the following parameters: **(1) Trees**. All trees shall be maintained as shown on the plans. Replacement trees, if necessary, must meet the size criteria of section 14-315, and must be from the same general category, i.e., shade trees, understory trees, palms, etc. In buffering applications, evergreen trees may be replaced only with evergreen species. **(2) Shrubs**. All shrubs shall be maintained as shown on the plans. Required buffer shrubs shall be grown to and maintained at a minimum height of five feet, with regular trimming and pruning to foster dense growth. Shrubs required along parking areas shall be maintained at a minimum height of three feet. Other shrubs shall be maintained at a reasonable mature height for the species. **(3) Lawns**. Lawns shall be maintained as shown on the plans. Alternative living ground covers may be utilized as desired. Approved mulch materials may be used in designated lawn areas: **a.** To accommodate new or expanded planting areas and their natural growth. **b.** In natural areas or areas of heavy shade where lawn maintenance has been unsuccessful. **c.** In limited areas subject to foot traffic where maintenance has been unsuccessful.

**(5) Other planting areas.** Other planting areas shown on the plans shall be maintained with similar materials to those originally specified. Annual flower beds may be converted to permanent material with at least a two-month flowering period, or material with berries, colorful flower bracts, or variegated foliage to simulate the original design intent.

**(d)** Required maintenance and anticipated growth and coverage. The following criteria shall be used to evaluate the maintenance and growth of all landscape plantings: **(1)** Existing trees preserved during development shall be maintained so as to provide the greatest opportunity for survival. Such maintenance shall include, as necessary, the following activities: a. Trimming and pruning to reduce stress. b. Soil aeration. c. Deep root fertilization. **(2)** Landscape plantings shall be maintained based on accepted professional practices to include regular irrigation, fertilization, pest control, weed control, and trimming and pruning. **(3)** Reasonable growth shall be based on accepted industry standards. **(4)** All trees and shrubs shall be trimmed so as not to interfere with pedestrian and vehicle movements. **(5)** Mulched areas shall be maintained so as to provide solid coverage and reasonable weed control. **(6)** Natural areas shall be kept free of garbage, trash and other foreign materials. Dead material shall be removed and replaced as required by this article. Natural area edges and other disturbed areas shall be mulched or sodded with weed growth controlled. **(7)** Irrigation systems must be maintained in proper working order to provide 100 percent coverage of planted landscaped areas.

**Section 14-315. - Same—Replacement criteria.**

**(a) Landscape plantings.** When the material required to be maintained under this article dies or fails to meet standards for reasonable growth, it shall be replaced with the same or similar material meeting the minimum specification of the zoning code.

**(b) Buffer plantings.** When material required to be maintained as part of a specific buffer shown on an approved plan or mandated by code at the time of development dies or fails to meet standards for reasonable growth, it shall be replaced with material as close in size and fullness as similar adjacent materials planted at the same time. However, the following upper limits shall apply to replacement material: **(1)** Replacement shade trees will be no larger than four-inch caliper, 20 feet in height (except palms). **(2)** Replacement understory trees will be no larger than two-inch caliper, 12 feet in height (except palms). **(3)** Replacement shrubs will be no larger than four feet in height.

**(c) Natural areas.** When material in natural areas required to be maintained by this article dies or is removed, it shall be replaced with the same or similar materials from the city's approved list of native plants and meeting minimum zoning code specifications. However, where natural areas are specifically designed to act as a required buffer, the requirements of subsection **(b)** above shall apply.

**Section 14-317. - Parking, sidewalk and driveway areas.**

**(a) Maintenance criteria. (1)** Parking lot striping, fire lane and traffic control markings. All striping and markings required by the original site plan, the Manual of Uniform Traffic Control Devices (MUTCD), or other city codes must meet minimum visibility standards and shall conform to the design standards of the MUTCD. **(2)** Traffic and parking control signage. All signage required by the site plan, the MUTCD, and other city codes shall be maintained according to accepted standards. **(3)** Pavement surfaces. All sidewalk and road pavement surfaces shall be maintained to be free of cracks, potholes and other defects posing a hazard to pedestrian and vehicle safety, and shall be patched, seal coated, or resurfaced as required to maintain the structural integrity of the pavement base and surface. Vegetation shall be trimmed to provide sign visibility per the MUTCD.

**(b) City of Port Orange Land Development Code, Chapter 11 Utilities, Section 7 Solid Waste Collection Service; (b) (3) (3) Enclosure.** Each dumpster location shall be surrounded by an enclosure as depicted in the Standard [Utility] Details. Enclosures should remain open on the service side, except in high visibility locations where gates may be approved. The enclosure shall be constructed using colors, materials, and architectural treatments consistent with the structure it serves. Alternative materials and colors may be approved in those situations where the enclosure is physically or visually separated from the primary structure, or where the primary building materials do not lend themselves to the enclosure application.

- The initial inspection of this property found the building, columns at the gas pumps, the dumpster enclosure and retaining wall in need of pressure washing and painting, the fence picket on the dumpster enclosure is in need of repair, dead and missing plant material and trees, trees that need to be pruned as to not interfere with pedestrian or vehicular traffic, faded parking lot striping, and trash on site.

- To correct the violation, the building, columns at the gas pumps, the dumpster enclosure and retaining wall needs to be pressure washed and painted, the fence picket on the dumpster enclosure needs to be repaired, all plantings, to include plants, shrubs, and trees, are required to be installed as per the attached landscape plan, the parking lot needs to be re-sealed and re-striped, the irrigation needs to be repaired and needs to cover all landscaped areas, ensure all parking lot lighting is in proper working order, all low hanging or protruding trees need to be pruned as to not interfere with vehicular traffic, all landscape beds and hedgerows must be weeded and mulched, and all trash and debris removed.

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 Enforcement Officer 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 13, 2019, 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 $ 14.00 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 13, 2019,** 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 8, 2020, 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 Enforcement Officer at (386) 506-5616.

DATED this 1st day of October, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: _____
**Amanda Bonin, Code Enforcement Officer**

☐ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Port Orange Petro LLC 4220 King Street Cocoa, FL 32926 c/o Nilesh Shah 4802 Solitary Drive Rockledge, FL 32955, RE: 6223 S Williamson Blvd. Port Orange, FL 32128, was

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

Time: approx. 11:18 A.m. this 1st day of October, 2019.

_____
**Amanda Bonin, Code Enforcement Officer**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Port Orange Petro LLC 4220 King Street Cocoa, FL 32926 c/o Nilesh Shah 4802 Solitary Drive Rockledge, FL 32955, RE: 6223 S Williamson Blvd. Port Orange, FL 32128, was

☒ Posted at City Hall
☒ Sent via certified and regular

this 1 day of October, 2019.

_____
**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.

Case Cost Sheet Log

Case No. 18-1686

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Anthony M. Malena | Cost to mail Notice of Violation/Notice of Hearing | 9/30/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 11/13/2019 | | $29.00 |
| Anthony M. Malena | Cost to mail Finding of Fact, Conclusion of Law & Order | 11/13/2019 | | $7.30 |

Total: 43.60

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 18-1686

To: Anthony M. Malena
1394 Surrey Park Drive
Port Orange, FL 32128

Re: 1394 Surrey Park Drive
Port Orange, FL 32128
Parcel ID: 6319-09-00-0120
LEGAL DESCRIPTION: LOT 12 WINDSOR HILL PHASE I MB 43 PGS 186-187 INC PER OR 4695 PG 4226 PER OR 5373 PG 2327
Volusia County Public Records
Volusia County, FL

An inspection of the premises on October 2, 2018, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 21 days to correct. Re-inspections were done on October 19, 2018 and March 27, 2019, both resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **October 28, 2019.**

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

1. **City of Port Orange Code of Ordinances Chapter 42 Article 2 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 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.

**(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.

2. **City of Port Orange Land Development Code Chapter 16 Miscellaneous Regulations Section 3: - Fences and walls. Modified (a), (b) (4)**

**(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.

**(4)** Design and maintenance.

**(d)** Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

3. **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, 304.6 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.

    - The original inspection found the siding on the home deteriorating, additionally the grass/weeds in the back yard are high, and the paint on the home is chipping. To correct the violation; all high weeds and grass must be mowed, trimmed, and edged, and all debris blown back onto the property, the siding needs to be repaired, and the home properly cleaned and painted.

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 Enforcement Officer 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 13, 2019, 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 $ 71.30 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 13, 2019,** 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 8, 2020, 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 Enforcement Officer at **(386) 506-5616**.

DATED this 27th day of September, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: _____
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Anthony M. Malena, 1394 Surrey Park Drive, Port Orange, FL, 32128, RE: 1394 Surrey Park Drive, Port Orange, FL, 32128, was

☐ Hand-delivered Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 2:25pm

this 27th day of September, 2019.

_____
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Anthony M. Malena, 1394 Surrey Park Drive, Port Orange, FL, 32128, RE: 1394 Surrey Park Drive, Port Orange, FL, 32128, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 30 day of September, 2019.

_____
**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.

Case Cost Sheet Log

Case No. 19-1572

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Lalumfland Port Orange LLC | Cost to mail Notice of Violation/Notice of Hearing | 11/1/2019 | Certified mail not yet received | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| Lalumfland Port Orange LLC | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $7.30 |

Total: 43.60

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1572

To: Lalumfland Port Orange LLC
1111 Brickell Avenue Ste. 2715
Miami, FL 33131

Re: 5784 Taylor Branch Road
Port Orange, FL 32127
Parcel ID: 6317-03-00-0017
LEGAL DESCRIPTION: 17 16 33 TRI IN LOT 1 E OF HERBERT ST BEING 225.85 FT ON HERBERT ST & 224.48 FT ON TAYLOR RD PLAT 2 CRAIG FARMS ER OR 4431 PGS 4691-4730 PER OR 7208 PG 2646 PER OR 7592 PG 3331
Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 4, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given sixty (60) days to correct. A re-inspection was done on August 22, 2019, and most recently on October 3, 2019, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by December 3, 2019.

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

1. **City of Port Orange Land Development Code, Chapter 14 Buildings and Building Regulations, Article VII Commercial Property Maintenance Standards, Section 14-314. - Landscaping and buffers—Maintenance criteria.**

   **(a) Approved landscape plans.** All properties which developed under specifically approved landscape plans shall be required to maintain the materials shown on such plans according to subsection (d) below, within the following parameters **(2) Shrubs**. All shrubs shall be maintained as shown on the plans. Required buffer shrubs shall be grown to and maintained at a minimum height of five feet, with regular trimming and pruning to foster dense growth. Shrubs required along parking areas shall be maintained at a minimum height of three feet. Other shrubs shall be maintained at a reasonable mature height for the species.

   **(d)** Required maintenance and anticipated growth and coverage. The following criteria shall be used to evaluate the maintenance and growth of all landscape plantings: **(2)** Landscape plantings shall be maintained based on accepted professional practices to include regular irrigation, fertilization, pest control, weed control, and trimming and pruning. **(3)** Reasonable growth shall be based on accepted industry standards. **(5)** Mulched areas shall be maintained so as to provide solid coverage and reasonable weed control. **(7)** Irrigation systems must be maintained in proper working order to provide 100 percent coverage of planted landscaped areas.

**Section 14-315. - Same—Replacement criteria.**

**(a) Landscape plantings.** When the material required to be maintained under this article dies or fails to meet standards for reasonable growth, it shall be replaced with the same or similar material meeting the minimum specification of the zoning code.

**Section 14-317. - Parking, sidewalk and driveway areas.**

**(a) Maintenance criteria. (1)** Parking lot striping, fire lane and traffic control markings. All striping and markings required by the original site plan, the Manual of Uniform Traffic Control Devices (MUTCD), or other city codes must meet minimum visibility standards and shall conform to the design standards of the MUTCD. **(2)** Traffic and parking control signage. All signage required by the site plan, the MUTCD, and other city codes shall be maintained according to accepted standards. **(3)** Pavement surfaces. All sidewalk and road pavement surfaces shall be maintained to be free of cracks, potholes and other defects posing a hazard to pedestrian and vehicle safety, and shall be patched, seal coated, or resurfaced as required to maintain the structural integrity of the pavement base and surface. Vegetation shall be trimmed to provide sign visibility per the MUTCD.

2. **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**
**304.6 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.

- The initial inspection of this property found missing plant material, damage to the columns and bollards at the gas pumps, the dumpster enclosure and retaining wall for the monument sign in need of pressure washing, the fence pickets behind the building in need of repair, dead and missing plant material, trees that need to be pruned as to not interfere with pedestrian or vehicular traffic, faded parking lot striping, and trash on site.

- To correct the violation, the columns and bollards at the gas pumps need to be repaired, the fence pickets behind the building need to be painted to match the others, all plantings, to include plants, shrubs, and trees, are required to be installed, the parking lot needs to be re-sealed and re-striped, the irrigation needs to be repaired and needs to cover all landscaped areas, ensure all parking lot lighting is in proper working order, all landscape beds and hedgerows must be weeded and mulched, and all trash and debris removed.

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 Enforcement Officer 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 11, 2019, 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 $_____ 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 11, 2019,** 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 22, 2019, 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 Enforcement Officer at (386) 506-5616.

DATED this 30th day of October 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: _____
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Lalumfland Port Orange LLC 1111 Brickell Avenue Ste. 2715 Miami, FL 33131, RE: 5784 Taylor Branch Road Port Orange, FL 32127, was

☒ Hand-delivered Recipient of hand delivered documents: Emerson Simao

☐ Posted at the property

Time: approx. 10:50AM

this 30th day of October 2019.

_____
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Lalumfland Port Orange LLC 1111 Brickell Avenue Ste. 2715 Miami, FL 33131, RE: 5784 Taylor Branch Road Port Orange, FL 32127, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 1 day of November, 2019.

_____
**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.

Case Cost Sheet Log

Case No. 19-1750

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Bank of New York Mellon Trust | Cost to mail Notice of Violation/Notice of Hearing | 12/20/2019 | Certified mail returned signed "Samuel E." | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 1/22/2020 | | $29.00 |
| Bank of New York Mellon Trust | Cost to mail Finding of Fact, Conclusion of Law & Order | 1/22/2020 | | $7.30 |

Total: 43.60

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1750

To: Bank Of New York Mellon Trust
Company NA TR
In Care Of %Bank of America
7105 Corporate Drive
Plano, TX 75024

Re: 3809 Cherry Grove Court
Port Orange, FL 32129
Parcel ID: 6306-10-00-0760
LEGAL DESCRIPTION: LOT 76 A REPLAT OF THE GROVE PHASE B MB 43 PG 18 PER OR 4451 PG 2070 PER OR 7211 PG 1449 PER OR 7211 PG 1474 PER OR 7391 PGS 4209-4210 PER OR 7601 PG 4524
Volusia County Public Records
Volusia County, FL

An inspection of the premises on December 10, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and stated the door would be re-installed within 24 to 48 hours. A re-inspection was done on December 13, 2019, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by January 2, 2020.

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

**Chapter 3, Section 304 Exterior Structure of the 2018 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.**

**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 accordance with section 702.3**

**Chapter 7, Section 702 Means of Egress of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances**

**702.3 Locked Doors. Shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort, except where the door hardware conforms to that permitted by the International Building Code.**

- The initial inspection of this property found the garage door to be removed from its tracks and is folded up on the garage floor. To correct the violation, the garage door needs to be re-installed.

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 Enforcement Officer 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 22, 2020, 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 $ 7.30 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 22, 2020,** 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 **February 26, 2020, 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 Enforcement Officer at (386) 506-5616.

DATED this 20th day of December, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: _____
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Bank Of New York Mellon Trust Company NA TR In Care Of %Bank of America 7105 Corporate Drive Plano, TX 75024, RE: 3809 Cherry Grove Court, was

☐ Hand-delivered Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 9:40 A.M.

this 20th day of December, 2019.

_____
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Bank Of New York Mellon Trust Company NA TR In Care Of %Bank of America 7105 Corporate Drive Plano, TX 75024, RE: 3809 Cherry Grove Court, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 20 day of December, 2019.

_____
**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.

Case Cost Sheet Log

Case No. 19-249

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Susan C Prisaznick | Hand delivery of Notice of Violation/Notice of Hearing | 7/30/2019 | | $0.00 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 8/28/2019 | | $27.00 |
| Susan C Prisaznick | Cost to mail Finding of Fact, Conclusion of Law & Order | 8/28/2019 | Certified mail returned signed, illegible dated "9-8-19 | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 12/11/2019 | | $46.00 |
| Susan C Prisaznick | Cost to mail Order Imposing Fine/Lien | 12/11/2019 | | $7.30 |

Total: 87.60

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-249

To: Susan C Prisaznick
3736 Sunrise Oaks Drive
Port Orange, FL 32129

Re: 3736 Sunrise Oaks Drive
Port Orange, FL 32129
Parcel ID: 6306-14-00-0170
LEGAL DESCRIPTION: LOT 17 SUNRISE OAKS PUD PHASE I MB 44 PGS 196 & 197 PER OR 4281 PG 0656 PER OR 5625 PG 832
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 18, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

A re-inspection was done on June 3, 2019, resulting in non-compliance. Most recent inspection, on July 15, 2019, resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by August 25, 2019.

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

1. **City of Port Orange Code of Ordinances Chapter 42 Article 2 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 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.

   - Initial inspection found the property to be overgrown in the back yard. All overgrown areas in the back yard need to be cut back and mowed.

2. **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.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

   **303.2 Enclosures.** Private swimming pools, hot tubs, and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where

the self-latching device is not less than 54 inches (1372 mm) above the bottom of the 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. ***Exemption:*** *Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.*

- The initial inspection of this property found a green pool, and no fence around the property to secure the pool. To correct the violation, the pool needs to be cleaned and sanitized or covered with an approved pool cover, and the pool needs to be secured, with a minimum of a 48 inch barrier (fence or enclosure) around the pool.

3. **City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management, Article 1 Clearing and Grading, Section 1 Purpose and Intent**, The purpose of this article is to provide specific criteria for allowable clearing and grading in order to prevent flooding, to avoid drainage impacts on adjoining properties, and to limit damage to the environment and to the waterways within the city. Specific review criteria for evaluation of drainage modifications are located in article II of this chapter.

4. **City of Port Orange Land Development Code, Chapter 10 Clearing, Grading, and Stormwater Management, Article 1 Clearing and Grading, Section 2 Permits Required for change of Grade.** It is hereby unlawful for any person to change or modify the grade of any land without obtaining a change of grade permit in accordance with the provisions of this chapter. The following procedure shall apply for unsubdivided property or subdivided lots with no approved development or building plan. However, the provisions of article II of this chapter shall supersede the following for those activities requiring a stormwater management permit as reflected in article II of this chapter.

    - The initial inspection found there to be evidence through City documentation that the rear yard swale was partially filled in. The rear yard swale/elevation needs to be inspected and should any area be inconsistent with the original or permitted grade, it needs to be corrected by bringing the swale back to its original design.

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 Enforcement Officer 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 August 28, 2019, 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 $_____ 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 **August 28, 2019,** 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 **October 9, 2019, 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 Enforcement Officer at (386) 506-5616.

DATED this 30th day of July, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: Amanda Bonin
**Amanda Bonin**

X □ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Susan C Prisaznick 3736 Sunrise Oaks Drive Port Orange, FL 32129, RE: 3736 Sunrise Oaks Drive Port Orange, FL 32129, was

X □ Hand-delivered Recipient of hand delivered documents: Susan Prisaznick
□ Posted at the property

Time: approx. 1:33pm

this 30th day of July, 2019.

Amanda Bonin
**Amanda Bonin**

X □ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Susan C Prisaznick 3736 Sunrise Oaks Drive Port Orange, FL 32129, RE: 3736 Sunrise Oaks Drive Port Orange, FL 32129, was

X □ Posted at City Hall
□ Sent via certified and regular

this 30 day of July, 2019.

Shelly Field
**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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-249**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

SUSAN C PRISAZNICK
3736 SUNRISE OAKS DRIVE
PORT ORANGE, FL 32129
PARCEL ID : 6306-14-00-0170

**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 August 28, 2019, 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, SUSAN C PRISAZNICK, whose mailing address is 3736 SUNRISE OAKS DRIVE, PORT ORANGE, FL 32129, is the owner of the property located at 3736 SUNRISE OAKS DRIVE, PORT ORANGE, FL 32129, and more particularly described as:

LOT 17 SUNRISE OAKS PUD PHASE 1 MB 44 PGS 196 & 197 PER OR 4281 PG 0656 PER OR 5625 PG 832

**B.** The violation was to be corrected by installing a fence around the property, cleaning the green pool and maintaining it in a clean and sanitary condition, or cover it with an approved pool cover, to mow and remove all undergrowth in the rear of the property, and obtaining a permit for any change of grade on site. This condition was first observed at the real property described above on February 18, 2019; re-inspection was conducted on August 27, 2019. Respondent received notice via posting at City Hall on July 30, 2019, as well as posted on the property and hand delivered July 30, 2019 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) of the City of Port Orange Code of Ordinances. 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 and 303.2 Enclosures and was to be corrected by August 25, 2019.

**C.** At the time of the hearing, the violations cited above: [_X_] 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(s), by reason of the foregoing, has/have violated the above referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of 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 applying for a grade and fill permit by September 12, 2019, obtain the grade and fill permit by September 27, 2019 and apply for a fence permit, cover pool with approved pool cover by September 28, 2019, complete the grade and fill work by November 11, 2019, and install the fence by November 27, 2019. ("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 $34.30 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 28th day of August, 2019.

Attest: Shelly Field
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), Susan C Prisaznick, 3736 Sunrise Oaks Drive, Port Orange, FL 32129 by Certified and Regular Mail this 29 day of August, 2019.

Secretary, Code Enforcement Special Magistrate

Case Cost Sheet Log

Case No. 19-0873

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Alexandra C. Neubauer | Cost to mail Notice of Violation/Notice of Hearing | 10/28/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| Alexandra C. Neubauer | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 1/22/2020 | | $46.00 |
| Alexandra C. Neubauer | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |

Total: 96.90

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

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-0873

To: Alexandra C. Neubauer
932 Sabalwood Ct.
Port Orange, FL 32127

Re: 932 Sabalwood Ct.
Port Orange, FL 32127
Parcel ID: 6309-16-00-0890
LEGAL DESCRIPTION: LOT 89 DUNLAWTON HILLS UNIT III-A MB 40 PG 190 PER OR 3829 PG 2743 PER OR 4841 PGS 0748-0749 PER OR 7101 PG 4894 PER OR 7132 PGS 0059-0060 PER OR 7488 PG 0688
Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 17, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 10 days to correct. A re-inspection was done on August 13, 2019, resulting in non-compliance. This correspondence will serve as official notification that the below stated violation(s) must be corrected by **November 27, 2019**.

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

1. **2017 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit:** 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 required 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.

    - The initial inspection found that an old fence was removed from the property and a new one being installed in its place, without a permit. To correct the violation, the new fence post and lateral supports must be properly permitted through the City of Port Orange Building Department or removed from the property. Please contact the Building Department, located at City Hall, at 386-506-5602 for more information.

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 Enforcement Officer, 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 Enforcement Officer 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 11, 2019, 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 $ 47.30 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 11, 2019,** 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 22, 2020, 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 Enforcement Officer at (386) 506- 5645.

DATED this 28 day of October, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: C. Scott Allman
**J. Scott Allman, Code Enforcement Officer**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Alexandra C. Neubauer, 932 Sabalwood Ct., Port Orange, FL, 32127, RE: 932 Sabalwood Ct., Port Orange, FL, 32127, was

☐ Hand-delivered
☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 10:18 AM.

this 28 day of October, 2019.

C. Scott Allman
**J. Scott Allman, Code Enforcement Officer**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Alexandra C. Neubauer, 932 Sabalwood Ct., Port Orange, FL, 32127, RE: 932 Sabalwood Ct., Port Orange, FL, 32127, was

☒ Posted at City Hall
☒ Sent via certified and regular

this 28 day of October, 2019.

Shelly Field
**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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-0873**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

ALEXANDRA C. NEUBAUER
932 SABALWOOD CT.
PORT ORANGE, FL 32127
PARCEL ID : 6309-16-00-0890

**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 11, 2019, 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, ALEXANDRA C. NEUBAUER, whose mailing address is 932 SABALWOOD CT., PORT ORANGE, FL 32127, is the owner of the property located at 932 SABALWOOD CT., PORT ORANGE, FL 32127, and more particularly described as:

LOT 89 DUNLAWTON HILLS UNIT III-A MB 40 PG 190 PER OR 3829 PG 2743 PER OR 4841 PGS 0748-0749 PER OR 7101 PG 4894 PER OR 7132 PGS 0059-0060 PER OR 7488 PG 0688

**B.** The violation was to be corrected by removing the new fence posts and lateral supports or by obtaining a permit for the new fence. This condition was first observed at the real property described above on June 17, 2019; re-inspection was conducted on December 2, 2019. Respondent received notice via posting at City Hall and certified and regular mail on October 28, 2019, as well as posted on the property on October 28, 2019 that the aforesaid conditions constituted a violation of **2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain Building Permit:** 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 required 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. and was to be corrected by November 27, 2019.

**C.** At the time of the hearing, the violations cited above: [_X_] 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(s), by reason of the foregoing, has/have violated the above referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of 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 removing the new fence posts and lateral supports or by obtaining a permit for the new fence on or before January 6, 2020. ("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 fine in the amount of $50.00 per day shall be imposed for each day the violation continues past 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 $43.60 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 11th day of December, 2019.

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), Alexandra C. Neubauer, 932 Sabalwood Ct., Port Orange, FL 32127 by Certified and Regular Mail this 11 day of December, 2019.

_____
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 11 day of December, 2019.
By: _____

CITY OF PORT ORANGE FLORIDA 1867

Case Cost Sheet Log

Case No. 19-1592

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Linda B. Caswell, Trustee | Cost to mail Notice of Violation/Notice of Hearing | 11/6/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| Linda B. Caswell, Trustee | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 1/22/2020 | | $46.00 |
| Linda B. Caswell, Trustee | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |

Total: 96.90

# NOTICE OF REPEAT VIOLATION
# AND
# NOTICE OF HEARING

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1592

To: Linda B. Caswell, Trustee
13 Lawrence Court Land Trust
8929 Windsor Locks Ave.
Las Vegas, NV 89134

Re: 13 Lawrence Court
Port Orange, FL 32127
Parcel ID: 6315-08-00-0130
LEGAL DESCRIPTION: LOT 13 SOUTHERN PINES SUB MB 33 PG 47 PER OR 4555 PG 3491
Volusia County Public Records
Volusia County, FL

An inspection of the premises on November 5, 2019, 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 immediately.

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

**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.

- The initial inspection of this property found high weeds and grass. To correct the violation, the entire property must be mowed and maintained to include the rights of way, edging, weed eating, and blowing of yard debris. Grass clippings are to be blown back onto the property off the street and sidewalk.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on December 12, 2018 under Case No. 18-1727.

A fine up to $5,000 per day per violation for a repeat violation may be assessed by the Special Magistrate.

Once you have caused the violation(s) to be corrected, you must request a re-inspection by the Code Enforcement Officer to determine whether the property is in compliance.

This case shall be presented to the Special Magistrate even if the violation(s) has been corrected prior to the scheduled hearing date below.

## 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 11, 2019, 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 $ 7.30 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 11, 2019,** 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 22, 2020, 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 Enforcement Officer at (386) 506-5641.

DATED this 5 day of November, 2019.

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: Linda B. Caswell, Trustee, 113 Lawrence Court Land Trust, 8929 Windsor Locks Ave., Las Vegas, NV, 89134, RE: 13 Lawrence Court, Port Orange, FL, 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 10:17 Am. this 6 day of November, 2019.

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 Linda B. Caswell, Trustee, 113 Lawrence Court Land Trust, 8929 Windsor Locks Ave., Las Vegas, NV, 89134, RE: 13 Lawrence Court, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 6 day of November, 2019.

Shelly Field

**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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-1592**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

LINDA B. CASWELL, TRUSTEE
13 LAWRENCE COURT LAND TRUST
13 LAWRENCE COURT
PORT ORANGE, FL 32127
PARCEL ID : 6315-08-00-0130

**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 11, 2019, 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 B. CASWELL, TRUSTEE, whose mailing address is 8929 WINDSOR LOCKS AVE., LAS VEGAS, NV 89134, is the owner of the property located at 13 LAWRENCE COURT, PORT ORANGE, FL 32127, and more particularly described as:

LOT 13 SOUTHERN PINES SUB MB 33 PG 47 PER OR 4555 PG 3491

**B.** The violation was to be corrected by mowing the entire property and by trimming all high weeds. This condition was first observed at the real property described above on November 5, 2019; re-inspection was conducted on December 2, 2019. Respondent received notice via posting at City Hall and certified and regular mail on November 6, 2019, as well as posted on the property on November 6, 2019 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) 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 the hearing, the violations cited above: [__] continued to exist, or [_X__] remained noncompliant until __December 8, 2019___ [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(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

## ORDER:

**A.** Respondent(s) has corrected the aforesaid violation by mowing the entire property and trimming all high weeds; however, said compliance did not occur immediately, which was the Compliance Date listed in the Notice of Violation/Notice of Hearings. Therefore, the property is found to be in non-compliance with the Notice. A one-time fine of $100.00 shall be imposed for the repeat violation. 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 $43.60 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 11th day of December, 2019.

Attest: Shelly Field
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 B. Caswell, Trustee, 8929 Windsor Locks Ave., Las Vegas, NV 89134 by Certified and Regular Mail this 11 day of December, 2019.

Shelly Field

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 11 day of December, 2019.
By: Shelly Field

CITY OF PORT ORANGE 1867 FLORIDA

Case Cost Sheet Log

Case No. 19-0908

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Michael J. Parker | Cost to mail Notice of Violation/Notice of Hearing | 10/1/2019 | Certified mail returned unclaimed | $0.00 |
| Carolyn R. Champine | Cost to mail Notice of Violation/Notice of Hearing | 10/1/2019 | Certified mail returned unclaimed | $0.00 |
| Michael J. Parker | Cost to mail UPDATED Notice of Violation/Notice of Hearing | 11/5/2019 | Certified mail returned unclaimed | $7.30 |
| Carolyn R. Champine | Cost to mail UPDATED Notice of Violation/Notice of Hearing | 11/5/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| Michael J. Parker | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned unclaimed | $7.30 |
| Carolyn R. Champine | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 1/22/2020 | | $46.00 |
| Michael J. Parker | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |
| Carolyn R. Champine | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |

Total: 118.80

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-0908

To: Michael J. Parker & Carolyn R. Champine
6129 Half Moon Drive
Port Orange, FL 32127

Re: 6129 Half Moon Drive
Port Orange, FL 32127
Parcel ID: 6328-13-00-0420
LEGAL DESCRIPTION: LOT 42 SUN LAKE ESTATES MB 43 PGS 90-91 INC PER OR 5249 PG 3814 PER OR 6053 PG 1036
Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 21, 2019, 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 August 20, 2019, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **December 2, 2019.**

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. **(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 mowed 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.

    - The initial inspection of this property found high weeds and grass. To correct the violation, the entire property needs to be mowed and trimmed, and all debris blown back onto the property.

2. **Chapter 3, Section 304 (Exterior Structure), 304.1 (General), 304.6 (Exterior Walls), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** 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.

    - The initial inspection of this property found damaged/rotting siding on the exterior walls of the home. To correct the violation, all damaged siding needs to be repaired,

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 Enforcement Officer 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 11, 2019, 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 $ 14.60 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 11, 2019,** 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 22, 2020, 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 Enforcement Officer at **(386) 506-5641**.

DATED this 5 day of November, 2019.

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 Michael J. Parker & Carolyn R. Champine, 6129 Half Moon Drive, Port Orange, FL, 32127, RE: 6129 Half Moon Drive, Port Orange, FL, 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 11:05 am

this 5 day of November, 2019.

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 Michael J. Parker & Carolyn R. Champine, 6129 Half Moon Drive, Port Orange, FL, 32127, RE: 6129 Half Moon Drive, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 5 day of November, 2019.

Shelly Field
**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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-0908**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

MICHAEL J. PARKER & CAROLYN R. CHAMPINE
6129 HALF MOON DRIVE
PORT ORANGE, FL 32127
PARCEL ID : 6328-13-00-0420

**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 11, 2019, 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, MICHAEL J. PARKER & CAROLYN R. CHAMPINE, whose mailing address is 6129 HALF MOON DRIVE, PORT ORANGE, FL 32127, is the owner of the property located at 6129 HALF MOON DRIVE, PORT ORANGE, FL 32127, and more particularly described as:

LOT 42 SUN LAKE ESTATES MB 43 PGS 90-91 INC PER OR 5249 PG 3814 PER OR 6053 PG 1036

**B.** The violation was to be corrected by mowing the entire property, trimming all high weeds and by blowing all debris back onto the property and by repairing all damaged siding on the home. This condition was first observed at the real property described above on June 21, 2019; re-inspection was conducted on December 6, 2019. Respondent received notice via posting at City Hall and certified and regular mail on November 5, 2019, as well as posted on the property on November 5, 2019 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) of the City of Port Orange Code of Ordinances. Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages. 2018 International Property Maintenance Code, Chapter 3, Section 304 (Exterior Structure) 304.1 (General) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.6 Exterior Walls and was to be corrected by December 2, 2019.

**C.** At the time of the hearing, the violations cited above: [_X_] continued to exist, or [___] remained noncompliant until _____ [Date].

**D.** [X] 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(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of 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 the entire property, trimming all high weeds and by blowing all debris back onto the property and by repairing all damaged siding on the home on or before January 13, 2020. ("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 fine in the amount of $100.00 per day shall be imposed for each day the violation continues past 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 $58.20 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 11th day of December, 2019.

Attest: Shelly Fickel
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), Michael J. Parker & Carolyn C. Champine, 6129 Half Moon Drive, Port Orange, FL 32127 by Certified and Regular Mail this 11 day of December, 2019.

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 11 day of December, 2019
By: Shelly Field

Case Cost Sheet Log

Case No. 19-1524

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Estate of Samuel C. Sebergandio Jr. | Cost to mail Notice of Violation/Notice of Hearing | 10/21/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| Estate of Samuel C. Sebergandio Jr. | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned signed "James Middlebrooks" | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 1/22/2020 | | $46.00 |
| Estate of Samuel C. Sebergandio Jr. | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |

Total: 96.90

# NOTICE OF REPEAT VIOLATION
# AND
# NOTICE OF HEARING

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1524

To: Estate of Samuel C. Sebergandio Jr.
5453 Pineland Ave.
Port Orange, FL 32127

Re: 5453 Pineland Ave.
Port Orange, FL 32127
Parcel ID: 6315-04-08-0040
LEGAL DESCRIPTION: LOT 4 BLK 8 COMMONWEALTH MOBILE ESTATES FIRST ADD MB 29 PG 47 INC PER OR 4578 PG 1772
Volusia County Public Records
Volusia County, FL

An inspection of the premises on October 17, 2019, indicates that certain repeat violation(s) of the City of Port Orange Code exist. This correspondence will serve as official notification that the below stated violation(s) must be corrected immediately.

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

**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. **(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 mowed 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.

- The initial inspection of this property found high weeds and grass. To correct the violation, the entire property needs to be mowed and trimmed, and all debris blown back onto the property.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on September 11, 2019 under Case No. 19-0750.

A fine up to $5,000 per day per violation for a repeat violation may be assessed by the Special Magistrate.

Once you have caused the violation(s) to be corrected, you must request a re-inspection by the Code Enforcement Officer to determine whether the property is in compliance.

This case shall be presented to the Special Magistrate even if the violation(s) has been corrected prior to the scheduled hearing date below.

## NOTICE OF HEARING AS TO REPEAT 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 **Code Enforcement Special Magistrate on December 11, 2019 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 in the notice of repeat violation above, and shall issue a Final Order affording the proper relief which may include a per diem fine of up to $5,000 for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. 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.

A certified copy of the 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(s) 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 $ 7.30 as indicated on the cost sheet submitted into evidence. The respondent shall 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 11, 2019**, 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 22, 2020, 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 Enforcement Officer at **(386) 506- 5645**.

DATED this 21st day of October, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: Dena Joseph
**Dena Joseph**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Repeat Violation and Notice of Hearing to: Estate of Samuel C. Sebergandio Jr., 5453 Pineland Ave., Port Orange, FL, 32127, RE: 5453 Pineland Ave., Port Orange, FL, 32127, was:

☐ Hand- delivered
☒ Posted at the property

Recipient of hand delivered documents: _____

Time: 12:40 pm

this 21st day of October, 2019.

Dena Joseph
**Dena Joseph**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Repeat Violation and Notice of Hearing to: Estate of Samuel C. Sebergandio Jr., 5453 Pineland Ave., Port Orange, FL, 32127, RE: 5453 Pineland Ave., Port Orange, FL, 32127, was:

☒ Posted at City Hall

☒ Sent via certified and regular

this 22 day of October, 2019.

Shelly Feild

**Secretary, Special Magistrate**

RIGHT TO APPEAL

PURSUANT TO F.S. CH. 162.11, ANY DECISION BY THE SPECIAL MAGISTRATE MAY BE APPEALED TO THE CIRCUIT COURT AND MUST BE FILED WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THE ORDER. SUCH AN APPEAL SHALL BE LIMITED TO APPELLATE REVIEW OF THE TESTIMONY AND EVIDENCE OF THE PROCEEDING CREATED BEFORE THE SPECIAL MAGISTRATE. 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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-1524**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

ESTATE OF SAMUEL C. SEBERGANDIO JR.
5453 PINELAND AVE.
PORT ORANGE, FL 32127
PARCEL ID : 6315-04-08-0040

**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 11, 2019, 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, ESTATE OF SAMUEL C. SEBERGANDIO JR., whose mailing address is 5453 PINELAND AVE., PORT ORANGE, FL 32127, is the owner of the property located at 5453 PINELAND AVE., PORT ORANGE, FL 32127, and more particularly described as:

LOT 4 BLK 8 COMMONWEALTH MOBILE ESTATES FIRST ADD MB 29 PG 47 INC PER OR 4578 PG 1772

**B.** The violation was to be corrected by mowing the entire property and parkage area to include weed eating and blowing of grass clippings back onto the property. This condition was first observed at the real property described above on October 17, 2019; re-inspection was conducted on November 13, 2019. Respondent received notice via posting at City Hall and certified and regular mail on October 22, 2019, as well as posted on the property on October 21, 2019 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) of the City of Port Orange Code of Ordinances. Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages and was to be corrected immediately as this is a repeat violation.

**C.** At the time of the hearing, the violations cited above: [_X_] continued to exist, or [___] remained noncompliant until _____ [Date].

**D.** [_X_] 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(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of 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 the entire property and parkage area to include weed eating and blowing of grass clippings back onto the property on or before December 18, 2019. ("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 one-time fine in the amount of $1,000.00 shall be imposed. 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 $43.60 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 11th day of December, 2019.

Attest: Shelly Field
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), Estate of Samuel C. Sebergandio Jr., 5453 Pineland Ave., Port Orange, FL 32127 by Certified and Regular Mail this 11 day of December, 2019.

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 11 day of December, 2019.
By: Shelly Field

Case Cost Sheet Log

Case No. 19-1355

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| Scott T. Maiorano | Cost to mail Notice of Violation/Notice of Hearing | 10/21/2019 | Certified mail returned unclaimed | $7.30 |
| Rhonda Maiorano | Cost to mail Notice of Violation/Notice of Hearing | 10/21/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| Scott T. Maiorano | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned signed, illegible dated "12-11" | $7.30 |
| Rhonda Maiorano | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned signed, illegible dated "12-11" | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 1/22/2020 | | $46.00 |
| Scott T. Maiorano | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |
| Rhonda Maiorano | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |

Total: 118.80

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

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1355

To: Scott T. & Rhonda Maiorano
404 Orange Avenue
Port Orange, FL 32127

Re: 404 Orange Avenue
Port Orange, FL 32127
Parcel ID: 6303-14-12-0010
LEGAL DESCRIPTION: LOT 1 BLK L VIRGINIA HEIGHTS PORT ORANGE MB 9 PG 92 PER OR 3727 PG 2123 PER OR 7629 PGS 3640 THRU 3644 INC PER OR 7629 PGS 3643-3644
Volusia County Public Records
Volusia County, FL

An inspection of the premises on September 11, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 7 days to correct. A re-inspection was done on October 18, 2019, resulting in non-compliance. This correspondence will serve as official notification that the below stated violation(s) must be corrected by **November 3, 2019**.

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

1. **2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit:** 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 required 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.

    - The initial inspection of this property found that a new fence was installed around the perimeter of the property without obtaining an approved permit through the City of Port Orange Building Department. To correct the violation, the additional fencing that was installed that was not indicated on the survey submitted and after the final inspection for permit #19-2642 must be removed or permitted.

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 Enforcement Officer, 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 Enforcement Officer 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 11, 2019, 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 $ 14.60 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 11, 2019,** 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 22, 2020, 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 Enforcement Officer at **(386) 506- 5645**.

DATED this 21st day of October, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: Dena Joseph
**Dena Joseph, Code Enforcement Officer**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Scott T. & Rhonda Maiorano, 404 Orange Avenue, Port Orange, FL, 32127, RE: 404 Orange Avenue, Port Orange, FL, 32127, was

☐ Hand-delivered
☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 10:05 AM.

this 21st day of October, 2019.

Dena Joseph
**Dena Joseph, Code Enforcement Officer**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Scott T. & Rhonda Maiorano, 404 Orange Avenue, Port Orange, FL, 32127, RE: 404 Orange Avenue, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 22 day of October, 2019

Shelly Field

**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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-1355**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

SCOTT T. & RHONDA MAIORANO
404 ORANGE AVENUE
PORT ORANGE, FL 32127
PARCEL ID : 6303-14-12-0010

**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 11, 2019, 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, SCOTT T. & RHONDA MAIORANO, whose mailing address is 404 ORANGE AVENUE, PORT ORANGE, FL 32127, is the owner of the property located at 404 ORANGE AVENUE, PORT ORANGE, FL 32127, and more particularly described as:

LOT 1 BLK L VIRGINIA HEIGHTS PORT ORANGE MB 9 PG 92 PER OR 3727 PG 2123 PER OR 7629 PGS 3640 THRU 3644 INC PER OR 7629 PGS 3643-3644

**B.** The violation was to be corrected by removing the sections of fencing including the panels and posts that were not on the original permit or revising the permit by adding the additional fencing installed on site and calling in for a final inspection of the fence through the City of Port Orange Community Development Department. The permit must be paid for to include all associated fees and picked up by the resident. This condition was first observed at the real property described above on September 11, 2019; re-inspection was conducted on November 5, 2019 and the fence panels had been removed but the posts were still in the ground. Therefore, the property remained in non-compliance at that time. Another inspection of the property on November 19, 2019 showed that the residents had re-installed the entire fence to include the panels that were removed. To date, the permit has not been approved per the revisions that show the additional fencing that was not shown on the original site plan per the initial permit submitted by the residents. Respondent received notice via posting at City Hall and certified and regular mail on October 22, 2019, as well as posted on the property on October 21, 2019 that the aforesaid conditions

constituted a violation of **2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain Building Permit:** 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 required 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. and was to be corrected by November 3, 2019.

**C.** At the time of the hearing, the violations cited above: [_X_] 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(s), by reason of the foregoing, has/have violated the above referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of 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 removing the sections of fencing including the panels and posts that were not on the original permit or revising the permit by adding the additional fencing installed on site and calling in for a final inspection of the fence through the City of Port Orange Community Development Department. The permit must be paid for to include all associated fees and picked up by the resident on or before December 22, 2019. ("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 fine in the amount of $150.00 per day shall be imposed for each day the violation continues past 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 $58.20 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 11th day of December, 2019.

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), Scott T. & Rhonda Maiorano, 404 Orange Avenue, Port Orange, FL 32127 by Certified and Regular Mail this 11 day of December, 2019.

_____
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 11 day of December, 2019
By: _____

CITY OF PORT ORANGE 1867 FLORIDA

Case Cost Sheet Log

Case No. 19-1210

| Name | Activity | Activity_Date | Status | Cost |
|---|---|---|---|---|
| John J. Fondacaro | Cost to mail Notice of Violation/Notice of Hearing | 10/28/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Finding of Fact, Conclusion of Law & Order | 12/11/2019 | | $29.00 |
| John J. Fondacaro | Cost to mail Finding of Fact, Conclusion of Law & Order | 12/11/2019 | Certified mail returned unclaimed | $7.30 |
| Clerk of Courts | Fee to record Order Imposing Fine/Lien | 1/22/2020 | | $46.00 |
| John J. Fondacaro | Cost to mail Order Imposing Fine/Lien | 1/22/2020 | | $7.30 |

Total: 96.90

# NOTICE OF VIOLATION
# AND
# NOTICE OF HEARINGS

**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1210

To: John J. Fondacaro
5718 Riverside Drive
Port Orange, FL 32127

Re: 5718 Riverside Drive
Port Orange, FL 32127
Parcel ID: 6314-03-05-0060
LEGAL DESCRIPTION: LOT 6 BLK 5 HARBOR OAKS UNIT 1 MB 10 PG 145 PER OR 2681 PG 1510 PER OR 7737 PG 2753
Volusia County Public Records
Volusia County, FL

An inspection of the premises on August 15, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 10 days to correct. A re-inspection was done on October 22, 2019, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **November 3, 2019.**

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

**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. **(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 mowed 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.

- The initial inspection of this property found high weeds and grass. To correct the violation, the entire property needs to be mowed and trimmed, and all debris blown back onto the property.

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 Enforcement Officer 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 11, 2019, 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 $ 17.30 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 11, 2019,** 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 22, 2020, 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 Enforcement Officer at **(386) 506-5645**.

DATED this 24th day of October, 2019.

CITY OF PORT ORANGE, FLORIDA
**SPECIAL MAGISTRATE**

By: _____
**Dena Joseph**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to John J. Fondacaro, 5718 Riverside Drive, Port Orange, FL, 32127, RE: 5718 Riverside Drive, Port Orange, FL, 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 2:00 PM

this 24th day of October, 2019.

Dena Joseph

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to John J. Fondacaro , 5718 Riverside Drive, Port Orange, FL, 32127, RE: 5718 Riverside Drive, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 28 day of October, 2019.

Shelly Field

**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.

**CITY OF PORT ORANGE, FLORIDA**
**CODE ENFORCEMENT SPECIAL MAGISTRATE**
**CASE NO. 19-1210**

CITY OF PORT ORANGE,
a Florida municipal corporation,

**Petitioner,**

JOHN J. FONDACARO
5718 RIVERSIDE DRIVE
PORT ORANGE, FL 32127
PARCEL ID : 6314-03-05-0060

**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 11, 2019, 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, JOHN J. FONDACARO, whose mailing address is 5718 RIVERSIDE DRIVE, PORT ORANGE, FL 32127, is the owner of the property located at 5718 RIVERSIDE DRIVE, PORT ORANGE, FL 32127, and more particularly described as:

LOT 6 BLK 5 HARBOR OAKS UNIT 1 MB 10 PG 145 PER OR 2681 PG 1510 PER OR 7737 PG 2753

**B.** The violation was to be corrected by mowing the entire property to include weed eating and blowing of all grass clippings back onto the property. This condition was first observed at the real property described above on August 15, 2019; re-inspection was conducted on November 5, 2019. Respondent received notice via posting at City Hall and certified and regular mail on October 28, 2019, as well as posted on the property on October 24, 2019 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) of the City of Port Orange Code of Ordinances. Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages and was to be corrected by November 3, 2019.

**C.** At the time of the hearing, the violations cited above: [_X_] 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(s), by reason of the foregoing, has/have violated the above referenced code(s) in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions of 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 the entire property to include weed eating and blowing of all grass clippings back onto the property on or before December 22, 2019. ("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 fine in the amount of $100.00 per day shall be imposed for each day the violation continues past 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 $43.60 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 11th day of December, 2019.

Attest: Shelly Field
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), John J. Fondacaro, 5718 Riverside Drive, Port Orange, FL 32127 by Certified and Regular Mail this 11 day of December, 2019.

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 11 day of December, 2019.
By: