

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
Dena Joseph, Code Compliance Inspector
Debbie Pearson, Code Enforcement Manager
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

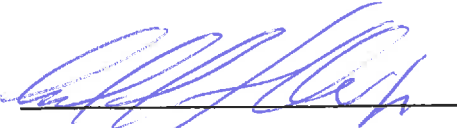
Compliance: No

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