



**AGENDA**  
**CODE ENFORCEMENT SPECIAL MAGISTRATE**  
**CITY OF PORT ORANGE**

**Meeting Date:** Wednesday, February 26, 2020  
**Type of Meeting:** Regular

**Time:** 9:00 AM  
**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.:** 20-0067  
**Respondent:** Lee C. & Leslie C. Ronaldo  
**Address of Violation:** 3499 Winchester Drive, Port Orange, FL 32129  
**Code Officer:** Dennis Boehmer  
**First Notified:** 1/14/2020

Compliance: Yes

**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.

4. **CEB Case No.:** 20-0034  
**Respondent:** Springwood Square Joint Ventures  
**Address of Violation:** Springwood Square, Port Orange, FL 32129  
**Code Officer:** Dennis Boehmer  
**First Notified:** 1/10/2020

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.

5. **CEB Case No.:** 20-0090

**Respondent:** Port Orange Retail I, LLC  
William Battillo, RA

**Address of Violation:** Big Lots Port Orange, 3818 Nova Rd, Port Orange, FL  
32127

**Code Officer:** Scott Allman

**First Notified:** 1/19/2020

Compliance: No

**Cited for violation(s)** - City of Port Orange Land Development Code, Chapter 15, Sec 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintained or cause to be maintained any sign described as follows (18) - Off-site advertising.

City of Port Orange Land Development Code, Chapter 15, Sec 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintained or cause to be maintained any sign described as follows (24) - Signs on public property.

6. **CEB Case No.:** 19-1666

**Respondent:** Madeline Underwood

**Address of Violation:** 5617 Finely Drive, Port Orange, FL 32127

**Code Officer:** Dena Joseph

**First Notified:** 11/22/2019

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.

7. **CEB Case No.:** 20-0175

**Respondent:** David W.Alexander TR  
Alexander Family Trust

**Address of Violation:** 5967 Riverside Drive, Port Orange, FL 32127

**Code Officer:** Dena Joseph

**First Notified:** 2/3/2020

Compliance: No

**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.

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.

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.

### **C. ORDER IMPOSING FINE/LIEN**

8. **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.

9. **CEB Case No.:** 18-1449 (continued from 6/12/19)

**Respondent:** MHC Pickwick L.L.C., Owner

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.

10. **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: Yes

**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.

11. **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.

12.    **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.**

#### **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](mailto: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  
FEBRUARY 12, 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  
Amanda Bonin, 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 January 22, 2020 meeting minutes as presented.

Oaths

Code Compliance Inspectors Scott Allman, Amanda Bonin, 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.:** 19-1740  
**Respondent:** Ashley M. Lampe  
**Address of Violation:** 3464 Country Walk Drive, Port Orange, FL 32129  
**Code Officer:** Dennis Boehmer  
**First Notified:** 12/17/2019

Compliance: Yes

**Cited for violation(s)** - 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.

*Amanda Bonin, 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.:** 20-002  
**Respondent:** Justin Kirby  
**Address of Violation:** 6026 Wesley Park Drive, Port Orange, FL 32128  
**Code Officer:** Amanda Bonin  
**First Notified:** 1/2/2020

Compliance: Yes

**Cited for violation(s)** - 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.

City of Port Orange Code of Ordinances, Chapter 56 Solid Waste, Article II Collection and Disposal Service, Section 56-34 - Location of Containers.

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

*Ms. Bonin requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.*

5. **CEB Case No.:** 18-452  
**Respondent:** Charlie Molineaux Jr.  
**Address of Violation:** 722 Dove Avenue, Port Orange, FL 32127  
**Code Officer:** Amanda Bonin  
**First Notified:** 3/27/2019

Compliance: No

**Cited for violation(s)** - **Sixth Edition (2017) Florida Building Code, Section 105 (Permits), 105.1 (Permits Required), as adopted by 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 permits.

*Ms. Bonin requested a continuation of the case to the April 8, 2020 hearing. Special Magistrate Fuller granted the continuation request.*

6. **CEB Case No.:** 19-1416  
**Respondent:** Theodore Michellini  
**Address of Violation:** 1248 Thomas Drive, Port Orange, FL 32129  
**Code Officer:** Amanda Bonin  
**First Notified:** 9/24/2019

Compliance: No

**Cited for violation(s)** - City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (e) Outside Storage (1) (b).

*Ms. Bonin 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 30, 2019 by properly tagging and repairing or covering with an approved car cover, all inoperable/unlicensed vehicles.*

*Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before February 22, 2020 by properly tagging and repairing or covering with an approved car cover, all inoperable/unlicensed vehicles. 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 \$150.00 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. Bonin requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$36.30 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 February 22, 2020 to properly tag and repair or cover with an approved car cover, all inoperable/unlicensed vehicles or a daily fine in the amount of \$150.00 per day shall be imposed. Costs in the amount of \$36.30 were awarded to the City.*

7. **CEB Case No.:** 19-1723

**Respondent:** Port Orange Petro LLC

**Address of Violation:** 6223 S Williamson Blvd., Port Orange, FL 32128

**Code Officer:** Amanda Bonin

**First Notified:** 12/10/2019

Compliance: No

**Cited for violation(s)** - 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.

*Ms. Bonin 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 January 30, 2020 by properly repairing the wall and obtaining the required building permit.*

*Bharat Thaker, Property Manager, was sworn in and explained that they were waiting on insurance to address the damage done by a car going through the wall and presented an invoice for the work to be done dated January 2, 2020. He stated they should have it done 10 weeks from January 2, 2020.*

*Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before March 16, 2020 by obtaining the required building permit and properly repairing the wall. 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 \$250.00 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. Bonin 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. The property owner has until March 16, 2020 to obtain the required building permit and properly repair the wall or a one-time fine in the amount of \$500.00 shall be imposed. Costs in the amount of \$43.60 were awarded to the City.*

8. **CEB Case No.:** 20-0013

**Respondent:** Arenas Homes, LLC (Property Owner)

Alberto Arenas (Registered Agent)

**Address of Violation:** 5921 Brandon Lane, Port Orange, FL 32127

**Code Officer:** Scott Allman

**First Notified:** 1/7/2020

Compliance: No

**Cited for violation(s) - 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, Chapter 3 (General Requirements), Section 302 (Exterior Property Areas), 302.5 (Rodent Harborage):** Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After Pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent re infestation. **Section 309 (Pest elimination), 309.1 (Infestation) as adopted by the City of Port Orange Code of Ordinances:** Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**City of Port Orange Land Development Code, Chapter 56 (Solid Waste), Article III (Construction and Demolition Debris Collection Franchises), Section 56-30 (Collection and Removal), (a) Franchising authorized:** All refuse accumulated in the City shall be collected, conveyed and disposed of by the city government or pursuant to agreement with the city government. No person shall collect or convey over the streets or alleys of the city or

dispose of any refuse accumulated in the city without a written contract or permit approved by the city council.

*Scott Allman, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and 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 January 23, 2020 by hiring a professional exterminator to eliminate all rodents and insects inside and outside the home. Staff did conclude that the property owner was still in violation with the notice of hearing due to the way the violation was abated and the affect it had on the surrounding properties as it pertains to being injurious to human health.*

*Mr. Allman 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. Mr. Allman requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$14.60 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.*

*Carly Meek, Assistant City Attorney, testified to the communication between the City and the property owner and submitted an agreed upon Stipulated Order addressing the costs in the amount of \$1,200.00 incurred by the city's hired exterminator. The property owner has agreed to pay the \$1,200.00 incurred costs and \$14.60 mailing costs by February 26, 2020.*

*Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The Stipulated Order was tendered into evidence and accepted by Special Magistrate Fuller with no objections. Costs in the amount of \$14.60 were awarded to the City.*

**9. CEB Case No.: 19-1770**

**Respondent:** Mildred E. Davison Life Estate

**Address of Violation:** 5828 Spruce Creek Woods Drive, Port Orange, FL 32127

**Code Officer:** Scott Allman

**First Notified:** 12/3/2019

Compliance: No

**Cited for violation(s)** - 2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 301 (General), 301.3 (Vacant structures and land) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

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.

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: 304.15 Doors.

*Mr. Allman 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 January 30, 2020 by repairing or replacing all broken windows, securing all windows and doors and maintaining all doors in good condition.*

*Mr. Allman recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before February 24, 2020 by replacing or repairing all broken windows and doors and securing the home to include all door and windows. 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. Mr. Allman 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 February 24, 2020 to replace or repair all broken windows and doors and securing the home to include all door and windows 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.*

Citizens expressed concern regarding the property and asked what can be done for long term solutions. Staff stepped out of the hearing to provide citizens information as to the potential options.

10.     **CEB Case No.:** 20-0090  
          **Respondent:** Port Orange Retail I, LLC  
                                William Battillo, RA  
          **Address of Violation:** Big Lots Port Orange, 3818 Nova Rd., Port Orange, FL 32127  
          **Code Officer:** Scott Allman  
          **First Notified:** 1/19/2020

Compliance: No

**Cited for violation(s)** - City of Port Orange Land Development Code, Chapter 15, Sec 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintained or cause to be maintained any sign described as follows (18) - Off-site advertising.

City of Port Orange Land Development Code, Chapter 15, Sec 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintained or cause to be maintained any sign described as follows (24) - Signs on public property.

*Mr. Allman requested a continuation of the case to the February 26, 2020 Hearing. Special Magistrate Fuller granted the continuation request.*

**C. ORDER IMPOSING FINE/LIEN**

11. **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: Yes

**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.

*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.*

12. **CEB Case No.:** 18-1487

**Respondent:** Lonnie L. Freeman

**Address of Violation:** 5804 Riverside Drive, Port Orange FL 32127

**Code Officer:** Dena Joseph

**First Notified:** 9/11/2018

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), (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.

2018 International Property Maintenance Code, Chapter 3 (General Requirements), Section 304 (Exterior Structure), as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: 304.7 Roofs and drainage.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (e) Outside Storage, (1) Residential uses, (c)

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 provided an update on the progress to get the roof repaired through Rebuild Florida and requested to dismiss the case as it has finally been approved to begin repairs. Special Magistrate Fuller granted the dismissal request.*

13.     **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: Yes

**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 requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.*

14.     **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 requested an Order Setting Fine/Lien as the property was not in compliance January 15, 2020 as ordered in the previous hearing on January 8, 2020 by the Special Magistrate. She requested a daily fine in the amount of \$200.00 per day as ordered in the Finding of Fact, Conclusion of Law & Order to begin January 16, 2020 and running through and including February 5, 2020 for a total of 21 days. the City retained vendor Yellowstone Landscaping, who abated the violation at the cost of \$110.95. 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 requested an amended Finding of Fact to reflect the previously declared Health and Safety violation, found the property in non-compliance and awarded \$4,310.95 in daily fines and abatement costs and mailing and recording costs to date of \$96.90. A lien is imposed on the property in the amount of \$4,407.85.*

15.     **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 requested an Order Setting Fine/Lien as the property was not in compliance January 15, 2020 as ordered in the previous hearing on January 8, 2020 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. The City retained vendor Yellowstone Landscape, who abated the violation at the cost of \$110.95. 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 \$1,110.95 in fines and mailing and recording costs to date of \$96.90. A lien is imposed on the property in the amount of \$1,207.85.*

**D. ADJOURNMENT** – 10:22am

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Special Magistrate Fuller

Case Cost Sheet Log

Case No. 20-0067

| Name                       | Activity                                                 | Activity_Date | Status | Cost    |
|----------------------------|----------------------------------------------------------|---------------|--------|---------|
| Lee C. & Leslie C. Ronaldo | Hand delivery of Notice of Violation/Notice of Hearing   | 1/21/2020     |        | \$0.00  |
| Clerk of Courts            | Fee to record Finding of Fact, Conclusion of Law & Order | 2/26/2020     |        | \$29.00 |
| Lee C. Ronaldo             | Cost to mail Finding of Fact, Conclusion of Law & Order  | 2/26/2020     |        | \$7.30  |
| Leslie C. Ronaldo          | Cost to mail Finding of Fact, Conclusion of Law & Order  | 2/26/2020     |        | \$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. 20-0067

To: Lee C. & Leslie C. Ronaldo  
3499 Winchester Drive  
Port Orange, FL 32129

Re: 3499 Winchester Drive  
Port Orange, FL 32129

Parcel ID: 6337-32-00-0010

LEGAL DESCRIPTION: LOT 1 MADELINE HEIGHTS PHASE I MB 42 PG 79 PER OR 3418 PG 0906 PER D/C PER OR 5166 PG 1316 PER OR 5426 PG 2391

Volusia County Public Records

Volusia County, FL

An inspection of the premises on January 14, 2020, 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 January 21, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) **must be corrected by January 26, 2020.**

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), (f) Garbage, waste, trash, etc., prohibited, of the City of Port Orange Code of Ordinances:** The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.
  - The initial inspection of this property found trash (old tires) left at the City right of way. To correct the violation, the old tires must be removed from the property by the property owner and disposed of. The City of Port Orange will not remove the tires from the property.
2. **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:** No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.
  - The initial inspection of this property found an air compressor being stored outside on the driveway. To correct the violation, the air compressor must be properly stored inside an enclosed building or removed from 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 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 **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 \$ 0 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**

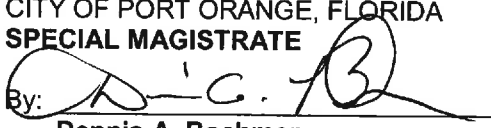
In the event the **Special Magistrate**, during the hearing on **February 26, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2<sup>nd</sup> PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **April 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) 506-5643.

DATED this 21<sup>st</sup> day of JANUARY, 2020

CITY OF PORT ORANGE, FLORIDA  
SPECIAL MAGISTRATE

By:

  
Dennis A. Boehmer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Lee C. & Leslie C. Ronaldo, 3499 Winchester Drive, Port Orange, FL 32129, RE: 3499 Winchester Drive Port Orange, FL 32129, was

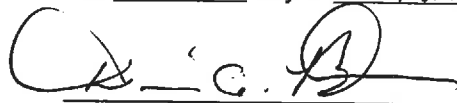
☒ Hand-delivered

☐ Posted at the property

Recipient of hand delivered documents: MR. LEE C. RONALDO

Time: approx. 1138 HOURS

this 21<sup>ST</sup> day of JANUARY, 2020



Dennis A. Boehmer

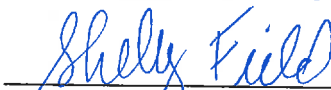
P/O REFUSED TO SIGN, TOOK THIS COPY OF NOTICE OF VIOLATION.

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Lee C. & Leslie C. Ronaldo, 3499 Winchester Drive, Port Orange, FL 32129, RE: 3499 Winchester Drive Port Orange, FL 32129, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 21 day of JANUARY, 2020



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. 20-0034

| Name                             | Activity                                                 | Activity_Date | Status                                                    | Cost    |
|----------------------------------|----------------------------------------------------------|---------------|-----------------------------------------------------------|---------|
| Springwood Square Joint Ventures | Cost to mail Notice of Violation/Notice of Hearing       | 1/14/2020     | Certified mail returned unclaimed marked "no such number" | \$7.30  |
| Clerk of Courts                  | Fee to record Finding of Fact, Conclusion of Law & Order | 2/26/2020     |                                                           | \$29.00 |
| Springwood Square Joint Ventures | Cost to mail Finding of Fact, Conclusion of Law & Order  | 2/26/2020     |                                                           | \$7.30  |

Total: 43.60



**NOTICE OF REPEAT VIOLATION  
AND  
NOTICE OF HEARING**

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**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0034

To: Springwood Square Joint Ventures  
73 W. Granada Blvd.  
Ormond Beach, FL 32174

Re: Springwood Square  
Port Orange, FL 32129  
Parcel ID: 6337-15-00-1090

LEGAL DESCRIPTION: LOTS 109 & 110 COMMON AREAS SPRINGWOOD SQUARE MB 36 PG 178  
Volusia County Public Records  
Volusia County, FL

An inspection of the premises on **January 10, 2020**, 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:

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.
  - 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, weed eating, and blowing of yard debris. Grass clippings are to be blown back onto the property off the street and sidewalk.
2. **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:** The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.
  - The initial inspection of this property found various pieces of garbage, trash, and debris on the property. To correct the violation, clean up and remove all garbage, trash, and debris from 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 December 13, 2017 under Case No.17-1721.

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 **Special Magistrate 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 **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.

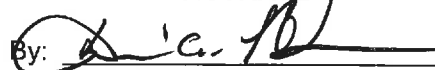
**NOTICE OF HEARING SETTING FINE AND LIEN**

In the event the Special Magistrate, during the hearing on **February 26, 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 April 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- 5643**.

DATED this 14<sup>TH</sup> day of JANUARY, 2020.

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

By:   
Dennis A. Boehmer

☐ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Repeat Violation and Notice of Hearing to: Springwood Square Joint Ventures, 73 W. Granada Blvd., Ormond Beach, FL 32174, RE: Springwood Square Port Orange, FL 32129, was:

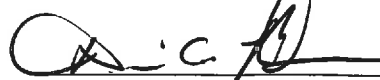
☐ Hand-delivered

Recipient of hand delivered documents: \_\_\_\_\_

☒ Posted at the property

Time: 1015 HOURS

this 14<sup>TH</sup> day of JANUARY, 2020.

  
Dennis A. Boehmer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Repeat Violation and Notice of Hearing to Springwood Square Joint Ventures, 73 W. Granada Blvd., Ormond Beach, FL 32174, RE: Springwood Square Port Orange, FL 32129, was:

☒ Posted at City Hall

☒ Sent via certified and regular

this 14 day of January, 2020.

Shelly Field  
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.

Case Cost Sheet Log

Case No. 20-0090

| Name                                           | Activity                                                 | Activity_Date | Status                                               | Cost    |
|------------------------------------------------|----------------------------------------------------------|---------------|------------------------------------------------------|---------|
| Port Orange Retail I, LLC William Battillo, RA | Cost to mail Notice of Violation/Notice of Hearing       | 1/22/2020     | Certified mail returned signed "W. Battillo 1/25/20" | \$7.90  |
| Clerk of Courts                                | Fee to record Finding of Fact, Conclusion of Law & Order | 2/12/2020     |                                                      | \$29.00 |
| Port Orange Retail I, LLC William Battillo, RA | Cost to mail Finding of Fact, Conclusion of Law & Order  | 2/12/2020     |                                                      | \$7.30  |

Total: 44.20



**NOTICE OF VIOLATION  
AND  
NOTICE OF HEARINGS**

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**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0090

To: Port Orange Retail I, LLC  
1810 Water Place, Suite 220  
Atlanta, GA 30339

William Battillo, Registered Agent  
76 South St. Andrews Drive  
Ormond Beach, FL 32174

Big Lots Port Orange  
3818A Nova Rd.  
Port Orange, FL 32127

Re: Big Lots Port Orange  
3818A Nova Rd.

Port Orange, FL 32127

Parcel ID: 630905-00-0020

LEGAL DESCRIPTION: LOT 2 AND S 30.69 FT MEAS ON W/L AND 97.43 MEAS ON N/L PARCEL A COUNTRYSIDE  
SHOPPING CENTER PLAN MB 38

Volusia County Public Records

Volusia County, FL

An inspection of the City's rights-of-way on **January 19, 2020**, indicates that certain violation(s) of the City of Port Orange Code exists.

The prior property owner and current tenant was notified of the violations noted below on several different occasions in the past.

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

- **City of Port Orange Land Development Code, Chapter 15, Sec. 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained any sign described as follows (18) - Off-site advertising**
- **City of Port Orange Land Development Code, Chapter 15, Sec. 3 (b) Prohibited signs. It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained any sign described as follows (24) – Signs erected on public property**

Inspections have found Big Lots advertising signs placed in the City's rights-of-way, including the medians, of both Dunlawton Avenue and Nova Road. The store and property managers have been informed that this signage is prohibited by code. The practice continues each time the sale is advertised.

The signs have been removed by the City. The City is commencing code enforcement action to establish that a violation has occurred and/or to impose a 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.

**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 February 12, 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.

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 \$ 7.90 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 **February 12, 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 2<sup>nd</sup> PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **March 25, 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 and lien on the above referenced case at said 2<sup>nd</sup> 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 22 day of January, 2020.

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: Port Orange Retail I, LLC, 1810 Water Place, Suite 220, Atlanta, GA 30339; William Battillo, Registered Agent, 76 South St. Andrews Drive, Ormond Beach, FL 32174; Big Lots Port Orange, 3818A Nova Rd., Port Orange, FL 32127, RE: Big Lots Port Orange, 3818A Nova Rd, Port Orange, FL 32127, was

☒ Hand-delivered  
☐ Posted at the property

Recipient of hand delivered documents: MATTHEW BATES (Store Manager)

this 22 day of January, 2020.

Time: approx. 11:45 a.m.

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: Port Orange Retail I, LLC, 1810 Water Place, Suite 220, Atlanta, GA 30339; William Battillo, Registered Agent, 76 South St. Andrews Drive, Ormond Beach, FL 32174; Big Lots Port Orange, 3818A Nova Rd., Port Orange, FL 32127, RE: Big Lots Port Orange, 3818A Nova Rd, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 22 day of January, 2020.

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.

Case Cost Sheet Log

Case No. 19-1666

| Name               | Activity                                                 | Activity_Date | Status | Cost    |
|--------------------|----------------------------------------------------------|---------------|--------|---------|
| Madeline Underwood | Hand delivery of Notice of Violation/Notice of Hearing   | 2/4/2020      |        | \$0.00  |
| Clerk of Courts    | Fee to record Finding of Fact, Conclusion of Law & Order | 2/26/2020     |        | \$29.00 |
| Madeline Underwood | Cost to mail Finding of Fact, Conclusion of Law & Order  | 2/26/2020     |        | \$7.30  |

Total: 36.30



NOTICE OF VIOLATION  
AND  
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA  
SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1666

To: Madeline Underwood  
5617 Finley Drive  
Port Orange, FL 32127

Re: 5617 Finley Drive  
Port Orange, FL 32127

An inspection of the premises on November 22, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Mobile home owner was notified of the violations noted below and given 10 days to correct. Re-inspections were done on December 16, 2019, and January 21, 2020, resulting in non-compliance. This correspondence will serve as official notification that the below stated violation(s) must be corrected by **February 22, 2020**.

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

1. **2018 Florida Building Code, 6<sup>th</sup> 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 the mobile home found a screened in porch on the back side of the home that was erected without a permit. To correct the violation, a permit must be obtained through the City of Port Orange Building Department to include payment of all fees. If a permit is not obtained, the structure must be removed from the property by the deadline indicated in this notice of violation.

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 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 **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 \$ 0 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 **February 26, 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 2<sup>nd</sup> PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **April 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- 5645**.

DATED this 24th day of January, 2020

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 Madeline Underwood, 5617 Finley Drive, Port Orange, FL, 32127, RE: 5617 Finley Drive, Port Orange, FL, 32127, was  
☒ Hand-delivered  
☐ Posted at the property  
Recipient of hand delivered documents: Madeline Underwood

Time: approx. 2:40pm

this 24th day of January, 2020

Dena Joseph  
Dena Joseph, Code Enforcement Officer

mobile  
home  
owner

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Madeline Underwood, 5617 Finley Drive, Port Orange, FL, 32127, RE: 5617 Finley Drive, Port Orange, FL, 32127, was  
☒ Posted at City Hall  
☐ Sent via certified and regular

this 4 day of February, 2020  
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.

Case Cost Sheet Log

Case No. 20-0175

| Name                                        | Activity                                                 | Activity_Date | Status | Cost    |
|---------------------------------------------|----------------------------------------------------------|---------------|--------|---------|
| David W.Alexander TR Alexander Family Trust | Hand delivery of Notice of Violation/Notice of Hearing   | 2/4/2020      |        | \$0.00  |
| Clerk of Courts                             | Fee to record Finding of Fact, Conclusion of Law & Order | 2/26/2020     |        | \$29.00 |
| David W.Alexander TR Alexander Family Trust | Cost to mail Finding of Fact, Conclusion of Law & Order  | 2/26/2020     |        | \$7.30  |

Total: 36.30



**NOTICE OF REPEAT VIOLATION  
AND  
NOTICE OF HEARING**

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**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0175

To: David W. Alexander TR  
Alexander Family Trust  
4520 Halifax Drive  
Port Orange, FL 32127

Re: 5967 Riverside Dr.  
Port Orange, FL 32127  
Parcel ID: 6314-03-01-0070

LEGAL DESCRIPTION: N 30 FT ON E LINE & N 15 FT ON W LINE OF LOT 6 & LOT 7 BLK 1 HARBOR OAKS UNIT 1 MB  
10 PG 145 PER OR 3737 PG 2023 PER OR 6900 PG 3071 PER OR 7310 PG 1326  
Volusia County Public Records  
Volusia County, FL

An inspection of the premises on February 3, 2020, 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:

1. **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:** (a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic device, no person shall: (1) Stop, stand or park a motor vehicle or trailer: (k) On any other portion of the front yard of a residential lot, except on approved driveways. As used in this section, driveways shall be constructed of the following materials: (1) Concrete or paved materials; (2) Nonpaved materials, excluding grass and dirt, provided that loose materials such as gravel, bark or cypress mulch are effectively contained within a border of concrete, railroad ties, or other rigid materials; or (3) Concrete paver strips, paver blocks, or other semi-pervious materials.
  - The initial inspection of this property found a vehicle parked in the front yard of the residence. To correct the violation, the vehicle must be removed from the front yard and properly parked on an approved surface as outlined in the above ordinance.
2. **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:** (1) No disabled or abandoned vehicle shall remain on residentially-zoned or agriculturally-zoned private property unless such vehicle is: (a) Within a completely enclosed garage; or (b) parked in a carport, parking space or city-approved parking area and covered solely with a standard vehicle cover in good repair, so long as any portion of the vehicle which is not covered is not in a state of disrepair. (2) No disabled or abandoned vehicle parked on residentially-zoned or agriculturally-zoned private property shall be covered by material other than a standard vehicle cover in good repair unless such vehicle is parked inside a completely enclosed garage.
  - The initial inspection of this property found a vehicle that appears to be inoperable parked on a driveway. To correct the violation remove it from the property, or cover with an approved car cover.

3. **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:** No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.
- The initial inspection of this property found various items such as, but not limited to, wood, appliances, appliance parts, tools, etc. stored outside. To correct the violation, all outside stored items must be properly stored inside an enclosed building.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on June 12, 2019 under Case No. 19-628.

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 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 **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 \$ 0 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 **February 26, 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 April 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- 5645**.

DATED this 4th day of February, 2020.

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: David W. Alexander TR, Alexander Family Trust, 4520 Halifax Drive, Port Orange, FL, 32127, RE: 5967 Riverside Dr., Port Orange, FL, 32127, was:

- ☒ Hand-delivered  
☐ Posted at the property

Recipient of hand delivered documents: David Alexander-owner

Time: 11:20 AM

this 4th day of February, 2020.

*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: David W. Alexander TR, Alexander Family Trust, 4520 Halifax Drive, Port Orange, FL, 32127, RE: 5967 Riverside Dr., Port Orange, FL, 32127, was:

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

this 10 day of February, 2020.

*Shelly Field*  
**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.

# Case Cost Sheet Log

Case No. 19-1680

| Name                           | Activity                                                       | Activity_Date | Status                            | Cost    |
|--------------------------------|----------------------------------------------------------------|---------------|-----------------------------------|---------|
| Edwina V. Schaffer (deceased)  | Hand delivery of Notice of Violation/ Notice of Hearing to son | 12/3/2019     |                                   | \$0.00  |
| Clerk of Courts                | Fee to record Finding of Fact, Conclusion of Law & Order       | 1/8/2020      |                                   | \$29.00 |
| Edwina V. Schaffer (Deceased)  | Cost to mail Finding of Fact, Conclusion of Law & Order        | 1/8/2020      | Certified mail returned unclaimed | \$7.30  |
| First National Bank of America | Cost to mail Finding of Fact, Conclusion of Law & Order        | 1/8/2020      |                                   | \$7.30  |
| Clerk of Courts                | Fee to record Order Imposing Fine/Lien                         | 2/26/2020     |                                   | \$46.00 |
| Edwina V. Schaffer (deceased)  | Cost to mail Order Imposing Fine/Lien                          | 2/26/2020     |                                   | \$7.30  |

Total: 96.90



**NOTICE OF REPEAT VIOLATION  
AND  
NOTICE OF HEARING**

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CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1680

To: Edwina V. Schaffer (deceased)  
5348 Landis Ave.  
Port Orange, FL 32127

To: First National Bank of America (FNBA)  
P. O. Box 980  
East Lansing, MI 48826-0980

Re: 5348 Landis Ave.  
Port Orange, FL 32127  
Parcel ID: 6310-07-21-0050

LEGAL DESCRIPTION: LOTS 5 & 6 BLK 21 ALLANDALE MB 4 PG 146 PER OR 4150 PG 0888 PER OR 5832 PG 1036  
PER D/C 5995 PG 4713 PER OR 5995 PGS 4718-4719 PER OR 6010 PGS 4351-4352  
Volusia County Public Records  
Volusia County, FL

An inspection of the premises on December 2, 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:

1. **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), (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.
  - 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.
2. **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:** The owner of every lot, piece, and parcel of land located within the city shall keep each such lot, piece, and parcel of land free and clear of garbage, waste, trash, debris and junk.
  - The initial inspection of this property found garbage, trash and debris. To correct this violation, remove any and all garbage, trash and debris from property.

3. **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:** No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.
- The initial inspection of this property found various items stored outside. To correct the violation, all outside stored items (including but not limited to: clothes, bins, tools, wood), must be properly stored inside an enclosed building.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on June 26, 2019 under Case No. 19-732.

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**

*DMS*  
*January 8, 2020*

**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 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 **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 \$            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**

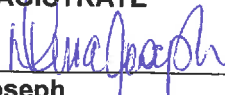
*January 8, 2020 (DMS)*

In the event the **Special Magistrate**, during the hearing on **January 2, 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- 5645**.

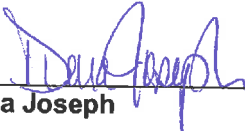
DATED this 3rd day of December, 2019.

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 Repeat Violation and Notice of Hearing to: to Edwina V. Schaffer (deceased), 5348 Landis Ave., Port Orange, FL 32127, First National Bank of America (FNBA), P. O. Box 980, East Lansing, MI 48826-0980, RE: 5348 Landis Ave., Port Orange, FL 32127, was:  
☒ Hand-delivered Recipient of hand delivered documents: Edward Schaffer  
☐ Posted at the property

Time: 2:30 pm this 3rd day of December, 2019.

  
**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: to Edwina V. Schaffer (deceased), 5348 Landis Ave., Port Orange, FL 32127, First National Bank of America (FNBA), P. O. Box 980, East Lansing, MI 48826-0980, RE: 5348 Landis Ave., Port Orange, FL 32127, was:  
☒ Posted at City Hall  
☐ Sent via certified and regular

this 6 day of December, 2019.

  
**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. 19-1680**

CITY OF PORT ORANGE,  
a Florida municipal corporation,

**Petitioner,**

EDWINA V. SCHAFFER (DECEASED)  
5348 LANDIS AVE  
PORT ORANGE, FL 32127  
PARCEL ID : 6310-07-21-0050

Re-recording due to error in date.  
dated as January 8, 2019  
\*correct date is January 8, 2020

**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 January 8, ~~2019~~<sup>2020</sup>, 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, EDWINA V. SCHAFFER, whose mailing address is 5348 LANDIS AVE, PORT ORANGE, FL 32127, is the owner of the property located at 5348 LANDIS AVE, PORT ORANGE, FL 32127, and more particularly described as:

LOTS 5 & 6 BLK 21 ALLANDALE MB 4 PG 146 PER OR 4150 PG 0888 PER OR 5832 PG 1036 PER D/C 5995 PG 4713 PER OR 5995 PGS 4718-4719 PER OR 6010 PGS 4351-4352

**B.** The violation was to be corrected 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. This condition was first observed at the real property described above on December 2, 2019; re-inspection was conducted on December 5, 2019. Respondent received notice via posting at City Hall on December 6, 2019, as well as posted on the property and hand delivered on December 3, 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. 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 and was to be corrected immediately as it is a repeat violation.

C. At the time of the hearing, the violations cited above: ☐ continued to exist, or ☒ remained noncompliant until \_\_\_\_\_ December 4, 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 repeat violation by mowing the area where the items were under the tarp, removing the pile of clothes behind the unit, and removing all outside stored items on the property; 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 daily fine 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. 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.

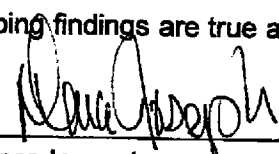
C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) 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 8<sup>th</sup> day of January, ~~2019~~: 2020\*

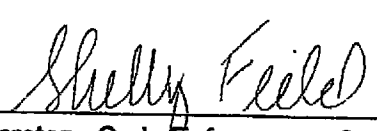
Attest: Shelly Feild  
Secretary, Code Enforcement Special Magistrate

By: [Signature]  
Code Enforcement Special Magistrate

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

  
\_\_\_\_\_  
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), Edwina V. Schaffer, 5348 Landis Ave, Port Orange, FL 32127 by Certified and Regular Mail this 8 day of January, ~~2019~~ 2020\*

  
\_\_\_\_\_  
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 not been redacted pursuant to Florida Law.  
This 8 day of JANUARY, 2020  
By: Shelly Feild



Case Cost Sheet Log

Case No. 18-1449 (continued from 6/12/19)

| Name                                                                                      | Activity                                                 | Activity_Date | Status                                                                                                                                    | Cost    |
|-------------------------------------------------------------------------------------------|----------------------------------------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------|---------|
| MHC Pickwick L.L.C., Owner Attn: David Eldersveld CT Corporation System, Registered Agent | Cost to mail Notice of Violation/Notice of Hearing       | 3/20/2019     | CT Corporation certified mail returned stamped "Received March 25 2019" "MHC Pickwick certified returned signed, illegible dated 3-26-17" | \$14.60 |
| Clerk of Courts                                                                           | Fee to record Finding of Fact, Conclusion of Law & Order | 5/8/2019      |                                                                                                                                           | \$27.00 |
| MHC Pickwick L.L.C., Owner Attn: David Eldersveld CT Corporation System, Registered Agent | Cost to mail Finding of Fact, Conclusion of Law & Order  | 5/8/2019      | CT Corporation certified mail returned stamped "Received May 22 2019" "MHC Pickwick certified returned signed, Richie Cade dated 5-23-19" | \$14.60 |
| Clerk of Courts                                                                           | Fee to record Order Imposing Fine/Lien                   | 6/12/2019     |                                                                                                                                           | \$44.00 |
| MHC Pickwick L.L.C., Owner Attn: David Eldersveld CT Corporation System, Registered Agent | Cost to mail Order Imposing Fine/Lien                    | 6/12/2019     |                                                                                                                                           | \$14.60 |

Total: 114.80



**NOTICE OF VIOLATION  
AND  
NOTICE OF HEARINGS**

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**CITY OF PORT ORANGE, FLORIDA**

**SPECIAL MAGISTRATE**

CITY OF PORT ORANGE,

Petitioner

CASE NO. 18-1449

To: MHC Pickwick L.L.C., Owner  
Attn: David Eldersveld  
Two North Riverside Plaza, Suite 800  
Chicago, IL 60606

To: CT Corporation System, Registered Agent  
1200 South Pine Island Road  
Plantation, FL 33324

Re: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park  
Port Orange, FL 32129  
Parcel ID: 6306-00-00-0110

LEGAL DESCRIPTION: 6 16 33 S 530 FT OF SW 1/4 OF SE 1/4 SW OF CL MORRIS EXC S 330 FT OF W660 FT & INC W 1/2 OF NE 1/4 OF SEC 7 16 33 SW OF CLYDE MORRIS EXC N 3/8 OF W 1/2 & EXC E 30 FT & INC N 1250.34 FT OF S 1650.34 FT OF NW 1/4 E OF C/L OF DRAINAGE DITCH PER OR 4725 PGS 3729-3734 INC PER OR 6887 PG 2758  
Volusia County Public Records  
Volusia County, FL

An inspection of the premises on September 4, 2018, indicates that certain violation(s) of the City of Port Orange Code exists and that one or more of said violations presents a serious threat to the public health, safety and welfare.

Property owner was notified of the violations noted below and given 30 days to correct. A re-inspection was done on October 4, 2018, resulting in non-compliance. The most recent inspection on January 8, 2019, also resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **April 22, 2019**.

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

**City of Port Orange Land Development Code, Chapter 10 (Clearing, Grading, and Storm Water Management), Article II (Storm Water Management), Section 13 (Maintenance):** The installed system(s) required by this article shall be maintained by the owner except where the city specifically accepts a certain system for maintenance. The owner shall provide adequate easements with respect to system(s) to be maintained by the owner to permit the city to inspect and, if necessary, to take corrective action should the owner fail to maintain the system(s). The operation and maintenance entity shall inspect the stormwater or surfacewater management system every two years after construction to verify the system is functioning as designed and permitted. The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name, address, and telephone number of the inspector, whether the system was functioning as designed and permitted and if required, the corrective action taken. These records shall be available for inspection upon request by the city during normal business hours.

(Ord. No. 1995-43, § 51, 12-19-95; Ord. No. 2011-27, § 5, 10-25-11)

The initial inspection of this property found several sections of the drainage system and the road to be collapsing along the drainage lines. There are voids under the roadway from being washed out. The Code Official observed a deep hole that appeared to run in and down into the drainage system. The drainage system has caused damage to the roadway causing it to be unsafe and areas under and around mobile homes to settle causing uneven property. To correct the violation, the area needs to be immediately cautioned off and the drainage system needs to be repaired

or replaced. Once the drainage system has been completed, the road needs to be repaired. Permits will be required for this project.

2. **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.** All privately owned drainage and utility improvements shall be maintained to provide service as originally designed. This includes facilities in public easements which are not owned by the city. Specifically included in required maintenance are the following activities:

(1) Replacement of broken pipes, inlets, curbs and other structures.

(2) Cleaning of blocked and clogged drainage structures.

(3) Excavation and resodding of silted-in retention areas per St. Johns River Water Management District standards.

The initial inspection showed the drainage line area of the road collapsing and the ground underneath washed out creating a void under the roadway. To correct the violation, a contractor needs to obtain a permit and replace the faulty and/or collapsed drainage lines.

3. **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.** 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.

The initial inspection showed the road to be caving in along the drainage line, and the ground underneath the roadway is washing out, creating a large void. To correct the violation, a contractor needs to obtain a permit, and following the repair of the drainage system, repair the ground and roadway.

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 May 8, 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.

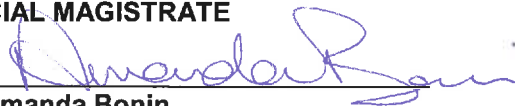
### **NOTICE OF HEARING SETTING FINE AND LIEN**

In the event the **Special Magistrate**, during the hearing on **May 8, 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 **June 12, 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 20<sup>th</sup> day of March 2019.

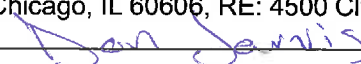
CITY OF PORT ORANGE, FLORIDA  
**SPECIAL MAGISTRATE**

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 MHC Pickwick L.L.C., Owner, Two North Riverside Plaza, Suite 800, Chicago, IL 60606, RE: 4500 Clyde Morris Blvd., was

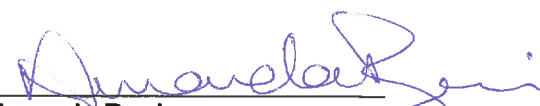
☐ Hand-delivered

Recipient of hand delivered documents: 

☐ Posted at the property

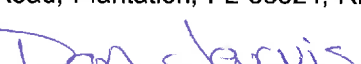
this 20<sup>th</sup> day of March 2019.

Time: approx. 1:50 PM

  
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to CT Corporation System, Registered Agent, 1200 South Pine Island Road, Plantation, FL 33324, RE: 4500 Clyde Morris Blvd., was

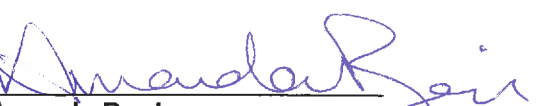
☐ Hand-delivered

Recipient of hand delivered documents: 

☐ Posted at the property

this 20<sup>th</sup> day of March 2019.

Time: approx. 1:50 PM

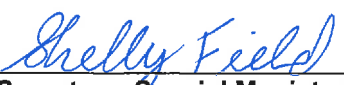
  
**Amanda Bonin**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to MHC Pickwick L.L.C, Owner, C/O CT Corporation System, Registered Agent, 1200 South Pine Island Road, Plantation, FL 33324, RE: 4500 Clyde Morris Blvd., was

☒ Posted at City Hall

☒ Sent via certified and regular

this 20 day of March, 2019.

  
**Secretary, Special Magistrate**

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to MHC Pickwick LLC, Owner, Two North Riverside Plaza, Suite 800, Chicago, IL 60606, RE: 4500 Clyde Morris Blvd., was  
☒ Posted at City Hall  
☒ Sent via certified and regular

this 20 day of March, 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  
SPECIAL MAGISTRATE**

**CASE NO.** 18-1449

**CITY OF PORT ORANGE,**  
a Florida municipal corporation

**Petitioner,**

**v.**

MHC Pickwick L.L.C.

**Respondent.**

*Space Reserved for Recording Data*

**STIPULATED FINDING OF FACT, CONCLUSION OF LAW AND ORDER**

This cause came on for public hearing before the Code Enforcement Special Magistrate of the City of Port Orange, after due notice to the Respondent(s), on the 8<sup>th</sup> day of May, 2019, at which time Staff and the Respondent(s) stipulated to the violation and the fine amount to be imposed and the Magistrate accepted the stipulation, and thereupon issued this written order finding that a violation existed, and imposing a fine.

**FINDINGS OF FACT:**

- A. Respondent, MHC Pickwick L.L.C., whose mailing address is TWO NORTH RIVERSIDE PLAZA, SUITE 800, CHICAGO, IL 60606, is the owner of the property located at 4500 CLYDE MORRIS BLVD. commonly known as Pickwick Village Mobile Home Park, and more particularly described as:  
6 16 33 S 530 FT OF SW 1/4 OF SE 1/4 SW OF CL MORRIS EXC S  
330 FT OF W660 FT & INC W 1/2 OF NE 1/4 OF SEC 7 16 33 SW  
OF CLYDE MORRIS EXC N 3/8 OF W 1/2 & EXC E 30 FT & INC N  
1250.34 FT OF S 1650.34 FT OF NW 1/4 E OF C/L OF DRAINAGE  
DITCH PER OR 4725 PGS 3729-3734 INC PER OR 6887 PG 2758  
Volusia County Public Records.
- B. An inspection of the premises on September 4, 2018, revealed several violations of the City's Code related to the deterioration of the underground stormwater system serving the mobile home park. There is evidence of the surface caving-in where stormwater pipes have eroded and collapsed. These cave-ins have also caused damage to the paved surfaces in some areas.
- C. The Respondent was notified of the violations.
- D. At the time of the hearing, the violations discovered above continue to exist.

**CONCLUSION OF LAW:**

That Respondent has committed the following violations:

1. Violation of Chapter 10, Article II, Section 13 of the City of Port Orange Land Development Code, as it pertains to the maintenance of its stormwater system.
2. Violation of Chapter 14, Article VII, Section 14-318 of the City of Port Orange Code of Ordinances, as it pertains to the required maintenance of its stormwater system.
3. Violation of Chapter 14, Article VII, Section 14-317 of the City of Port Orange Code of Ordinances, as it pertains to the maintenance of road pavement.

Said violations present a serious threat to the public health, safety and welfare.

**ORDER:**

- A. Respondent shall correct the aforesaid violations by completing the following corrective measures within the timeframes provided hereby:
1. Inspection report from a licensed contractor engaged to inspect the Respondent's entire stormwater system shall be submitted to the City of Port Orange on or before June 8, 2019, identifying any and all defects or deficiencies preventing the stormwater system to operate as designed.
  2. Develop and submit a temporary stormwater mitigation plan on or before June 8, 2019, identifying equipment, resources and method of mitigation for flooding that may occur while the stormwater system remains inoperable. Said plan shall remain in place until all defects and deficiencies in the stormwater system have been addressed, and the stormwater system is operating as originally designed and permitted.
  3. Permit application(s) for repairs, replacement, or modification of the Respondent's stormwater system shall be submitted to the appropriate permitting authority on or before July 8, 2019.
  4. All permits required for repairs, replacement, or modification of the Respondent's stormwater system shall be obtained on or before October 8, 2019.
  5. Construction of necessary repairs, replacement, or modification of the Respondent's stormwater system shall be completed by December 31, 2019.

Failure to complete any one of the corrective measures outlined above shall result in a daily fine of \$250.00 to be assessed for each day the corrective measure continues to remain incomplete beyond the specified dates for completion set forth herein. Notwithstanding the foregoing, Respondent may request a modification to this Order due to a delay in the permitting review process not caused by the Respondent. The Respondent shall not be fined or penalized for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the Respondent's reasonable control, that materially and adversely affects the Respondent's ability to perform its obligations hereunder, and that is not the result of the Respondent's willful neglect, error, omission or failure to exercise reasonable due diligence.

- B. 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. The findings in this Order shall be binding upon Respondent and any subsequent purchasers, successors in interest, or assigns. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien.

DONE AND ORDERED this 8<sup>th</sup> day of May 2019.

Attest: Shelly Field  
Secretary, Code Enforcement Special Magistrate

By: [Signature]  
Code Enforcement Special Magistrate

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

[Signature]  
Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), MHC Pickwick L.L.C., TWO NORTH RIVERSIDE PLAZA, SUITE 800, CHICAGO, IL 60606 by Certified and Regular Mail this 16 day of May 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 not been redacted pursuant to Florida Law.  
This 16 day of MAY, 2019.  
By: Shelly Field



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     | Certified mail returned signed "Samuel E." | \$7.30  |
| Clerk of Courts               | Fee to record Order Imposing Fine/Lien                   | 2/26/2020     |                                            | \$46.00 |
| Bank of New York Mellon Trust | Cost to mail Order Imposing Fine/Lien                    | 2/26/2020     |                                            | \$7.30  |

Total: 96.90



**NOTICE OF VIOLATION  
AND  
NOTICE OF HEARINGS**

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**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.

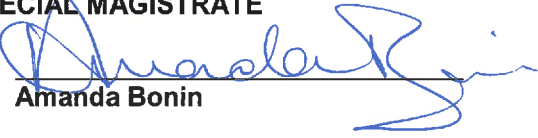
**NOTICE OF HEARING SETTING FINE AND LIEN**

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 2<sup>nd</sup> 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 20<sup>th</sup> 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

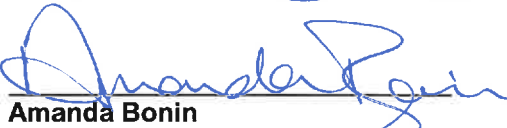
☐ Hand-delivered

Recipient of hand delivered documents: \_\_\_\_\_

☒ Posted at the property

Time: approx. 9:40 A.m.

this 20<sup>th</sup> 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.

**CITY OF PORT ORANGE, FLORIDA  
CODE ENFORCEMENT SPECIAL MAGISTRATE  
CASE NO. 19-1750**

CITY OF PORT ORANGE,  
a Florida municipal corporation,

**Petitioner,**

BANK OF NEW YORK MELLON TRUST  
COMPANY NA TR  
IN CARE OF BANK OF AMERICA  
3809 CHERRY GROVE COURT  
PORT ORANGE, FL 32129  
PARCEL ID : 6306-10-00-0760

**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 January 22, 2020, 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, BANK OF NEW YORK MELLON TRUST, whose mailing address is 7105 CORPORATE DRIVE, PLANO, TX 75024, is the owner of the property located at 3809 CHERRY GROVE COURT, PORT ORANGE, FL 32129, and more particularly described as:

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

**B.** The violation was to be corrected by re-installing or replacing the garage door. This condition was first observed at the real property described above on December 10, 2019; re-inspection was conducted on January 17, 2020. Respondent received notice via posting at City Hall and certified and regular mail on December 20, 2019, as well as posted on the property on December 20, 2019 that the aforesaid conditions constituted a violation of **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 and was to be corrected by January 2, 2020.

C. At the time of the hearing, the violations cited above: ☐ continued to exist, or ☒ remained noncompliant until \_\_\_\_\_ December 4, 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) shall correct the aforesaid violation by re-installing or replacing the garage door on or before January 31, 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 daily 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 \$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 22<sup>nd</sup> day of January, 2020.

Attest: Shelly Field  
Secretary, Code Enforcement Special Magistrate

By: [Signature]  
Code Enforcement Special Magistrate

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

[Signature]  
Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Bank of New York Mellon Trust, 7105 Corporate Drive, Plano, TX 75024 by Certified and Regular Mail this 22 day of January, 2020.

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.  
By: Shelly Field This 22 day of January, 2020



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    | Certified mail returned unclaimed | \$7.30  |
| Clerk of Courts   | Fee to record Order Imposing Fine/Lien                   | 2/26/2020     |                                   | \$46.00 |
| Anthony M. Malena | Cost to mail Order Imposing Fine/Lien                    | 2/26/2020     |                                   | \$7.30  |

Total: 96.90



## NOTICE OF VIOLATION AND NOTICE OF HEARINGS

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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 \$ 7.50 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.

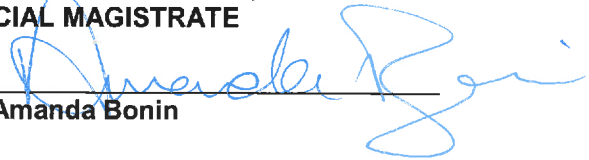
**NOTICE OF HEARING SETTING FINE AND LIEN**

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 2<sup>nd</sup> 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 27<sup>th</sup> 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

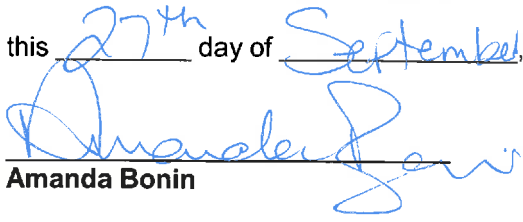
☐ Hand-delivered

Recipient of hand delivered documents: \_\_\_\_\_

☒ Posted at the property

Time: approx. 2:25pm

this 27<sup>th</sup> day of September, 2019.

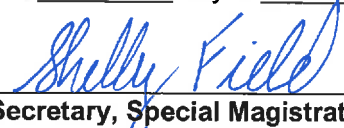
  
Amanda Bonin

☒ 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.

**CITY OF PORT ORANGE, FLORIDA  
CODE ENFORCEMENT SPECIAL MAGISTRATE  
CASE NO. 19-1686**

CITY OF PORT ORANGE,  
a Florida municipal corporation,

**Petitioner,**

ANTHONY M. MALENA  
1394 SURREY PARK DRIVE  
PORT ORANGE, FL 32128  
PARCEL ID : 6319-09-00-0120

**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 January 22, 2020, 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, ANTHONY M. MALENA, whose mailing address is 1394 SURREY PARK DRIVE, PORT ORANGE, FL 32128, is the owner of the property located at 1394 SURREY PARK DRIVE, PORT ORANGE, FL 32128, and more particularly described as:

LOT 12 WINDSOR HILL PHASE I MB 43 PGS 186-187 INC PER OR 4695 PG 4226 PER OR 5373 PG  
2327

**B.** The violation was to be corrected by mowing and trimming all high weeds and grass, repairing replacing or removing the fence, repairing the damaged siding, and cleaning and painting the home. This condition was first observed at the real property described above on October 2, 2018; re-inspection was conducted on December 6, 2019. Respondent received notice via posting at City Hall and certified and regular mail on September 27, 2019, as well as posted on the property on September 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 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 and was to be corrected by October 28, 2019.

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

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

#### **CONCLUSION OF LAW:**

Respondent(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 repairing the siding and painting the house on or before February 23, 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 one-time fine in the amount of \$200.00 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 22<sup>nd</sup> day of January, 2020.

Attest: Shelly Field  
Secretary, Code Enforcement Special Magistrate

By: [Signature]  
Code Enforcement Special Magistrate

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

[Signature]  
Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Anthony M. Malena, 1394 Surrey Park Drive, Port Orange, FL 32128 by Certified and Regular Mail this 22 day of January, 2020.

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 22 day of January, 2020  
By: Shelly Field



# 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    | Certified mail returned signed, illegible | \$7.30  |
| Nilesh Shah           | Cost to mail Finding of Fact, Conclusion of Law & Order  | 11/13/2019    | Certified mail not returned               | \$7.30  |
| Clerk of Courts       | Fee to record Order Imposing Fine/Lien                   | 2/26/2020     |                                           | \$46.00 |
| Port Orange Petro LLC | Cost to mail Order Imposing Fine/Lien                    | 2/26/2020     |                                           | \$7.30  |
| Nilesh Shah           | Cost to mail Order Imposing Fine/Lien                    | 2/26/2020     |                                           | \$7.30  |

Total: 118.80



**NOTICE OF VIOLATION  
AND  
NOTICE OF HEARINGS**

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**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 2<sup>nd</sup> 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 13<sup>th</sup> day of October, 2019.

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

By: Amanda Bonin  
**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

this 13<sup>th</sup> day of October, 2019.

Time: approx. 11:18 A.m.

Amanda Bonin  
**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.

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. 19-943**

CITY OF PORT ORANGE,  
a Florida municipal corporation,

**Petitioner,**

PORT ORANGE PETRO LLC  
6223 S WILLIAMSON BLVD  
PORT ORANGE, FL 32128  
PARCEL ID : 6332-00-00-0011

**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 January 22, 2020, 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, PORT ORANGE PETRO LLC, whose mailing address is 4220 KING STREET, COCOA, FL 32926, is the owner of the property located at 6223 S WILLIAMSON BLVD., PORT ORANGE, FL 32128, and more particularly described as:

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 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

**B.** The violation was to be corrected by pressure washing and painting the building, columns at the gas pumps, the dumpster enclosure and retaining wall, repairing the broken picket to the dumpster enclosure, replacing/installing all dead, dying, and missing plants, trees, and shrubs as required on the landscape plan, re-sealing and re-striping the parking lot (excluding the concrete section(s)), ensuring all parking lot lighting is in proper working order, repairing the irrigation and ensuring 100 percent coverage of all vegetation, pruning all low hanging/protruding trees as to not interfere with vehicular traffic, weeding and mulching all landscape beds and hedgerows, and removing all trash and debris from site. This condition was first observed at the real property described above on June 14, 2019; re-inspection was conducted on November 11, 2019. Respondent received notice via posting at City Hall and certified and regular mail on October 1, 2019, as well as posted on the property on October 1, 2019 that the aforesaid conditions constituted a violation of 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 and was to be corrected by November 1, 2019. This case was last heard on November 13, 2019, and found in violation but given until January 22, 2020, to get the landscaping and parking lot corrections completed. As of January 13, 2020, the landscaping was installed, the well was repaired, the irrigation is properly working, and the landscape beds and hedgerows were mulched. The remaining item is to reseal and restripe the parking lot, and paint the building, retaining wall, and columns. Most recent inspection on January 21, 2020, the retaining wall has been painted, and the parking lot was being re-sealed and restriped. The property manager stated since they have changed gas companies to Mobil, they may have to change the color of the building to white.

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

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

#### **CONCLUSION OF LAW:**

Respondent(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 painting the building and columns on or before February 23, 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 one-time fine in the amount of \$250.00 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 \$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 22<sup>nd</sup> day of January, 2020.

Attest: Shelly Field  
Secretary, Code Enforcement Special Magistrate

By: [Signature]  
Code Enforcement Special Magistrate

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

[Signature]  
Code Compliance Inspector

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Port Orange Petro LLC, 4220 King Street, Cocoa, FL 32926 by Certified and Regular Mail this 22 day of January, 2020.

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 not been redacted pursuant to Florida Law.  
By: Shelly Field This 22 day of January, 2020.

