



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, July 8, 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.:** 20-0678
Respondent: Beverly Cox
Address of Violation: 5127 Isabelle Avenue, Port Orange, FL 32127
Code Officer: Daniel Bungart
First Notified: 4/21/2020

Compliance: Yes

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 9 (Environmental Protection), Article 2 (Tree Preservation) Section 10 (Permit requirements for tree removal ((a).

4. **CEB Case No.:** 20-0241
Respondent: David John Giuliani
Address of Violation: 238 Piedmont Avenue, Port Orange, FL 32129
Code Officer: Dennis Boehmer
First Notified: 2/14/2020

Compliance: Yes

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

5. **CEB Case No.:** 19-1108
Respondent: Herbert Schubert Jr.
Address of Violation: 408 Nancy Circle, Port Orange, FL 32129
Code Officer: Dennis Boehmer

First Notified: 7/26/2019

Compliance: No

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

6. **CEB Case No.:** 19-0625

Respondent: Andres & Maria Masci

Address of Violation: 5440 Ridgewood Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/23/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (c) (Maintenance of commercial and industrial zoned lots) of the City of Port Orange Code of Ordinances.

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 (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 14-318.- Other property improvements; maintenance criteria: (c) Walls and Fences (3) (d) Trash, litter and debris.

City of Port Orange Land Development Code, Chapter 3 (Administration), Article I (Code Administration), Section 4 (Development order), (e) Modification of a development order, (3)

City of Port Orange Land Development Code, Chapter 3 (Administration), Article II (Non-conforming Provisions), Section 8 (Nonconforming Provisions) (c) Nonconforming uses of land and structure (1)

2018 Florida Building Code, 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.

7. **CEB Case No.:** 20-0382

Respondent: Edwina V. Schaffer

Address of Violation: 5348 Landis Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/4/2020

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), (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.

8. **CEB Case No.:** 20-0563

Respondent: Stacey L. Algieri

Address of Violation: 5245 Sydney Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/30/2020

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.

9. **CEB Case No.:** 20-0893

Respondent: Michael F. Lorenzini

Address of Violation: 5424 Christiancy Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 6/2/2020

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.

10. **CEB Case No.:** 20-0734
Respondent: DJN Kalimnios Development Inc.
Address of Violation: 5563 Ridgewood Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 5/1/2020

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), (e) (Maintenance of unimproved residential lots) of the City of Port Orange Code of Ordinances.

11. **CEB Case No.:** 20-0863
Respondent: Marguerite Sanders & Dean Maxwell
Address of Violation: 720 Palm circle Drive, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 5/28/2020

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 42-32 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.

C. ORDER IMPOSING FINE/LIEN

12. **CEB Case No.:** 19-1576
Respondent: Marier Investment, LLC Property Owner
Address of Violation: 4460 Spruce Creek Road, Port Orange, FL 32127
Code Officer: Scott Allman
First Notified: 10/31/2019

Compliance: Yes

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

13. **CEB Case No.:** 20-451

Respondent: Justin Kirby

Address of Violation: 6026 Wesley Park Drive, Port Orange, FL 32128

Code Officer: Amanda Bonin

First Notified: 3/9/2020

Compliance: Yes

Cited for violation(s) - 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.

14. **CEB Case No.:** 20-0037

Respondent: Allan R. Thompson

Address of Violation: 5827 Ridgewood Ave, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 1/13/2020

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), (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.

15. **CEB Case No.:** 20-0295

Respondent: Mark E. & Cecelia K. Davison

Address of Violation: 312 Grant Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 2/25/2020

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.

16. **CEB Case No.:** 20-0294

Respondent: Mark E. Davison

Address of Violation: 310 Grant Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 2/25/2020

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.

17. **CEB Case No.:** 20-0101

Respondent: Scott Theodore Zyrowski

Address of Violation: 191 Gibson Way, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 1/20/2020

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

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

Chapter 3, Section 304 (Exterior Structure) 304.1 (General), 304.15 (Doors), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

18. **CEB Case No.:** 20-0352

Respondent: Richard J. Marion Estate

Address of Violation: 80 Springwood Square, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 3/3/2020

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.

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.

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

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: 304.7 Roofs and drainage.

19. **CEB Case No.:** 20-0301

Respondent: Gil Lichtenstein

Address of Violation: 907 Second Street, Port Orange, FL 32129

Code Officer: Dennis Boehmer

First Notified: 2/25/2020

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 42-32 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.

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

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: 304.7 Roofs and drainage.

D. ADJOURNMENT

NOTICES – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) 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 OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING 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
JUNE 24, 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: Dena Joseph, Code Compliance Inspector
Amanda Bonin, Code Compliance Inspector
Debbie Pearson, Code Enforcement Manager
Shelby Field, Assistant City Clerk

Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller dispensed with an overview of the code enforcement process as there were no members of the public present.

Consideration of Minutes

Special Magistrate Fuller approved the May 27, 2020 meeting minutes as presented.

Oaths

Code Compliance Inspector Amanda Bonin and Deborah Pearson Code Compliance Manager were sworn in by Special Magistrate Fuller.

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 19-0625
Respondent: Andres & Maria Masci
Address of Violation: 5440 Ridgewood Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 4/23/2019

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (c) (Maintenance of commercial and industrial zoned lots) of the City of Port Orange Code of Ordinances.

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 (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 14-318.- Other property improvements; maintenance criteria: (c) Walls and Fences (3) (d) Trash, litter and debris.

City of Port Orange Land Development Code, Chapter 3 (Administration), Article I (Code Administration), Section 4 (Development order), (e) Modification of a development order, (3)

City of Port Orange Land Development Code, Chapter 3 (Administration), Article II (Non-conforming Provisions), Section 8 (Nonconforming Provisions) (c) Nonconforming uses of land and structure (1)

2018 Florida Building Code, 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.

Amanda Bonin, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested a continuation of the case to the July 8, 2020 hearing. Special Magistrate Fuller granted the continuation request.

4. **CEB Case No.:** 19-976

Respondent: Todd A & Tanya N Stiffler

Address of Violation: 1617 Town Park Drive, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 6/28/2019

Compliance: Yes

Cited for violation(s) - City of Port Orange Land Development Code Chapter 10 Clearing Grading and Stormwater Management. Article 1 Clearing and Grading, Section 1 Purpose and Intent.

City of Port Orange Land Development Code Chapter 10 Clearing Grading and Stormwater Management. Article 1 Clearing and Grading, Section 2 Permit Requirements for Change of Grade.

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

5. **CEB Case No.:** 19-977

Respondent: Chelsea E Heck

Address of Violation: 1619 Town Park Drive, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 6/28/2019

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code Chapter 10 Clearing Grading and Stormwater Management. Article 1 Clearing and Grading, Section 1 Purpose and Intent.

City of Port Orange Land Development Code Chapter 10 Clearing Grading and Stormwater Management. Article 1 Clearing and Grading, Section 2 Permit Requirements for Change of Grade.

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 June 14, 2020 by removing a 5'x25' area of lava rocks, soil, and filter fabric in the northwest corner of the property so that 4"-6" of space is visible under the existing fence with the finished groundcover in place.

Valerie Duhl, Community Development Engineer, was sworn in by Special Magistrate Fuller and testified to the pictures being true and accurate depictions of what she saw. She submitted a lot plan of the required drainage easement. The documentation was tendered into evidence and accepted by Special Magistrate Fuller with no objections

Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected on or before July 3, 2020 by removing a 5'x25' area of lava rocks, soil, and filter fabric in the northwest corner of the property so that 4"-6" of space is visible under the existing fence with the finished groundcover in place. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day shall be assessed for each day the violation remains noncompliance. 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 July 3, 2020 to remove a 5'x25' area of lava rocks, soil, and filter fabric in the northwest corner of the property so that 4"-6" of space is visible under the existing fence with the finished groundcover in place or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$36.30 were awarded to the City.

6. **CEB Case No.:** 20-536

Respondent: Dave Robinson Builder & Dev Co

Address of Violation: Clyde Morris Blvd, Port Orange FL 32129 Rights of Way

Code Officer: Amanda Bonin

First Notified: 3/20/2020

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 14-317 - parking, sidewalk and driveway areas (a)

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 immediately, as it is a repeat violation, by repairing the pothole in the roadway immediately.

Ms. Bonin recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by repairing the pothole in the roadway. 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, the city shall have the option to abate the violation. 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 \$58.20 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 is to immediately repair the pothole in the roadway or the city shall have the option to abate the violation. Costs in the amount of \$58.20 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

7. **CEB Case No.:** 18-887 (continued from 8/8/18)
Respondent: Beacon Coast Investments HOA
Address of Violation: 5467 St. Regis Way, Port Orange, FL 32128
Code Officer: Amanda Bonin
First Notified: 3/5/2018

Compliance: No

Cited for violation(s) - City of Port Orange Land Development Code Chapter 10, Clearing, Grading, and Stormwater Management, Article 2 Stormwater Management, Section 13, Maintenance.

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

D. ADJOURNMENT – 9:22am

Special Magistrate Fuller



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0678

To: Beverly Cox
Property Owner
5127 Isabelle Avenue
Port Orange, FL 32127

Re: 5127 Isabelle Avenue
Port Orange, FL 32127
Parcel ID: 6310-07-44-0090

LEGAL DESCRIPTION: LOT 9 BLK 44 ALLANDALE MB 4 PG 146 PER OR 4841 PG 2495 PER OR 5434 PG 2196 PER OR 5467 PG 2253 PER OR 5695 PG 3827 PER OR 7206 PG 2734 PER OR 7552 PGS 4619-4620
Volusia County Public Records
Volusia County, FL

An inspection of the premises on April 21, 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 72 hours to correct. A re-inspection was done on May 6, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **June 29, 2020**.

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

1. **City of Port Orange Land Development Code, Chapter 9 (Environmental Protection), Article 2 (Tree Preservation), Section 10 (Permit requirements for tree removal)(a):** It is hereby unlawful for any person to cut down, move, remove or destroy through damaging or to authorize the same, of any tree or natural vegetation referenced in this article without obtaining a tree removal permit in accordance with the provisions of this article.

- The initial inspection of this property found a tree had been recently cut down in the front yard and a tree removal permit had not been pulled. To correct the violation, a tree removal permit must be applied for, approved, and paid for through the City of Port Orange.

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 July 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 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 **July 8, 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 **August 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 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) 506-5640**.

DATED this 25th day of May, 2020.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: [Signature]
Daniel Bungart, 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 Beverly Cox, Property Owner, 5127 Isabelle Avenue, Port Orange, FL, 32127, RE: 5127 Isabelle Avenue Port Orange, FL 32127, was

☐ Hand-delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 945 am

this 25th day of May, 2020.

[Signature]
Daniel Bungart, 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 Beverly Cox, Property Owner, 5127 Isabelle Avenue, Port Orange, FL, 32127, RE: 5127 Isabelle Avenue Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 28 day of May, 2020

Shelly Fiddle

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. 19-1108

Name	Activity	Activity_Date	Status	Cost
Herbert Schubert Jr.	Hand delivery of Notice of Violation/Notice of Hearing	6/2/2020		\$0.00
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	7/8/2020		\$29.00
Herbert Schubert Jr.	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$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. 19-1108

To: Herbert Schubert, Jr.
Property Owner
408 Nancy Circle
Port Orange, FL 32119

Re: 408 Nancy Circle
Port Orange, FL 32129
Parcel ID: 6303-11-12-0030

LEGAL DESCRIPTION: W 100 FT OF E 340 FT OF LOT 3 EXC PART IN ST ON N/S PER RB 135 PG 252 BLK L WILSONS
PORT ORANGE PER OR 4276 PG 604
Volusia County Public Records
Volusia County, FL

An inspection of the premises on July 26, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and was given many chances to correct them. After several re-inspections, the property is still in non-compliance. The most reinspection on June 1, 2020, also resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by June 11, 2020.

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

1. **Chapter 3 (General Requirements), Section 304 (Exterior Structure), Section 304.7 (Roofs and Drainage), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

- The initial inspection of this property found the roof to have damage with tarps covering it. To correct the violation, the roof must be repaired and all tarps are to be removed from the roof including items securing the tarps to roof.

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 July 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 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.

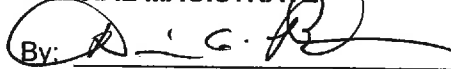
NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **July 8, 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 **August 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 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 2ND day of JUNE, 2020.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: 
Dennis A. Boehmer, 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 Herbert Schubert, Jr., Property Owner, 408 Nancy Circle, Port Orange, FL, 32119, RE: 408 Nancy Circle, Port Orange, FL 32129, was

☒ Hand-delivered
☐ Posted at the property

Recipient of hand delivered documents: x NTH

Time: approx. 0935 hrs

this 2ND day of JUNE, 2020.


Dennis A. Boehmer, 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 Herbert Schubert, Jr., Property Owner, 408 Nancy Circle, Port Orange, FL, 32119, RE: 408 Nancy Circle, Port Orange, FL 32129, was

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

this 2 day of June, 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. 19-0625

Name	Activity	Activity_Date	Status	Cost
Andres & Maria Masci	Hand delivery of Notice of Violation/Notice of Hearing	2/5/2020		\$0.00
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	3/11/2020		\$29.00
Andres Masci	Cost to mail Finding of Fact, Conclusion of Law & Order	3/11/2020		\$7.30
Maria Masci	Cost to mail Finding of Fact, Conclusion of Law & Order	3/11/2020		\$7.30

Total: 43.60



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-0625

To: Andres & Maria Masci
Property Owners
5751 White Acres Lane
Port Orange, FL 32127

Re: 5440 Ridgewood Avenue
Port Orange, FL 32127
Parcel ID: 6314-02-00-0020

LEGAL DESCRIPTION: IRREG PARCEL IN LOTS 2 & 3 & N 25 FT OF LOT 4 HARBORDALE MB 19 PG 24 MEAS 139.78 FT ON W/L RIDGEWOOD AVE & MEAS 300.42 FT S/L PER OR 4421 PG 2116 PER OR 5724 PGS 1232-1233 PER OR 6408 PG 0005 & PER OR 6509 PG 570 PER OR 7345 PG 1521 PER OR 7475 PG 0394
Volusia County Public Records
Volusia County, FL

An inspection of the premises on April 23, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified on May 13, 2019, of the violations noted below and given 30 days to comply. A re-inspection was done on June 17, 2019, resulting in non-compliance. The most recent inspection was completed on February 3, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **March 5, 2020**.

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

Chapter 42, (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (c) Maintenance of commercial and industrial zoned lots, of the City of Port Orange Code of Ordinances: The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.

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

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.

Initial inspection of the property found the landscaping and grass areas in need of replacing and maintenance. The grass is overgrown, there are dead trees, plants and shrubs on site (the site has had no maintenance since the landscaping was originally installed). To correct the violation, all plantings, to include plants, shrubs, and trees, are required to be installed as per the attached landscape plan. See Section 14-315 – Replacement Criteria. In addition, all landscaped areas must be weeded and mulched so as to provide solid coverage and reasonable weed control as stated above. 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 14-318: - Other property improvements; maintenance criteria:

- (c) Walls and fences.** All walls and fences shall be maintained in accordance with the zoning chapter of the land development code and the following standards:
(3) Fences and walls shall be maintained in their original upright position, with all gates in good operating condition.

- (d) **Trash, litter and debris.** All sites shall be maintained so as to be free of trash and litter of any type, except in an approved dumpster or can. Paved areas shall be kept free of built-up silt and dirt.

Initial inspection of the property found trash and debris all over the property. There is an area of fencing that has bowed out (on the Dollar General side parking lot area). To correct the violations, all trash and debris must be removed from the property and the area of fencing must be repaired to its original upright position.

City of Port Orange Land Development Code, Chapter 3 (Administration), Article I (Code Administration), Section 4 (Development order), (e), (3)

A development order shall be issued by the department only after the approval of development plans as required by this code. A development order allows for the issuance of site construction permits for the initiation of development activities, including land clearing, site preparation, utility construction, road construction, and building construction. Issuance of a development permit by the city does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the city for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law

(e) Modification of a development order

(3) When in the opinion of the administrative official, the proposed modifications represent a major and fundamental change in the overall impact and intent of the original development order, a new application for development plan review may be required, including the appropriate fees, as adopted by resolution of the city council.

The Site Plan Development Order issued in October 2018 for 5440 Ridgewood Avenue was originally approved for an equipment rental yard. Based on the activity that has been witnessed at this location, it is being used as an extension for the adjacent contractor yard and storage site located at 5460 Ridgewood Avenue. According to the above referenced code, if the use on a site is not what the site plan was approved for and represents a major and fundamental change in the overall impact and intent of the original Development Order, a new application for a development plan review may be required. The site plan for 5440 Ridgewood Avenue was not reviewed as a contractor yard and storage use, it was reviewed and approved as an equipment rental facility based on information provided by the applicant during the site plan review process. The use of the site was described during the review of the site plan as an equipment rental facility where equipment could be rented during business hours which were indicated as "daylight" hours and access to the site would be through the cross-access easement on the Dollar General site. Based on recent noise and light inspections, barricade of the approved access point, removal of the fence section between 5460 Ridgewood Avenue and 5440 Ridgewood Avenue, the site is being used at night and not in accordance with the approved site plan.

City of Port Orange Land Development Code, Chapter 3 (Administration), Article II (Non-conforming Provisions), Section 8 (Nonconforming Provisions)

- (c) **Nonconforming uses of land and structure.** A nonconforming use of land or structure existing prior to the adoption of this code shall continue to have such nonconforming status and shall be subject to the applicable provisions of this code including the following which shall apply so long as the use of land or structure remains otherwise lawful.

(1) No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land or structure than was occupied as of April 25, 1985, or the date upon which the use was made nonconforming, whichever is later.

Initial inspection of the property found that the original construction yard located at 5460 Ridgewood Avenue has been extended onto the 5440 Ridgewood Avenue site that was developed as an equipment rental yard. To correct the violations and bring the property into compliance with the above code, you must repair the 8'-tall opaque privacy fence along the property line separating the Masci site (5460 Ridgewood Ave.) and the Feria Rental Yard site (5440 Ridgewood Ave.) Segments of the required fence have been removed and allow access between the Masci site and the Feria Rental Yard site. Reinstall the 8'-tall PVC fence along the property line as required per the Masci Contractor Yard - 5460 Ridgewood Ave. site plan. This was also discussed during the review of the site plan for the Feria Rental Yard site; the approved site plan for the Feria Rental Yard site indicates the fence being re-installed. A building permit will be required to re-install the missing

fence panel segments. According to the Land Development Code (LDC), Chapter 3, Article II, Section 8(c)(2), no such non-conforming use (Masci Contractor Yard - 5460 Ridgewood Ave.) shall be enlarged or increased nor extended to occupy a greater area of land or structure than was occupied as of April 25, 1985, or the date upon which the use was made non-conforming, whichever is later. The removal of multiple segments of the fence and combined use of these two sites is expansion of a nonconforming site (Masci Contractor Yard - 5460 Ridgewood Ave.). This was discussed during the site plan review for the Feria Rental Yard (5440 Ridgewood Ave.) site plan and acknowledged by the applicant.

2018 Florida Building Code, 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.

A building permit was not obtained to re-locate the parking lot light pole that was located in the center of the site to the rear of the Feria Rental Yard site (see survey below – pre-development). According to the survey submitted with the Feria Rental Yard site plan, a light pole was located in the center of the site; however, now the light pole is not located in the center of the site, but a light pole is located at the rear of the site (see as-built – Fall 2018). According to a building permit pulled, only a permit to install light fixtures was approved. Therefore, the install of the light pole at the rear of the site was done without a building permit. Submit an after the fact building permit for the light pole that was installed at the rear of the site.

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 March 11th, 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 **March 11th, 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 22nd, 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 5th day of February, 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 Andres & Maria Masci, Property Owners, 5751 White Acres Lane, Port Orange, FL 32127

RE: 5440 Ridgewood Avenue, Port Orange, FL 32127, was

☒ Hand-delivered

Recipient of hand delivered documents:

☐ Posted at the property

Tatiana Masci - Secretary

this 5th day of February, 2020.

Time: approx. 11:40 am

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 Andres & Maria Masci, Property Owners, 5751 White Acres Lane, Port Orange, FL 32127

RE: 5440 Ridgewood Avenue, 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

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. 20-0382

Name	Activity	Activity_Date	Status	Cost
Edwina V. Schaffer	Hand delivery of Notice of Violation/Notice of Hearing	6/3/2020	Hand delivered to son Edward Schaffer	\$0.00
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	7/8/2020		\$29.00
Edwina V. Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020	n/a	\$7.30
First National bank of America	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$7.30
Rose Acceptance Inc.	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$7.30

Total: 50.90



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

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0382

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

Rose Acceptance Inc.
241 East Saginaw
East Lansing, MI 48823

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 March 4, 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), (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 on site. To correct this violation, remove any and all garbage, trash and debris from 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 various items stored outside. To correct the violation, all outside stored items (including but not limited to wheelchair, furniture, household items, tools, bins, etc.), 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. 19-0732.

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 July 8th, 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 \$00.00 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 **July 8th, 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 August 12th, 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 June, 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 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, Rose Acceptance Inc., 241 East Saginaw, East Lansing, MI 48823
RE: 5348 Landis Ave., Port Orange, FL 32127, was:

- ☒ Hand-delivered
☐ Posted at the property

Recipient of hand delivered documents: Edward Schaffer - son of owner

Time: 1:00 PM

this 3rd day of June, 2020.

Dena Joseph
Dena Joseph, Code Enforcement Officer

☒ 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, Rose Acceptance Inc., 241 East Saginaw, East Lansing, MI 48823
RE: 5348 Landis Ave., Port Orange, FL 32127, was:

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

this 4 day of June, 2020

Stuffy 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. 20-0563

Name	Activity	Activity_Date	Status	Cost
Stacey L. Algieri	Cost to mail Notice of Violation/Notice of Hearing	6/4/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	7/8/2020		\$29.00
Stacey L. Algieri	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$7.30

Total: 43.60



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

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0563

To: Stacey L. Algieri
5245 Sydney Street
Port Orange, FL 32127

Re: 5245 Sydney Street
Port Orange, FL 32127
Parcel ID: 6315-07-22-0030

LEGAL DESCRIPTION: LOT 3 BLK 22 COMMONWEALTH MOBILE ESTATES 2ND ADD MB 31 PGS 104 THRU 106 PER
OR 4621 PG 3468

Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 30, 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 repeat 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.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on January 13, 2016 under Case No. 15-1780.

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 June 24, 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 June 24, 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 August 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 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 June, 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 Repeat Violation and Notice of Hearing to: Stacey L. Algieri, 5245 Sydney Street, Port Orange, FL, 32127,
RE: 5245 Sydney Street, Port Orange, FL, 32127, was:

☐ Hand-delivered
☒ Posted at the property

Recipient of hand delivered documents: _____

Time: 1:55 PM

this 3rd day of June, 2020.

Dena Joseph
Dena Joseph, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Repeat Violation and Notice of Hearing to: Stacey L. Algieri, 5245 Sydney Street, Port Orange, FL, 32127,
RE: 5245 Sydney Street, Port Orange, FL, 32127, was:

☒ Posted at City Hall

☒ Sent via certified and regular

this 4 day of June, 2020.

Shelly Fied
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. 20-0893

Name	Activity	Activity_Date	Status	Cost
Michael F. Lorenzini	Cost to mail Notice of Violation/Notice of Hearing	6/4/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	7/8/2020		\$29.00
Michael F. Lorenzini	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$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. 20-0893

To: Michael F. Lorenzini
Property Owner
5424 Christianity Avenue
Port Orange, FL 32127

Re: 5424 Christianity Avenue
Port Orange, FL 32127

Parcel ID: 6310-07-36-0100

LEGAL DESCRIPTION: LOT 9 EXC N 16 FT & LOT 10 BLK 36 ALLANDALE MB 4 PG 146 PER OR 3820 PG 1335 PER OR 5888 PG 3671

Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 2, 2020, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **June 22, 2020**.

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

Chapter 42, (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances: The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. **(h)** Abutting property owner maintenance of parkages. It shall be the duty of every owner of real property within the city to at all times cause to be cut and mowed the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in **subsection (d)** of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in **subsection (e)** of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.

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

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

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

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate July 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 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 **July 8, 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 **August 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 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 June, 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 Michael F. Lorenzini, Property Owner, 5424 Christianity Avenue, Port Orange, FL, 32127, RE: 5424 Christianity Avenue, Port Orange, FL, 32127, was

☐ Hand-delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 1:25 PM

this 3rd day of June, 2020.

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 Michael F. Lorenzini, Property Owner, 5424 Christianity Avenue, Port Orange, FL, 32127, RE: 5424 Christianity Avenue, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 4 day of June, 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.



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

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0734

To: DJN Kalimnios Development Inc., Property Owner
C/O Steven J. Garthe, Registered Agent
523 N. Halifax Avenue
Daytona Beach, FL 32118

Re: 5563 Ridgewood Avenue
Port Orange, FL 32127
Parcel ID: 6314-01-14-0010

LEGAL DESCRIPTION: 14 16 33 LOTS 1 2 3 30 31 & 32 BLK 14 HARBOR POINT MB 11 PG 91 PER OR 1898 PG 0999
PER OR 5546 PG 2398 PER OR 6435 PGS 3423-3424 PER OR 7193 PG 0490

Volusia County Public Records
Volusia County, FL

An inspection of the premises on May 1, 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), (e) Maintenance of unimproved residential lots, of the City of Port Orange Code of Ordinances:** The owner of an unimproved lot in a residential zone with lot sizes of one acre or less shall keep that portion of his property abutting and within ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area.
 - The initial inspection of this property found a vacant overgrown lot, which is encroaching onto the neighboring properties. To correct the violation, a 10-foot buffer must be mowed around the entire perimeter of the lot.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on March 13, 2019 under Case No. 18-1722.

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 July 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 \$ 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 **July 8, 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 August 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 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 5th day of June, 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 Repeat Violation and Notice of Hearing to: DJN Kalimnios Development Inc., Property Owner, C/O Steven J. Garthe, Registered Agent, 523 N. Halifax Avenue, Daytona Beach, FL 32118, RE: 5563 Ridgewood Avenue, Port Orange, FL, 32127, was:

☐ Hand- delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

Time: 10:50 AM

this 5th day of June, 2020

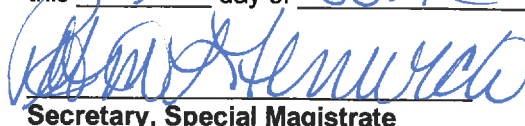
Dena Joseph
Dena Joseph, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Repeat Violation and Notice of Hearing to: DJN Kalimnios Development Inc., Property Owner, C/O Steven J. Garthe, Registered Agent, 523 N. Halifax Avenue, Daytona Beach, FL 32118, RE: 5563 Ridgewood Avenue, Port Orange, FL, 32127, was:

☒ Posted at City Hall

☒ Sent via certified and regular

this 5 day of June, 2020.



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. 20-0863

Name	Activity	Activity_Date	Status	Cost
Marguerite Sanders	Cost to mail Notice of Violation/Notice of Hearing	6/5/2020	Certified mail not yet returned	\$7.30
Dean Maxwell	Cost to mail Notice of Violation/Notice of Hearing	6/5/2020	Certified mail not yet returned	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	7/8/2020		\$29.00
Marguerite Sanders	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$7.30
Dean Maxwell	Cost to mail Finding of Fact, Conclusion of Law & Order	7/8/2020		\$7.30

Total: 58.20



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0863

To: Marguerite Sanders
Dean I. Maxwell
Property Owners
720 Palm Circle Drive
Port Orange, FL 32127

Re: 720 Palm Circle Drive
Port Orange, FL 32127
Parcel ID: 634004000030

LEGAL DESCRIPTION: LOT 3 & LOT 4 EXC W PARCEL PER OR 1823 PG 2000 BAYWOOD REPLAT NO 2 MB 19 PG 203
PER OR 5257 PG 2897 PER OR 5740 PGS 0449-0450 PER OR 5853 PGS 4927-4928 PER OR 7233 PG 2916 PER OR
7650 PG 3595

Volusia County Public Records
Volusia County, FL

An inspection of the premises on May 28, 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 7 days to correct. A re-inspection was done on June 4, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by June 15, 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), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances:** The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. **(h) Abutting property owner maintenance of parkages.** It shall be the duty of every owner of real property within the city to at all times cause to be cut and mowed the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in **subsection (d)** of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in **subsection (e)** of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.
 - The initial inspection of this property found high weeds and grass. To correct the violation, the property must be mowed in its entirety to include weed eating the right of way area and by the mailbox, around the structure, fences, etc. and removing all weeds and undergrowth from inside the pool enclosure area.

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 various items (bicycle, canopy structure, door, wheelbarrow, etc.) stored outside. To correct the violation, all outside stored items must be properly stored inside an enclosed building or removed from the property.
3. **Chapter 3, Section 303 (Swimming Pools, Spas and Hot Tubs), 303.1 (Swimming pools), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
 - The initial inspection of this property found an uncovered, unsanitary pool, which is a health hazard. To correct the violation, the pool must be sanitized, drained, and completely covered with an approved safety pool cover.

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 July 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 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 **July 8, 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 **August 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 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 5th day of June, 2020 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 Marguerite Sanders, Dean I. Maxwell, Property Owners, 720 Palm Circle Drive, Port Orange, FL, 32127, RE: 720 Palm Circle Drive, Port Orange, FL, 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 5th day of June, 2020 2020

Time: approx. 10:35 AM

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 Marguerite Sanders, Dean I. Maxwell, Property Owners, 720 Palm Circle Drive, Port Orange, FL, 32127, RE: 720 Palm Circle Drive, Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 5 day of JUNE, 2020 2020

[Signature]

Secretary, Special Magistrate

RIGHT TO APPEAL

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

ACCOMMODATIONS

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



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 19-1576

To: Marier Investment, LLC, Property Owner
C/O: Javier Guzman, Registered Agent
2950 NE 188th Street, Apt. 134
Aventura, FL 33180

Re: 4460 Spruce Creek Rd.
Port Orange, FL 32127
Parcel ID: 6309-02-00-0071

LEGAL DESCRIPTION: N 106.36 FT OF S 165 FT OF E 200 FT OF LOT 7 UNIT 5 & N 108.34 FT ON E/L OF S 165 FT OF LOT 8 UNIT 4 ALLANDALE GARDENS MB 9 PGS 193-194 INC PER OR 2092 PG 0306 PER UNREC D/C PER OR 6463 PG 4905 PER OR 7667 PG 2257 PER OR 7766 PG 1020
Volusia County Public Records
Volusia County, FL

An inspection of the premises on October 31, 2019, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 10 days to correct. A re-inspection was completed on March 11, 2020, resulting in non-compliance. This correspondence will serve as official notification that the below stated violation(s) **must be corrected by April 16, 2020.**

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

- 2017 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit:**
Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.
 - The initial inspection of this property found work being done without a permit (new roof and trusses, and new block and structural components being installed). To correct the violations, a permit must be obtained for the new roof and trusses installed on the home. A permit must be obtained for all block walls and structural components 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 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 April 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 **April 22, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **May 27, 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 12 day of MARCH, 2020.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

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

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Marier Investment, LLC, Property Owner, C/O: Javier Guzman, Registered Agent, 2950 NE 188th Street, Apt. 134, Aventura, FL, 33180, RE: 4460 Spruce Creek Rd., Port Orange, FL, 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 11:05 Am

this 12 day of MARCH, 2020.

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

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Marier Investment, LLC, Property Owner, C/O: Javier Guzman, Registered Agent, 2950 NE 188th Street, Apt. 134, Aventura, FL, 33180, RE: 4460 Spruce Creek Rd., Port Orange, FL, 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 12 day of March, 2020.

Shelly Fiebel

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. 19-1576**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

MARIER INVESTMENT, LLC PROPERTY OWNER
C/O JAVIER GUZMAN, REGISTERED AGENT
4460 SPRUCE CREEK ROAD
PORT ORANGE, FL 32127
PARCEL ID : 6309-02-00-0071

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 May 27, 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, MARIER INVESTMENT LLC, C/O JAVIER GUZMAN, RA, whose mailing address is 2950 NE 188TH STREET APT. 134, AVENTURA, FL 33180, is the owner of the property located at 4460 SPRUCE CREEK ROAD, PORT ORANGE, FL 32127, and more particularly described as:

N 106.36 FT OF S 165 FT OF E 200 FT OF LOT 7 UNIT 5 & N 108.34 FT ON E/L OF S 165 FT OF LOT 8 UNIT 4 ALLANDALE GARDENS MB 9 PGS 193-194 INC PER OR 2092 OG 0306 PER UNREC D/C PER OR 6463 PG 4905 PER OR 7667 PG 2257 PER OR 7766 PG 1020

B. The violation was to be corrected by obtaining a building permit for the roof and trusses that have been installed and for the new block walls and all structural components. This condition was first observed at the real property described above on October 31, 2019; re-inspections were conducted on April 21, 2020 and May 18, 2020. Respondent received notice via posting at City Hall and certified and regular mail on March 12, 2020, as well as posted on the property on March 12, 2020, that the aforesaid conditions constituted a violation of 2017 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit and was to be corrected by April 16, 2020.

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 applying for a building permit for the roof and trusses that have been installed and for the new block walls and all structural components on or before June 10, 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 \$100.00 per day shall be assessed for each day the property is in violation beyond the compliance date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$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 27TH day of May, 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), Marier Investment LLC, C/O Javier Guzman, 2950 NE 188th Street, Apt. 134, Aventura, FL 33180 by Certified and Regular Mail this 27 day of May, 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/have not been redacted pursuant to Florida Law.
This 27 day of May, 2020
By: Shelly Field





**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-451

To: Justin Kirby
6026 Wesley Park Drive
Port Orange, FL 32128

Re: 6026 Wesley Park Drive
Port Orange, FL 32128
Parcel ID: 6329-05-00-0150

LEGAL DESCRIPTION: LOT 15 PINNACLE PHASE I MB 51 PGS 40-44 INC PER OR 5383 PGS 0366-0367 INC PER OR 5803 PG 0293
Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 9, 2020, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below stated violation(s) must be corrected immediately.

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

1. **City of Port Orange Code of Ordinances Chapter 70 Traffic, Article II Stopping, Standing, and Parking, Section 70-49 Restrictions on disabled or abandoned vehicles. (c) Restrictions. (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.
 - The initial inspection of this property found an uncovered vehicle without a current tag. To correct the violation, all vehicles, at all times must have and maintain a current registered tag or be covered with an approved car cover.

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 13, 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.

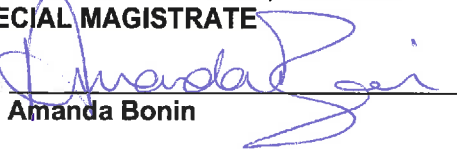
NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **May 13, 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 **June 24, 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 11th day of March 2020.

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 Justin Kirby 6026 Wesley Park Drive Port Orange, FL 32128, RE: 6026 Wesley Park Drive Port Orange, FL 32128, was

☒ Hand-delivered

Recipient of hand delivered documents: Jenn Kirby

☐ Posted at the property

Time: approx. 3:01 p.m.

this 11th day of March 2020.


Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Justin Kirby 6026 Wesley Park Drive Port Orange, FL 32128, RE: 6026 Wesley Park Drive Port Orange, FL 32128, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 27 day of ~~March~~ ^{April} 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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-451**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

JUSTIN KIRBY
6026 WESLEY PARK DRIVE
PORT ORANGE, FL 32128
PARCEL ID : 6329-05-00-0150

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 May 27, 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, JUSTIN KIRBY, whose mailing address is 6026 WESLEY PARK DRIVE, PORT ORANGE, FL 32128, is the owner of the property located at 6026 WESLEY PARK DRIVE, PORT ORANGE, FL 32128, and more particularly described as:

LOT 15 PINNACLE PHASE I MB 51 PGS 40-44 INC PER OR 5383 PGS 0366-0367 INC PER OR 5803
PG 0293

B. The violation was to be corrected by maintaining all vehicles at all times with either a current tag or covered with an approved car cover. This condition was first observed at the real property described above on March 9, 2020; re-inspection was conducted on March 17, 2020. Respondent received notice via posting at City Hall on April 27, 2020, as well as posted on the property and hand delivered on March 11, 2020 that the aforesaid conditions constituted a violation of City of Port Orange Code of Ordinances Chapter 70 Traffic, Article II Stopping, Standing, and Parking, Section 70-49 Restrictions on disabled or abandoned vehicles. (c) Restrictions. (1) (a) (b) 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 ____ March 17, 2020 ____ [Date].

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

CONCLUSION OF LAW:

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

ORDER:

A. Respondent(s) has corrected the aforesaid violation by maintaining all vehicles at all times with either a current tag or covered with an approved car cover; 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. 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 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 27th day of May, 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), Justin Kirby, 6026 Wesley Park Drive, Port Orange, FL 32128 by Certified and Regular Mail this 27 day of May, 2020.

Shelly Feild

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 27 day of May, 2020
By: Shelly Feild



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

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0037

To: Allan R. Thompson
5827 S. Ridgewood Avenue
Port Orange, FL 32127

Re: 5827 Ridgewood Avenue
Port Orange, FL 32127

Parcel ID: 6314-03-13-0160

LEGAL DESCRIPTION: LOTS 16 17 & 18 EXC RD RWY BLK 13 HARBOR OAKS UNIT 1 PER OR 3792 PG 4516

Volusia County Public Records

Volusia County, FL

An inspection of the premises on May 15, 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. Parkages abutting improved residential or commercial lots shall be maintained as provided in **subsection (d)** of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in **subsection (e)** of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.
 - The initial inspection of this property revealed that the property in the back of the home and behind the garage structure is severely overgrown to include the bushes and the weeds. To correct the violation, these areas need to be cleaned up in their entirety to include weed eating all high weeds and cutting back all overgrowth off the structures and the back fence area.
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 revealed trash and debris on site to include items that are hidden in the overgrowth at the back of the property and behind home. To correct the violation, all trash and debris must be removed from the 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 revealed a large amount of outside storage on the entire property to include everything behind the home and the garage structure at the back of the property. To correct the violation, ALL outside stored items on the property must be placed in 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 February 13, 2019 under Case No. 18-1668.

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 May 27, 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 \$ 10 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 **May 27, 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 June 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 15th day of May, 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: Allan R. Thompson, 5827 S. Ridgewood Avenue, Port Orange, FL, 32127, RE: 5827 Ridgewood Avenue, Port Orange, FL, 32127, was:

☒ Hand-delivered

☐ Posted at the property

Recipient of hand delivered documents: Al Thompson - Owner

Time: 3:05 pm

this 15th day of May, 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: Allan R. Thompson, 5827 S. Ridgewood Avenue, Port Orange, FL, 32127, RE: 5827 Ridgewood Avenue, Port Orange, FL, 32127, was:

☒ Posted at City Hall

☐ Sent via certified and regular

this 26 day of May, 2020

Gregory J. Semur
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. 20-0037**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

ALLAN R. THOMPSON
5827 RIDGEWOOD AVENUE
PORT ORANGE, FL 32127
PARCEL ID : 6314-03-13-0160

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 May 27, 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, ALLAN R. THOMPSON, whose mailing address is 5827 S. RIDGEWOOD AVENUE, PORT ORANGE, FL 32127, is the owner of the property located at 5827 RIDGEWOOD AVENUE, PORT ORANGE, FL 32127, and more particularly described as:

LOTS 16 17 & 18 EXC RD RWY BLK 13 HARBOR OAKS UNIT 1 PER OR 3792 PG 4516

B. The violation was to be corrected by mowing the entire back side of the property, weed eating said area, cutting back all overgrowth off the structures and the back fence, removing all trash and debris on site, and properly storing all outside items on the property in an enclosed building. This condition was first observed at the real property described above on January 13, 2020; re-inspection was conducted on May 15, 2020. Respondent received notice via posting at City Hall on May 26, 2020, as well as posted on the property and hand delivered on May 15, 2020 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 _____ [Date].

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

CONCLUSION OF LAW:

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

ORDER:

A. Respondent(s) shall correct the aforesaid violation by mowing the entire back side of the property, weed eating said area, and cutting back all overgrowth off the structures and the back fence, removing all trash and debris on site, and properly storing all outside items on the property in an enclosed building on or before June 10, 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 \$100.00 per day shall be imposed for each day the property remains in noncompliance. 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 \$36.30 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

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

DONE AND ORDERED this 27th day of May, 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), Allan R. Thompson, 5827 Ridgewood Avenue, Port Orange, FL 32127 by Certified and Regular Mail this 27 day of May, 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 27 day of May, 2020
By: Shelly Field



Case Cost Sheet Log

Case No. 20-0295

Name	Activity	Activity_Date	Status	Cost
Mark E. Davison	Cost to mail Notice of Violation/Notice of Hearing	3/2/2020	Certified mail returned unclaimed	\$7.30
Cecelia K. Davison	Cost to mail Notice of Violation/Notice of Hearing	3/2/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	4/8/2020		\$29.00
Mark E. Davison	Cost to mail Finding of Fact, Conclusion of Law & Order	4/8/2020	Certified mail returned unclaimed	\$7.30
Cecelia K. Davison	Cost to mail Finding of Fact, Conclusion of Law & Order	4/8/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Order Imposing Fine/Lien	7/8/2020		\$46.00
Mark E. Davison	Cost to mail Order Imposing Fine/Lien	7/8/2020		\$7.30
Cecelia K. Davison	Cost to mail Order Imposing Fine/Lien	7/8/2020		\$7.30

Total: 118.80



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

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0295

To: Mark E. & Cecelia K. Davison
310 Grant Street
Port Orange, FL 32127

Re: 312 Grant Street
Port Orange, FL 32127
Parcel ID: 6341-04-01-0170

LEGAL DESCRIPTION NN 180 FT OF W 75 FT OF E 689 FT W OF HWY OF LOT 1B ELIZABETH BUNCH GRANT PORT
ORANGE PER OR 4558 PG 1281 PER OR 6461 PG 0524

Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 25, 2020, indicates that certain repeat violation(s) of the City of Port Orange Code exists. This correspondence will serve as official notification that the below stated violation(s) must be corrected immediately.

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

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. 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.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on September 13, 2017 under Case No. 17-0364.

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

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate 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 **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 **April 8, 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 **May 13, 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 Compliance Inspector at (386) 506-5645.

DATED this 27th 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 Violation and Notice of Hearing to Mark E. & Cecelia Davison, 310 Grant Street, Port Orange, FL 32127, RE: 312 Grant Street, Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

Time: 3:10 pm

this 27th day of February, 2020.

Dena Joseph
Dena Joseph

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Mark E. & Cecelia K. Davison, 310 Grant Street, Port Orange, FL 32127, RE: 312 Grant Street, Port Orange, FL 32127, was

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

this 2 day of March, 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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-0295**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

MARK E. & CECELIA K. DAVISON
312 GRANT STREET
PORT ORANGE, FL 32127
PARCEL ID : 6341-04-01-0170

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on May 27, 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, MARK E. & CECELIA K. DAVISON, whose mailing address is 310 GRANT STREET, PORT ORANGE, FL 32127, is the owner of the property located at 312 GRANT STREET, PORT ORANGE, FL 32127, and more particularly described as:

180 FT OF W 75 FT OF E 689 FT W OF HWY OF LOT 1B ELIZABETH BUNCH GRANT PORT
ORANGE PER OR 4558 PG 1281 PER OR 6461 PG 0524

B. The violation was to be corrected by mowing the entire property to include weed eating, removing any fallen limbs and yard debris, and blowing grass clippings back onto the property. This condition was first observed at the real property described above on February 25, 2020; re-inspection was conducted on May 25, 2020. Respondent received notice via posting at City Hall and mailed regular and certified on March 2, 2020, as well as posted on the property on February 27, 2020 that the aforesaid conditions constituted a violation of Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances and was to be corrected immediately as it is a repeat violation.

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 mowing the entire property to include weed eating, removing any fallen limbs and yard debris, and blowing grass clippings back onto the property on or before June 3, 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 \$1,000.00 shall be imposed. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$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.

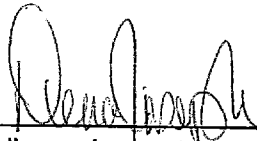
C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) 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 27th day of May, 2020.

Attest: Shelly Field
Secretary, Code Enforcement Special Magistrate

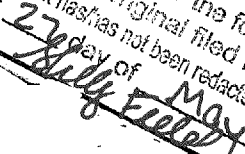
By: [Signature]
Code Enforcement Special Magistrate

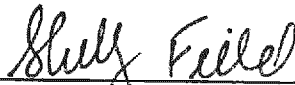
I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.



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), Mark E. Davison & Cecelia K. Davison, 310 Grant Street, Port Orange, FL 32127 by Certified and Regular Mail this 27 day of May, 2020.

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: This 27 day of May, 2020




Secretary, Code Enforcement Special Magistrate



Case Cost Sheet Log

Case No. 20-0294

Name	Activity	Activity_Date	Status	Cost
Mark E. Davison	Cost to mail Notice of Violation/Notice of Hearing	3/2/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	4/8/2020		\$29.00
Mark E. Davison	Cost to mail Finding of Fact, Conclusion of Law & Order	4/8/2020		\$7.30
Clerk of Courts	Fee to record Order Imposing Fine/Lien	7/8/2020		\$46.00
Mark E. Davison	Cost to mail Order Imposing Fine/Lien	7/8/2020		\$7.30

Total: 96.90



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

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

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0294

To: Mark E. Davison
310 Grant Street
Port Orange, FL 32127

Re: 310 Grant Street
Port Orange, FL 32127
Parcel ID: 6341-04-01-0190

LEGAL DESCRIPTION: N 180 FT OF W 50 FT OF E 739 FT W OF HWY OF LOT 1B EXC ST ELIZABETH BUNCH GRANT
PORT ORANGE PER OR 4516 PG 4970 PER OR 6461 PG 0524 PER OR 6832 PG 4993
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 25, 2020, indicates that certain repeat violation(s) of the City of Port Orange Code exists. This correspondence will serve as official notification that the below stated violation(s) must be corrected immediately.

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

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.
 - 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.

You have previously (within the past five years) been found by the Special Magistrate to have violated the above referenced code section(s) on September 13, 2017 under Case No. 17-0895.

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

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate 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 **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 **April 8, 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 **May 13, 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 Compliance Inspector at **(386) 506-5645**.

DATED this 27th 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 Violation and Notice of Hearing to Mark E. Davison, 310 Grant Street, Port Orange, FL 32127, RE: 310 Grant Street, Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

Time: 3:10 pm

this 27th day of February, 2020.

Dena Joseph
Dena Joseph

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Mark E. Davison, 310 Grant Street, Port Orange, FL 32127, RE: 310 Grant Street, Port Orange, FL 32127, was
☒ Posted at City Hall
☒ Sent via certified and regular

this 2 day of March, 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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-0294**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

MARK E. DAVISON
310 GRANT STREET
PORT ORANGE, FL 32127
PARCEL ID : 6341-04-01-0190

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 May 27, 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, MARK E. DAVISON, whose mailing address is 310 GRANT STREET, PORT ORANGE, FL 32127, is the owner of the property located at 310 GRANT STREET, PORT ORANGE, FL 32127, and more particularly described as:

N 180 FT OF W 50 FT OF E 739 FT W OF HWY OF LOT 1B EXC ST ELIZABETH BUNCH GRANT
PORT ORANGE PER OR 4516 PG 4970 PER OR 6461 PG 0524 PER OR 6832 PG 4993

B. The violation was to be corrected by mowing the entire property to include weed eating, removing any fallen limbs and yard debris, and blowing grass clippings back onto the property. This condition was first observed at the real property described above on February 25, 2020; re-inspection was conducted on May 25, 2020. Respondent received notice via posting at City Hall and mailed regular and certified on March 2, 2020, as well as posted on the property on February 27, 2020 that the aforesaid conditions constituted a violation of Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances and was to be corrected immediately as it is a repeat violation.

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 mowing the entire property to include weed eating, removing any fallen limbs and yard debris, and blowing grass clippings back onto the property on or before June 3, 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 \$1,000.00 shall be imposed. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$43.60 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

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

DONE AND ORDERED this 27th day of May, 2020.

Attest: Shelly Field
Secretary, Code Enforcement Special Magistrate

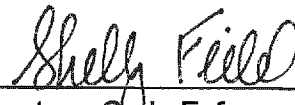
By: [Signature]
Code Enforcement Special Magistrate

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



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), Mark E. Davison, 310 Grant Street, Port Orange, FL 32127 by Certified and Regular Mail this 27 day of May, 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/has not been redacted pursuant to Florida Law.
By: Shelly Field, 27 day of May, 2020



Case Cost Sheet Log

Case No. 20-0101

Name	Activity	Activity_Date	Status	Cost
Scott Theodore Zyrowski	Cost to mail Notice of Violation/Notice of Hearing	2/11/2020	Certified mail returned signed "Scott T Z"	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	3/25/2020		\$29.00
Scott Theodore Zyrowski	Cost to mail Finding of Fact, Conclusion of Law & Order	3/25/2020	Certified mail not returned	\$7.30
Clerk of Courts	Fee to record Order Imposing Fine/Lien	7/8/2020		\$46.00
Scott Theodore Zyrowski	Cost to mail Order Imposing Fine/Lien	7/8/2020		\$7.30

Total: 96.90



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0101

To: Scott Theodore Zyrowski
191 Gibson Way
Port Orange, FL 32129

Re: 191 Gibson Way
Port Orange, FL 32129
Parcel ID: 6308-04-00-1910

LEGAL DESCRIPTION: LOT 191 BRANDY HILLS UNIT 2 MB 34 PGS 176-177 INC PER OR 4057 PG 0439
Volusia County Public Records
Volusia County, FL

An inspection of the premises on January 20, 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 10 days to correct. A re-inspection was done on January 31, 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. **Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, of the City of Port Orange Land Development Code: (b)** All fences shall be maintained in their original upright condition. **(d)** Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.
 - The initial inspection of this property found a fence in disrepair with broken and missing pickets. To correct the violation, the fence must be kept in its original upright condition, with any and all broken or missing pickets repaired and/or replaced. A permit from the Building Department of the City of Port Orange must be obtained and paid for in the event that you replace the fence.
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.
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 multiple various items stored outside. To correct the violation, all outside stored items must be properly stored inside an enclosed building or removed from the property.

4. **Chapter 3, Section 304 (Exterior Structure), 304.1 (General), 304.6 (Exterior Walls), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- The initial inspection of this property found chipped and discolored paint on the exterior walls of the home. To correct the violation, the exterior walls of the home must be re-painted.
5. **Chapter 3, Section 304 (Exterior Structure), 304.1 (General), 304.15 (Doors), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** 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.
- The initial inspection of this property found the garage door to be damaged, with holes in the panels. To correct the violation, the garage door must be replaced.

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 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 **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

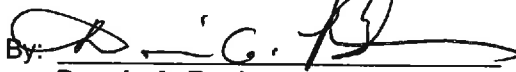
In the event the **Special Magistrate**, during the hearing on **March 25, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **May 13,**

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 11TH day of FEBRUARY, 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 Scott Theodore Zyrowski, 191 Gibson Way, Port Orange, FL, 32129, RE: 191 Gibson Way, Port Orange, FL, 32129, was

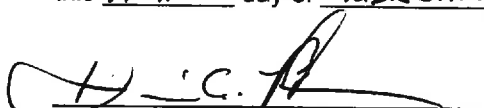
☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

Time: approx. 1438 HOURS

this 11TH day of FEBRUARY, 2020.


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 Scott Theodore Zyrowski, 191 Gibson Way, Port Orange, FL, 32129, RE: 191 Gibson Way, Port Orange, FL, 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 11 day of February, 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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-0101**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

SCOTT THEODORE ZYROWSKI
191 GIBSON WAY
PORT ORANGE, FL 32129
PARCEL ID : 6308-04-00-1910

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 May 27, 2020, after due notice to the Respondent(s), and the Special Magistrate having heard argument, received evidence, and testimony under oath, from Staff, neighbors and the Respondent, who conceded to the violations, thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondents, SCOTT THEODORE ZYROWSKI, whose mailing address is 191 GIBSON WAY, PORT ORANGE, FL 32129, is the owner of the property located at 191 GIBSON WAY, PORT ORANGE, FL 32129, and more particularly described as:

LOT 191 BRANDY HILLS UNIT 2 MB 34 PGS 176-177 INC PER OR 4057 PG 0439

B. The violation was to be corrected by keeping the fence in its original upright condition, with any and all broken or missing pickets repaired and/or replaced. A permit from the Building Department of the City of Port Orange must be obtained and paid for in the event the fence is replaced. Cleaning up and removing all garbage, trash, and debris from the property, properly storing all outside stored items inside an enclosed building or remove them from the property, repainting the exterior walls of the home and the garage door must be replaced. A permit from the Building Department of the City of Port Orange must be obtained prior to replacing the garage door. This condition was first observed at the real property described above on January 20, 2020; re-inspection was conducted on May 21, 2020. Respondent received notice of hearing continuation on March 17, 2020 and April 27, 2020. Respondent received notice via posting at City Hall and certified and regular mail on February 11, 2020, as well as posted on the property on February 11, 2020, that the aforesaid conditions constituted a violation of City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4)

Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality. 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 3, Section 304 (Exterior Structure) 304.1 (General), 304.6 (Exterior Walls), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. Chapter 3, Section 304 (Exterior Structure) 304.1 (General), 304.15 (Doors), of the 2018 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances and was to be corrected by February 22, 2020.

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 violations by June 1st ("Compliance Date") by, including, but not limited to, keeping the fence in its original upright condition, with any and all broken or missing pickets repaired and/or replaced. A permit from the Building Department of the City of Port Orange must be obtained and paid for prior to fixing the fence. Cleaning up and removing all garbage, trash, and debris from the property, properly storing all outside stored items inside an enclosed building or remove them from the property, repainting the exterior walls of the home and the garage door must be replaced. A permit from the Building Department of the City of Port Orange must be obtained prior to replacing the garage door. Keeping all exterior walls free from holes, breaks, and loose or rotting material. Keeping all exterior doors, door assemblies, operator systems and hardware in good condition, and securing locks. 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 \$100.00 per day shall be assessed for each day the property is in violation beyond the compliance date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$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 27TH day of May, 2020.

Attest: *Shelly Field*
Secretary, Code Enforcement Special Magistrate

By: *[Signature]*
Code Enforcement Special Magistrate

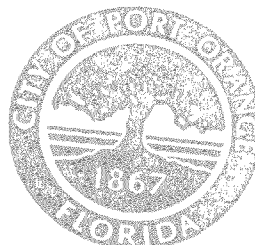
I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

[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), Scott Theodore Zyrowski, 191 Gibson Way, Port Orange, FL 32129 by Certified and Regular Mail this 27 day of May, 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 been not been redacted pursuant to Florida Law.
This 27 day of May, 2020.
By: *Shelly Field*



Case Cost Sheet Log

Case No. 20-0352

Name	Activity	Activity_Date	Status	Cost
Richard J. Marion Estate	Cost to mail Notice of Violation/Notice of Hearing	3/12/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	4/22/2020		\$29.00
Richard J. Marion Estate	Cost to mail Finding of Fact, Conclusion of Law & Order	4/22/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Order Imposing Fine/Lien	7/8/2020		\$46.00
Richard J. Marion Estate	Cost to mail Order Imposing Fine/Lien	7/8/2020		\$7.30

Total: 96.90



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0352

To: Richard J. Marion Estate
80 Springwood Square
Port Orange, FL 32129

Re: 80 Springwood Square
Port Orange, FL 32129
Parcel ID: 6337-15-00-0800

LEGAL DESCRIPTION: LOT 80 SPRINGWOOD SQUARE MB 36 PG 178 PER OR 4619 PG 4417 PER OR 6466 PG 4358
PER OR 7203 PG 1517
Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 3, 2020, indicates that certain violation(s) of the City of Port Orange Code exists.

A re-inspection was done on March 10, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) **must be corrected by March 22, 2020.**

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

1. **Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, of the City of Port Orange Land Development Code: (b)** All fences shall be maintained in their original upright condition. **(d)** Missing boards, pickets, or posts shall be replaced in a timely manner with material of the same type and quality.
 - The initial inspection of this property found a dilapidated fence with missing and broken pickets. To correct the violation, the fence must be repaired to its original and upright condition or removed from the property.
2. **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 package 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. "Package" 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 package, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.

- The initial inspection of this property found high weeds and grass. To correct the violation, the entire property needs to be mowed and trimmed, all weeds removed, and all debris blown back onto the property.
3. **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 site. To correct the violation, clean up and remove all garbage, trash, and debris from the property.
 4. **Chapter 3 (General Requirements), Section 304 (Exterior Structure), Section 304.1 (General), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare.
 - The initial inspection of this property found deteriorating soffits showing signs of rot with one of them having a gaping hole where it has come loose from the under eave of the house. To correct the violation, the soffits must be repaired or replaced.
 5. **Chapter 3 (General Requirements), Section 304 (Exterior Structure), Section 304.7 (Roofs and Drainage), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
 - The initial inspection of this property found a Mansard roof in disrepair with loose and missing cedar shakes. To correct the violation, the Mansard roof must be repaired or replaced. A permit from the City of Port Orange Building Department is required to be issued and paid for in the case of roof replacement.

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 April 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 **April 22, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd **PUBLIC HEARING** will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **May 27, 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 12TH day of MARCH, 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 Richard J. Marion Estate, 80 Springwood Square, Port Orange, FL, 32129, RE: 80 Springwood Square, Port Orange, FL, 32129, was

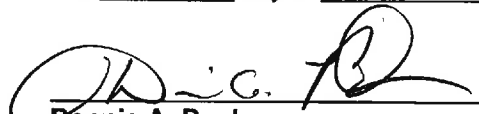
☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 12TH day of MARCH, 2020.

Time: approx. 1025 HOURS


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 Richard J. Marion Estate, 80 Springwood Square, Port Orange, FL, 32129, RE: 80 Springwood Square, Port Orange, FL, 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 12 day of MARCH, 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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-0352**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

RICHARD J. MARION ESTATE
80 SPRINGWOOD SQUARE
PORT ORANGE, FL 32129
PARCEL ID : 6337-15-00-0800

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 May 27, 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, RICHARD J. MARION ESTATE, whose mailing address is 80 SPRINGWOOD SQUARE, PORT ORANGE, FL 32129, is the owner of the property located at 80 SPRINGWOOD SQUARE, PORT ORANGE, FL 32129, and more particularly described as:

LOT 80 SPRINGWOOD SQUARE MB 36 PG 178 PER OR 4619 PG 4417 PER OR 6466 PG 4358 PER
OR 7203 PG 1517

B. The violation was to be corrected by repairing the fence to its original upright condition or removing it from the property; mowing, trimming, removing all weeds and blow all debris back onto the property; picking up and removing all garbage, trash, and debris from the property; repairing or replacing all rotting and damaged soffits and the Mansard roof must be repaired or replaced. A permit from the City of Port Orange Building Department is required to be issued and paid for in the case of roof replacement. This condition was first observed at the real property described above on March 3, 2020; re-inspection was conducted on May 19, 2020. Respondent received notice via posting at City Hall and certified and regular mail on March 12, 2020, as well as posted on the property on March 12, 2020, that the aforesaid conditions constituted a violation of City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance, (b) All fences shall be maintained in their original upright condition & (d) Missing boards,

pickets, or posts shall be replaced in a timely manner with material of the same type and quality. 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. 2018 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure 304.1 (General), as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. 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: 304.7 Roofs and drainage and was to be corrected by March 22, 2020.

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 fence to its original upright condition or removing it from the property; mowing, trimming, removing all weeds and blow all debris back onto the property; picking up and removing all garbage, trash, and debris from the property; repairing or replacing all rotting and damaged soffits and the Mansard roof must be repaired or replaced. A permit from the City of Port Orange Building Department is required to be issued and paid for in the case of roof replacement on or before June 3, 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 \$100.00 per day shall be assessed for each day the property is in violation beyond the compliance date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$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 27TH day of May, 2020.

Attest: Shelly Field
Secretary, Code Enforcement Special Magistrate

By: [Signature]
Code Enforcement Special Magistrate

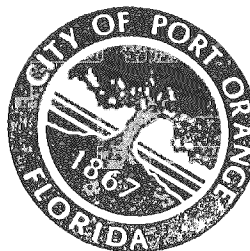
I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

[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), Richard J. Mario Estate, 80 Springwood Square, Port Orange, FL 32129 by Certified and Regular Mail this 27 day of May, 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 27 day of May, 2020
By: Shelly Field



Case Cost Sheet Log

Case No. 20-0301

Name	Activity	Activity_Date	Status	Cost
Gil Lichtenstein	Cost to mail Notice of Violation/Notice of Hearing	3/16/2020	Certified mail not returned	\$7.30
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	4/22/2020		\$29.00
Gil Lichtenstein	Cost to mail Finding of Fact, Conclusion of Law & Order	4/22/2020	Certified mail returned unclaimed	\$7.30
Clerk of Courts	Fee to record Order Imposing Fine/Lien	7/8/2020		\$46.00
Gil Lichtenstein	Cost to mail Order Imposing Fine/Lien	7/8/2020		\$7.30

Total: 96.90



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-0301

To: Gil Lichtenstein
907 Second Street
Port Orange, FL 32129

Re: 907 Second Street
Port Orange, FL 32129
Parcel ID: 6304-02-07-0060

LEGAL DESCRIPTION: N 30 FT OF LOT 5 & S 45 FT OF LOT 6 BLK 7 PORTONA PER OR 5240 PG 0975
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 25, 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 10 days to correct. A re-inspection was done on March 12, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **March 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), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances:** The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. **(h)** Abutting property owner maintenance of parkages. It shall be the duty of every owner of real property within the city to at all times cause to be cut and mowed the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the parkage most nearly abutting their properties. Parkages abutting improved residential or commercial lots shall be maintained as provided in **subsection (d)** of this section for improved residential lots. Parkages abutting unimproved residential lots shall be maintained as provided in **subsection (e)** of this section for the maintained portion of unimproved residential lots. "Parkage" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent parkage, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.
 - The initial inspection of this property found high weeds and grass. To correct the violation, the entire property needs to be mowed and trimmed, all weeds removed, and all debris blown back onto 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 various items stored outside on the front of the property and underneath the carport (consisting of a lawnmower, red plastic gas can, a wooden table, other miscellaneous

items, and two motorcycles in repair or being rebuilt). To correct the violation, all outside stored items must be properly stored inside an enclosed building or removed from the property.

3. **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 unregistered/inoperable vehicles (consisting of two unlicensed/inoperable motor vehicles) stored on the driveway and under the carport. To correct the violation, the vehicles must be properly tagged and registered, parked in the driveway on in a carport, stored in an enclosed building, covered with approved car covers, or removed from the property.
4. **Chapter 3 (General Requirements), Section 304 (Exterior Structure), Section 304.1 (General), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety, or welfare.
 - The initial inspection of this property found deteriorating soffits showing signs of rot, falling out of the ceiling due to leaks in the roof. To correct the violation, the soffits must be repaired or replaced.
5. **Chapter 3 (General Requirements), Section 304 (Exterior Structure), Section 304.7 (Roofs and Drainage), of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
 - The initial inspection of this property found a damaged leaking roof, which has caused the soffits to deteriorate. To correct the violation, the roof must be repaired or replaced. A permit from the City of Port Orange Building Department is required to be issued and paid for in the case of roof replacement.

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 April 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.

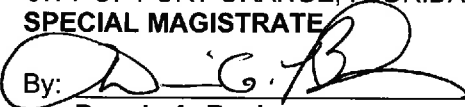
NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **April 22, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **May 27, 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 16TH day of MARCH, 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 Gil Lichtenstein, 907 Second Street, Port Orange, FL, 32129, RE: 907 Second Street, Port Orange, FL, 32129, was

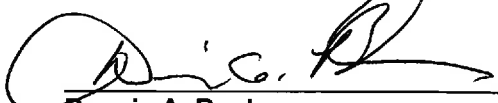
☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 16TH day of MARCH, 2020

Time: approx. 1208 HOURS

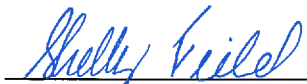

Dennis A. Boehmer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Gil Lichtenstein, 907 Second Street, Port Orange, FL, 32129, RE: 907 Second Street, Port Orange, FL, 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 16 day of March, 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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-0301**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

GIL LICHTENSTEIN
907 SECOND STREET
PORT ORANGE, FL 32129
PARCEL ID : 6304-02-07-0060

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on May 27, 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, GIL LICHTENSTEIN, whose mailing address is 907 SECOND STREET, PORT ORANGE, FL 32129, is the owner of the property located at 907 SECOND STREET, PORT ORANGE, FL 32129, and more particularly described as:

N 30 FT OF LOT 5 & S 45 FT OF LOT 6 BLK 7 PORTONA PER OR 5240 PG 0975

B. The violation was to be corrected by mowing the yard of all high weeds and grass; removing all the unlicensed/inoperable vehicles to a garage or covering them with an approved car or motorcycle cover; removing all outside storage to an enclosed space/shed or garage; and having the roof and soffits replaced/repared by a licensed contractor with a permit for all work to be pulled from the City of Port Orange. This condition was first observed at the real property described above on February 25, 2020; re-inspection was conducted on May 19, 2020. Respondent received notice via posting at City Hall and certified and regular mail on March 16, 2020, as well as posted on the property on March 16, 2020, 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 42-32 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. 2018 International Property Maintenance Code, Chapter 3, Section 304 Exterior Structure, 304.1 (general), as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. 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: 304.7 Roofs and drainage and was to be corrected by March 26, 2020.

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 mowing the yard of all high weeds and grass; removing all the unlicensed/inoperable vehicles to a garage or covering them with an approved car or motorcycle cover; removing all outside storage to an enclosed space/shed or garage; and having the roof and soffits replaced/repared by a licensed contractor with a permit for all work to be pulled from the City of Port Orange on or before June 6, 2020. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day shall be assessed for each day the property is in violation beyond the compliance date. 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 27TH day of May, 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), Gil Lichtenstein, 907 Second Street, Port Orange, FL 32129 by Certified and Regular Mail this 27 day of May, 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 27 day of May, 2020
By: Shelly Field

