



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, February 24, 2021 **Time:** 9:00 AM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process
2. Consideration of Minutes

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 20-1977
Respondent: Richard W. Radabaugh- Timmons
Address of Violation: 5422 Taylor Avenue, Port Orange, FL 32127
Code Officer: Dena Joseph
First Notified: 12/28/2020

Compliance: No

Cited for violation(s) - 2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.2 (Disposal of rubbish) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

2018 International Property Maintenance Code Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.3.2 (Containers) as adopted per Chapter 14, Article II 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), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

Chapter 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-31 (Containers required) of the City of Port Orange Code of Ordinances.

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

C. ORDER IMPOSING FINE/LIEN

4. **CEB Case No.:** 20-1412

Respondent: Joseph M. Cerce, Summer Cerce and James R. Kenning

Address of Violation: 5814 Williams Road, Port Orange, FL 32127

Code Officer: Daniel Bungart

First Notified: 8/31/2020

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 10 (Animals), Section 10-20 (Urban chickens), (d) Urban chicken permit regulations (1)-(12).

5. **CEB Case No.:** 20-1835

Respondent: Mildred E. Davison Life Estate

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

Code Officer: Scott Allman

First Notified: 11/18/2020

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.

6. **CEB Case No.:** 20-1568

Respondent: Lori Mathews (aka Lori Hurley)

Address of Violation: 5302 Landis Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 9/25/2020

Compliance: Yes

Cited for violation(s) - Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (Imminent Danger) of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions - Nuisance), (a) 1,2,3,4,5,6 & (b) of the City of Port Orange Code of Ordinances.

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities),

502.1 (Dwelling Units) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

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

7. **CEB Case No.:** 20-1564

Respondent: Marlene 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 42-32 Storage of vehicles, furniture, etc. 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), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

8. **CEB Case No.:** 20-1569

Respondent: First National Bank of America

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

Code Officer: Dena Joseph

First Notified: 9/3/2020

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-33 Abandoned real property (a) Purpose and intent (b) Definitions (c) Applicability (d) Registration of abandoned property (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (e) Maintenance requirements (1) (2) (f) Security requirements (1) (2) (g) Immunity of enforcement officer (h) Additional authority (i) Penalties and enforcement of the City of Port Orange Code of Ordinances.

9. **CEB Case No.:** 20-1432

Respondent: Marlene Schaffer

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

Code Officer: Dena Joseph

First Notified: 9/3/2020

Compliance: No

Cited for violation(s) - Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (imminent Danger) of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 42, (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions-Nuisance), (a) 1, 2, 3, 4, 5, 6 & (b) of the City of Port Orange Code of Ordinances.

City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (a) General, (b) Principal use and/or principal structure required, (1), (2), (3) & (4).

2018 International Property Maintenance Code, Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities), 502.1 (Dwelling Units) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

2018 International Property Maintenance Code, Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 General as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II.

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 ACCOMMODATIONS, 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.

Case Cost Sheet Log

Case No. 20-1977

Name	Activity	Activity_Date	Status	Cost
Richard W. Radabaugh - Timmons	Cost to mail Notice of Violation/ Notice of Hearing	1/8/2021	Certified mail not returned yet	\$7.40
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	2/10/2021		\$29.00
Richard W. Radabaugh- Timmons	Cost to mail Finding of Fact, Conclusion of Law & Order	2/10/2021		\$7.40

Total: 43.80



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1977

To: Richard W. Radabaugh-Timmons
Property Owner
5422 Taylor Avenue
Port Orange, FL 32127

Re: 5422 Taylor Avenue
Port Orange, FL 32127
Parcel ID: 6315-03-01-0150

LEGAL DESCRIPTION: LOT 15 BLK 1 COMMONWEALTH MOBILE ESTS MB 26 PG 111 PER OR 3879 PG 0472 PER OR 6978 PG 4169 PER D/C 6978 PG 4170 PER OR 6983 PG 4403
Volusia County Public Records
Volusia County, FL

An inspection of the premises on December 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 was asked to correct immediately. A re-inspection was done on January 5, 2021, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by doing the following: All trash and debris found loose and uncontained on the property must be in enclosed containers with tight fitting lids and can only be placed out for pick up on the night before or day of trash removal by WastePro. Any leftover trash that is on the ground must be removed immediately. Containers must be properly stored on the side of the home and away from the front of any building or premises. These actions must be taken by January 11, 2021.

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

1. **2018 International Property Maintenance Code, Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.2 (Disposal of rubbish), as adopted by the City of Port Orange Code of Ordinances:** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
2. **2018 International Property Maintenance Code, Chapter 3 (General Requirements), Section 308 (Rubbish and Garbage), 308.3.2 (Containers), as adopted by the City of Port Orange Code of Ordinances:** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.
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.

4. **Chapter 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-31 (Containers required) of the City of Port Orange Code of Ordinances:** The occupants of each residence, multiple dwelling, business or commercial enterprise and trailer park are required to provide garbage cans and yard waste containers to sufficiently hold the accumulation of garbage and yard waste from each residence, multiple dwelling, business or commercial establishment or trailer park between the days the garbage and yard waste is collected. The city or franchisee shall provide containers designated for recycling purposes to sufficiently hold the accumulation of recyclable material from each residence, multiple dwelling, business or commercial establishment or trailer park between the days such recyclable material is collected.
5. **Chapter 56 (Solid Waste), Article II (Collection and Disposal Service), Section 56-34 (Location of Containers) of the City of Port Orange Code of Ordinances:** Garbage, recycling and yard waste containers when not in use shall be kept away from the front of any building or premises. Garbage, recycling and yard waste containers when not in use shall be kept away from the front of any building or premises. No garbage, recycling or yard waste container shall be kept or maintained upon or adjacent to any street, sidewalk, parkway or front yard and no such container shall be placed within five feet of any property line. No garbage can, recycling container or yard waste container shall be deposited upon any adjoining lot or premises, whether vacant or improved, occupied or unoccupied, or in any street, alley or park in the city. Yard waste not required to be in yard waste containers, and garbage, recycling and yard waste containers filled for pickup, shall be neatly placed near, but not upon, the roadway on days of garbage, recycling and yard waste pickup so as to be convenient and accessible for collection.

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 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 above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate February 10, 2021, 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 above 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 Officer. 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 \$ 7,460 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **February 10, 2021**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, 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 Special Magistrate on **March 24, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC HEARING. 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 Officer. Please govern yourself accordingly.

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

DATED this 6th day of January, 2021.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

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 Richard W. Radabaugh-Timmons, Property Owner, 5422 Taylor Avenue, Port Orange, FL 32127, RE: 5422 Taylor Avenue Port Orange, FL 32127, was

☐ Hand-delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 11:20 AM

this 6th day of January, 2021.

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 Richard W. Radabaugh-Timmons, Property Owner, 5422 Taylor Avenue, Port Orange, FL 32127, RE: 5422 Taylor Avenue Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

Time: approx. 9:51 AM

this 8 day of January, 2021.

Robert J. Menuret
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT THE HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY

NEED TO ENSURE AT HIS OR HER OWN EXPENSE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

Case Cost Sheet Log

Case No. 20-1412

Name	Activity	Activity_Date	Status	Cost
Joseph M. Cerce	Cost to mail Notice of Violation/Notice of Hearing	10/21/2020	Certified mail returned signed illegible, dated 10-24-20	\$7.40
Summer Cerce	Cost to mail Notice of Violation/Notice of Hearing	10/21/2020	Certified mail returned signed illegible, dated 10-24-20	\$7.40
James R. Kenning	Cost to mail Notice of Violation/Notice of Hearing	10/21/2020	Certified mail returned signed illegible, dated 10-24-20	\$7.40
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	12/9/2020		\$29.00
Joseph M. Cerce	Cost to mail Finding of Fact, Conclusion of Law & Order	12/9/2020	Certified mail returned signed illegible, dated 12-12-20	\$7.40
Summer Cerce	Cost to mail Finding of Fact, Conclusion of Law & Order	12/9/2020	Certified mail returned signed illegible, dated 12-12-20	\$7.40
James R. Kenning	Cost to mail Finding of Fact, Conclusion of Law & Order	12/9/2020	Certified mail returned signed illegible, dated 12-12-20	\$7.40
Clerk of Courts	Fee to record Order Imposing Fine/Lien	1/13/2021		\$46.00
Joseph M. Cerce	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Summer Cerce	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
James R. Kenning	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40

Total: 141.60



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1412

To: Joseph M. Cerce,
Summer Cerce, and James R. Kenning, JTWFRS
Property Owners
5814 Williams Rd.
Port Orange, FL 32127

Re: 5814 Williams Rd.
Port Orange, FL 32127
Parcel ID: 6320-22-00-0050

LEGAL DESCRIPTION: Lot 5, Reedy Creek North, according to the map or plat thereof, as recorded in Plat Book 56, Page(s) 140 and 141, of the Public Records of Volusia County, Florida.
Volusia County Public Records
Volusia County, FL

An inspection of the premises on August 31, 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 September 16, 2020, resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by doing the following: Must apply for and receive permit for urban chicken program and complete all requirements, by **December 9, 2020**.

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

1. **City of Port Orange Code of Ordinances, Chapter 10 (Animals), Section 10-20 (Urban chickens), (d) Urban chicken permit regulations.** It shall be unlawful to keep, harbor, raise or maintain chickens without an urban chicken permit. An urban chicken permit shall not be required for keeping chickens in the agricultural (A), flood plain-conservative (F-C), or agricultural preservation (AP) zoning districts. Urban chicken permits shall include the following conditions and restrictions: **(1)-(12)** (see attached ordinance).

- The initial inspection of this property found chickens being kept in an enclosure without a chicken permit for 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 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 above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate December 9, 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 above 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 Officer. Please govern yourself accordingly.

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

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 22.20 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **December 9, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, 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 Special Magistrate on **January 13, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC HEARING. 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 Officer. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer at **(386) 506-5640**.

DATED this 14th day of October, 2020.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

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 Joseph M. Cerce, Summer Cerce, Property Owners, 5814 Williams Rd., Port Orange, FL 32127, RE: 5814 Williams Rd., Port Orange, FL 32127, was

☒ Hand-delivered

☐ Posted at the property

Recipient of hand delivered documents: Joseph Cerce

this 16th day of October, 2020.

Time: approx. _____

[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 Joseph M. Cerce, Summer Cerce, Property Owners, 5814 Williams Rd., Port Orange, FL 32127, RE: 5814 Williams Rd., Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 21 day of October, 2020.

Time: approx. 8:20 am

[Signature]
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

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

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-1412**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

JOSEPH M. CERCE, SUMMER CERCE & JAMES R. KENNING
5814 WILLIAMS ROAD
PORT ORANGE, FL 32127
PARCEL ID : 6320-22-00-0050

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on December 9, 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, JOSEPH M. CERCE, SUMMER CERCE & JAMES R. KENNING, whose mailing address is 5814 WILLIAMS ROAD, PORT ORANGE, FL 32127, is the owner of the property located at 5814 WILLIAMS ROAD, PORT ORANGE, FL 32127, and more particularly described as:

LOT 5 REEDY CREEK NORTH, ACCORDING TO THE MAP OR PLAN THEREOF, AS RECORDED IN
PLAT BLOCK 56, PAGE(S) 140 AND 141, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY,
FLORIDA

B. The violation was to be corrected by applying for and receiving a permit for the urban chicken program and completing all requirements for the permit. This condition was first observed at the real property described above on August 31, 2020; re-inspection was conducted on December 8, 2020. Respondent received notice via posting at City Hall and certified and regular mail on October 21, 2020, as well as posted on the property and hand delivered on October 14, 2020 that the aforesaid conditions constituted a violation of City of Port Orange Code of Ordinances, Chapter 10 (Animals), Section 10-20 (Urban chickens), (d) Urban chicken permit regulations (1)-(12) and was to be corrected by December 9, 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 all permits required for the urban chicken program on or before December 19, 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, the property shall be found in violation of City of Port Orange Code of Ordinances, Chapter 10 (Animals), Section 10-20 (Urban chickens), (d) Urban chicken permit regulations (1)-(12) . 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 \$73.40 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

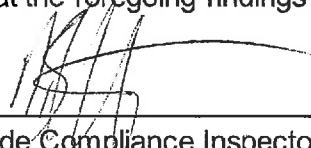
C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s)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

DONE AND ORDERED this 9th day of December, 2020.

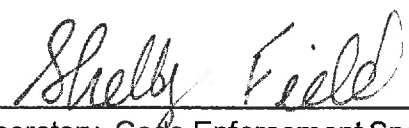
Attest: Shelly Fidd
Secretary, Code Enforcement Special Magistrate

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), Joseph M. Cerce, Summer Cerce and James R. Kenning, 5814 Williams Road, Port Orange, FL 32127 by Certified and Regular Mail this 9 day of December, 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 been redacted pursuant to Florida Law.
By: Shelby Field This 9 day of December, 2020.



Case Cost Sheet Log

Case No. 20-1835

Name	Activity	Activity_Date	Status	Cost
Mildred E. Davison Life Estate	Cost to mail Notice of Violation/Notice of Hearing	11/19/2020	Certified mail returned "vacant"	\$7.40
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	1/13/2021		\$29.00
Mildred E. Davison Life Estate	Cost to mail Finding of Fact, Conclusion of Law & Order	1/13/2021	Certified mail returned "vacant"	\$7.40
Clerk of Courts	Fee to record Order Imposing Fine/Lien	2/24/2021		\$46.00
Mildred E. Davison Life Estate	Cost to mail Order Imposing Fine/Lien	2/24/2021		\$7.40

Total: 97.20



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1835

To: Mildred E. Davison Life Estate
5828 Spruce Creek Woods Drive
Port Orange, FL 32127

Re: 5828 Spruce Creek Woods Drive
Port Orange, FL 32127

Parcel ID: 6320-06-00-0150

LEGAL DESCRIPTION: LOT 15 SPRUCE CREEK WOODS MB 38 PGS 9 & 10 PER OR 4171 PGS 1021-1022

Volusia County Public Records

Volusia County, FL

An inspection of the premises on November 18, 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 doing the following: **the entire property needs to be mowed, all weeds removed, and all debris blown back onto the property, by November 30, 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.

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 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 above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate January 13, 2021, 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 above 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 Officer. 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 \$ 7.40 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **January 13, 2021**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, 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 Special Magistrate on **February 24, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC HEARING. 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 Officer. Please govern yourself accordingly.

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

DATED this 19 day of November, 2020.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

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: Mildred E. Davison Life Estate, 5828 Spruce Creek Woods Drive, Port Orange, FL, 32127, RE: 5828 Spruce Creek Woods Drive, Port Orange, FL 32127, was

☐ Hand-delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

this 19 day of November, 2020.

Time: approx. 10:18 A.M.



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 Mildred E. Davison Life Estate, 5828 Spruce Creek Woods Drive, Port Orange, FL, 32127, RE: 5828 Spruce Creek Woods Drive, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 19 day of November, 2020.

Time: approx. 11:45am



Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

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

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-1835**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

MILDRED E. DAVISON LIFE ESTATE
5828 SPRUCE CREEK WOODS DRIVE
PORT ORANGE, FL 32127
PARCEL ID : 6320-06-00-0150

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 January 13, 2021, 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, MILDRED E. DAVISON LIFE ESTATE, whose mailing address is 5828 SPRUCE CREEK WOODS DRIVE, PORT ORANGE, FL 32127, is the owner of the property located at 5828 SPRUCE CREEK WOODS DRIVE, PORT ORANGE, FL 32127, and more particularly described as:

LOT 15 SPRUCE CREEK WOODS MB 38 PGS 9 & 10 PER OR 4171 PGS 1021-1022

B. The violation was to be corrected by mowing the entire property, trimming all high weeds and blowing all debris back onto the property. This condition was first observed at the real property described above on November 18, 2020; re-inspection was conducted on January 11, 2021. Respondent received notice via posting at City Hall and certified and regular mail on November 19, 2020, as well as posted on the property on November 19, 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 and was to be corrected by November 30, 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.

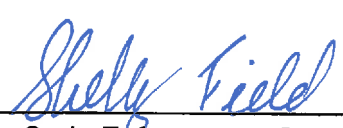
ORDER:

A. Respondent(s) shall correct the aforesaid violation by mowing the entire property, trimming all high weeds and blowing all debris back onto the property on or before January 25, 2021. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a fine in the amount of \$100.00 per day shall be imposed for each day the violation continues past the compliance date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$43.80 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 13th day of January, 2021.

Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate

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

E. S. Williams
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), Mildred E. Davison Life Estate, 5828 Spruce Creek Woods Drive, Port Orange, FL 32127 by Certified and Regular Mail this 13 day of January, 2021.

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 13 day of January, 2021.
By: Shelly Field



Case Cost Sheet Log

Case No. 20-1568

Name	Activity	Activity_Date	Status	Cost
Lori Mathews (aka Lori Hurley)	Hand delivery of Notice of Violation/Notice of Hearing	11/6/2020		\$0.00
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	12/9/2020		\$29.00
Lori Mathews (aka Lori Hurley)	Cost to mail Finding of Fact, Conclusion of Law & Order	12/9/2020	Certified mail returned signed "RW RT1986 C-19"	\$7.40
Clerk of Courts	Fee to record Order Imposing Fine/Lien	1/13/2021		\$46.00
Lori Mathews (aka Lori Hurley)	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40

Total: 89.80



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1568

To: Lori Mathews (aka Lori Hurley)
Property Owner
5302 Landis Avenue
Port Orange, FL 32127

Re: 5302 Landis Avenue
Port Orange, FL 32127
Parcel ID: 6310-07-22-0060

LEGAL DESCRIPTION: N 55 FT OF LOTS 6 & 7 AS MEAS ON E/L LANDIS AVE BLK 22 ALLENDALE MB 4 PG 146 PER OR 4304 PG 2580

Volusia County Public Records
Volusia County, FL

This property has been deemed an unsafe structure by the Deputy Building Official Johnnie M. Green for Building Official Al Tischler. The Affidavit of the Deputy Building Official is attached hereto and is hereby incorporated herein. The relief sought is demolition of the unsafe structure.

An inspection of the premises on September 25, 2020 indicates that certain violation(s) of the City of Port Orange Code exists. A re-inspection was conducted on November 5, 2020 and at that time, the violations continue to exist.

This correspondence will serve as official notification that the below stated violations must be corrected by doing the following: **by having the structure demolished in its entirety by December 6, 2020. A permit will need to be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city.**

Briefly stated, the following conditions exist which cause the structure to be unsafe and the property in violation of the following:

- 1. Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (Imminent Danger) of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:**

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe Structures: An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.3 Structure Unfit for Human Occupancy: A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.5 (Dangerous Structure or Premises): For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- (3) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (5) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
- (6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
- (7) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
- (8) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
- (9) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (10) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
- (11) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

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

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

person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

- Initial inspection found a mobile home that was destroyed by fire and is now considered an unsafe, uninhabitable, and dangerous structure. To correct the violation, the mobile home must be demolished in its entirety. A permit will need to be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city.

2. Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions-Nuisance), (a) 1, 2, 3, 4, 5, 6 & (b) of the City of Port Orange Code of Ordinances:

42-108 (Unsafe Conditions-Nuisance): (a) A structure is unsafe when any of the following conditions exist:

- (1) The structure's interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- (2) The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- (3) The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- (4) The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare.
- (5) The structure has connected parts that have become so detached from one another that there is a reasonable likelihood they may fall and injure members of the public or cause property damage in general.
- (6) The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

(b) A structure that is unsafe constitutes a nuisance. No person shall permit an unsafe structure to exist on property under his or her ownership or control.

- Initial inspection found a mobile home that was destroyed by fire. The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare. To correct the violation, the home must be demolished. A permit must be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city.

3. Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities), 502.1 (Dwelling Units) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

- Initial inspection found no functioning sanitary facilities on the property. Tents being used as dwelling units must be removed from the property.

4. Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water Systems), 505.1 (General) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

- Initial inspection found water supply disconnected.

Attachments: ☐ Copy of code

☐ Copy of Deed

☐ Copy of Tax Roll

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

Failure to comply after this date may also result in an order vacating the property and requiring the property owner to, or permitting the city to, secure, repair and/or demolish the structure(s) on the property with any and all costs therefore being assessed against the property and constituting a lien thereon.

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

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate December 9, 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 above 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 Officer. 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." **THIS INCLUDES BUT IS NOT LIMITED TO ALL COSTS TO REPAIR, SECURE AND/OR DEMOLISH THE STRUCTURE.** The costs incurred to date are \$ 100.00 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **December 9, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **January 13, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC HEARING. 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/Officer. Please govern yourself accordingly.

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

DATED this 14th day of November, 2020.

CITY OF PORT ORANGE, FLORIDA

Dena Joseph
Code Enforcement Officer

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: Lori Mathews (aka Lori Hurley), Property Owner, 5302 Landis Avenue, Port Orange, FL 32127
RE: 5302 Landis Avenue, Port Orange, FL 32127, was

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

Time: approx. 10:42 AM

this 14th day of November, 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: Lori Mathews (aka Lori Hurley). Property Owner, 5302 Landis Avenue, Port Orange, FL 32127
RE: 5302 Landis Avenue, Port Orange, FL 32127, was

☒ Posted at City Hall
☐ Sent via certified and regular

Time: approx. 12:00pm

this 16 day of November, 2020.

Shelly Field
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

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

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-1568**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

LORI MATHEWS (AKA LORI HURLEY)
5302 LANDIS AVENUE
PORT ORANGE, FL 32127
PARCEL ID : 6310-07-22-0060

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on December 9, 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, LORI MATHEWS (AKA LORI HURLEY), whose mailing address is 5302 LANDIS AVENUE, PORT ORANGE, FL 32127, is the owner of the property located at 5302 LANDIS AVENUE, PORT ORANGE, FL 32127, and more particularly described as:

N 55 FT OF LOTS 6 & 7 AS MEAS ON E/L LANDIS AVE BLK 22 ALLENDALE MB 4 PG 146 PER OR
4304 PG 2580

B. The violation was to be corrected by demolishing the structure in its entirety as the mobile home was destroyed by a fire and is now considered an unsafe, uninhabitable, and dangerous structure. A permit will need to be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. This condition was first observed at the real property described above on September 25, 2020; re-inspection was conducted on December 8, 2020. Respondent received notice via posting at City Hall on November 6, 2020, as well as posted on the property and hand delivered on November 6, 2020 that the aforesaid conditions constituted a violation of Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (Imminent Danger) of the 2018 International

Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions - Nuisance), (a) 1,2,3,4,5,6 & (b) of the City of Port Orange Code of Ordinances. Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities), 502.1 (Dwelling Units) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water Systems), 505.1 (General) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. and was to be corrected by December 6, 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 demolishing the structure in its entirety as the mobile home was destroyed by a fire and is now considered an unsafe, uninhabitable, and dangerous structure. A permit will need to be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city on or before January 10, 2021. ("Compliance Date"). In the event that the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a fine in the amount of \$100.00 per day shall be imposed for each day the violation continues past the compliance date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$36.40 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

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

interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 9th day of December, 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), Lori Mathews (aka Lori Hurley), 5302 Landis Avenue, Port Orange, FL 32127 by Certified and Regular Mail this 9 day of December, 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: Shelly Field This 9 day of December, 2020.

Shelly Field
Secretary, Code Enforcement Special Magistrate



Case Cost Sheet Log

Case No. 20-1564

Name	Activity	Activity_Date	Status	Cost
Marlene Schaffer	Hand delivery of Notice of Violation/Notice of Hearing	10/7/2020		\$0.00
Shirely Amar	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail not yet returned	\$7.40
Coreen J. Meeks	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "Courtney Hallstrom 10/13/2020"	\$7.40
Thomas S. Schaffer	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned marked "in jail"	\$7.40
Edward S. Schaffer	Hand delivery of Notice of Violation/Notice of Hearing	10/7/2020		\$0.00
Unknown Occupants/Tenants	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned "refused"	\$7.40
First National Bank of America	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "J. Banett 10-13-20"	\$7.40
Rose Acceptance Inc	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "J. Banett 10-13-20"	\$7.40
Tarokh Law PLLC	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "Jason M Tarokh 10-13-20"	\$7.40
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	11/11/2020		\$29.00
Marlene Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020		\$7.40
Shirely Amar	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "MM 1407 11-14-20"	\$7.40
Coren J. Meeks	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed illegible, no date	\$7.40
Thomas S. Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned refused	\$7.40

Edward S. Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned refused	\$7.40
Unknown Occupants/Tenants	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned refused	\$7.40
First National Bank of America	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "J. Banett 11-16-20"	\$7.40
Rose Acceptance Inc	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "J. Banett 11-16-20"	\$7.40
Tarokh Law PLLC	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "Jason M. Tarokh 11-17-20"	\$7.40
Clerk of Courts	Fee to record Order Imposing Fine/Lien	1/13/2021		\$46.00
Marlene Schaffer	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Shirley Amar	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Coren J. Meeks	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Thomas S. Schaffer	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Edward S. Schaffer	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Unknown Occupants/Tenants	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
First National Bank of America	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Rose Acceptance Inc	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Tarokh Law PLLC	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40

Total: 260.00



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1564

✓ To: Marlene Schaffer - *Hand delivered*
1083 Palm View Drive
South Daytona, FL 32129

Shirley Amar
1141 Clearwater Road
Daytona Beach, FL 32114

Coren J. Meeks
Attorney for Shirley Amar
Meeks and Ceely P.L.
311 East Rich Avenue
Deland, FL 32724

Thomas S. Schaffer
5348 Landis Avenue
Port Orange, FL 32127

→ Edward S. Schaffer - *Hand delivered*
5348 Landis Avenue
Port Orange, FL 32127

Unknown Occupants/Tenants
5348 Landis Avenue
Port Orange, FL 32127

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

Rose Acceptance Inc.
241 E. Saginaw Street
E. Lansing, MI 48823

Tarokh Law PLLC
Jason M. Tarokh
Attorney for Rose Acceptance Inc.
P.O. Box 10827
Tampa, FL 33679

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

Volusia County Public Records
Volusia County, FL

An inspection of the premises on **March 4, 2020**, indicates that certain violation(s) of the City of Port Orange Code exists. A re-inspection was conducted on October 2, 2020 and at the time of the inspection, the violations continue to exist.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by **October 20, 2020** by removing all outside stored items and placing in an enclosed building and removing all trash and debris.

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

1. **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 a large amount of items stored outside. To correct the violation, all outside stored items must be removed from the property.
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 site. To correct the violation, clean up and remove all garbage, trash, and debris from the property.

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the 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 above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate November 11, 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 above 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 Officer. 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 \$ 51.80 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **November 11, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, 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 Special Magistrate on **January 13, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC HEARING. 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 Officer. Please govern yourself accordingly.

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

DATED this 7th day of October, 2020.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: [Signature]
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: Marlene Schaffer, 1083 Palm View Drive, South Daytona, FL 32129, Shirley Amar, 1141 Clearwater Road, Daytona Beach, FL 32114, Coren J. Meeks, Attorney for Shirley Amar, Meeks and Ceely P.L., 311 East Rich Avenue, Deland, FL 32724, Thomas S. Schaffer, 5348 Landis Avenue, Port Orange, FL 32127, Edward S. Schaffer, 5348 Landis Avenue, Port Orange, FL 32127, Unknown Occupants/Tenants, 5348 Landis Avenue, Port Orange, FL 32127, First National Bank of America (FNBA), P. O. Box 980, East Lansing, MI 48826-0980, Rose Acceptance, Inc., 241 E. Saginaw Street, E. Lansing, MI 48823, Tarokh Law PLLC, Jason M. Tarokh, Attorney for Rose Acceptance Inc., P.O. Box 10827, Tampa, FL 33679

RE: 5348 Landis Avenue, Port Orange, FL 32127

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 7th day of October, 2020.

Time: approx. 11:30 am

[Signature]
Dena Joseph, Code Enforcement Officer

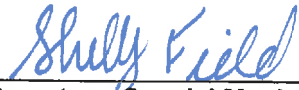
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RE: 5348 Landis Avenue, Port Orange, FL 32127

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

this 8 day of October, 2020.

Time: approx. 8:45 am


Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

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

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-1564**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

MARLENE SCHAFFER
SHIRLEY AMAR
THOMAS S. SCHAFFER
EDWARD S. SCHAFFER
5348 LANDIS AVE
PORT ORANGE, FL 32127
PARCEL ID : 6310-07-21-0050

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on November 11, 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, MARLENE SCHAFFER, SHIRLEY AMAR, THOMAS S. SCHAFFER, EDWARD S. SCHAFFER, whose mailing addresses are 1083 PALM VIEW DRIVE, SOUTH DAYTONA FL 32119; 1141 CLEARWATER ROAD, DAYTONA BEACH, FL 32114; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, are the owners/representatives of the property located at 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, and more particularly described as:

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

B. The violation was to be corrected by removing all trash and debris and removing all items stored on the property as the home is a total loss due to fire damage. This condition was first observed at the real property described above on March 4, 2020; re-inspection was conducted on October 21, 2020. Respondent received notice via posting at City Hall and certified and regular mail on October 8, 2020, as well as posted on the property on October 7, 2020 that the aforesaid conditions constituted a violation of

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 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 and was to be corrected by October 20, 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 removing all trash and debris and removing all items stored on the property as the home is a total loss due to fire damage on or before December 11, 2020. ("Compliance Date") If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss. 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 \$147.40 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and

Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 11TH day of November, 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), MARLENE SCHAFER, SHIRLEY AMAR, THOMAS S. SCHAFER, EDWARD S. SCHAFER, whose mailing addresses are 1083 PALM VIEW DRIVE, SOUTH DAYTONA FL 32119; 1141 CLEARWATER ROAD, DAYTONA BEACH, FL 32114; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, by Certified and Regular Mail this 11 day of November, 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: Shelly Field This 11 day of November, 2020

Shelly Field
Secretary, Code Enforcement Special Magistrate



Case Cost Sheet Log

Case No. 20-1569

Name	Activity	Activity_Date	Status	Cost
First National Bank of America	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "J. Banett 10-13-20"	\$7.40
Rose Acceptance Inc.	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "J. Banett 10-13-20"	\$7.40
Tarokh Law, PLLC	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "Jason M. Tarokh 10/13/2020"	\$7.40
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	11/11/2020		\$29.00
First National Bank of America	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "J. Banett 11-16-20" updated certified mail returned signed "J. Banett 12-9-20"	\$7.40
Rose Acceptance Inc.	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "J. Banett 11-16-20" updated certified mail returned signed "J. Banett 12-9-20"	\$7.40
Tarokh Law, PLLC	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "Jason M. Tarokh 11-17-2020"	\$7.40
Clerk of Courts	Fee to record Order Imposing Fine/Lien	1/13/2021		\$46.00
First National Bank of America	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Rose Acceptance Inc.	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Tarokh Law, PLLC	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40

Total: 141.60



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1569

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

Rose Acceptance Inc.
241 E. Saginaw Street
E. Lansing, MI 48823

Tarokh Law, PLLC
Jason M. Tarokh
Attorney for Rose Acceptance Inc.
P.O. Box 10827
Tampa, FL 33679

Re: 5348 Landis Avenue
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 PER OR 7832 PG 2432
Volusia County Public Records
Volusia County, FL

An inspection of the premises on **September 3, 2020**, indicates that certain violation(s) of the City of Port Orange Code exists. A re-inspection was conducted on October 2, 2020 and at that time, the property continued to be in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected as described below by **November 8, 2020**.

Briefly stated, the property is in violation of the following (copy also attached):

The City of Port Orange Code of Ordinances, Chapter 42, (Nuisances), Article II (Garbage, junk, and undergrowth), Sec. 42-33. - Abandoned real property.

- (a) **Purpose and intent.** It is the purpose and intent of the city to establish a process to address the amount of abandoned real property located within the city. It is the city's further intent to specifically establish an abandoned residential and commercial property registration program as a mechanism to track abandoned properties and protect residential neighborhoods and commercial districts from becoming blighted through the lack of adequate maintenance and security of abandoned properties.
- (b) **Definitions.** The following words, terms and phrases, when used in the section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned real property means any structure, building or dwelling unit, as defined under the City of Port Orange Land Development Code, and the land on which it is situated, that is vacant and is under a current notice of default, or subject to a recorded lis pendens, or notice of mortgagee's sale by the lender or a pending tax assessor's lien sale and and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under deed in lieu of foreclosure or sale.

Accessible real property means real property that is accessible through a compromised or breached gate, fence, window, wall, door, or other access way.

Accessible structure means a structure, building, or dwelling unit that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Enforcement officer means any employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city council, including, but not limited to, the city manager, assistant city manager, chief building official, code compliance inspector, police chief, police officer, community service officer, fire chief, fire enforcement officer, and any other person designated in writing by the city manager.

Evidence of vacancy means any condition that on its own, or combined with other conditions, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown or dead vegetation, accumulation of debris or trash on abandoned real property, as defined herein, statements by neighbors, passersby, delivery agents or government agents, among other evidence that the property is vacant.

Foreclosure means a civil action whereby a mortgagee either takes title to or forces the sale of the mortgagor's property to satisfy the debt upon the mortgagor's default.

Private real property means all land and improvements other than public land and improvements.

Property means any real property approved for residential or commercial use, or portion thereof located in the city, including buildings, structures or dwelling units situated on the property. For purposes of this section only, property does not include property owned or subject to control of the city or any of its governmental bodies.

Property management company means a local licensed property manager or property maintenance company or similar entity responsible for the maintenance of abandoned real property.

Public property means all canals and waterways, lands and improvements owned by a governmental body or any governmental agency including but not limited to easements and rights-of-way.

Residential building means any improved real property or portion thereof, situated in the city, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property.

Vacant or vacated means a structure, building or dwelling unit deemed to be vacated and to have become vacant whenever an occupying owner or tenant ceases to occupy the structure, building or dwelling unit according to its intended use.

(c) **Applicability.** This article [section] shall be considered cumulative and not superseding or subject to any other law or provision for same but shall rather be an additional remedy available to the city above and beyond any other state, county or local provisions for same.

(d) **Registration of abandoned property.**

- (1) Any mortgagee who holds a mortgage on real property located within the city shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a notice of default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten days of the inspection, register the property with the city manager, or his or her designee, or the city's agent, on forms provided by the city. A registration is required for each vacant residential property or vacant commercial property. Land that has not been cleared and is in its natural state is not considered improved property for the purposes of this section.
- (2) Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number of mortgagee, a facsimile number and e-mail address and, in the case of a corporation or out-of-area mortgagee, the local property responsible for the security and maintenance of the property. The mailing address shall not be a post office box.
- (3) The local property management company will be named in the registration and available to be contacted by the city, or the city's agent, Monday through Friday between 9:00 a.m. and 5:00 p.m., federal holidays excepted.
- (4) An annual registration fee in the amount of \$150.00, per property, shall accompany the registration form(s) and shall be due on or before October 1.

- (5) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.
- (6) Properties subject to this section shall remain under the annual registration requirement, security, and maintenance standards of this section so long as they remain vacant or until mortgagee no longer has a security interest in the property.
- (7) Any person or corporation that has registered a property under this section must report any change of information contained in the registration to the city manager, or his or her designee, or the city's agent, within ten days of the change.
- (8) If the property is owned by a corporate mortgagee, a local licensed property management company shall be contracted to perform bimonthly inspections to verify compliance with requirements of this section, and any other applicable laws.
- (9) The property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be no less than an eight-inch by ten-inch sign. The posting shall contain the following information:

**THIS PROPERTY IS MANAGED BY:
TO REPORT PROBLEMS OR CONCERNS CALL:**

The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible or, if no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance of the property. Exterior posting shall be constructed of and printed with weather-resistant materials.

- (10) Upon the request of the city, the local property management company shall provide a copy of the inspection reports to code compliance division of the community development department.

Failure of the mortgagee and/or property owner of record to properly maintain the property shall constitute a violation of this section.

(e) *Maintenance requirements.*

- (1) Properties subject to this section shall be maintained in accordance with the City of Port Orange Code of Ordinances and the Land Development Code and any other applicable law, ordinance or regulation.
- (2) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(f) *Security requirements.*

- (1) Properties subject to this section shall be secured so as not to be accessible to unauthorized persons or animals.
- (2) Secured shall include, but be not limited to, the closure and locking of all windows, doors, gates, fences, swimming pool enclosures, and other openings of such size that may allow a person or animal to access the interior of the property and/or structure. Broken windows shall be secured by repairing or boarding the window.

- (g) ***Immunity of enforcement officer.*** Any code compliance inspector or any person authorized by law shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.

- (h) ***Additional authority.*** The city manager or his or her designee shall have authority to require the mortgagee and/or owner of record of any property subject to this section, to implement additional maintenance and/or security measures including, but not limited to: securing any and all doors, windows or other openings; abating any health, safety, or sanitary hazards; take additional landscape or lawn maintenance measures; or such other measures as are reasonably required for life, health and safety or to help prevent further decline of the property.

- (i) ***Penalties and enforcement.*** The provisions of this section shall be enforced and penalties imposed pursuant to chapter 2, article V, Code Enforcement, of the City of Port Orange Code of Ordinances, and any other remedies allowed by law or equity.

- The initial inspection of this property found a mobile home that has been destroyed by fire and is uninhabitable. In addition, there is a large amount of outside stored items on the property along with trash and debris on site. There are no sanitary facilities or water to the property and there are unauthorized occupants camping on the premises. To correct the violations, the mobile home must be demolished which will require a permit be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Tents that are being utilized as dwelling units must be removed from the property. In addition, all outside storage must be removed along with all trash and debris. Additionally, the property must be registered, secured, and maintained in compliance with the ordinance.

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 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 above specified time for correction given by the undersigned Code Enforcement Officer (Code Compliance Inspector), the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate November 11, 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 above 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 Officer. Please govern yourself accordingly.

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

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 22.20 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **November 11, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, 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 **Special Magistrate on January 13, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC HEARING. 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 Officer. Please govern yourself accordingly.

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

DATED this 7th day of October, 2020.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

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 First National Bank of America (FNBA), P.O. Box 980, East Lansing, MI 48826-0980, Rose Acceptance Inc., 241 E. Saginaw Street, E. Lansing, MI 48823, Tarokh Law, PLLC, Jason M. Tarokh, Attorney for Rose Acceptance Inc., P.O. Box 10827, Tampa, FL 33679

RE: 5348 Landis Avenue, Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 7th day of October, 2020.

Time: approx. 11:30 AM

Dena Joseph
Dena Joseph, Code Enforcement Officer

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RE: 5348 Landis Avenue, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 8 day of October, 2020.

Time: approx. 8:45 am

Shelly Field
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

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ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-1569**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

FIRST NATIONAL BANK OF AMERICA
ROSE ACCEPTANCE INC.
TAROKH LAW, PLLC
5348 LANDIS AVE
PORT ORANGE, FL 32127
PARCEL ID : 6310-07-21-0050

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on November 11, 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, FIRST NATIONAL BANK OF AMERICA, ROSE ACCEPTANCE INC, TAROKH LAW, whose mailing addresses are P.O. BOX 980, EAST LANSING, MI 48826; 241 E SAGINAW STREET, E. LANSING, MI 48823; P.O. BOX 10827, TAMPA FL 33679, are the owners/representatives of the property located at 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, and more particularly described as:

LOTS 5 & 6 BLK 21 ALLANDALE MB 4 PG 146 PER OR 4150 PG 0888 PER OR 5832 PG 1036 PER
D/C 5995 PG 4713 PER OR 5995 PGS 4718-4719 PER OR 6010 PGS 4351-4352 PER OR 7832 PG
2432

B. The violation was to be corrected by registering, securing, and maintaining the property in compliance with the ordinance. This condition was first observed at the real property described above on September 3, 2020; re-inspection was conducted on November 9, 2020. Respondent received notice via posting at City Hall and certified and regular mail on October 8, 2020, as well as posted on the property on October 7, 2020 that the aforesaid conditions constituted a violation of Chapter 42 (Nuisances), Article II (Garbage , Junk and Undergrowth), Section 42-33 Abandoned real property (a) Purpose and intent (b)

Definitions (c) Applicability (d) Registration of abandoned property (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (e) Maintenance requirements (1) (2) (f) Security requirements (1) (2) (g) Immunity of enforcement officer (h) Additional authority (i) Penalties and enforcement of the City of Port Orange Code of Ordinances and was to be corrected by November 8, 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 properly registering said property, submitting the application fee and by securing and maintaining the property as required by the ordinance, removing all trash and debris and removing all items stored on the property and demolishing the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated on or before December 11, 2020. ("Compliance Date") If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss. 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 \$73.40 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

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

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

DONE AND ORDERED this 11TH day of November, 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), FIRST NATIONAL BANK OF AMERICA, ROSE ACCEPTANCE INC, TAROKH LAW, whose mailing addresses are P.O. BOX 980, EAST LANSING, MI 48826; 241 E SAGINAW STREET, E. LANSING, MI 48823; P.O. BOX 10827, TAMPA FL 33679, by Certified and Regular Mail this 11 day of November, 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.
This 11 day of November, 2020
By: Shelly Field

Shelly Field
Secretary, Code Enforcement Special Magistrate



Case Cost Sheet Log

Case No. 20-1432

Name	Activity	Activity_Date	Status	Cost
Marlene Schaffer	Hand delivery of Notice of Violation/Notice of Hearing	10/7/2020		\$0.00
Shirley Amar	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail not yet returned	\$7.40
Coren J. Meeks	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "Courtney Hallstrom 10/13/2020"	\$7.40
Thomas S. Schaffer	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned marked "in jail"	\$7.40
Edward S. Schaffer	Hand delivery of Notice of Violation/Notice of Hearing	10/7/2020		\$0.00
Unknown Occupants/Tenants	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned "refused"	\$7.40
First National Bank of America	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "J. Banett 10-13-20"	\$7.40
Rose Acceptance Inc	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "J. Banett 10-13-20"	\$7.40
Tarokh Law, PLLC	Cost to mail Notice of Violation/Notice of Hearing	10/8/2020	Certified mail returned signed "Jason M Tarokh 10-13-20"	\$7.40
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	11/11/2020		\$29.00
Marlene Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned unclaimed	\$7.40
Shirley Amar	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "MM 1407 11-14-20"	\$7.40
Coren J. Meeks	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed illegible, no date	\$7.40
Thomas S. Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned refused	\$7.40

Edward S. Schaffer	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned refused	\$7.40
Unknown Occupants/Tenants	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned refused	\$7.40
First National Bank of America	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "J. Banett 11-16-20"	\$7.40
Rose Acceptance Inc	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "J. Banett 11-16-20"	\$7.40
Tarokh Law, PLLC	Cost to mail Finding of Fact, Conclusion of Law & Order	11/11/2020	Certified mail returned signed "Jason M. Tarokh 11-17-20"	\$7.40
Clerk of Courts	Fee to record Order Imposing Fine/Lien	1/13/2021		\$46.00
Marlene Schaffer	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Shirley Amar	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Coren J. Meeks	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Thomas S. Schaffer	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Edward S. Schaffer	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Unknown Occupants/Tenants	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
First National Bank of America	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Rose Acceptance Inc	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40
Tarokh Law, PLLC	Cost to mail Order Imposing Fine/Lien	1/13/2021		\$7.40

Total: 260.00



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1432

✓ To: Marlene Schaffer - Hand Delivered
1083 Palm View Drive
South Daytona, FL 32119

Shirley Amar
1141 Clearwater Road
Daytona Beach, FL 32114

Coren J. Meeks
Attorney for Shirley Amar
Meeks and Ceely P.L.
311 East Rich Avenue
Deland, FL 32724

Thomas S. Schaffer
5348 Landis Avenue
Port Orange, FL 32127

✓ Edward S. Schaffer - Hand Delivered
5348 Landis Avenue
Port Orange, FL 32127

Unknown Occupants/Tenants
5348 Landis Avenue
Port Orange, FL 32127

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

Rose Acceptance Inc.
241 E. Saginaw Street
E. Lansing, MI 48823

Tarokh Law, PLLC
Jason M. Tarokh
Attorney for Rose Acceptance Inc.
P.O. Box 10827
Tampa, FL 33679

Re: 5348 Landis Avenue
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

This property has been deemed an unsafe structure by the Building Official Al Tischler.
The Affidavit of the Building Official is attached hereto and is hereby incorporated herein
The relief sought is demolition of the unsafe structure.

An inspection of the premises on September 3, 2020 indicates that certain violation(s) of the City of Port Orange Code exists. A re-inspection was conducted on October 2, 2020 and at that time, the violations continue to exist.

This correspondence will serve as official notification that the below stated violations must be corrected by doing the following: **by having the structure demolished in its entirety by November 8, 2020. A permit will need to be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Further, all tents must be removed and all accessory structures must be vacated by November 8, 2020.**

Briefly stated, the following conditions exist which cause the structure to be unsafe and the property in violation of the following:

1. **Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (Imminent Danger) of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances:**

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe Structures: An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.3 Structure Unfit for Human Occupancy: A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.5 (Dangerous Structure or Premises): For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- (3) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

(5) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

(6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

(7) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

(8) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

(9) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

(10) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

(11) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

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

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

- Initial inspection found a mobile home that was destroyed by fire and is now considered an unsafe, inhabitable, and dangerous structure. To correct the violation, the mobile home must be demolished in its entirety. A permit will need to be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city.

2. Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions-Nuisance), (a) 1, 2, 3, 4, 5, 6 & (b) of the City of Port Orange Code of Ordinances:

42-108 (Unsafe Conditions-Nuisance): (a) A structure is unsafe when any of the following conditions exist:

(1) The structure's interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.

(2) The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.

(3) The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.

(4) The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare.

(5) The structure has connected parts that have become so detached from one another that there is a reasonable likelihood they may fall and injure members of the public or cause property damage in general.

(6) The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

(b) A structure that is unsafe constitutes a nuisance. No person shall permit an unsafe structure to exist on property under his or her ownership or control.

- Initial inspection found a mobile home that was destroyed by fire. The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare. To correct the violation, the home must be demolished. A permit must be obtained through the City of Port Orange Building Department. The property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city.

3. Chapter 16 - MISCELLANEOUS REGULATIONS, Section 1 (Accessory uses and structures), (a) General, (b) Principal use and/or principal structure required, (1), (2), (3) & (4) of the City of Port Orange Land Development Code:

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

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

(1) Be customarily incidental to the principal use established on the same lot;

(2) Be subordinate to and serve such principal use;

(3) Be subordinate in area, extent and purpose to such principal use; and

(4) Contribute to the comfort, convenience or necessity of users of such principal use.

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

- Initial inspection found uninhabitable principal structures of which there are now no permitted structures for human occupancy on the property and that tents were set up on the property. To correct the violation, all tents must be removed and all accessory structures must be vacated.

4. Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities), 502.1 (Dwelling Units) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

- Initial inspection found no functioning sanitary facilities on the property. Tents being used as dwelling units must be removed from the property.

5. Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water Systems), 505.1 (General) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances: Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

- Initial inspection found water supply disconnected.

Attachments: ☐ Copy of code

☐ Copy of Deed

☐ Copy of Tax Roll

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

Failure to comply after this date may also result in an order vacating the property and requiring the property owner to, or permitting the city to, secure, repair and/or demolish the structure(s) on the property with any and all costs therefore being assessed against the property and constituting a lien thereon.

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

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate November 11, 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 above 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 Officer. 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." **THIS INCLUDES BUT IS NOT LIMITED TO ALL COSTS TO REPAIR, SECURE AND/OR DEMOLISH THE STRUCTURE.** The costs incurred to date are \$ 51.80 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **November 11, 2020**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **January 13, 2021, 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 consider setting the fine lien on the above referenced case at said PUBLIC

HEARING. 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/Officer. Please govern yourself accordingly.

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

DATED this 7th day of October, 2020.

CITY OF PORT ORANGE, FLORIDA

Dena Joseph

Code Enforcement Officer

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: Marlene Schaffer, 1083 Palm View Drive, South Daytona, FL 32129, Shirley Amar, 1141 Clearwater Road, Daytona Beach, FL 32114, Coren J. Meeks, Attorney for Shirley Amar, Meeks and Ceely P.L., 311 East Rich Avenue, Deland, FL 32724, Thomas S. Schaffer, 5348 Landis Avenue, Port Orange, FL 32127, Edward S. Schaffer, 5348 Landis Avenue, Port Orange, FL 32127, Unknown Occupants/Tenants, 5348 Landis Avenue, Port Orange, FL 32127, Rose Acceptance Inc., 241 E. Saginaw Street, E. Lansing, MI 48823, First National Bank of America (FNBA), P. O. Box 980, East Lansing, MI 48826-0980, Tarokh Law, PLLC, Jason M. Tarokh, Attorney for Rose Acceptance Inc., P.O. Box 10827, Tampa, FL 33679

RE: 5348 Landis Avenue, Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 7th day of October, 2020.

Time: approx. 11:30 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: Marlene Schaffer, 1083 Palm View Drive, South Daytona, FL 32129, Shirley Amar, 1141 Clearwater Road, Daytona Beach, FL 32114, Coren J. Meeks, Attorney for Shirley Amar, Meeks and Ceely P.L., 311 East Rich Avenue, Deland, FL 32724, Thomas S. Schaffer, 5348 Landis Avenue, Port Orange, FL 32127, Edward S. Schaffer, 5348 Landis Avenue, Port Orange, FL 32127, Unknown Occupants/Tenants, 5348 Landis Avenue, Port Orange, FL 32127, Rose Acceptance Inc., 241 E. Saginaw Street, E. Lansing, MI 48823, First National Bank of America (FNBA), P. O. Box 980, East Lansing, MI 48826-0980, Tarokh Law, PLLC, Jason M. Tarokh, Attorney for Rose Acceptance Inc., P.O. Box 10827, Tampa, FL 33679

RE: 5348 Landis Avenue, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 8 day of October, 2020.

Time: approx. 8:45 am

Shelly Field
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, 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.

RECORD OF PROCEEDINGS

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

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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.

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 20-1432**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

MARLENE SCHAFFER
SHIRLEY AMAR
THOMAS S. SCHAFFER
EDWARD S. SCHAFFER
5348 LANDIS AVE
PORT ORANGE, FL 32127
PARCEL ID : 6310-07-21-0050

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on November 11, 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, MARLENE SCHAFFER, SHIRLEY AMAR, THOMAS S. SCHAFFER, EDWARD S. SCHAFFER, whose mailing addresses are 1083 PALM VIEW DRIVE, SOUTH DAYTONA FL 32119; 1141 CLEARWATER ROAD, DAYTONA BEACH, FL 32114; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, are the owners of the property located at 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, and more particularly described as:

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

B. The violation was to be corrected by demolishing the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated. This condition was first observed at the real

property described above on September 3, 2020; re-inspection was conducted on November 9, 2020. Respondent received notice via posting at City Hall and certified and regular mail on October 7, 2020, as well as posted on the property on October 7, 2020 that the aforesaid conditions constituted a violation of Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1 (General), 108.1.1 (Unsafe Structures), 108.1.3 (Structure Unfit for Human Occupancy), 108.1.5 (Dangerous Structure or Premises), (1), (2), (3), (4), (5), (6), (7), (8), (10), (11), 108.6 (Abatement Methods), Section 109 (Emergency Measures), 109.1 (imminent Danger) of the 2018 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. Chapter 42, (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), 42-108 (Unsafe Conditions-Nuisance), (a) 1, 2, 3, 4, 5, 6 & (b) of the City of Port Orange Code of Ordinances. City of Port Orange Land Development Code, Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses and Structures), (a) General, (b) Principal use and/or principal structure required, (1), (2), (3) & (4). 2018 International Property Maintenance Code, Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 502 (required Facilities), 502.1 (Dwelling Units) as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances. 2018 International Property Maintenance Code, Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 General as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II and was to be corrected by November 8, 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 demolishing the structure in its entirety, which will require a permit from the City of Port Orange Building Department. Once demolished, the property will need to be filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition and comply with the established vegetation standards of the city. Furthermore, all tents are to be removed and all accessory structures vacated on or before December 11, 2020. ("Compliance Date") If the respondents fail to take corrective action within 30 days of the date of the Order, the City is granted the authority to enter the property and remove and dispose of the structure, items and personal property with all costs to be assessed against the respondent and the City shall not be responsible for any damage or loss. 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 \$147.40 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

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

DONE AND ORDERED this 11TH day of November, 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), MARLENE SCHAFFER, SHIRLEY AMAR, THOMAS S. SCHAFFER, EDWARD S. SCHAFFER, , whose mailing addresses are 1083 PALM VIEW DRIVE, SOUTH DAYTONA FL 32119; 1141 CLEARWATER ROAD, DAYTONA BEACH, FL 32114; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127; 5348 LANDIS AVENUE, PORT ORANGE, FL 32127, by Certified and Regular Mail this 11 day of November, 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/has not been redacted pursuant to Florida Law.
This 11 day of November, 2020.

By: Shelly Field

Shelly Field
Secretary, Code Enforcement Special Magistrate

