



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, June 9, 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.:** 21-0473

Respondent: Ross Polito

Doreen Polito Goodwin

Address of Violation: 5479 Taylor Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/17/2021

Compliance: No

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

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

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

4. **CEB Case No.:** 20-1739

Respondent: Lee Florin

MHC Pickwick L.L.C

Address of Violation: 4500 Clyde Morris Blvd., Pickwick Village Mobile Home Park (298 Windsor Drive)
Port Orange, FL 32129

Code Officer: Daniel Bungart

First Notified: 10/30/2020

Compliance: No

Cited for violation(s) - 2020 Florida Building Code, 7th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 8, Article I of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit.

5. **CEB Case No.:** 21-560

Respondent: Sonoa L. Mulder

Address of Violation: 253 Devon Street, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 3/30/2021

Compliance: Yes

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

6. **CEB Case No.:** 21-442

Respondent: Scott Theodore Zyrowski

Address of Violation: 191 Gibson Way, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 3/15/2021

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

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

Chapter 16 (Miscellaneous Regulations), Section 3 (Fences and Walls), (b) General Provisions, (4) Design and Maintenance of he City of Port Orange Land Development Code (b) (d)

C. ORDER IMPOSING FINE/LIEN

7. CEB Case No.: 21-170

Respondent: Estate of James V. Costanzo

Address of Violation: 121 Aloha Terrace, Port Orange, FL 32129

Code Officer: Daniel Bungart

First Notified: 2/4/2021

Compliance: No

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

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

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

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

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.

Code Enforcement Special Magistrate Meeting

Wednesday, June 9, 2021

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UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MAY 26, 2021

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

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Dena Joseph, Code Compliance Inspector
Suzette Cameron, Code Compliance Inspector
Dennis Boehmer, Code Compliance Inspector
Scott Allman, Code Compliance Inspector
Deborah Pearson, Code Compliance Manager
Shelby Field, Assistant City Clerk

Attorney Overview of Special Magistrate Code Enforcement Process

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

Consideration of Minutes

Special Magistrate Fuller approved the May 12, 2021 meeting minutes as presented.

Oaths

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

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 21-0624
Respondent: Zachary R. Staley
Address of Violation: 1515 Rusty Circle, Port Orange, FL 32129
Code Officer: Suzette Cameron
First Notified: 4/6/2021

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.

Suzette Cameron, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately, as it is a repeat violation, by mowing and trimming the high weeds and grass on the property and right of way.

Mrs. Cameron recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by mowing and trimming the high weeds and grass on the property and right of way. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day beginning April 15, 2021 (the date the violation was first noticed) shall be imposed for each day the property remains in noncompliance. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mrs. Cameron requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.94 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented. The property owner is to immediately mow and trim the high weeds and grass on the property and right of way or a daily fine in the amount of \$100.00 per day beginning April 15, 2021 and running until the property is brought into compliance shall be imposed. Costs in the amount of \$43.94 were awarded to the City.

4. **CEB Case No.:** 21-619

Respondent: Sally Powell Estate

Address of Violation: 1205 Sparton Avenue, Port Orange, FL 32127

Code Officer: Dennis Boehmer

First Notified: 4/5/2021

Compliance: No

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

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

Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

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

Dennis Boehmer, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by April 19, 2021 by mowing the property of all high weeds and grass, removing all trash and debris throughout the property and remove all outside stored items off the carport, the wood leaning on the side of the home and the items on the front deck.

Mr. Boehmer recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by June 6, 2021 by removing all junk, trash and debris still left on the carport. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a one-time fine in the amount of \$1,000.00 shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Boehmer requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.94 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner has until June 6, 2021 to remove all junk, trash and debris still left on the carport or a one-time fine in the amount of \$1,000.00 shall be imposed. Costs in the amount of \$43.94 were awarded to the City.

5. **CEB Case No.:** 16-1127

Respondent: Donald Ray Clark

Address of Violation: 1015 Samms Avenue, Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 7/8/2016

Compliance: No

2018 Florida Building Code, 6th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 8, Article I of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit.

Dena Joseph, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and requested a continuation of the case to the June 23, 2021 hearing. Special Magistrate Fuller granted the continuation request.

6. **CEB Case No.:** 21-727

Respondent: Edward A. & Joann E. Bougher

Address of Violation: 873 Nixon Lane, Port Orange, FL 32129

Code Officer: Scott Allman

First Notified: 4/16/2021

Compliance: Yes

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

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

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

7. **CEB Case No.:** 20-1578

Respondent: Darrell & Sharon Blake

Address of Violation: 1157 Millbrook Avenue, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 10/4/2020

Compliance: No

2018 International Property Maintenance Code, Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1.1 (Unsafe Structures), 108.1.3 (Structure unfit for human occupancy), and 108.1.5 (1-11) (Dangerous structure or premises), as adopted by the City of Port Orange Code of Ordinances, Chapter 14, Article II, Section 14-26.

Scott Allman, Code Compliance Inspector, was sworn in by Special Magistrate Fuller and testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by April 11, 2021 by obtaining a demolition permit, by demolishing the burned down structure and by removing all debris.

Mr. Allman recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by June 27, 2021 by obtaining a demolition permit, by demolishing the burned down structure and by removing all debris. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, the city shall have the option to abate the violation. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Mr. Allman requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$133.58 was tendered into evidence and accepted by Special Magistrate Fuller with no objections. The publication costs to date are \$1,737.32.

Special Magistrate Fuller granted the recommendation with an amendment. The property owner has until June 27, 2021 to obtain a demolition permit, demolish the burned down structure and remove all debris or the city shall have the option to abate the violation. Costs in the amount of \$133.58 were awarded to the City. The publication costs to date are \$1,737.32.

8. **CEB Case No.:** 20-1954

Respondent: Catherine M. Thomas Life Estate

Address of Violation: 717 Marshall Circle, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 12/17/2020

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.

Ms. Joseph testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by May 16, 2021 by demolishing the mobile home in its entirety, a permit was to be obtained through the City of Port Orange Building Department. The property needed 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.

Johnny M. Green, Port Orange Building Official, was sworn in by Special Magistrate Fuller and testified to what he witnessed at the property. He stated that the damage observed to the roof will lead to interior issues such as mold, deterioration and floor problems. Mr. Green does not believe the structure is habitable at this time.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by June 27, 2021 by obtaining a permit through the City of Port Orange Building Department and demolishing the mobile home in its entirety. The property needs 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. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day shall be imposed for each day the property remains in noncompliance. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$163.46 was tendered into evidence and accepted by Special Magistrate Fuller with no objections. The publication costs to date are \$1,737.32.

Edward Thomas, one of the property owner's, was sworn in by Special Magistrate Fuller and testified that he was unaware of the issues with the property. He believed his sister was supposed to be taking care of it. Mr. Thomas does not have the money to fix all the issues but

believes he could come up with the demolition costs, however he isn't sure if he has the authority to make any corrections to the property.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner has until June 27, 2021 to obtain a permit through the City of Port Orange Building Department and demolish the mobile home in its entirety. The property needs 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 or a daily fine in the amount of \$100.00 per day shall be imposed. Costs in the amount of \$163.46 were awarded to the City. The publication costs to date are \$1,737.32.

9. **CEB Case No.:** 21-0649

Respondent: Catherine M. Thomas Life Estate

Address of Violation: 717 Marshall Circle, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/7/2021

Compliance: No

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

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

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by mowing the entire property to include weed eating and blowing yard debris back onto the property. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a one-time fine in the amount of \$1,000.00 shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$163.46 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner is to immediately mow the entire property to include weed eating and blowing yard debris back onto the property or a one-time fine in the amount of \$1,000.00 shall be imposed. Costs in the amount of \$163.46 were awarded to the City.

Special Magistrate Fuller asked for clarification on why some of the properties have publication costs. Deborah Pearson, Code Compliance Manager, explained that some of the properties

have publication costs due to the property owners being deceased, the number of respondents listed and lack of response.

10. **CEB Case No.:** 21-0711

Respondent: Peter J. Renko

Address of Violation: 150 Howes Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/7/2021

Compliance: No

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

Ms. Joseph as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by April 28, 2021 by covering the vehicle with a standard vehicle cover in good condition or removing the vehicle from the property.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by June 6, 2021 by covering the vehicle with a standard vehicle cover in good condition or removing the vehicle from the property. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a one-time fine in the amount of \$500.00 shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$36.47 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented. The property owner has until June 6, 2021 to cover the vehicle with a standard vehicle cover in good condition or remove vehicle from the property or a one-time fine in the amount of \$500.00 shall be imposed. Costs in the amount of \$36.47 were awarded to the City.

11. **CEB Case No.:** 21-0655

Respondent: Peter J. Renko

Address of Violation: 150 Howes Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/7/2021

Compliance: No

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

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

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

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

Ms. Joseph as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected immediately, as it is a repeat violation, by mowing the entire property to include weed eating and blowing of yard debris back onto property and by storing all outside items in an enclosed building.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by mowing the entire property to include weed eating and blowing of yard debris back onto property and by storing all outside items in an enclosed building. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a one-time fine in the amount of \$1,000.00 shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$36.47 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner is to immediately mow the entire property to include weed eating and blowing of yard debris back onto property and store all outside items in an enclosed building or a one-time fine in the amount of \$1,000.00 shall be imposed. Costs in the amount of \$36.47 were awarded to the City.

12. CEB Case No.: 19-1538

Respondent: Carl Joseph Zimmermann III

Jean Marie Zimmermann

Address of Violation: 413 Lafayette Street, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 10/21/2019

Compliance: No

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

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

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

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

Chapter 3, Section 304 (Exterior Structure), 304.6 (Exterior Walls), of the 2021 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.2 (Protective Treatment), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II, Section 14-26 of the City of Port Orange Code of Ordinances.

Ms. Joseph as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by May 20, 2021 by mowing the property to include weed eating and blowing yard debris back onto the property, removing the outside stored items including but not limited to bricks, miscellaneous items on front porch, and the large shipping container which is be utilized as an area for storing personal items, properly parking vehicle in designated driveway area or placing on an installed driveway extension made of mulch or rock and set apart with railroad timbers so as to appear as a parking space, and eliminating all peeling, flaking, or chipped paint from the exterior of the home and repainting.

A re-inspection was conducted on May 20, 2021 resulting in the yard being mowed in its entirety and vehicles properly parked in driveway.

Carl Zimmermann, Property Owner, was sworn in by Special Magistrate Fuller and testified that he is in the process of complying with the violations. He recently painted the majority of the home and hopes to have the remainder done by Monday May 31, 2021. His brother is in the process of scheduling to get the shipping container removed but if he is unable to, he will need to dismantle it himself. Mr. Zimmermann asked for more time to remove the shipping container.

Ms. Joseph recommended the property owners be found in violation of the following referenced codes; 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 AND Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.2 (Protective Treatment), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances with the violations to be corrected by June 10, 2021 by removing the shipping container on site and repainting the exterior walls of the home. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$50.00 per day shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.94 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation with an amendment. The property owner has until June 30, 2021 to remove the shipping container on site and repaint the exterior walls of the home or a daily fine in the amount of \$50.00 per day shall be imposed. Costs in the amount of \$43.94 were awarded to the City.

13. CEB Case No.: 21-0615

Respondent: Samuel C. Sebergandio Jr. Est

Address of Violation: 5453 Pineland Avenue, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 4/5/2021

Compliance: No

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

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

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

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected immediately by mowing the entire property to include weed eating and blowing of debris back onto the property. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a one-time fine in the amount of \$2,000.00 shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$43.94 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation as presented and deemed the property a health and safety violation. The property owner is to immediately mow the entire property to include weed eating and blowing of debris back onto the property or a one-time fine in the amount of \$2,000.00 shall be imposed. Costs in the amount of \$43.94 were awarded to the City.

14. CEB Case No.: 21-0590

Respondent: Jason Arnold

Derek Arnold

Address of Violation: 706 Marshall Circle, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 3/31/2021

Compliance: No

Cited for violation(s) - Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances.

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

Chapter 5 (Plumbing Facilities and Fixture Requirements), 501 (General), 501.2 (Responsibility) of the 2021 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), 505 (Water System), 505.1 (General) of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

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

Ms. Joseph as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by May 2, 2021 by cleaning up and removing all garbage, trash, and debris from the property, properly storing all outside storage in an enclosed building, providing and maintaining plumbing facilities and plumbing fixtures and not permitting another person to occupy any structure or premises that does not comply with the requirements, properly connecting all water fixtures to a public water system or to an approved private water system, and removing the fence in its entirety or replacing/repairing all missing posts, pickets, panels, etc. If replacing the fenced areas, a permit will need to be obtained through the City of Port Orange Building Department and all fees paid.

Jason Arnold, Property Owner, was sworn in by Special Magistrate Fuller and testified that he has been dealing with squatters since March, the police wont remove them from the property, and every time he tries to throw stuff away they keep putting it back. He is moving forward with trespassing orders and attempting to remove the squatters from the property.

Jean Masterson, Neighbor, was sworn in by Special Magistrate Fuller and testified that the people residing in the residence have been hauling stuff in every day and he can hear them yelling at each other from his property at night. Mr. Masterson called the police once, but they were unable to help.

Randy Embree, Neighbor, was sworn in by Special Magistrate Fuller and testified to the noise he hears in the middle of the night as well as observing them bringing trash and debris onto the

property. He observed that no one seems to be able to do anything police, code enforcement and even the property owner.

Ms. Joseph recommended the property owners be found in violation of the above referenced codes with the violations to be corrected by June 6, 2021 by removing all outside stored items and properly storing in an enclosed building, removing all trash and debris, either removing or replacing/repairing the fence on site to include missing pickets, posts, etc. If the fence is to be replaced, a permit will need to be obtained through the City of Port Orange and all fees paid. In addition, the property owners cannot permit others to reside in the structure without water. To correct the violations, the water must be reconnected to the city's water system. In the event the property is not brought into compliance on or before the compliance date, and/or not maintained in a state of compliance, a daily fine in the amount of \$100.00 per day shall be imposed. Accused should be further ordered to contact the Code Enforcement Officer to arrange for a re-inspection of the property to verify compliance with the order. Ms. Joseph requested any future violations under this ordinance be considered repeat. The cost sheet in the amount of \$58.88 was tendered into evidence and accepted by Special Magistrate Fuller with no objections.

Special Magistrate Fuller granted the recommendation with an amendment and deemed the property a health and safety violation. The property owner has until June 6, 2021 to remove all outside stored items and properly store them in an enclosed building, remove all trash and debris, either remove or replace/repair the fence on site to include missing pickets, posts, etc. If the fence is to be replaced, a permit will need to be obtained through the City of Port Orange and all fees paid. In addition, the property owners cannot permit others to reside in the structure without water. To correct the violations, the water must be reconnected to the city's water system. Costs in the amount of \$58.88 were awarded to the City.

C. ORDER IMPOSING FINE/LIEN

There were none.

D. ADJOURNMENT – 11:30 a.m.

Special Magistrate Fuller

Case Cost Sheet Log

Case No. 21-0473

Name	Activity	Activity_Date	Status	Cost
Ross Polito	Cost to mail Notice of Violation/Notice of Hearing	05/06/2021	Certified mail returned unclaimed	\$7.47
Doreen Polito Goodwin	Cost to mail Notice of Violation/Notice of Hearing	05/06/2021	Certified mail returned unclaimed	\$7.47
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	06/09/2021		\$29.0
Ross Polito	Cost to mail Finding of Fact, Conclusion of Law & Order	06/09/2021		\$7.47
Doreen Polito Goodwin	Cost to mail Finding of Fact, Conclusion of Law & Order	06/09/2021		\$7.47

Total: 58.88



NOTICE OF VIOLATION AND NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 21-0473

To: Ross Polito
Doreen Polito Goodwin
5429 Taylor Avenue
Port Orange, FL 32127

Re: 5479 Taylor Avenue
Port Orange, FL 32127
Parcel ID: 6315-04-07-0100

LEGAL DESCRIPTION: S 5 FT OF LOT 9 & ALL LOT 10 BLK 7 COMMONWEALTH MOBILE ESTS FIRST ADD MB 29 PG 47 PER OR 4322 PG 1847 PER OR 6232 PG 1531 PER OR 7524 PG 3422
Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 17, 2021, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given four days to correct. Re-inspections completed on April 15, 2021 and April 28, 2021 resulted in non-compliance.

- This correspondence will serve as official notification that the below stated violation(s) **must be corrected by doing the following by May 10, 2021: 1.) The entire property needs to be mowed, weed-eated, all undergrowth removed, and all debris blown back onto the property. 2.) All outside stored items must be properly stored inside an enclosed building or removed from the property.**

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

1. **Chapter 42, (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances:** The owner of an improved lot in a residential zone shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas. **(h) Abutting property owner maintenance of parkages:** It shall be the duty of every owner of real property within the city to at all times cause to be cut and 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, grass, and undergrowth. To correct the violation, the entire property needs to be mowed, weed-eated, all undergrowth removed, and all debris blown back onto the property.
2. **Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 (Storage of vehicles, furniture, etc.), of the City of Port Orange Code of Ordinances:** No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.
- The initial inspection of this property found various items stored outside. To correct the violation, all outside stored items must be properly stored inside an enclosed building or removed from the property.

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the 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 June 9, 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 \$ 14.94 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 **June 9, 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 **July 14, 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 30th day of April, 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 Ross Polito & Doreen Polito Goodwin, 5429 Taylor Avenue, Port Orange, FL 32127 RE: 5479 Taylor Avenue, Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 30th day of April, 2021.

Time: approx. 11:00AM

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 Ross Polito & Doreen Polito Goodwin, 5429 Taylor Avenue, Port Orange, FL 32127 RE: 5479 Taylor Avenue, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 6th day of May, 2021.

Time: approx. 1:45pm

Robert H. Hemenway
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. 20-1739**

Name	Activity	Activity_Date	Status	Cost
Lee Florin	Cost to mail Notice of Violation/Notice of Hearing	04/09/2021	Certified mail not yet returned	\$7.47
MHC Pickwick L.L.C, Owner	Cost to mail Notice of Violation/Notice of Hearing	04/09/2021	certified mail not yet returned	\$7.47
MHC Pickwick L.L.C, C/O Corporation System	Cost to mail Notice of Violation/Notice of Hearing	04/09/2021	Certified mail returned stamped "CT Corporation" dated 4-16-21	\$7.47
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	05/12/2021		\$29.00
Lee Florin	Cost to mail Finding of Fact, Conclusion of Law & Order	05/12/2021		\$7.47
MHC Pickwick L.L.C, Owner	Cost to mail Finding of Fact, Conclusion of Law & Order	05/12/2021		\$7.47
MHC Pickwick L.L.C, C/O Corporation System	Cost to mail Finding of Fact, Conclusion of Law & Order	05/12/2021		\$7.47

Total: 73.82



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 20-1739

To: Lee Florin
298 Windsor Dr.
Port Orange FL 32129

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

To: MHC Pickwick L.L.C.
C/O: CT Corporation System, Registered Agent
1200 South Pine Island Road
Plantation, FL 33324

Re: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park (298 Windsor Drive)
Port Orange, FL 32129
Parcel ID: 6306-00-00-0110

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

Volusia County Public Records
Volusia County, FL

An inspection of the premises on October 30, 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 ten days to correct. Re-inspections completed on December 14, 2020, and December 18, 2020 resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by doing the following: **The property owner must pay for and pick up approved permit for all work done OR remove all work done without permit, by April 19, 2021.**

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

1. **2020 Florida Building Code, 7th Edition, Section 105 (Permits), Section 105.1 (Required) as adopted per Chapter 8, Article I of the City of Port Orange Code of Ordinances: Failure to Obtain a Building Permit:** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

- The initial inspection found patio (pergola) framing being done without a permit.

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 May 21, 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 \$ 22.41 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **May 21, 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 June 23, 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 9th day of April, 2021.

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: Lee Florin, 298 Windsor Dr., Port Orange FL 32129, RE: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park (298 Windsor Drive), Port Orange, FL 32129, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 9th day of April, 2021.

Time: approx. _____


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: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park (298 Windsor Drive), Port Orange, FL 32129, RE: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park (298 Windsor Drive), Port Orange, FL 32129, was

☒ Hand-delivered

Recipient of hand delivered documents: _____

☐ Posted at the property

this 9th day of April, 2021.

Time: approx. 11:00am


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: MHC Pickwick L.L.C., Owner, Attn: David Eldersveld, Two North Riverside Plaza, Suite 800, Chicago, IL 60606, RE: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park (298 Windsor Drive), Port Orange, FL 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 9 day of April, 2021.

Time: approx. 2:05pm


Secretary, Special Magistrate

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to: MHC Pickwick L.L.C., C/O: CT Corporation System, Registered Agent, 1200 South Pine Island Road, Plantation, FL 33324, RE: 4500 Clyde Morris Blvd. – Pickwick Village Mobile Home Park (298 Windsor Drive), Port Orange, FL 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 9 day of April, 2021.

Time: approx. 2:05pm


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.

SECTION 105
PERMITS

[A] 105.1 Required. Any *owner* or owner's authorized agent who intends to construct, enlarge, alter, *repair*, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, *repair*, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *building official* and obtain the required *permit*.

SECTION 115
STOP WORK ORDER

[A] 115.1 Authority. Where the *building official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *building official* is authorized to issue a stop work order.

[A] 115.2 Issuance. The stop work order shall be in writing and shall be given to the *owner* of the property involved, the owner's authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

[A] 115.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

Case Cost Sheet Log

Case No. 21-560

Name	Activity	Activity_Date	Status	Cost
Sonoa L. Mulder	Cost to mail Notice of Violation/Notice of Hearing	05/05/2021	Certified mail returned signed, illegible dated 5/8	\$7.47
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order	06/09/2021		\$29.00
Sonoa L. Mulder	Cost to mail Finding of Fact, Conclusion of Law & Order	06/09/2021		\$7.47

Total: 43.94



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 21-560

To: Sonoa L. Mulder
253 Devon Street
Port Orange, FL 32127

Re: 253 Devon Street
Port Orange, FL 32127
Parcel ID: 6321-0600-0430
LEGAL DESCRIPTION: LOT 43 DEVONWOOD SUB MB 37 PGS 118 & 119 PER OR 3961 PG 1192
Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 30, 2021, indicates that certain violation(s) of the City of Port Orange Code exists.

The Property Owner was given ample time to have unlicensed/inoperable jeep removed from the front of the property. The property was re-inspected on April 30, 2021, and the Property Owner was given two days to have the jeep removed from the property. The property was last re-inspected May 4, 2021, which has resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by doing the following: **The unregistered and inoperable jeep must be must be properly tagged and registered, parked in the driveway on in a carport, stored in an enclosed building/garage, covered with approved car covers, or removed/relocated from the property by May 15, 2021.**

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

1. **Chapter 70 (Traffic), Article II (Stopping standing and parking), Section 70-49 (Restrictions on abandoned or disabled vehicles), (c) Restrictions, (1) (a), (b) and (2) of the City of Port Orange Code of Ordinances:** (1) No disabled or abandoned vehicle shall remain on residentially-zoned or agriculturally-zoned private property unless such vehicle is: **(a)** Within a completely enclosed garage; or **(b)** parked in a carport, parking space or city-approved parking area and covered solely with a standard vehicle cover in good repair, so long as any portion of the vehicle which is not covered is not in a state of disrepair. **(2)** No disabled or abandoned vehicle parked on residentially-zoned or agriculturally-zoned private property shall be covered by material other than a standard vehicle cover in good repair unless such vehicle is parked inside a completely enclosed garage.
 - The initial inspection of this property found an unregistered and inoperable vehicle stored on the front 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 June 9, 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 \$ 7.47 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 **June 9, 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 **July 14, 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) 506-5643**.

DATED this 5TH day of MAY, 2021.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: [Signature]
Dennis A. Boehmer, Code Enforcement Officer

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Sonoa L. Mulder, 253 Devon Street, Port Orange, FL 32127, RE: 253 Devon Street, Port Orange, FL 32127, was

☐ Hand-delivered

☒ Posted at the property

Recipient of hand delivered documents: _____

Time: approx. 1014 HOURS

this 5TH day of MAY, 2021.

[Signature]
Dennis A. Boehmer, Code Enforcement Officer

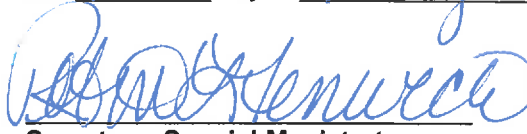
☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Sonoa L. Mulder, 253 Devon Street, Port Orange, FL 32127, RE: 253 Devon Street, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 5th day of May, 2021.

Time: approx. 2:52pm



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. 21-442

Name	Activity	Activity_Date	Status	Cost
Scott Theodore Zyrowski	Hand delivery of Notice of Violation/Notice of Hearing			\$0.00
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order			\$29.00
Scott Theodore Zyrowski	Cost to mail Finding of Fact, Conclusion of Law & Order	03/22/2021		\$7.47

Total: 36.47

Case Cost Sheet Log

Case No. 21-170

Name	Activity	Activity_Date	Status	Cost
Estate of James V. Costanzo	Cost to mail Notice of Violation/Notice of Hearing		Certified mail returned unclaimed	\$7.47
Clerk of Courts	Fee to record Finding of Fact, Conclusion of Law & Order			\$29.00
Estate of James V. Costanzo	Cost to mail Finding of Fact, Conclusion of Law & Order	04/28/2021	Certified mail returned signed "Estate of J. Costanzo 5/7/21"	\$7.47
Clerk of Courts	Fee to record Order Imposing Fine/Lien	06/09/2021		\$46.0
Estate of James V. Costanzo	Cost to mail Order Imposing Fine/Lien	06/09/2021		\$7.47

Total: 43.94



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 21-170

To: Estate of James V. Costanzo
121 Aloha Terrace
Port Orange, FL 32129

Re: 121 Aloha Terrace
Port Orange, FL 32129
Parcel ID: 6305-03-00-0890

LEGAL DESCRIPTION: LOT 89 BAREFOOT PARK MB 31 PG 62 PER OR 4610 PG 2301 PER OR 5356 PG 0082 PER OR 5660 PG 1270 PER OR 5993 PG 0092-0093
Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 4, 2021, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given seven days to correct. Re-inspections completed on February 12, 2021, February 16, 2021, February 22, 2021, and March 18, 2021 resulted in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by doing the following: **All high weeds and grass must be trimmed, and debris blown back onto property. All garbage and debris must be removed and placed in an approved garbage can for pick up. All items currently stored outdoors must be stored in an enclosed building or removed from property by March 28, 2021.**

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

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

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.
3. **Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 (Storage of vehicles, furniture, etc.), of the City of Port Orange Code of Ordinances:** No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.
 - The initial inspection of this property found various items stored outside.

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 April 28, 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 \$ 7.47 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

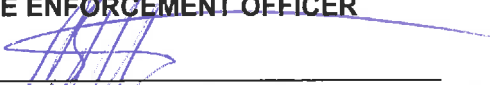
In the event the **Special Magistrate**, during the hearing on **April 28, 2021**, enters a Final Order finding a violation as alleged, pursuant to Chapter 2, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate on June 9, 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 19th day of March, 2021.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: 
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: Estate of James V. Costanzo, 121 Aloha Terrace, Port Orange, FL, 32129, RE: 121 Aloha Terrace, Port Orange, FL, 32129, was

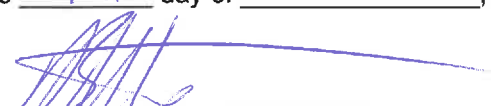
☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 19th day of March, 2021.

Time: approx. 1:30 pm


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 Estate of James V. Costanzo, 121 Aloha Terrace, Port Orange, FL, 32129, RE: 121 Aloha Terrace, Port Orange, FL, 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 19 day of March, 2021.

Time: approx. 2:00 pm


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. 21-170**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

ESTATE OF JAMES V. COSTANZO
121 ALOHA TERRACE
PORT ORANGE, FL 32129
PARCEL ID : 6305-03-00-0890

Respondent.

_____ /

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

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on April 28, 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, ESTATE OF JAMES V. COSTANZO, whose mailing address is 121 ALOHA TERRACE, PORT ORANGE, FL 32129, is the owner of the property located at 121 ALOHA TERRACE, PORT ORANGE, FL 32129, and more particularly described as:

LOT 89 BAREFOOT PARK MB 31 PG 62 PER OR 4610 PG 2301 PER OR 5356 PG 0082 PER OR
5660 PG 1270 PER OR 5993 PG 0092-0093

B. The violation was to be corrected by trimming all high weeds and grass and blowing the debris back onto property, removing all garbage and debris and placing it in an approved garbage can for pick up and storing all items located outside and under car port in an enclosed building or removing them from property. This condition was first observed at the real property described above on February 4, 2021; re-inspection was conducted on March 26, 2021. Respondent received notice via posting at City Hall and certified and regular mail on March 19, 2021, as well as posted on the property on March 19, 2021 that the aforesaid conditions constituted a violation of Chapter 42, (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-26 (Cleanliness of property generally - duty of owner), (d) (Maintenance of improved residential lots) of the City of Port Orange Code of Ordinances. Chapter 42, (Nuisances), Article II (Garbage, junk and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (h) Abutting property owner maintenance of parkages. Chapter 42, (Nuisances), Article II, (Garbage, Junk and Undergrowth), Section 42-26, (Cleanliness of Property Generally-duty of owner), (f) Garbage, waste, trash,

etc. prohibited of the City of Port Orange Code of Ordinances. Chapter 42 (Nuisances), Article II (Garbage, Junk and Undergrowth), Section 42-32 Storage of vehicles, furniture, etc. of the City of Port Orange Code of Ordinances and was to be corrected by March 28, 2021.

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 trimming all high weeds and grass and blowing the debris back onto property, removing all garbage and debris and placing it in an approved garbage can for pick up and storing all items located outside and under car port in an enclosed building or removing them from property on or before May 5, 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 daily 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 \$43.94 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

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

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

DONE AND ORDERED this 28th day of April, 2021.

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), Estate of James V. Costanzo, 121 Aloha Terrace, Port Orange, FL 32129 by Certified and Regular Mail this 28 day of April, 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 not been redacted pursuant to Florida Law.
By: Shelly Field, 28 day of April, 2021.

