



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, July 26, 2023

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 - June 28, 2023

B. ORDER IMPOSING FINE/LIEN

3. **CEB Case No.:** 23-0373
Respondent: Stephen Stewart
Address of Violation: 717 Dove Avenue, Port Orange, FL 32129
Code Officer: Bailey Hornbuckle
First Notified: 3/27/2023

Compliance: No

Cited for violation(s) - Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances.

C. 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.

Code Enforcement Special Magistrate Meeting

Wednesday, July 26, 2023

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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.

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CODE ENFORCEMENT SPECIAL MAGISTRATE
MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JUNE 28, 2023

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

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Bailey Hornbuckle, Code Enforcement Officer
Tracee Cody, Deputy City Clerk

Oaths

Code Enforcement Officer Bailey Hornbuckle was sworn in by Special Magistrate Fuller.

CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process

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

2. Consideration of Minutes - June 14, 2023

Special Magistrate Fuller approved the June 14, 2023 meeting minutes as presented.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 23-0531

Respondent: 2017-2 IH Borrower LP, Property Owner
2017-2 IH Borrower LP, Property Owner, c/o: Corporation Service
Company

Address of Violation: 3855 Sunset Cove Drive, Port Orange, FL 32129

Code Officer: Bailey Hornbuckle

First Notified: 5/10/2023

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, (h) Abutting property owner maintenance of parkages.

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

Ms. Hornbuckle testified as to the condition of the property, as well as the notice provided to the property owner. Photos were submitted into evidence and accepted by Special Magistrate Fuller with no objections. The violation was to be corrected by June 8, 2023 by mowing the entire property, weed-eating, removing all undergrowth, blowing all debris back onto the property and properly storing trash containers behind the front plane of the home. A re-inspection was conducted on June 21, 2023, at which time the trash containers were properly stored and the front yard was mowed and re-inspection on June 27, 2023 confirmed the property was in compliance.

Ms. Hornbuckle recommended the property owners be found in 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) and requested any future violations under this ordinance be considered repeat. No costs were requested.

Special Magistrate Fuller found the property owner in violation as alleged because the violations were not corrected by the compliance date of June 8, 2023 and any future violation will be considered repeat.

4. CEB Case No.: 23-0282

Respondent: Larry C. Martin, Trustee of Martin Grantor Trust

Address of Violation: 3738 Nova Road, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 3/3/2023

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), (c) (Maintenance of commercial and industrial zones lots) of the City of Port Orange Code of Ordinances, (h) Abutting property owner maintenance of parkages.

Bailey Hornbuckle was sworn in by Special Magistrate Fuller and requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

ADJOURNMENT – 9:08 a.m.

Special Magistrate David Fuller

Case Cost Sheet Log

Case No. 23-0373

Name	Activity	Activity_Date	Status	Cost
Stephen Stewart	Cost to mail Notice of Violation and Notice of Hearings	04/14/2023	Certified returned Unclaimed	\$8.70
Clerk of Court	Cost to record Finding of Fact	05/24/2023		\$29.25
Stephen Stewart	Cost to mail Finding of Fact	05/24/2023	Certified returned Unclaimed/Unable to Forward	\$8.70
Clerk of Court	Fee to record Order Imposing/Fine and Lien	07/26/2023		\$46.25
Stephen Stewart	Cost to mail Order Imposing/Fine and Lien	07/26/2023		\$9.16

Total: \$102.06



NOTICE OF VIOLATION AND NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 23-0373

To: Stephen Stewart
41 Seaview Drive
Ormond Beach, FL 32176

Re: 717 Dove Avenue
Port Orange, FL 32129
Parcel ID: 6305-05-05-0080

LEGAL DESCRIPTION: LOT 8 LAURELWOOD MOBILE EST UNIT 5 MB 35 PG 15 PER OR 3734 P
G 1122 PER OR 6586 PG 2251 PER OR 7455 PGS 0789-0791 INC PER
OR 7821 PG 3394
Volusia County Public Records
Volusia County, FL

An inspection of the premises on March 27, 2023, indicates that certain violation(s) of the City of Port Orange Code exists.

The property owner was notified of the violations noted below and given 7 days to correct. Re-inspection completed on April 3, 2023, and April 6, 2023, resulted in non-compliance.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by April 30, 2023, by doing the following:**

1.) The electricity to the property must be reconnected and in good working condition.

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

1. **Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances:** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that does not comply with the requirements of this chapter.

- The initial inspection of this property revealed that the home did not have any electricity connected.

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 24, 2023, 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 \$ 8.70 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 24, 2023**, 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 28, 2023, 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 13th day of April, 2023.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: [Signature]
Bailey Hornbuckle, 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: Stephen Stewart, 41 Seaview Drive, Ormond Beach, FL 32176, RE: 717 Dove Avenue, Port Orange, FL, 32129, was

☐ Hand-delivered

Recipient of hand-delivered documents: _____

☒ Posted at the property

this 13th day of April, 2023.

Time: approx. 10:05am

[Signature]
Bailey Hornbuckle, 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: Stephen Stewart, 41 Seaview Drive, Ormond Beach, FL 32176, RE: 717 Dove Avenue, Port Orange, FL, 32129, was

☒ Posted at City Hall

☐ Sent via certified and regular

this 14 day of April, 2023.

Time: approx. 1:15pm

[Signature]
Secretary, Special Magistrate

RIGHT TO APPEAL

PURSUANT TO SECTION 162.11 OF THE FLORIDA STATUTES, ANY DECISION BY THE SPECIAL MAGISTRATE MAY BE APPEALED TO THE CIRCUIT COURT AND MUST BE FILED WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THE ORDER. SUCH AN APPEAL SHALL BE LIMITED TO APPELLATE REVIEW OF THE TESTIMONY AND EVIDENCE OF THE PROCEEDING CREATED BEFORE THE SPECIAL MAGISTRATE.

RECORD OF PROCEEDINGS

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

ACCOMMODATIONS

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 23-0373**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

STEPHEN STEWART
717 DOVE AVENUE
PORT ORANGE, FL 32129
PARCEL ID: 6305-05-05-0080

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 June 14, 2023 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, STEPHEN STEWART, whose mailing address is 41 SEAVIEW DRIVE, ORMOND BEACH, FL 32126 is the owner of the property located at 717 DOVE AVENUE, PORT ORANGE, FL 32129, and more particularly described as:

LOT 8 LAURELWOOD MOBILE EST UNIT 5 MB 35 PG 15 PER OR 3734 PG 1122 PER OR 6586 PG 2251 PER OR 7455 PGS 0789-0791 INC PER OR 7821 PG 3394

B. The violation was to be corrected by reconnecting the electricity to the property. This condition was first observed at the real property described above on March 27, 2023; re-inspection was conducted on June 13, 2023 and confirmed the condition as being the same. Respondent received notice via posting at City Hall on April 13, 2023 and regular and certified mail on April 14, 2023, as well as posted on the property on April 13, 2023 that the aforesaid conditions constituted a violation of Chapter 6 (Mechanical and Electrical Requirements), Section 601 (General), 601.2 (Responsibility), of the 2021 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of the Port Orange Code of Ordinances and was to be corrected by April 30, 2023.

C. At the time of the hearing, the violations cited above: ☒ continued to exist, or ☐ remained non-compliant 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 as stated in the notice of violation is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

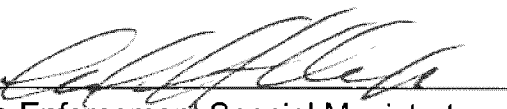
ORDER:

A. Respondent(s) shall correct the aforesaid violation by reconnecting the electricity to the property, on or before June 17, 2023. ("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 of \$150.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with 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 subsection (a)." The cost to date is \$46.65 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. 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 14 day of June, 2023.

Attest: 
Secretary, Code Enforcement Special Magistrate

By: 
Code Enforcement Special Magistrate

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), STEPHEN STEWART, 41 SEAVIEW DRIVE, ORMOND BEACH, FL 32176 by Certified and Regular Mail this 14 day of JUNE, 2023.



Secretary, Code Enforcement Special Magistrate

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.

CITY OF PORT ORANGE, FLORIDA
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office.
This document has not been redacted pursuant to Florida Law.
This 15 day of JUNE, 2023
By: J. Cody