



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, August 14, 2024 **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 - July 24, 2024

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 24-0672
Respondent: Edward T. Garvin
Phyllis Garvin Estate
Jeff Garvin
Address of Violation: 1389 N. Dexter Drive, Port Orange, FL 32129
Code Officer: Bailey Hornbuckle
First Notified: 6/6/2024

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.

4. **CEB Case No.:** 24-627
Respondent: HPA III ACQUISITIONS 1 LLC - Property Owner
Corporation Service Company - Registered Agent
Address of Violation: 5127 Pineland Avenue, Port Orange, FL 32127
Code Officer: Tom Quane
First Notified: 5/24/2024

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), (f) Garbage, waste, trash, etc., prohibited, of the City of Port Orange Code of Ordinances (h) Abutting property owner maintenance of parkages.

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.

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.

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

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

CODE ENFORCEMENT SPECIAL MAGISTRATE
MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JULY 24, 2024

THE CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING of the City of Port Orange was called to order by Special Magistrate David Fuller at 8:58 a.m.

PRESENT: DAVID FULLER, SPECIAL MAGISTRATE

ALSO PRESENT: Amanda Bonin, Code Manager
Tracee Cody, Deputy City Clerk

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 - July 10, 2024

Special Magistrate Fuller approved the July 10, 2024 meeting minutes as presented.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. **CEB Case No.:** 24-529

Respondent: HPA III Acquisitions 1 LLC - Property Owner
Corporation Service Company - Registered Agent

Address of Violation: 528 Hamlet Drive, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 5/3/2024

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 2 (Nuisance Trees), Sec. 42-103. - Declaration of nuisance: (a)(2)

City of Port Orange Code of Ordinances, Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 2 (Nuisance Trees), Sec. 42-104. - Nuisance abatement requirements

Amanda Bonin, Code Enforcement Manager, requested a dismissal of the case as it is in compliance. Special Magistrate Fuller granted the dismissal request.

4. **CEB Case No.:** 24-663

Respondent: Urbancik Properties NY LLC - Property Owner
Steven Barnes - Registered Agent

Address of Violation: 594 Touchstone Circle, Port Orange, FL 32127

Code Officer: Scott Allman

First Notified: 6/20/2024

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.

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

5. **CEB Case No.:** 22-64

Respondent: Sonyia Carol Hill

Address of Violation: 908 Third Street, Port Orange, FL 32129

Code Officer: Scott Allman

First Notified: 1/13/2022

Compliance: No

Cited for violation(s) - Chapter 3 (General Requirements), Section 304 (Exterior Structure), 304.2 (Protective Treatment), of the 2024 International Property Maintenance Code as adopted per the City of Port Orange Code of Ordinances, Chapter 14, Article II, Section 14 Chapter 3, Section 304 (Exterior Structure), 304.6 (Exterior Walls), of the 2024 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances Chapter 3, Section 304 (Exterior Structure), 304.8 (Decorative Features), of the 2024 International Property Maintenance Code, as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances

Ms. Bonin requested a continuation of the case until August 28, 2024. Special Magistrate Fuller granted the continuation request.

ADJOURNMENT – 8:59 a.m.

Special Magistrate David Fuller

Case Cost Sheet Log**Case No. 24-0672**

Name	Activity	Activity_Date	Status	Cost
Edward T. Garvin - Daytona Beach, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024	Certified mail returned No Such Number/Unable to Forward	\$9.33
Phyllis Garvin Estate - Daytona Beach, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024	Certified receipt signed by Jeff Garvin 7/9/2024 - Regular mail returned Not deliverable as addressed/Unable to Forward	\$9.33
Jeff Garvin - Daytona Beach, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024	Certified mail returned Vacant/Unable to Forward	\$9.33
Edward Garvin - Lake Mary, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024		\$9.33
Edward T. Garvin - Port Orange, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024	Certified and Regular mail returned Not Deliverable as Addressed	\$9.33
Phyllis Garvin Estate - Port Orange, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024	Certified and Regular mailed returned Not Deliverable as Addressed	\$9.33
Jeff Garvin - Port Orange, FL	Cost to mail Notice of Violation and Notice of Hearings	07/01/2024	Certified and Regular mail returned Not Deliverable as Addressed/Unable to Forward	\$9.33
Clerk of Court	Cost to record Finding of Fact	08/14/2024		\$29.25
Edward T. Garvin - Daytona Beach, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Phyllis Garvin Estate - Daytona Beach, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Jeff Garvin - Daytona Beach, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Edward Garvin - Lake Mary, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Edward T. Garvin - Port Orange, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Phyllis Garvin Estate - Port Orange, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33

Jeff Garvin - Port Orange, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
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Total: \$166.87



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

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 24-0672

To: Edward T Garvin
Phyllis Garvin Estate
Jeff Garvin
PO Box 2388300
Daytona Beach, FL 32129

Edward Garvin
PO Box 950833
Lake Mary, FL 32795

Re: 1389 N Dexter Drive
Port Orange, FL 32129
Parcel ID: 6307-07-00-0190
LEGAL DESCRIPTION: LOT 19 HIDDEN LAKE SUB PHASE I MB 37 PGS 121-122 INC PER OR
2534 PG 0558
Volusia County Public Records
Volusia County, FL

An inspection of the premises on June 6, 2024, indicates that certain violation(s) of the City of Port Orange Code exist. This correspondence will serve as official notification that the below-stated violation(s) must be **corrected immediately**, by doing the following: **Mow all high weeds and grass to include the rights of way, weed-eating and blowing of yard debris back onto the property.**

You have previously (within the past five years) been found by the Special Magistrate to have violated the above-referenced code section(s) on November 13, 2019 under Case No. 19-1240.

A fine up to \$5,000 per day per violation for a repeat violation may be assessed by the Special Magistrate beginning from the date of this Notice.

Once you have caused the violation(s) to be corrected, you must request a re-inspection by the Code Enforcement Officer Bailey Hornbuckle to determine whether the property is in compliance.

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.

This case shall be presented to the Special Magistrate even if the violation(s) has been corrected prior to the scheduled hearing date below.

NOTICE OF HEARING AS TO REPEAT VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate August 14, 2024 at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged in the notice of repeat violation above, and shall issue a Final Order affording the proper relief which may include a per diem fine of up to \$5,000 for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code enforcement officer (code inspector). A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Officer. Please govern yourself accordingly.

A certified copy of the order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation(s) was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 105.31 as indicated on the cost sheet submitted into evidence. The respondent shall be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **August 14, 2024**, 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 **September 25, 2024, 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- 5616**.

DATED this 28th day of June, 2024.

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: 
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 Edward T Garvin, Phyllis Garvin Estate, Jeff Garvin, 1389 N Dexter Drive, Port Orange, FL 32129, RE: 1389 N Dexter Drive Port Orange, FL 32129, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property 6/28/24 (date)
☒ Posted at City Hall 6/28/24 (date)


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 Edward Garvin, PO Box 950833, Lake Mary, FL 32795, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property 6/28/24 (date)
☒ Posted at City Hall 6/28/24 (date)


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 Edward T Garvin, PO Box 2388300, Daytona Beach, FL 32129, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was, was sent via certified and regular mail this 1 day of July, 2024.


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 Phyllis Garvin Estate, PO Box 2388300, Daytona Beach, FL 32129, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was sent via certified and regular mail this 1 day of July, 2024.


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 Jeff Garvin, PO Box 2388300, Daytona Beach, FL 32129, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was sent via certified and regular mail this 1 day of July, 2024.

Scody
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 Edward Garvin, PO Box 950833, Lake Mary, FL 32795, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was sent via certified and regular mail this 1 day of July, 2024.

Scody
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 Edward T Garvin, 1389 N Dexter Drive, Port Orange, FL 32129, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was sent via certified and regular mail this 1 day of July, 2024.

Scody
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 Phyllis Garvin Estate, 1389 N Dexter Drive, Port Orange, FL 32129, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was sent via certified and regular mail this 1 day of July, 2024.

Scody
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 Jeff Garvin, 1389 N Dexter Drive, Port Orange, FL 32129, RE: 1389 N Dexter Drive, Port Orange, FL 32129, was sent via certified and regular mail this 1 day of July, 2024.

Scody
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. 24-627**

Name	Activity	Activity_Date	Status	Cost
HPA III Acquisitions 1 LLC - Property Owner - Chicago, IL	Cost to mail Notice of Violation and Notice of Hearings	07/12/2024		\$9.33
Corporation Service Company - Registered Agent - Tallahassee, FL	Cost to mail Notice of Violation and Notice of Hearings	07/12/2024	Green card returned stamped by Sebrena B. Randolph, no date	\$9.33
HPA III Acquisitions 1 LLC - Property Owner - Port Orange, FL	Cost to mail Notice of Violation and Notice of Hearings	07/12/2024		\$9.33
Corporation Service Company - Registered Agent - Port Orange, FL	Cost to mail Notice of Violation and Notice of Hearings	07/12/2024		\$9.33
Clerk of Court	Cost to record Finding of Fact	08/14/2024		\$29.25
HPA III Acquisitions 1 LLC - Property Owner - Chicago, IL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Corporation Service Company - Registered Agent - Tallahassee, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
HPA III Acquisitions 1 LLC - Property Owner - Port Orange, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33
Corporation Service Company - Registered Agent - Port Orange, FL	Cost to mail Finding of Fact	08/14/2024		\$10.33

Total: \$107.89



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

8/14
9/25

CITY OF PORT ORANGE, FLORIDA

CITY OF PORT ORANGE,

Petitioner

CASE NO. 24-627

To: HPA III ACQUISITIONS 1 LLC
Property Owner
120 S Riverside Plz, Ste #2000
Chicago IL 60606

Corporation Service Company
Registered Agent
1201 Hays Street
Tallahassee, FL 32301-2525

Re: 5127 Pineland Avenue
Port Orange, FL 32127
Parcel ID: 6310-07-56-0030

LEGAL DESCRIPTION: LOT 3 BLK 56 ALLANDALE MB 4 PG 146 MB 17 PG 166 PER OR 3689 PG 2321 PER OR 6127
PG 3009 PER OR 6389 PG 0285 PER OR 8318 PG 2812
Volusia County Public Records
Volusia County, FL

An inspection of the premises on May 24, 2024, 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-inspections completed on June 11, 2024, June 17, 2024, June 25, 2024, and July 3, 2024, resulted in non-compliance.

This correspondence will serve as official notification that the below-stated violation(s) **must be corrected by July 31, 2024**, by doing the following: **1.)** The entire property needs to be mowed, weed-eated, all undergrowth removed, and all debris blown back onto the property. **2.)** Clean up and remove all garbage, trash, and debris from the property. **3.)** The fence must be repaired to its original and upright condition 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 Tom Quane, 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:

- 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.

2. **Chapter 42 (Nuisances), Article II (Garbage, junk, and undergrowth), Section 42-26 (Cleanliness of property generally-duty of owner), (f) Garbage, waste, trash, etc., prohibited, of the City of Port Orange Code of Ordinances:** The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.

- The initial inspection of this property found various pieces of garbage, trash, and debris on the property.

3. **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.

- The initial inspection of this property found a fence in disrepair with rotting, missing and broken pickets.

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 August 14, 2024 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 \$ 37.32 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 **August 14, 2024** 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 **September 25, 2024 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 10th day of July, 2024

CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT OFFICER

By: Tom Quane
Tom Quane, 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: HPA III ACQUISITIONS 1 LLC, Property Owner, 120 S Riverside Plz, Ste #2000, Chicago IL 60606, RE: 5127 Pineland Avenue, Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property July 10, 2024 (date)
☒ Posted at City Hall July 10, 2024 (date)

Tom Quane
Tom Quane, 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: Corporation Service Company, Registered Agent, 1201 Hays Street, Tallahassee, FL 32301-2525, RE: 5127 Pineland Avenue, Port Orange, FL 32127, was

☐ Hand-delivered Recipient of hand delivered documents: _____
☒ Posted at the property July 10, 2024 (date)
☒ Posted at City Hall July 10, 2024 (date)

Tom Quane
Tom Quane, Code Enforcement Officer

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Cody
Secretary, Special Magistrate

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Boddy
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: Corporation Service Company, Registered Agent, 5127 Pineland Avenue, Port Orange, FL 32127, RE: 5127 Pineland Avenue, Port Orange, FL 32127, was sent via certified and regular mail this 10/12/20 day of July, 2024.

Boddy
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.