



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, October 19, 2016

Time: 9:00 AM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Roll Call
2. Attorney Overview of Special Magistrate Code Enforcement Process
3. Consideration of Minutes - September 28, 2016

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

4. **CEB Case No.:** 16-1498
Respondent: Jaqueline M. & Donald A. Acosta
Address of Violation: 825 Upland Drive, Port Orange, FL 32127
Code Officer: Scott Allman
First Notified: 09/10/2016

Compliance: No

Cited for violation(s) - Chapter 3, Section 303 Swimming Pools, Spas, and Hot Tubs of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 303.1 Swimming Pools

C. ORDER IMPOSING FINE/LIEN

D. PUBLIC COMMENTS

E. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **CODE ENFORCEMENT SPECIAL MAGISTRATE** WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
SEPTEMBER 28, 2016

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Branch at 9:05 a.m.

ROLL CALL: PRESENT: Raymond Branch, Special Magistrate

ALSO PRESENT: Deborah Faircloth, Code Compliance Inspector
Chris Hutchison, Code Enforcement Manager
Kelly McQuillen, Assistant City Clerk
Michael Ciocchetti, Attorney

Consideration of Minutes

Special Magistrate Branch approved the September 14, 2016 meeting minutes as presented.

Oaths

Code Compliance Inspectors Chris Hutchison and Deborah Faircloth were sworn in by Special Magistrate Branch.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. CEB Case No.: 16-1383

Respondent: Stacey Kimberly Seely

Address of Violation: 5417 Dubois Avenue, Port Orange, FL 32127

Code Officer: Deborah Faircloth

First Notified: 08/22/2016

Compliance: No

Cited for REPEAT violation(s) - The City of Port Orange Code of Ordinances, Chapter 42, Article II, Section 42-26 Cleanliness of property-generally duty of owner (d) Maintenance of improved residential lots.

Deborah Faircloth, Code Compliance Inspector, was sworn in by Special Magistrate Branch and testified as to the condition of the property and the notices provided to the property owners. Photographs taken by Ms. Faircloth were introduced into evidence. Special Magistrate Branch admitted the photos into evidence without objection.

Ms. Faircloth testified that the adjacent property owner has complained about rats and snakes and is concerned for the health and safety of the public.

Ms. Faircloth recommended the property owner be found in violation of the above referenced codes. She recommended the City have the ability to abate the violations because of public health and safety concerns and vendor costs along with mailing costs in the amount of \$42.52 be awarded to the City against the property owners. The Cost Sheet was admitted into evidence. Special Magistrate Branch granted the recommendations as presented as long as abatement costs do not exceed \$500.00 and deemed the condition of the property as a serious threat to public health, safety and welfare.

4. CEB Case No.: 16-1247

Respondent: James E. Redmond

Address of Violation: 5400 Turton Lane, Port Orange, FL 32127

Code Officer: Deborah Faircloth

First Notified: 08/29/2016

Compliance: No

Cited for REPEAT violation(s) - City of Port Orange Code of Ordinances, Article II (Garbage, Junk and Undergrowth), Chapter 42 (Nuisances), Section 42-26 (Cleanliness of Property Generally-Duty of Owner (d), (f).

Ms. Faircloth testified as to the condition of the property and the notices provided to the property owners. Photographs taken by Ms. Faircloth were introduced into evidence. Special Magistrate Branch admitted the photos into evidence without objection pending identification of a creeping weed shown on the fence and pool enclosure.

Margaret Momberger, Planning and Engineering Manager, was sworn in by Special Magistrate Branch and testified as to the type of weed overgrowth. Ms. Momberger identified the type of weed as Virginia Creeper.

Ms. Faircloth testified that the complainant stated he is very worried about the overgrowth on the property as he has observed rats and snakes along with other animals coming from the property. He is also concerned as the old pool is not surrounded with a suitable barrier as required by the Florida Building Code and feels it is a public health and safety violation.

Ms. Faircloth recommended the property owner be found in violation of the above referenced codes and a \$250 fine be imposed for every day the violations remain beyond the compliance date of October 5, 2016. Additionally, the City shall have the ability to abate the violations. She also recommended costs in the amount of \$41.18 be awarded to the City against the property owners. The Cost Sheet was admitted into evidence.

Michael Ciocchetti, Attorney for Code Enforcement, requested that the City have the ability to abate the violations and he moved to reserve jurisdiction on the fence and pool, continuing those issues to the next hearing.

Special Magistrate Branch granted the recommendations as presented; adding that the property owners shall trim and mow all weeds, grasses and overgrowth to a length not exceeding ten inches. Special Magistrate Branch found that the condition of the property presents a serious threat to public health, safety and welfare.

C. ORDER IMPOSING FINE/LIEN

5. CEB Case No.: 15-1481

Respondent: Judith Anderson

Address of Violation: 156 Sand Pebble Circle, Port Orange, FL 32129

Code Officer: Chris Hutchinson

First Notified: 07/13/2016

Compliance: No

Cited for violation(s) - Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1.1 (Unsafe Structures) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II, of the City of Port Orange Code of Ordinances,

Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1.5 (Dangerous Structure or Premises, (7) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II, of the City of Port Orange Code of Ordinances,

Chapter 1 (Scope and Administration), Section 108 (Unsafe Structures and Equipment), 108.1.3 of the 2015 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), Section 42-108 (Unsafe Conditions; Nuisance), (a) and (b) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

Chris Hutchison, Code Compliance Supervisor, was sworn in by Special Magistrate Branch and testified as to the condition of the property and status of the demolition.

Mr. Hutchison recommended that the case be continued because the property has not been demolished.

PUBLIC COMMENTS – There were no public comments.

ADJOURNMENT – 10:54 a.m.

Special Magistrate Raymond Branch

Case Cost Sheet Log

Case No. 16-1498

Name	Activity	Activity_Date	Status	Cost
Jaqueline M. & Donald A. Acosta	Cost to mail Notice of Violation/Notice of Hearing to each Respondent via regular and certified mail	09/12/2016	Certified mail returned unclaimed	\$14.68
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law & Order	10/19/2016		\$27.00
Jaqueline M. & Donald A. Acosta	Cost to mail Finding of Fact, Conclusion of Law & Order via regular and certified mail	10/19/2016		\$13.84

Total: 55.52



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

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1498

To: Jaqueline M. & Donald A. Acosta

Re: 825 Upland Dr

Port Orange, FL 32127

Parcel ID: 6321-04-00-1150

LEGAL DESCRIPTION: LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER OR 4975 PG 1225
PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PER OR 5910 PG 1211 PER OR 5947 PGS 4351-4352 PER OR
5952 PGS 0372-0373 PER OR 5969 PGS 2888-2890 INC

Volusia County Public Records

Volusia County, FL

An inspection of the premises on September 8, 2016, indicates that certain repeat violation(s) of the City of Port Orange Code exists.

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

1. Chapter 3, Section 303 Swimming Pools, Spas and Hot Tubs of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances, 303.1 Swimming Pools.
 - An inspection of the property was conducted on September 8, 2016. I observed an unsanitary pool with a thick layer of green algae covering the top. A violation of the above stated ordinance was previously found in Case # 13-1335. See attached Finding of Fact and Conclusion of Law. To correct the repeat violation, the pool must be cleaned and maintained or properly covered with a hard cover.

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

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

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

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

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

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate** October 12, 2016 at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

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

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$14.68 as indicated on the cost sheet submitted into evidence. The respondents 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 October 12, 2016 enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on December 14, 2016, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

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

DATED this 10th day of September, 2016.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: J. Scott Allman
J. Scott Allman

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Jaqueline M. & Donald A. Acosta, RE: 825 Upland Dr, Port Orange, FL, 32127, was

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

this 10th day of September, 2016.

Time: 10:30 A.M.

J. Scott Allman
J. Scott Allman

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Jaqueline M. & Donald A. Acosta, RE: 825 Upland Dr, Port Orange, FL, 32127, was

☒ Posted at City Hall
☒ Sent via certified and regular

this 12th day of Sept., 2016.

[Signature]
Secretary, Special Magistrate

RIGHT TO APPEAL

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

ACCOMMODATIONS

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



Volusia County
Property Appraiser

Morgan B. Gilreath Jr.
M.A., C.F.A.



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Notice of Proposed Taxes

Estimate of Taxes

Parcel Information: 6321-04-00-1150 **2016 Preliminary Tax Roll** Last Updated: 09-04-2016

Owner Name and Address

Alternate Key	3660951	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6321-04-00-1150	Mill Group	402 Port Orange
Full Parcel ID	21-16-33-04-00-1150	2015 Final Mill Rate	20.86510
Created Date	31 DEC 1981		
Property Class	01 Single Family		
Ownership Type		Ownership Percent	100
Owner Name	ACOSTA JACQUELINE M &		
Owner Name/Address 1	DONALD A ACOSTA		
Owner Address 2	825 UPLAND DRIVE		
Owner Address 3	PORT ORANGE FL		
Owner Zip/Postal Code	32127		
Situs Address	825 UPLAND DR PORT ORANGE 32127		

Legal Description

LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PER OR 5910 PG 1211 PER OR 5947 PGS 4351-4352 PER OR 5952 PGS 0372-0373 PER OR 5969 PGS 2888-2890 INC

Sales History

Book Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
5969 2888	12/2006	Warranty Deed	Unqualified Sale	Yes	100
5952 0372	11/2006	Quit Claim Deed	Unqualified Sale	Yes	100
5947 4351	11/2006	Quit Claim Deed	Unqualified Sale	Yes	100
5910 1211	09/2006	Personal Rep.	Unqualified Sale	Yes	100
5864 4185	06/2006	Warranty Deed	Affiliated Parties	Yes	15,000
5865 4113	03/2003	Death Certificate	Unqualified Sale	Yes	100
4975 1225	10/2002	Warranty Deed	Qualified Sale	Yes	150,000
2562 1689	05/1984	Warranty Deed	Addition after sale	Yes	53,500
2467 1812	08/1983	Warranty Deed	Unqualified Sale	No	100
2467 1813	07/1983	Warranty Deed	Qualified Sale	No	13,200

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2015	15,019	120,281	12,281	147,581	147,581	147,581	0	147,581	0	147,581
2014	15,019	109,167	10,107	134,293	134,293	134,293	0	134,293	0	134,293

[Display Value History](#)

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0101	IMP PVD THRU .49 AC	84.0	167.0	84.00	FRONT FEET	160.00	112	100	100	100	15,019
Neighborhood 5680 DEVONWOOD, HAMLET, HAMLET 1ST											
Total Land Classified											0
Total Land Just											15,019

Building Characteristics

Building Number: 118384 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
118384	Single Family	208	1984	300		19%	0%	0%	2999
Roof Type	GABLE	Floors		Carpet	Bedrooms	3	4 Fixture Bath		0
Roof Cover	ASPHALT SHINGL	Wall Type		Drywall	X Fixture Bath	0	5 Fixture Bath		0
Heat Type1	Forced Ducted	Heat Source1		Electricity	2 Fixture Bath	0	6 Fixture Bath		0
Heat Type2		Heat Source2			3 Fixture Bath	2	7 Fixture Bath		0
Foundation	Concrete Slab	Year Remodeled			Fireplaces	1	A/C		Yes

Prepared by:
Stepniak & Wrenn, P.A.
958 S. Ridgewood Avenue
Daytona Beach, Florida 32114

Return to:
Stepniak & Wrenn, P.A.
958 S. Ridgewood Avenue
Daytona Beach, Florida 32114

QUITCLAIM DEED

This Quitclaim Deed made this 13th day of November, 2006, by STEPNIAK & WRENN, P.A. a Corporation, as Grantor, to JACQUELINE M. ACOSTA & DONALD A. ACOSTA, of 5808 Wales Ave. Port Orange, Florida 32127, as Grantee.

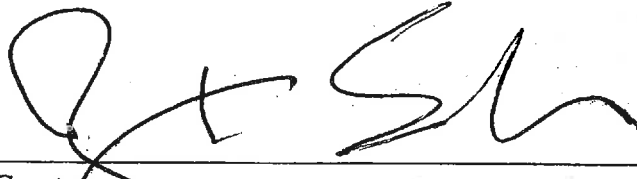
NOW THEREFORE, Grantor, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand, paid by Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim to Grantee forever, all the right, title, interest, claim and demand which she has in and to that real property located in Volusia County, Florida, and more particularly described as follows:

THE FOLLOWING DESCRIBED LOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE COUNTY OF VOLUSIA STATE OF FLORIDA:

**LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER
OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PE**

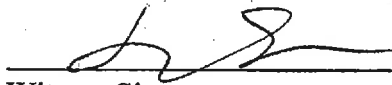
TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, to the only proper use and benefit of Grantee forever.

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed on the day and year first written above.

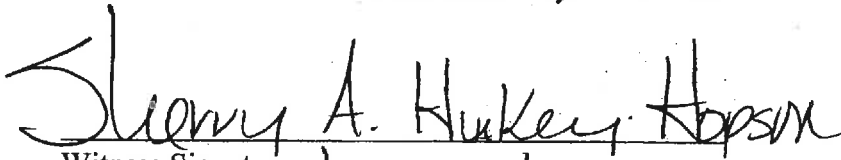


Grantor

WITNESSES:



Witness Signature
Print Name: Jane Stepniak



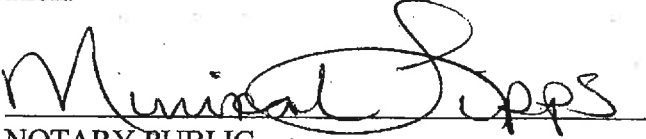
Witness Signature
Print Name: Sherry A. Huskey
Hopson

STATE OF FLORIDA)

COUNTY OF VOLUSIA)

The foregoing instrument was acknowledged before me, this 13th day of November 2006, by Robert F. Stepniak who is personally known to me or who has produced as identification.

NOTARY PUBLIC-STATE OF FLORIDA
 Minokah Lipps
Commission # DD525382
Expires: MAR. 06, 2010
Bonded Thru Atlantic Bonding Co., Inc.



NOTARY PUBLIC

CHAPTER 3

GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

301.2 Responsibility. The *owner of the premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. *Occupants of a dwelling unit, rooming unit or housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit or premises* which they occupy and control.

301.3 Vacant structures and land. Vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. *Exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* that such *occupant* occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. *Premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

302.3 Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 Weeds. *Premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of [JURISDICTION TO INSERT HEIGHT IN INCHES]. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of viola-

tion, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

302.5 Rodent harborage. Structures and *exterior property* shall be kept free from rodent harborage and *infestation*. Where rodents are found, they shall be promptly exterminated by *approved* processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

302.7 Accessory structures. Accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches (1372 mm) above the bottom of the

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 13-1335**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

v.

Jacqueline & Donald Acosta
825 Upland Drive
Port Orange, FL 32127
6321-04-00-1150

Respondents.

FINDING OF FACT, CONCLUSION OF LAW AND ORDER

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on October 23, 2013, after due notice to the Respondents, 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, Jacqueline & Donald Acosta, whose mailing address is 825 Upland Drive, Port Orange, FL 32127, is the owners of the property located at 825 Upland Drive, Port Orange, FL 32127, and more particularly described as:

LOT 115 THE HAMLET SUB 1ST ADDITION MB 35 PGS 99-100 INC PER
OR 4975 PG 1225 PER OR 5864 PG 4185 PER D/C 5865 PG 4113 PE

B. The condition of the fence having missing pickets that need to be replaced and the possibility of the need to replace some posts that may be rotten. The swimming pool is green and not being maintained. The Screen enclosure is missing screens and does not prevent access. There needs to be a lock on gate(s) into back yard to prevent access until pool enclosure is repaired, was first observed at the real property described above on May 24, 2013; re-inspections made on September 23, 2013, confirmed the condition as being the same. The most recent inspection was on October 15, 2013 and October 22, 2013 resulting in non-compliance. Respondents, Jacqueline & Donald Acosta, received notice via certified mail on September 20, 2013, that the aforesaid conditions constituted a violation of the CITY OF PORT ORANGE LAND DEVELOPMENT CODE, CHAPTER 16, SECTION 3: FENCES & WALLS, (b) General Provisions, (4) Design and Maintenance, (b)(d)(f). All fencing, wood or chain link, must be maintained in its original upright condition. Any missing or broken pickets must be replaced and all gates and latches must operate as they were designed. 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE, CHAPTER 3, GENERAL REQUIREMENTS, SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS. 303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. 303.2 Enclosures. Private swimming pools... No existing Pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Pool enclosure structure must be repaired and screens installed, and were to be corrected by October 4, 2013.

C. At the time of the hearing on October 23, 2013, the violations cited above continue to exist.

CONCLUSION OF LAW:

Respondents, Jacqueline & Donald Acosta, by reason of the foregoing, has violated the CITY OF PORT ORANGE LAND DEVELOPMENT CODE, CHAPTER 16, SECTION 3: FENCES & WALLS, (b) General Provisions, (4) Design and Maintenance, (b)(d)(f). All fencing, wood or chain link, must be maintained in its original upright condition. Any missing or broken pickets must be replaced and all gates and latches must operate as they were designed. 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE, CHAPTER 3, GENERAL REQUIREMENTS, SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS. 303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. 303.2 Enclosures. Private swimming pools... No existing Pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. Pool enclosure structure must be repaired and screens installed, in that the respondent failed, on or before the date set in the notice of violation, to remedy the condition of the fence having missing pickets that need to be replaced and the possibility of the need to replace some posts that may be rotten. The swimming pool is green and not being maintained. The Screen enclosure is missing screens and does not prevent access. There needs to be a lock on gate(s) into back yard to prevent access until pool enclosure is repaired, and is therefore subject to the provisions of Chapter 162, Florida Statutes (2011).

ORDER:

A. Respondents shall correct the aforesaid violation by repairing fencing and screened pool enclosure, cleaning/sanitizing pool and maintaining this property in compliance on or before November 8, 2013. In the event that the property is not brought into compliance on or before November 8, 2013, a fine of **\$100.00** per day shall be imposed for each day the violation continues past November 8, 2013 and run until the property is brought into compliance. The City shall have the option to abate the violation and future violations of the same ordinances, as long as the property is legally owned by Jacqueline & Donald Acosta and lien the property for the total cost of the abatement. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the code enforcement board 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 \$13.02 as indicated on the cost sheet submitted into evidence. The respondents will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

B. In the event that the Respondents complete the requirements listed above, Respondents shall request a re-inspection by the Code Compliance Inspector to determine whether the violation has been brought into compliance.

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 Respondents and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to Section 162.07, Florida Statutes (2011).

DONE AND ORDERED this 23 day of October, 2013.

Attest: *Theresa Gutierrez*
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.

Deborah Faircloth
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 Respondents Jacqueline & Donald Acosta at 825 Upland Drive, Port Orange, FL 32127, by Certified and Regular U.S. Mail this 24th day of October, 2013.

Theresa Gutierrez
Secretary, Code Enforcement Special Magistrate



CITY OF PORT ORANGE, FLORIDA

I HEREBY CERTIFY the foregoing is a true copy of the original filed in this office.

This document has/has not been redacted pursuant to Florida Law.

This 24th day of October, 2013.
By: *[Signature]*

CITY CLERK