Fort Myers Beach Special Magistrate Hearing

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Agenda **Wednesday, February 4, 2026** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

III. CERTIFICATION OF LIEN(S) (NON-COMPLIANCE)

IV. LIEN FORECLOSURE CASES

A. White Sand Properties of Fort Myers Beach, LLC
AUTHORIZATION TO FORECLOSE A LIEN (INSTRUMENT NO. 2019000067137) ENCUMBERING REAL PROPERTY LOCATED AT 80 AVENUE E, FORT MYERS BEACH, FLORIDA
FMB Case No.: CE14-0394
Property Owner: White Sand Properties of Fort Myers Beach, LLC
Property Address: 80 Avenue E., Fort Myers Beach, Florida 33931

V. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE SPECIAL MAGISTRATE IN ANY MATTER CONSIDERED AT THIS HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

Property Address and Owner:

Hearing Date: February 4, 2026

AUTHORIZATION TO FORECLOSE A LIEN (INSTRUMENT NO. 2019000067137) ENCUMBERING REAL PROPERTY LOCATED AT 80 AVENUE E, FORT MYERS BEACH, FLORIDA
FMB Case No.: CE14-0394
Property Owner: White Sand Properties of Fort Myers Beach, LLC
Property Address: 80 Avenue E., Fort Myers Beach, Florida 33931

Subject:

Code Section:

Reference Number:

Strap Number:
9-46-24-W4-0070A.0020

Officer:

Narrative:
The Town seeks authorization to foreclose the code enforcement lien recorded against 80 Ave E in Code Enforcement Case Number CE14-0394, which is dated March 12, 2019, and recorded as Instrument No. 2019000067137 in the Official Records of Lee County, Florida. More than three months have passed since the lien was recorded as Instrument No. 2019000067137, and the lien remains unpaid. Therefore, the lien is ripe for foreclosure. This item previously came before the Special Magistrate on January 29, 2025. However, the Town's request was denied without prejudice. In the order entered pursuant to the hearing on January 29, 2025, the Town was instructed: "If the Town wishes to request authorization to initiate foreclosure proceedings, the Town shall properly Notice a Hearing to Request Authorization to Foreclose on the specific instrument on which it wishes to initiate those foreclosure proceedings." This hearing has been noticed to consider the Town's request for authorization to foreclose the specific instrument recorded against 80 Ave E in case CE14-0394, dated March 12, 2019, and recorded as Instrument No. 2019000067137 in the Official Records of Lee County, Florida.

Attachments:
1. Index to Exhibit List
2. 1A - 25-12-02 Unopposed Motion for Continuance
3. 1B - Order Continuing Hearing to February 4 2026
4. 1C - Email Re Respondent Request to Continue Hearing
5. 1D - E-Service of Motion to Continue
6. 1E - E-Service of Order Continuing Hearing to February 4, 2026
7. 2A - Notice of July 10, 2025 Foreclosure Auth. Hearing (Rescheduled)
8. 2B - Rescheduling Emails re: July 10, 2025 Special Magistrate Hearing
9. 2C - Notice of September 12, 2025 Foreclosure Authorization Hearing (Rescheduled)
10. 2D - Rescheduling Emails re: September 12, 2025 Hearing
11. 2E - Notice of Oct. 21, 2025 Foreclosure Auth. Hearing (Rescheduled)
12. 2F - 25-10-13 Unopposed Motion for Continuance
13. 2G - Order Continuing Hearing to December 5, 2025
14. 3A - CE14-0394_Affidavit of Notice and Posting
15. 3B - White Sand Sunbiz 2020
16. 3C - White Sand Sunbiz 2025

17. 3D - Affidavit of Notice: February 4, 2026 Hearing
18. 4 - 09052025_Affidavit of Code Enforcement Manager
19. 5 - Town's Summary of Lien Activity
20. 6 - Town's Code Enforcement Timeline
21. 7 - 141008 - Warranty Deed to Leo Dibiasi (Conveying 80 Ave E)
22. 8A - 151121 - Notice of Violation 15-0167
23. 8B - 150716 - Certified Mail Receipt (Service of NOV 15-0167)
24. 8C - 150416 - Unsafe Building Checklists
25. 9A - 151121 - Notice of Violation 14-0394
26. 9B - 151125 - Certified Mail Receipt (Service of NOV 14-0394)
27. 10A - 151204 - Deed from Leo Dibiasi to Absolute Best Rate Rentals
28. 10B - 160305 – 2015 & 2016 Annual Reports with Dibiasi as President and Agent
29. 11 - 160224 - Initial Order of Violation CE 14-0394
30. 12 - 160224 - Initial Order of Violation CE 15-0167
31. 13 - 160412 - First Order Imposing Lien in CE 14-0394 (Inst. #2016000076125)
32. 14 - 160330 - Order Imposing Lien CE 15-0167 (Inst. #2016000076124)
33. 15 - 160715 - Warranty Deed to Orlandini (Conveying 80 Ave E)
34. 16 - 170209 - Notice of Violation CE 17-0065
35. 17 - 170726 - Initial Order of Violation CE 17-0065
36. 18A - 181127 - Notice of Hearing CE 14-0394
37. 18B - 181127 - Notice of Hearing CE 15-0167
38. 19 - 190327 - Order Replacing and Imposing Lien CE 14-0394 (Inst. #2019000067137)
39. 20 - 190703 - Order Imposing Lien CE 17-0065 (Inst. 2018000049665)
40. 21 - 191209 - Minutes from December 9, 2019 Town Council Meeting
41. 22 - 230915 - Check for Partial Release of 1560 I St
42. 23A - 200110 - Partial Release I St from CE14-0394
43. 23B - 200110 - Partial Release I St from 17-0065
44. 23C - 200110 - Partial Release I St from 17-0065 2
45. 24 - 200203 - Minutes from February 3, 2020 Town Council Meeting
46. 25 - 200320 - Deed from Joe Orlandini to White Sand Properties (Conveying 1560 | St)
47. 26 - 200323 - Email Thread re: meeting to discuss 80 Ave E fines (3/23/20)
48. 27 - 200326 - Deed in Lieu from Orlandini to White Sand (Conveying 80 Ave E)
49. 28A - 200401 - Email Thread re: meeting to discuss 80 Ave E fines continued (4/1/20)
50. 28B - 200401 - Email Thread re: meeting to discuss 80 Ave E lien status continued
51. 29 - 200409 - Email Thread re: meeting to discuss 80 Ave E fines continued (4/9/20)
52. 30A - 200415 - Email Thread re: 80 Ave E Noncompliance
53. 30B - 200415 - Email Thread re: 80 Ave E Noncompliance continued
54. 31A - 200501 - Email Thread re: Town's Proposed Compliance Agreement (5/1/20)
55. 31B - 200501 - Compliance Agreement for Execution
56. 31C - 200501 - Email Thread re: Compliance Agreement
57. 32A - 200504 - Email Thread re: Permit Meeting
58. 32B - 200509 - Email Thread re: Town’s Proposed Compliance Agreement
59. 32C - 200511 - Email Thread re: Compliance Agreement Continued
60. 33A - 201102 - Email Thread re: meeting agenda (11/2/20)
61. 33B - 201102 - Meeting Agenda for Jesse Schmid/White Sand Properties of FMB, LLC
62. 33C - 201102 - Email Thread re: Status of Permits and Liens on 80 Ave E
63. 33D - 201103 - Email Thread re: Status of Permits and Liens on 80 Ave E cont.
64. 33E - 201103 - Email Thread re: Status of Permits and Liens on 80 Ave E cont.
65. 33F - 201103 - Email Thread re: Status of Permits and Liens on 80 Ave E cont.
66. 34 - 201105 - Payment Notification for Zoning Verification Letter
67. 35 - 201118 - Zoning Verification Letter (11/18/20)
68. 36 - 210126 - Emails re: Redeveloping 80 Ave E
69. 37 - 210924 - Corrective Deed in Lieu from Orlandini to White Sand (Conveying 80 Ave E)

70. 38 - 211208 - Minutes from December 8, 2021 Management and Planning Meeting
71. 39A - 211209 - Email re: Lien List
72. 39B - 211209 - Lien List as of 12/9/21 Attachment
73. 40 - 220113 - Minutes from January 13, 2022 Management and Planning Meeting
74. 41A - 220124 - Minutes from January 24, 2022 Town Council Meeting
75. 41B - 220124 - Top Liens
76. 42 - 220407 - Minutes from April 7, 2022 Management and Planning Meeting
77. 43A - 220418 - Minutes from April 7, 2022 Town Council Meeting
78. 43B - 220418 - Agenda Item Summary
79. 43C - 220418 - Memorandum Attachment to Town Council Meeting
80. 44A - 220516 - Emails re: Lien Status (5/16/22)
81. 44B - 220518 - Emails re: Lien Status (5/18/22)
82. 44C - 220526 - Emails re: Lien Status (5/26/22)
83. 44D - 220518 - Emails re: Lien Status attachment with Orders and Information
84. 45A - 240416 - Affidavit of Compliance CE 14-0394
85. 45B - 240416 - Affidavit of Compliance CE 15-0167
86. 45C - 240416 - Affidavit of Compliance CE 17-0065
87. 46A - 240129 - Notice of Hearing Foreclosure Authorization CE 14-0394, CE 15-0167, CE 17-0065
88. 46B - 240129 - Notice of Hearing Affidavit of Mailing and Posting
89. 47 - 240212 - First Foreclosure Authorization Order
90. 48 - 240426 - Respondent's Verified Motion to Forgive or Mitigate Fines to the Town Council
91. 49 - 240506 – Minutes from May 6, 2024 Town Council Meeting
92. 50 - Notice of Hearing to Foreclosure the Lien in CE 14-0394 (01/29/25)
93. 51 - Order on Hearing to Foreclose the Lien in CE 14-0394
94. 52 - Affidavit of Custodian of Records TFMB - Documents
95. 53 - Affidavit of Custodian of Records TFMB - Absence of Documents

Town Recommendations:

Town Approvals:

_____ Date: November 24, 2025
nancy stuparich, Town Attorney

_____ Date: November 25, 2025
Amy Baker, Town Clerk

Index of Town's Exhibits

Exhibit	Date	Name
1.	12/2/2025 12/3/2025 12/1/2025 12/2/2025 12/3/2025	a. Unopposed Motion for Continuance b. Order Continuing Hearing to February 4, 2026 c. Email Re: Respondent's Request to Continue Hearing d. E-Service of Motion to Continue e. E-Service of Order Continuing Hearing to February 4, 2026
2.	 6/30/2025 7/8/2025 8/18/2025 9/8/2025 10/9/2025 10/13/2025 10/16/2025	Prior Hearing Scheduling History: a. Notice of July 10, 2025 Foreclosure Auth. Hearing (Rescheduled) b. Rescheduling Emails re: July 10, 2025 Hearing c. Notice of Sept. 12, 2025 Foreclosure Auth. Hearing (Rescheduled) d. Rescheduling Emails re: September 12, 2025 Hearing e. Notice of Oct. 21, 2025 Foreclosure Auth. Hearing (Rescheduled) f. Unopposed Motion to Continue October 21, 2025 Hearing g. Order Continuing Hearing to December 5, 2025
3.	11/5/2025	a. Affidavit of Notice and Posting: December 5, 2025 Hearing b. White Sand Sunbiz 2020 c. White Sand Sunbiz 2025 d. Affidavit of Notice: February 4, 2026 Hearing
4.	9/5/2025	Affidavit of Code Enforcement Manager
5.		Town's Summary of Lien Activity
6.		Town's Code Enforcement Timeline
7.	10/8/2014	Warranty Deed to Leo Dibiasi (conveying 80 Ave E)
8.	7/14/2015 7/16/2015 April 2015	a. Notice of Violation 15-0167 b. Certified Mail Receipt (Service of NOV 15-0167) c. Unsafe Building Checklists
9.	11/21/2015 11/25/2015	a. Notice of Violation 14-0394 b. Certified Mail Receipt (Service of NOV 14-0394)
10.	12/4/2015	a. Deed from Leo Dibiasi to Absolute Best Rate Rentals b. 2015 & 2016 Annual Reports with Dibiasi as President and Agent
11.	2/24/2016	Initial Order of Violation CE 14-0394
12.	2/24/2016	Initial Order of Violation CE 15-0167
13.	3/30/2016	First Order Imposing Lien in CE 14-0394 (Inst. #2016000076125)
14.	3/30/2016	Order Imposing Lien CE 15-0167 (Inst. #2016000076124)
15.	7/15/2016	Warranty Deed to Joe Orlandini (conveying 80 Ave E)
16.	2/9/2017	Notice of Violation CE 17-0065
17.	7/26/2017	Initial Order of Violation CE 17-0065
18.	11/27/2018	Notices of Hearing for CE 14-0394 & CE 15-0167 a. Notice of Hearing for CE 14-0394 b. Notice of Hearing for CE 15-0167
19.	3/27/2019	**Order Replacing and Imposing Lien CE 14-0394 (Inst. #2019000067137)**
20.	7/9/2019	Order Imposing Lien CE 17-0065 (Inst. #2018000049665)
21.	12/9/2019	Minutes from December 9, 2019 Town Council meeting
22.	12/12/2019	Check for Partial Release of 1560 I St

23.	January 2020	Partial Releases recorded for 1560 I St: a. Partial Release I St from CE14-0394 b. **Partial Release I St from 17-0065** c. Partial Release I St from 17-0065 (2)
24.	2/3/2020	Minutes from February 3, 2020 Town Council meeting
25.	3/20/2020	Deed from Joe Orlandini to White Sand Properties (conveying 1560 I St)
26.	3/23/2020	Email Thread re: meeting to discuss 80 Ave E fines (3/23/20)
27.	3/26/2020	Deed in Lieu from Orlandini to White Sand (conveying 80 Ave E)
28.	4/1/2020	Email Thread re: meeting to discuss 80 Ave E fines continued (4/1/20)
29.	4/9/2020	Email Thread re: meeting to discuss 80 Ave E fines continued (4/9/20)
30.	4/23/2020	Email Thread re: 80 Ave E noncompliance
31.	5/1/2020	Email Thread re: Town's Proposed Compliance Agreement (5/1/20)
32.	5/11/2020	Emails re: Town's Proposed Compliance Agreement ctd. (5/11/20)
33.	11/2/2020	Emails re: Status of Permits and Liens on 80 Ave E
34.	11/5/2020	Payment Notification for Zoning Verification Letter
35.	11/18/2020	Zoning Verification Letter (11/18/20)
36.	January 2021	Emails re: Redeveloping 80 Ave E
37.	9/24/2021	Corrective Deed in Lieu from Orlandini to White Sand (conveying 80 Ave E)
38.	12/8/2021	Minutes from December 8, 2021 Management and Planning Meeting
39.	12/9/2021	Lien List as of December 9, 2021
40.	1/13/2022	Minutes from January 13, 2022 Management and Planning Meeting
41.	1/24/2022	Minutes from January 24, 2022 Town Council Meeting
42.	4/7/2022	Minutes from April 7, 2022 Management and Planning Meeting
43.	4/18/2022	Minutes and Attachments from April 18, 2022 Town Council Meeting
44.	May 2022	Emails re: Lien Status (May 2022)
45.	4/16/2024	Affidavits of Compliance CE14-0394, CE15-0167, CE17-0065
46.	1/29/2024	Notice of Foreclosure Hearing CE14-0394, CE15-0167, CE17-0065 and Affidavit of Notice
47.	3/12/2024	First Foreclosure Authorization Order
48.	4/26/2024	Respondent's Verified Motion to Forgive Fines to the Town Council
49.	5/6/2024	Minutes from May 6, 2024 Town Council Meeting
50.	1/10/2025	Notice of Hearing to Foreclose the Lien in CE14-0394
51.	2/12/2025	Order on Hearing to Foreclose the Lien in CE14-0394
52.	9/5/2025	Affidavit of Records Custodian
53.	9/5/2025	Affidavit of Records Custodian (Absence)

CODE ENFORCEMENT SPECIAL MAGISTRATE FOR FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,
v.

FMB CASE NO.: CE14-0394

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

UNOPPOSED MOTION FOR CONTINUANCE

Petitioner, Town of Fort Myers Beach, Florida, and Respondent, White Sand Properties of Fort Myers Beach, LLC, by and through their respective counsel, agree to and jointly move for entry of an Order continuing this matter with a hearing date of February 4, 2026, at 9:00 a.m. Respondent further waives their notice requirements of this hearing.

WHEREFORE, the parties respectfully request that the Special Magistrate enter an Order granting the relief requested above and any other relief the Special Magistrate deems just and proper.

Dated: December 2, 2025.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 2, 2025, I served the foregoing document with copies to all counsel of record.

Respectfully Submitted,

By: /s/ Alexander Brockmeyer
Alexander Brockmeyer, Esq.
Fla. Bar No.: 105758
Boyle, Leonard & Anderson, P.A.
9111 West College Pointe Drive

Fort Myers, Florida 33919
Phone: (239) 337-1303
Facsimile: (239) 337-7674
eservice@insurance-counsel.com
abrockmeyer@insurance-counsel.com
adebouver@insurance-counsel.com
Counsel for Defendant, White Sand Properties of Fort Myers Beach, LLC

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CODE ENFORCEMENT SPECIAL MAGISTRATE FOR FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,
v.

FMB CASE NO.: CE14-0394

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

ORDER OF CONTINUANCE

THIS CAUSE came on Petitioner, Town of Fort Myers Beach, Florida's, and Respondent, White Sand Properties of Fort Myers Beach, LLC's, joint motion to continue this matter, which was scheduled for hearing on December 5, 2025.

IT IS HEREBY ORDERED that this hearing has been continued.

NOTICE IS HEREBY GIVEN THAT SPECIAL MAGISTRATE CONTINUES THE ABOVE ACTION to a new hearing date of **February 4, 2026, at 9:00 a.m.**

The hearing will be held at the Town of Fort Myers Beach Town Hall, 6231 Estero Boulevard, Fort Myers Beach, Lee County, Florida.

Respondent waived further notice Requirements of this hearing.

FURTHER CONTINUANCES WILL NOT BE GRANTED absent a showing of good cause, which must include a bona fide emergency or other extenuating circumstances. The mere agreement of the parties will not constitute good cause. The parties are expected to attend the scheduled hearing and, at a minimum, provide a detailed status update.

ORDERED this _3rd__ day of December 2025.

Monica Schmucker, Special Magistrate

cc: All counsels of record

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

Chloe Berryman <cberryman@voselaw.com>

Case No.: CE14-0394 Town of FMB v. White Sand Properties - Lien Hearing Continuance

1 message

Audrey DeBouver <adebouver@insurance-counsel.com> Mon, Dec 1, 2025 at 1:57 PM
To: Paul Waters <paul@voselaw.com>, Becky Vose <bvose@voselaw.com>, Nancy Stuparich <nstuparich@voselaw.com>, Chloe Berryman <cberryman@voselaw.com>, Christina D'Arcy <cdarcy@voselaw.com>, Madeline Guidone <mguidone@voselaw.com>, Service Account <service@voselaw.com>
Cc: Alex Brockmeyer <abrockmeyer@insurance-counsel.com>, "Steven A. Ramunni" <steve@sramunnipa.com>, Kerensa Clark <kerensa@sramunnipa.com>, "allcompany@sramunnipa.com" <allcompany@sramunnipa.com>, Audrey DeBouver <adebouver@insurance-counsel.com>

Mr. Waters,

Pursuant to your telephone conference with Mr. Brockmeyer, the parties have agreed to continue the December 5th lien hearing to sometime in February 2026, due to the medical condition of our client, Mr. Schmid.

As such, please see attached a proposed motion for continuance. Please advise of the SM's availability for hearing in February 2026.

Sincerely,

BOYLE & LEONARD ANDERSON, P.A.
ATTORNEYS AT LAW

FORT MYERS|TAMPA|CHARLESTON

Audrey DeBouver

Paralegal to Alexander Brockmeyer

Florida Registered Paralegal

Office: 239-337-1303

Fax: 239-337-7674

Email: adebouver@insurance-counsel.com

9111 W. College Pointe Drive

Fort Myers, FL 33919

www.insurance-counsel.com

FLORIDA REGISTERED PARALEGAL FRP

Pursuant to Fla. R. Jud. Admin. 2.516, this firm's designated primary email address for receiving service of court documents is EService@Insurance-Counsel.com. When serving court documents via email to this firm, if possible, please do not send a separate copy by fax or U.S. mail.

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WARNING! WIRE FRAUD ADVISORY

Criminals are hacking email accounts of real estate agents, attorneys, title companies and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal. The emails look legitimate, but they are not. You are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing and account number.

25-12-01 Unopposed Motion for Continuance.v2.docx
19K

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

Chloe Berryman <cberryman@voselaw.com>

Case No.: CE14-0394 Town of Fort Myers Beach, Florida v. White Sand Properties of Fort Myers Beach, LLC - September 12, 2025 Special Magistrate Hearing – Continuance Request

1 message

Audrey DeBouver <adebouver@insurance-counsel.com> Tue, Dec 2, 2025 at 12:37 PM
To: Monica Schmucker <monica@snllegal.com>
Cc: Alex Brockmeyer <abrockmeyer@insurance-counsel.com>, "Steven A. Ramunni" <steve@sramunnipa.com>, Kerensa Clark <kerensa@sramunnipa.com>, Lizzette Roman <lroman@fmbgov.com>, Nancy Stuparich <nstuparich@voselaw.com>, Paul Waters <paul@voselaw.com>, Chloe Berryman <cberryman@voselaw.com>, Amy Baker <amy@fmbgov.com>, Jason Freeman <jasonf@fmbgov.com>, Becky Vose <bvose@voselaw.com>, Christina D'Arcy <cdarcy@voselaw.com>, Madeline Guidone <mguidone@voselaw.com>, "tyozzo@fmbgov.com" <tyozzo@fmbgov.com>, Audrey DeBouver <adebouver@insurance-counsel.com>

Good morning Your Honor,

Please see attached the parties Unopposed Motion for Continuance and proposed order. Please be advised that the parties have agreed and are hereby requesting a continuance of the December 5, 2025, hearing.

If you require any additional information, please do not hesitate to contact this office.

All parties are copied hereto.

Respectfully,

BOYLE & LEONARD ANDERSON, P.A.
ATTORNEYS AT LAW

FORT MYERS|TAMPA|CHARLESTON

Audrey DeBouver

Paralegal to Alexander Brockmeyer

Florida Registered Paralegal

Office: 239-337-1303

Fax: 239-337-7674

Email: adebouver@insurance-counsel.com

9111 W. College Pointe Drive

Fort Myers, FL 33919

www.insurance-counsel.com

FLORIDA REGISTERED PARALEGAL FRP

Pursuant to Fla. R. Jud. Admin. 2.516, this firm's designated primary email address for receiving service of court documents is EService@Insurance-Counsel.com. When serving court documents via email to this firm, if possible, please do not send a separate copy by fax or U.S. mail.

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WARNING! WIRE FRAUD ADVISORY

Criminals are hacking email accounts of real estate agents, attorneys, title companies and others, resulting in fraudulent wire instructions being used to divert funds to the account of the criminal. The emails look legitimate, but they are not. You are advised not to wire any funds without personally speaking with the intended recipient of the wire to confirm the routing and account number.

2 attachments

25-12-02 Unopposed Motion for Continuance.pdf
138K

25-12-02 Proposed Order of Continuance.docx
19K

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

Chloe Berryman <cberryman@voselaw.com>

E-Service Order of Continuance FMB Case No.: CE14-0394 White Sand Properties of Fort Myers Beach, LLC

Lizzette Roman <Lroman@fmbgov.com> Wed, Dec 3, 2025 at 1:15 PM
To: Alex Brockmeyer <abrockmeyer@insurance-counsel.com>, Audrey DeBouver <adebouver@insurance-counsel.com>, "Steven A. Ramunni" <steve@sramunnipa.com>, Nancy Stuparich <nstuparich@voselaw.com>, Chloe Berryman <cberryman@voselaw.com>, Paul Waters <paul@voselaw.com>
Cc: Amy Baker <Amy@fmbgov.com>, Thomas Yozzo <tyozzo@fmbgov.com>

Good afternoon,

Attached is a copy of the **Order of Continuance i**n the above-referenced matter.

Respectfully,

Lizzette Roman
Town Clerk Administrative Coordinator
Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931
Phone: (239) 765-0202 x1904
Direct: (239) 955-3039

FMBgov.com

As of January 1, 2024 the Town has implemented online records request. Please consider submitting your request through the portal. **Any requests received via email will be transferred by staff to this portal, with all responses coming from *"Town of Fort Myers Beach Public Records"***

https://fortmyersbeachfl.nextrequest.com/

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

25-12-03 White Sands Order of Continuance.pdf
95K

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

6/13/2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931,
Respondent.

Case Number:	**CE14-0394**
Certified Mail:	
Regular Mail:	
Posted on Property:	
Posted at Town Hall (Temporary)	
Posted at Town Hall (Permanent)	

Site Address: 80 AVENUE E
FORT MYERS, FL 33931
Parcel Strap No: 19-46-24-W4-0070A.0020

NOTICE OF HEARING TO FORECLOSE A CODE ENFORCEMENT LIEN

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statues and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida, and it remains unpaid. A hearing will be held on **Thursday, July 10, 2025, at 10:00 AM at the Mound House located at 451 Connecticut St, Fort Myers Beach, Fl 33931**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. The Special Magistrate will receive testimony and evidence at said hearing and shall make a determination as to the authorization to foreclose or otherwise act to collect the outstanding fine/lien.

This process is a discretionary one under Florida Statutes, Section 162.09(3), which states "After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest."

You are entitled to testify and present evidence and witnesses in defense at the hearing. Since the proceedings of the Special Magistrate are legal in nature, you may wish to have legal counsel attend the above referenced hearing.

A copy of the evidentiary case file and all materials provided by the Town to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the following link: https://www.fortmyersbeachfl.gov/1294/Public-Notices . Copies of the agenda materials are typically available a week in advance before hearing.

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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 NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

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

EXHIBIT "A"

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 12th of ~~January~~ March 2019.

Myrnabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

Chloe Berryman <cberryman@voselaw.com>

White Sand Special Magistrate Hearing- July 10

19 messages

Paul Waters <paul@voselaw.com> Tue, Jul 8, 2025 at 4:39 PM
To: "Steven A. Ramunni" <steve@sramunnipa.com>, Alex Brockmeyer <abrockmeyer@insurance-counsel.com>
Cc: Nancy Stuparich <nstuparich@voselaw.com>, Chloe Berryman <cberryman@voselaw.com>

Steve,

Thank you for taking my call this morning and verifying that you received the notice of hearing and the agenda materials for the hearing scheduled for July 10th. Based on our conversation, I am confirming that you wish to file a request / motion to continue the hearing to a future date because Alex is on vacation. Please verify that this is accurate.

As we discussed, the Town has no objection to a continuance under the condition that you waive the notice requirements for the future hearing date. Please state the same in your request for continuance to the Special Magistrate. Time is of the essence, so just to be clear- you must file your request with the Special Magistrate and obtain confirmation of cancellation as soon as possible. Otherwise, everyone, including the Special Magistrate, will have to appear Thursday morning.

Please include in your request a date certain for the continuance. The Town and the Special Magistrate are available August 8th, 26th and 29th.

[redacted]

Thank you,

--
Paul Waters, Esq.
Partner
Vose Law Firm LLP
324 W. Morse Boulevard
Winter Park, Florida 32789
Phone: 407-645-3735
Cell: (904) 495-1054 (Preferred contact number)
Fax: 407-628-5670
email: paul@voselaw.com
web: www.voselaw.com

COUNSEL TO EXTRAORDINARY GOVERNMENTS, BUSINESSES & LEADERS THROUGHOUT FLORIDA SINCE 1973
LOCAL GOVERNMENT REPRESENTATION | COMMERCIAL REAL ESTATE TRANSACTIONS | REAL ESTATE DEVELOPMENT & LAND USE
BUSINESS & REAL ESTATE LITIGATION | LENDER REPRESENTATION | GOVERNMENT RELATIONS | CAMPAIGN & ELECTION LAW

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Steven A. Ramunni <steve@sramunnipa.com> Tue, Jul 8, 2025 at 4:58 PM
To: Paul Waters <paul@voselaw.com>, Alex Brockmeyer <abrockmeyer@insurance-counsel.com>
Cc: Nancy Stuparich <nstuparich@voselaw.com>, Chloe Berryman <cberryman@voselaw.com>, Audrey DeBouver <adebouver@insurance-counsel.com>, Kerensa Clark <kerensa@sramunnipa.com>

Thank you for your email. Yes, this confirms the request for a continuance and there will be no need to notice Alex and myself with the new hearing date. I had understood from you this morning that your office would notify the Special Magistrate that since this case was the only one scheduled, it would be continued from this week to a date in August. Now that we know the Special Magistrate's availability in August, we can coordinate a new hearing date upon Alex's return from vacation.

If I now need to file a motion for continuance I can do so tomorrow, but how will the Special Magistrate be served as the motion will have to go through the Town? And if we will need to coordinate with Alex and my client, I'm not sure that will happen tomorrow.

[redacted]

STEVEN A. RAMUNNI

STEVEN A. RAMUNNI, P.A.

Florida Bar No 396702

PO Box 1118

LaBelle, FL 33975

Phone: (863) 230-2268

steve@sramunnipa.com

Confidentiality Notice: *This message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and privileged information that is exempt from public disclosure. Any unauthorized review, use, disclosure, or distribution is prohibited. If you have received this message in error please contact the sender (by phone or reply by electronic mail) and then destroy all copies of the original message.*

[Quoted text hidden]

Paul Waters <paul@voselaw.com> Tue, Jul 8, 2025 at 5:17 PM
To: "Steven A. Ramunni" <steve@sramunnipa.com>
Cc: Alex Brockmeyer <abrockmeyer@insurance-counsel.com>, Nancy Stuparich <nstuparich@voselaw.com>, Chloe Berryman <cberryman@voselaw.com>, Audrey DeBouver <adebouver@insurance-counsel.com>, Kerensa Clark <kerensa@sramunnipa.com>

Steve,

Thank you for the quick response. Please file your motion and draft order with the Town Clerk Amy Baker (cc'd here). She will forward everything to the SM.

If you can't pin down a date then just state that you are shooting for one of the three dates I listed.

We'll follow up tomorrow to verify everything is moving as it should.

Paul Waters, Esq.
Partner
Vose Law Firm LLP
324 W. Morse Boulevard
Winter Park, Florida 32789

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

08/18/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931,
Respondent.

Case Number:	**CE14-0394**
Certified Mail: 70222410000084701969	
Regular Mail:	**8/20/2025**
Posted on Property:	**8/20/2025**
Strap No.19-46-24-W4-0070A.0020	
Posted at Town Hall 8/20/2025	

Site Address: 80 AVENUE E
FORT MYERS, FL 33931
Parcel Strap No: 19-46-24-W4-0070A.0020

NOTICE OF HEARING TO FORECLOSE A CODE ENFORCEMENT LIEN

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statutes and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida, and it remains unpaid. A hearing will be held on **Friday, September 12, 2025, at 9:00 AM at the New Town Hall located at 6231 Estero Blvd, Fort Myers Beach, Fl 33931**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. The Special Magistrate will receive testimony and evidence at said hearing and shall make a determination as to the authorization to foreclose or otherwise act to collect the outstanding lien.

This process is a discretionary one under Florida Statutes, Section 162.09(3), which states "After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest."

You are entitled to testify and present evidence and witnesses in defense at the hearing. Since the proceedings of the Special Magistrate are legal in nature, you may wish to have legal counsel attend the above referenced hearing.

A copy of the evidentiary case file and all materials provided by the Town to the Special Magistrate regarding this hearing can be view and accessed in advance of the hearing at the following link: https://www.fortmyersbeachfl.gov/1294/Public-Notices. Copies of the agenda materials are typically available a week in advance before hearing.

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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 NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

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

EXHIBIT "A"

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 13th of ~~January~~ March 2019.

Myrnabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

VOSE LAW FIRM LLP
ATTORNEYS & COUNSELORS AT LAW

Chloe Berryman <cberryman@voselaw.com>

White Sand

2 messages

Paul Waters <paul@voselaw.com> Mon, Sep 8, 2025 at 11:09 AM
To: Alex Brockmeyer <abrockmeyer@insurance-counsel.com>, "Steven A. Ramunni" <steve@sramunnipa.com>
Cc: Chloe Berryman <cberryman@voselaw.com>, Becky Vose <bvose@voselaw.com>, Nancy Stuparich <nstuparich@voselaw.com>

Alex and Steven,

I'm very sorry to hear about your client. I wish him a speedy recovery.

Based on the circumstances, we have no objection with continuing the special magistrate hearing for 30 days. Please submit a formal request to the special magistrate. You can mention that the Town is not opposed.

[redacted]

Thank you,

Paul Waters, Esq.
Partner
Vose Law Firm LLP
324 W. Morse Boulevard
Winter Park, Florida 32789
Phone: 407-645-3735
Cell: (904) 495-1054 (Preferred contact number)
Fax: 407-628-5670
email: paul@voselaw.com
web: www.voselaw.com

Martindale-Hubbell
AV PREEMINENT
Peer Rated for Highest Level of Professional Excellence 2025

COUNSEL TO EXTRAORDINARY GOVERNMENTS, BUSINESSES & LEADERS THROUGHOUT FLORIDA SINCE 1973
LOCAL GOVERNMENT REPRESENTATION | COMMERCIAL REAL ESTATE TRANSACTIONS | REAL ESTATE DEVELOPMENT & LAND USE
BUSINESS & REAL ESTATE LITIGATION | LENDER REPRESENTATION | GOVERNMENT RELATIONS | CAMPAIGN & ELECTION LAW

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Steven A. Ramunni <steve@sramunnipa.com> Mon, Sep 8, 2025 at 11:34 AM

To: Paul Waters <paul@voselaw.com>, Alex Brockmeyer <abrockmeyer@insurance-counsel.com>
Cc: Chloe Berryman <cberryman@voselaw.com>, Becky Vose <bvose@voselaw.com>, Nancy Stuparich <nstuparich@voselaw.com>

Thanks. [redacted]

STEVEN A. RAMUNNI

STEVEN A. RAMUNNI, P.A.

Florida Bar No 396702

PO Box 1118

LaBelle, FL 33975

Phone: (863) 230-2268

steve@sramunnipa.com

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[Quoted text hidden]

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

10/9/2025

Case Number:	**CE14-0394**
Certified Mail:	95890710527031421342 41
Regular Mail:	**10/09/2025**

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931,
Respondent.

Site Address: 80 AVENUE E
FORT MYERS, FL 33931
Parcel Strap No: 19-46-24-W4-0070A.0020

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Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

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Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 12th of ~~January~~ March 2019.

Myrnabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

CODE ENFORCEMENT SPECIAL MAGISTRATE FOR FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,
v.

FMB CASE NO.: CE14-0394

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

UNOPPOSED MOTION FOR CONTINUANCE

Petitioner, Town of Fort Myers Beach, Florida, and Respondent, White Sand Properties of Fort Myers Beach, LLC, by and through their respective counsel, agree to and jointly move for entry of an Order continuing this matter for an additional forty-five (45) days with a hearing date of December 5, 2025, at 9:00 a.m. Respondent further waives their notice requirements of this hearing.

WHEREFORE, the parties respectfully request that the Special Magistrate enter an Order granting the relief requested above and any other relief the Special Magistrate deems just and proper.

Dated: October 13, 2025.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 13, 2025, I served the foregoing document with copies to all counsel of record.

Respectfully Submitted,

By: /s/ Alexander Brockmeyer
Alexander Brockmeyer, Esq.
Fla. Bar No.: 105758
Boyle, Leonard & Anderson, P.A.
9111 West College Pointe Drive

Fort Myers, Florida 33919
Phone: (239) 337-1303
Facsimile: (239) 337-7674
eservice@insurance-counsel.com
abrockmeyer@insurance-counsel.com
adebouver@insurance-counsel.com
Counsel for Defendant, White Sand Properties of Fort Myers Beach, LLC

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CODE ENFORCEMENT SPECIAL MAGISTRATE FOR FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,
v.

FMB CASE NO.: CE14-0394

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

ORDER OF CONTINUANCE

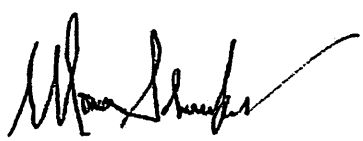
THIS CAUSE came on Petitioner, Town of Fort Myers Beach, Florida's, and Respondent, White Sand Properties of Fort Myers Beach, LLC's, joint motion to continue this matter, which was scheduled for hearing on October 21,2025.

IT IS HEREBY ORDERED that this hearing has been continued.

NOTICE IS HEREBY GIVEN THAT SPECIAL MAGISTRATE CONTINUES THE ABOVE ACTION to a new hearing date of December 5, 2025, at 9:00 a.m.

The hearing will be held at the Town of Fort Myers Beach Town Hall, 6231 Estero Boulevard, Fort Myers Beach, Lee County, Florida, unless notified that the chambers have moved before that time, and the parties are both urged to be present on that date.

ORDERED this 16th day of October 2025.



Monica Schmucker, Special Magistrate

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order was sent by U.S. Mail on the 16th day of October, 20 25 to:

Alex Brockmeyer: abrockmeyer@insurance-counsel.com
Audrey DeBouver: adebouver@insurance-counsel.com
Steven A. Ramunni: steve@sramunnipa.com
Nancy Stuparich: nstuparich@voselaw.com
Amy Baker: Amy@fmbgov.com

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: Amy Baker, Town Clerk
Dated: October 16, 2025

Town of Fort Myers Beach
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,
vs.

WHITE SANDS PROPERTIES OF FORT MYERS BEACH, LLC
Respondent.

Certified Mail:	
9589071052703142134586	
9589071052703142172397	
9589071052703142172380	
9589071052703142134418	
Regular Mail:	**USPS 11/05/2025**

_____/

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared T. Hoffman, who being duly sworn by me, on oath, deposes and says the following regarding that certain Notice of Violation and Notice of Hearing attached hereto as **Exhibit A** ("the Notice"):

1. My name is T. Hoffman. I am over 18 years of age and am competent to testify to the matters set forth herein. I make this Affidavit based upon my personal knowledge.

2. I am employed as a Code Enforcement Officer for the Town of Fort Myers Beach ("Town").

3. On 11/05/2025, I personally mailed a copy of the Notice by certified mail and first-class mail as follows:

   a. To the property owner at the address listed in the records of the Lee County Tax Collector and/or Lee County Property Appraiser for tax notices, which address is: **415 Palermo Circle Fort Myers Beach, FL 33931**. A true and correct copy of the property ownership and address information obtained from the Tax

Collector/Property Appraiser is attached hereto as **Exhibit A.** A copy of the certified mail receipt is attached hereto as **Exhibit A.**

b. To the following additional address(es) reasonably believed to be valid for the property owner: 3210 Estero Blvd Fort Myers Beach, FL, 33931/ P.O. Box 1118 Labelle, FL 33975. A copy of the certified mail receipt is attached hereto as **Exhibit A.**

c. The property is owned by **WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,** a business entity registered in the State of Florida. I mailed a copy of the Notice by certified mail and first-class mail to the business entity's Registered Agent Ramunni, Steven A. at the following address: 110 N Main Street Labelle, FL 33935 A copy of the certified mail receipt is attached hereto as **Exhibit A.** A true and correct copy of the Florida Division of Corporations record for the entity, identifying its Registered Agent, is attached hereto as **Exhibit A.**

4. On 11/05/2025, I posted a copy of the Notice at 80 Avenue E, which is the property upon which the violation is alleged to exist. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Exhibit A.**

5. On 11/05/2025, I posted a copy of the Notice at Town Hall, located at 6231 Estero Boulevard, Fort Myers Beach, FL 33931, which is the primary municipal government office for the Town of Fort Myers Beach. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Exhibit A.**

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town of Fort Myers Beach Land Development Code and Section 162.12, Florida Statutes.

SWORN AND ATTESTED BY:

Signature of Affiant
Printed Name: T. Hoffman
Title: Code Enforcement Officer

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of ☒ physical presence / ☐ online notarization, this 5th day of November ***2025, by T. Hoffman***, who ☒ is personally known to me ☐ or has produced _____ as identification.

Notary Public, State of Florida
Printed Name: Tracie Raski
My Commission No.: HH636110
My Commission Expires: 2/3/2029

Notary Public State of Florida
Tracie Raski
My Commission HH 636110
Expires 2/3/2029

[Last Rev. 9/17 NS/CB]

Affidavit of Notice and Posting EXHIBIT "A":
Notice of Hearing

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

11/5/2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931,
Respondent.

Case Number:	**CE14-0394**
Certified Mail:	**9589071052703142134586** **9589071052703142172397** **9589071052703142172380** **9589071052703142134418**
Regular Mail:	**11/05/2025**
Posted on Property:	**11/05/2025**
Posted at Town Hall (Permanent)	**11/05/2025**

Site Address: 80 AVENUE E
FORT MYERS, FL 33931
Parcel Strap No: 19-46-24-W4-0070A.0020

NOTICE OF HEARING TO FORECLOSE A CODE ENFORCEMENT LIEN

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statues and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida, and it remains unpaid. A hearing will be held on **Friday, December 5, 2025, at 9:00 AM at Town Hall at 6231 Estero Blvd, Fort Myers Beach, Fl 33931**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. The Special Magistrate will receive testimony and evidence at said hearing and shall make a determination as to the authorization to foreclose or otherwise act to collect the outstanding fine/lien.

This process is a discretionary one under Florida Statutes, Section 162.09(3), which states "After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest."

You are entitled to testify and present evidence and witnesses in defense at the hearing. Since the proceedings of the Special Magistrate are legal in nature, you may wish to have legal counsel attend the above referenced hearing.

A copy of the evidentiary case file and all materials provided by the Town to the Special Magistrate in relation to this hearing can be view and accessed in advance of the hearing at the following link: https://www.fortmyersbeachfl.gov/1294/Public-Notices . Copies of the agenda materials are typically available a week in advance before hearing.

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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 NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

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

EXHIBIT "A"

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 13th of ~~January~~ MARCH 2019.

Mymabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

Affidavit of Notice and Posting EXHIBIT "A":
Tax Collector/Property Appraiser Information

Property Data

STRAP: 19-46-24-W4-0070A.0020 Folio ID: 10228170

Tax Roll Value Letter 2025

Generated on 9/5/2025 12:24 PM

Owner Of Record - Sole Owner
[Change Mailing Address]

WHITE SAND PROPERTIES OF FORT
415 PALERMO CIR
FORT MYERS BEACH FL 33931

Site Address

Site Address maintained by E911 Program Addressing

80 AVENUE E
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!

CRESCENT BEACH BLK A PB 4 PG 45 LOT 2

View Recorded Plat at LeeClerk.org - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 4 and 45 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	0
1st Year Building on Tax Roll	N/A
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	19	0070A	0020
Municipality	**Latitude**	**Longitude**		
Town of Fort Myers Beach	26.45057	-81.949		

View Parcel on Google Maps

[Tax Map Viewer] [View Comparables]

[Pictometry Aerial Viewer]

Image of Structure

Photo Date February of 2024 View other photos

Last Inspection Date: 02/01/2024

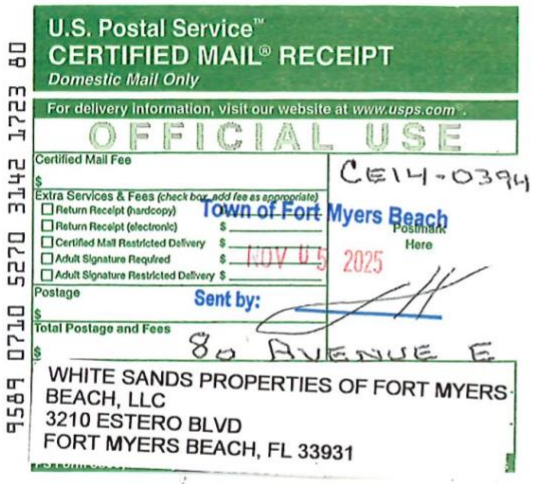
Property Values / Exemptions / TRIM Notices

Generated on 9/5/2025 12:24 PM

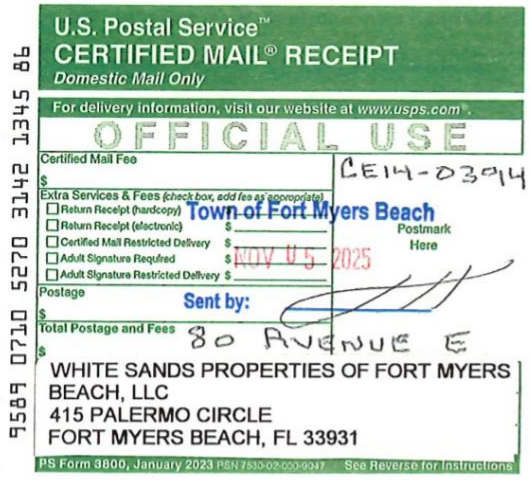
No existing exemptions found for this property.

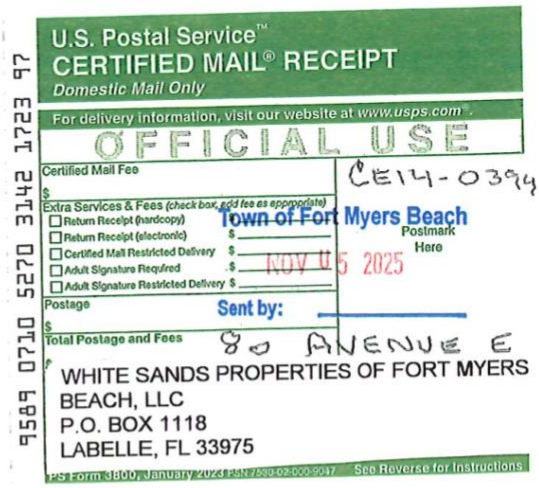
TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2025 / Additional Info	2025 (TRIM Value)	950,700	950,700	950,700	801,757	0	0	801,757
2024 / Additional Info	2024 (Final Value)	728,870	728,870	728,870	728,870	0	0	728,870
2023 / Additional Info	2023 (Final Value)	759,000	759,000	759,000	759,000	0	0	759,000
2022 / Additional Info	2022 (Final Value)	1,386,001	1,146,360	1,386,001	1,213,505	0	0	1,213,505

Affidavit of Notice and Posting EXHIBIT "A":
Certified Mail Receipts


U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only
For delivery information, visit our website at www.usps.com®.
OFFICIAL USE
Certified Mail Fee
$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $ NOV 05 2025
☐ Adult Signature Restricted Delivery $
Postage
$
Total Postage and Fees
$
CE14-0394
Town of Fort Myers Beach
Postmark Here
Sent by:
80 AVENUE E
WHITE SANDS PROPERTIES OF FORT MYERS BEACH, LLC
3210 ESTERO BLVD
FORT MYERS BEACH, FL 33931
9589 0710 5270 3142 1723 80

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only
For delivery information, visit our website at www.usps.com®.
OFFICIAL USE
Certified Mail Fee
$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $ NOV 05 2025
☐ Adult Signature Restricted Delivery $
Postage
$
Total Postage and Fees
$
CE14-0394
Town of Fort Myers Beach
Postmark Here
Sent by:
80 AVENUE E
RAMUNNI, STEVEN A.
110 N MAIN STREET
LABELLE, FL 33935
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions
9589 0710 5270 3142 1344 18


U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only
For delivery information, visit our website at www.usps.com®.
OFFICIAL USE
Certified Mail Fee
$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $ NOV 05 2025
☐ Adult Signature Restricted Delivery $
Postage
$
Total Postage and Fees
$
CE14-0394
Town of Fort Myers Beach
Postmark Here
Sent by:
80 AVENUE E
WHITE SANDS PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions
9589 0710 5270 3142 1345 86


U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only
For delivery information, visit our website at www.usps.com®.
OFFICIAL USE
Certified Mail Fee
$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy)
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $ NOV 05 2025
☐ Adult Signature Restricted Delivery $
Postage
$
Total Postage and Fees
$
CE14-0394
Town of Fort Myers Beach
Postmark Here
Sent by:
80 AVENUE E
WHITE SANDS PROPERTIES OF FORT MYERS BEACH, LLC
P.O. BOX 1118
LABELLE, FL 33975
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions
9589 0710 5270 3142 1723 97

Affidavit of Notice and Posting EXHIBIT "A":
Florida Division of Corporations Information

Detail by Entity Name

Florida Limited Liability Company
WHITE SAND PROPERTIES OF FORT MYERS BEACH LLC

Filing Information

Document Number	L19000290290
FEI/EIN Number	84-3793517
Date Filed	11/22/2019
Effective Date	11/22/2019
State	FL
Status	ACTIVE
Last Event	LC AMENDMENT
Event Date Filed	11/20/2020
Event Effective Date	NONE

Principal Address

3210 Estero Blvd
FORT MYERS BEACH, FL 33931

Changed: 03/12/2021

Mailing Address

P.O. Box 1118
LaBelle, FL 33975

Changed: 01/25/2023

Registered Agent Name & Address

RAMUNNI, STEVEN A.
110 N Main Street
LaBelle, FL 33935

Name Changed: 11/20/2020

Address Changed: 01/25/2023

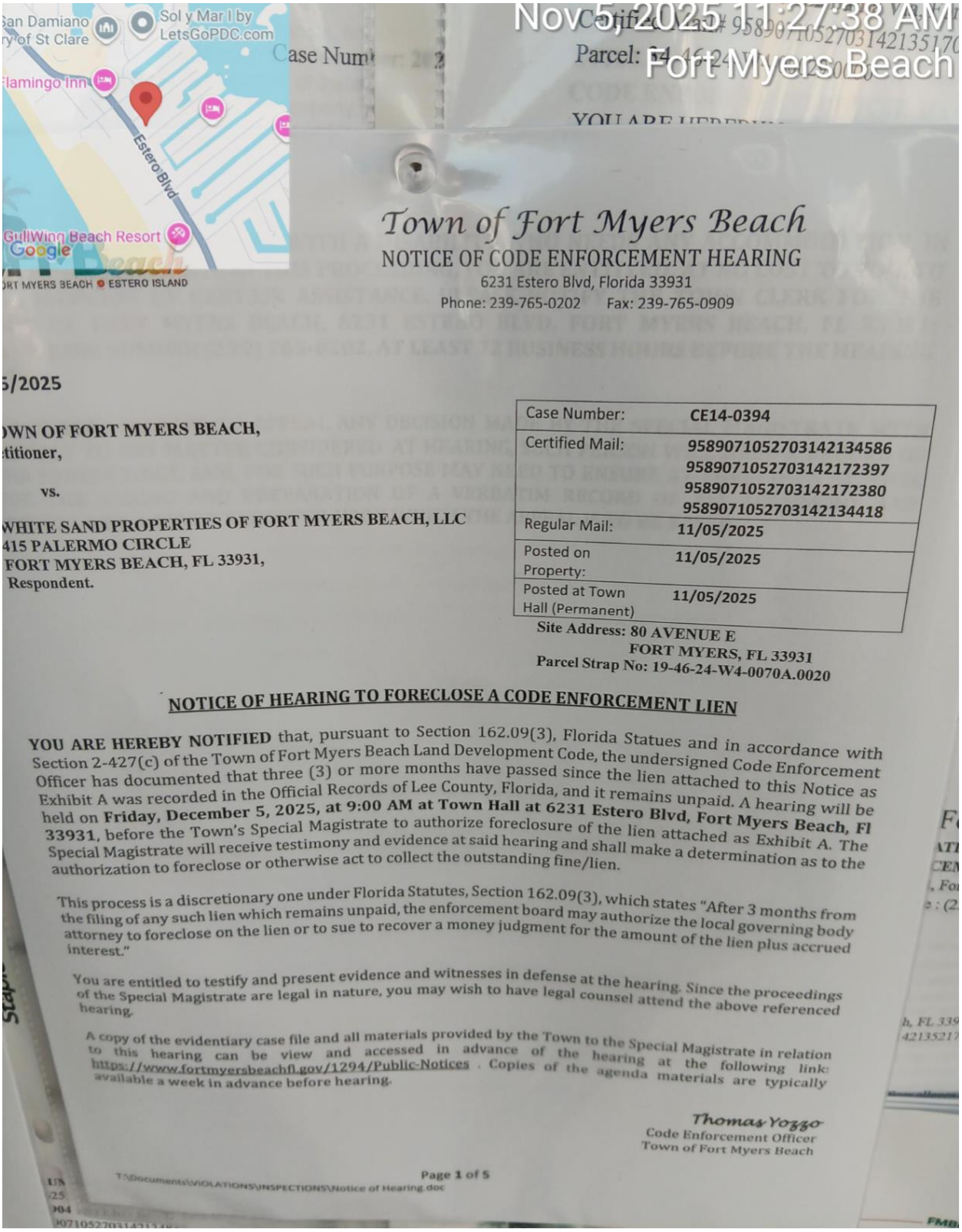
Authorized Person(s) Detail

Name & Address

Title MGR

Affidavit of Notice and Posting EXHIBIT "A":
Notice Posted on Subject Property

Affidavit of Notice and Posting EXHIBIT "A":
Notice Posted at Town Hall



2020 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

FILED
Jul 23, 2020
Secretary of State
0488705736CC

DOCUMENT# L19000290290

Entity Name: WHITE SAND PROPERTIES OF FORT MYERS BEACH LLC

Current Principal Place of Business:

415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931

Current Mailing Address:

415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931 US

FEI Number: 84-3793517

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

SCHMID, JESSE
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent — Date

Authorized Person(s) Detail :

Title	PRESIDENT	Title	VP
Name	SCHMID, JESSE	Name	HANNON, JODI ANN
Address	415 PALERMO CIRCLE	Address	415 PALERMO CIRCLE
City-State-Zip:	FORT MYERS BEACH FL 33931	City-State-Zip:	FORT MYERS BEACH FL 33931

Title	SECRETARY
Name	SOTO-PEREZ, BRANDON LEROY
Address	5293 BUSINESS US 51
City-State-Zip:	CLINTON IL 61727

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: JESSE SCHMID PRESIDENT 07/23/2020

Electronic Signature of Signing Authorized Person(s) Detail — Date

2025 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

FILED
Feb 24, 2025
Secretary of State
4061567751CC

DOCUMENT# L19000290290

Entity Name: WHITE SAND PROPERTIES OF FORT MYERS BEACH LLC

Current Principal Place of Business:

3210 ESTERO BLVD
FORT MYERS BEACH, FL 33931

Current Mailing Address:

P.O. BOX 1118
LABELLE, FL 33975 US

FEI Number: 84-3793517

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

RAMUNNI, STEVEN A.
110 N MAIN STREET
LABELLE, FL 33935 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent — Date

Authorized Person(s) Detail :

Title	MGR	Title	AMBR
Name	SCHMID, JESSE	Name	HANNON, JODI ANN
Address	3210 ESTERO BLVD	Address	3210 ESTERO BLVD
City-State-Zip:	FORT MYERS BEACH FL 33931	City-State-Zip:	FORT MYERS BEACH FL 33931

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: JESSE SCHMID MGR 02/24/2025

Electronic Signature of Signing Authorized Person(s) Detail — Date

Town of Fort Myers Beach
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,
vs.

FMB Case #:	**CE14-0394**
Regular Mail:	**USPS 01/14/2026**

WHITE SANDS PROPERTIES OF FORT MYERS BEACH, LLC
Respondent.
_____/

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared **THOMAS YOZZO** who being duly sworn by me, on oath, deposes and says the following regarding that certain Notice of Hearing to foreclose a Code Enforcement Lien attached hereto as **Exhibit A** ("the Notice"):

1. My name is **THOMAS YOZZO,** I am over 18 years of age and am competent to testify to the matters set forth herein. I make this Affidavit based upon my personal knowledge.

2. I am employed as the **EMERGENCY SERVICES DIRECTOR/CODE ENFORCEMENT OFFICER** for the Town of Fort Myers Beach ("Town").

3. On **January 14, 2026**, I personally mailed a copy of the Notice by certified mail and first-class mail as follows:

   a. To the property owner at the address listed in the records of the Lee County Tax Collector and/or Lee County Property Appraiser for tax notices, which address is: **415 Palermo Circle, Fort Myers Beach, FL 33931**. A true and correct copy of the property ownership and address information obtained from the Tax Collector/Property Appraiser is attached hereto as **Exhibit B**.

Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town of Fort Myers Beach Land Development Code and Section 162.12, Florida Statutes.

SWORN AND ATTESTED BY:

Signature of Affiant
Printed Name: Yozzo, Thomas W
Title: Emergency Services Director

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of ☒ physical presence / ☐ online notarization, this 27 day of January, 2026 by Tom Yozzo, who ☒ is personally known to me ☐ or has produced _____ as identification.

Notary Public, State of Florida
Printed Name: Tracie Raski
My Commission No.: HH636110
My Commission Expires: 2/3/2029

Notary Public State of Florida
Tracie Raski
My Commission HH 636110
Expires 2/3/2029

EXHIBIT A

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

1/14/2026

Case Number:	CE14-0394
Certified Mail:	N/A
Regular Mail:	01/14/2026

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931,
Respondent.

Site Address: 80 AVENUE E
FORT MYERS, FL 33931
Parcel Strap No: 19-46-24-W4-0070A.0020

NOTICE OF HEARING TO FORECLOSE A CODE ENFORCEMENT LIEN

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statutes and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida, and it remains unpaid. Pursuant to the Special Magistrate's Order of Continuance, a true and correct copy of which is attached hereto as Exhibit "B," a hearing will be held on **Wednesday, February 4, 2026, at 9:00 AM at the New Town Hall located at 6231 Estero Blvd, Fort Myers Beach, Fl 33931**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. The Special Magistrate will receive testimony and evidence at said hearing and shall make a determination as to the authorization to foreclose or otherwise act to collect the outstanding lien.

This process is a discretionary one under Florida Statutes, Section 162.09(3), which states "After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest."

You are entitled to testify and present evidence and witnesses in defense at the hearing. Since the proceedings of the Special Magistrate are legal in nature, you may wish to have legal counsel attend the above-referenced hearing.

A copy of the evidentiary case file and all materials provided by the Town to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the following link: https://www.fortmyersbeachfl.gov/1294/Public-Notices . Copies of the agenda materials are typically available a week in advance before hearing.

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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 NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 6231 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

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

EXHIBIT "A"

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 12th of ~~January~~ March 2019.

Mymabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

EXHIBIT "B"

CODE ENFORCEMENT SPECIAL MAGISTRATE FOR FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,
v.

FMB CASE NO.: CE14-0394

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

ORDER OF CONTINUANCE

THIS CAUSE came on Petitioner, Town of Fort Myers Beach, Florida's, and Respondent, White Sand Properties of Fort Myers Beach, LLC's, joint motion to continue this matter, which was scheduled for hearing on December 5, 2025.

IT IS HEREBY ORDERED that this hearing has been continued.

NOTICE IS HEREBY GIVEN THAT SPECIAL MAGISTRATE CONTINUES THE ABOVE ACTION to a new hearing date of **February 4, 2026, at 9:00 a.m.**

The hearing will be held at the Town of Fort Myers Beach Town Hall, 6231 Estero Boulevard, Fort Myers Beach, Lee County, Florida.

Respondent waived further notice Requirements of this hearing.

FURTHER CONTINUANCES WILL NOT BE GRANTED absent a showing of good cause, which must include a bona fide emergency or other extenuating circumstances. The mere agreement of the parties will not constitute good cause. The parties are expected to attend the scheduled hearing and, at a minimum, provide a detailed status update.

ORDERED this 3rd day of December 2025.

Monica Schmucker, Special Magistrate

cc: All counsels of record

Property Data

STRAP: 19-46-24-W4-0070A.0020 Folio ID: 10228170

Tax Roll Value Letter 2025

Generated on 1/21/2026 3:45 PM

Owner Of Record - Sole Owner
[Change Mailing Address]

WHITE SAND PROPERTIES OF FORT
415 PALERMO CIR
FORT MYERS BEACH FL 33931

Site Address
Site Address maintained by E911 Program Addressing

80 AVENUE E
FORT MYERS BEACH FL 33931

Property Description
Do not use for legal documents!

CRESCENT BEACH BLK A PB 4 PG 45 LOT 2

View Recorded Plat at LeeClerk.org - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 4 and 45 for the book and page numbers.

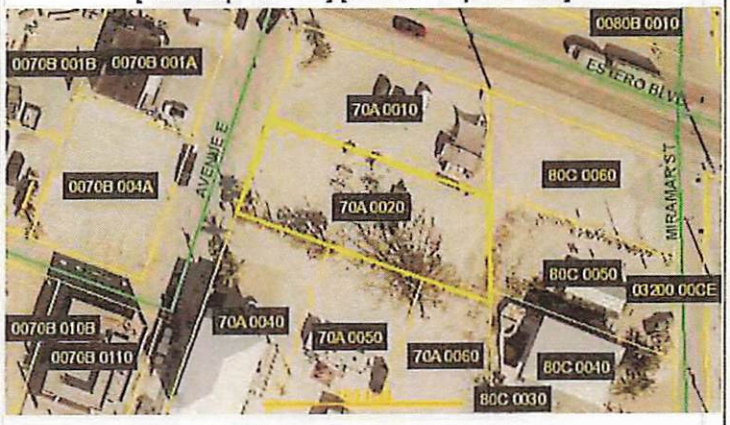
Attributes and Location Details

Total Bedrooms / Bathrooms	0
1st Year Building on Tax Roll	N/A
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	19	0070A	0020
Municipality	**Latitude**	**Longitude**		
Town of Fort Myers Beach	26.45057	-81.949		

View Parcel on Google Maps

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure

Photo Date February of 2024 ☐ View other photos

Last Inspection Date: 02/01/2024

Property Values / Exemptions / TRIM Notices

Generated on 1/21/2026 3:45 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2025 / Additional Info	2025 (Final Value)	950,700	950,700	950,700	801,757	0	0	801,757
2024 / Additional Info	2024 (Final Value)	728,870	728,870	728,870	728,870	0	0	728,870
2023 / Additional Info	2023 (Final Value)	759,000	759,000	759,000	759,000	0	0	759,000
2022 / Additional Info	2022 (Final Value)	1,386,001	1,146,360	1,386,001	1,213,505	0	0	1,213,505

Town of Fort Myers Beach
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner, **CASE NO.: CE14-0394**

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC

Respondent.
_____/

AFFIDAVIT OF CODE ENFORCEMENT MANAGER (CASE NO. CE14-0394)

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Emergency Services Director, who is also the Code Enforcement Manager for the Town of Fort Myers Beach, who being by me first duly sworn, on oath, deposes and says the following:

1. My name is Thomas Yozzo. I am over 18 years of age and am competent to testify to the matters set forth herein. I make this Affidavit based upon my Desk Top Investigation of the entire investigative file and all documents contained in the files of the Town's official records.

2. I have been an employee of the Town of Fort Myers Beach, Florida ("Town") for over __2___ years and currently serve as a Code Enforcement Manager of the City's Code Enforcement Department. I am aware of the facts of the case contained herein.

3. Respondent, White Sand Properties of Fort Myers Beach, LLC, is the record owner of real property located in Lee County, Florida, including real property that is the subject of this foreclosure ("Subject Property"). The Subject Property is located at 80 Avenue E, Fort Myers Beach, Florida 33931, and is legally described as follows:

Lot 2, Block "A", CRESCENT BEACH SUBDIVISION, according to the Plat thereof, recorded in Plat Book 4, Page 45, of the Public Records of Lee County, Florida.

4. On or about November 21, 2015, the TOWN issued a Notice of Violation regarding Violation 2 on the SUBJECT PROPERTY to ABSOLUTE BEST RATE RENTALS, LLC ("ABSOLUTE"), the property owner of the Subject Property at the time.

5. On February 24, 2016, the Special Magistrate for the TOWN held a duly noticed public hearing and entered a Code Enforcement Order ("Order of Enforcement") finding the Subject Property in violation of Fort Myers Beach Land Development Code Section 6-111 (adopting the Florida Building Code 105.1).

6. In the Order of Enforcement, the Special Magistrate ordered correction of the violation and ordered that failure to comply would result in a fine of $250.00 per day beginning on March 25, 2016, and continuing for each day the violation continues to exist. The Special Magistrate assessed $150.00 in administrative fees.

7. On March 30, 2016, the Special Magistrate executed a Code Enforcement Order Imposing Lien ("Order Imposing Lien"), finding that the violations still existed on the SUBJECT PROPERTY and that ABSOLUTE failed to comply with its February 24, 2016, Order and failed to pay the $150.00 in administrative costs. The Special Magistrate ordered ABSOLUTE to pay the TOWN a fine of $250.00 per day, beginning on March 25, 2016, and continuing to accrue for each day the violations continued to exist on the SUBJECT PROPERTY.

8. The Order Imposing Lien further ordered that, upon recording in the Public Records, the order would constitute a lien against the SUBJECT PROPERTY and any other real or personal property owned by ABSOLUTE for the fine amount and prosecution costs.

9. The Order Imposing Lien was recorded on April 12, 2016, as Official Records Instrument No. 2016000076125 in the Public Records of Lee County, Florida.

10. On or about July 15, 2016, JOESEPH ORLANDINI ("ORLANDINI") acquired the SUBJECT PROPERTY.

11. On or about March 12, 2019, the Special Magistrate entered a Code Enforcement Order Imposing Lien ("Fine Certification Order"), finding that ORLANDINI was not in compliance with the February 24, 2016, Order of Enforcement, and that neither the accrued fine nor the administrative costs imposed by the March 30, 2016, Order Imposing Lien had been paid.

12. The March 12, 2019 Fine Certification Order certified that a fine in the amount of $257,150.00 had accrued and continued to accrue in the amount of $250.00 per day for every day that the property remains in non-compliance with the February 24, 2016, Order of Enforcement.

13. The Fine Certification Order provided that the Order may be recorded in the public records, and if so recorded, the Order shall constitute a lien against the SUBJECT PROPERTY and any other real or personal property owned by ORLANDINI.

14. The Fine Certification Order was recorded on March 27, 2019, as Official Records Instrument No. 20190000067137 in the Public Records of Lee County, Florida.

15. On April 16, 2024, the TOWN issued an Affidavit of Compliance finding the SUBJECT PROPERTY to be in compliance as of September 28, 2022, as a result of Hurricane Ian and the SUBJECT PROPERTY being demolished.

16. Fines accrued between March 25, 2016, and September 28, 2022, for the violation in the amount of $250.00 per day for 2,378 days, equaling a total fine of $594,500.00 plus $150.00 in administrative fees for a total amount of $594,650.00 due under the lien in CE14-0394.

17. The current status of CE14-0394 is "Lien Recorded."

18. Code Enforcement Case No. CE14-0394 will be closed upon payment in full of the of $594,650.00 due under the lien in CE14-0394.

SWORN AND ATTESTED BY:

Thomas Yozzo, Emergency Services Director
Town of Fort Myers Beach

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either [✓] personal presence or [ ] online notarization this 5 day of September, 2025, by Thomas Yozzo. He [✓] is personally known to me or [ ] has produced _____ as identification.

Notary Public State of Florida
Tracie Raski
My Commission HH 636110
Expires 2/3/2029

[Notary Seal]

Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

TOWN'S SUMMARY OF LIEN ACTIVITY

(By Code Enforcement Case Number)

	Lien 1 (CE14-0394)	Lien 2 (CE15-0167)	Lien 3 (CE17-0065)
Initial CE Order or Lien Recorded	2016 Order Imposing Lien recorded as: **x6125** & **x6146** (copy) Exhibit __ Owner: Absolute Best	2016 Order Imposing Lien recorded as: **x6124** & **x6145** (copy) Exhibit __ Owner: Absolute Best	2018 Order of Violation recorded as: **x9665** (not a lien) Exhibit __ Owner: Orlandini
Subsequent CE Order or Lien Recorded	2019 Order Imposing Lien (after Lien Cert. Hearing) recorded as: **x7137** Exhibit __ This order vacated and replaced the previous order imposing lien recorded as **x6125** & **x6146** Owner: Orlandini	None	2019 Order Imposing Lien recorded as: **x0404** Exhibit __ Owner: Orlandini
CURRENT LIENS THAT REMAIN UNPAID	**x7137** (accrued to $594,650.00) Exhibit __	**x6124** (accrued to $594,650.00) Exhibit __	**x0404** (amount due: $500.00) Exhibit __
Properties Encumbered	80 Ave E (Subject Property) and all other property owned by Orlandini.	80 Ave E (Subject Property) and all other property owned by Absolute Best.	80 Ave E (Subject Property) and all other property owned by Orlandini.
Partial Releases	Partial releases recorded to release the following Orlandini properties from **x7137**: 1560 I St (on 1/10/20) Exhibit __ 455 Palermo Cir (on 3/2/21) Exhibit __ 2890 Seaview St (on 3/2/21) Exhibit __	No partial releases recorded because no lien under CE15-0167 was recorded during Orlandini's ownership of 80 Ave E that would have extended to his other properties.	Partial releases recorded to release the following Orlandini properties from **x0404** & **x9665**: 1560 I St (on 1/10/20) Exhibit __ 455 Palermo Cir (on 11/20/20 & 3/2/21) Exhibit __ 2890 Seaview St (on 3/2/21) Exhibit __
First Foreclosure Authorization Order (2/12/24) Exhibit __	Authorized foreclosure of lien recorded as **x6125** **Note: the NOH & AOC list x6146**	Authorized foreclosure of lien recorded as **x6124** **Note: the NOH & AOC list x6145**	Authorized foreclosure of lien recorded as **x0404**
TODAY'S REQUEST	Authorization to foreclose the 2019 Order Imposing Lien recorded as: **x7137** Exhibit __	N/A	N/A

TOWN'S SUMMARY OF LIEN ACTIVITY

(By Code Enforcement Case Number)

EXHIBIT 6 : Timeline of 80 Ave E

Date	Event
10/8/14	Leo Dibiasi (individually and as a Trustee) acquires the Subject Property from Four Diamond Investment Corp; a Warranty Deed is recorded in the public record. ★ Owner: Dibiasi ★ **Exhibit 7:** Warranty Deed to Leo Dibiasi (conveying 80 Ave E)
April 2015	The Subject Property is inspected and checklists indicate that the deck and stairs are decayed and at risk of collapse and that the building is unsafe and requires the demolition of the entrance stairs and deck. ★ Owner: Dibiasi
7/14/15	A Notice of Violation in **CE15-0167** is issued based on the inspections in April 2015. The NOV cited violations of Sec 6-111 and 103.5 "unsafe buildings" of the FBC and required abatement by vacating the premises, removing ladder, and obtaining a permit to replace deck and stairs and pass inspections. ★ Owner: Dibiasi ★ Case Number: CE15-0167 ★ **Composite Exhibit 8:** ○ Notice of Violation 15-0167 ○ Certified Mail Receipt (Service of NOV 15-0167) ○ Unsafe Building Checklists
11/21/15	A Notice of Violation in **CE14-0494** is issued for "remodel done without permits, stairwell constructed without permit" in violation of Sec. 6-111 and 105.1 FBC. The corrective action required was to “Obtain a permit for remodel work done and pass all subsequent inspections” and “Obtain a permit for stairwell build and pass all subsequent inspections” ★ Owner: Dibiasi ★ Case Number: CE14-0394 ★ **Composite Exhibit 9:** ○ Notice of Violation 14-0394 ○ Certified Mail Receipt (Service of NOV 14-0394)
12/4/15	Dibiasi transferred ownership of the Subject Property from himself to his business, Absolute Best ★ Owner: Dibiasi & Absolute Best ★ **Composite Exhibit 10**: ○ Deed from Leo Dibiasi to Absolute Best Rate Rentals ○ 2015 & 2016 Annual Reports with Dibiasi as President and Registered Agent
1/13/16	Notices of code enforcement hearing are issued for **CE14-0394** and **CE15-0167**. Both hearings are scheduled for 2/24/16.
2/24/16	After a Code Enforcement Hearing, the following Code Enforcement Orders are issued: **CE14-0394** – Code enforcement order finding the property in violation for "REMODEL WORK PERFORMED WITHOUT A PERMIT AND STAIRWELL DEMOLISHED AND BUILT WITHOUT A PERMIT IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 6-111 (ADOPTING FLORIDA BUILDING CODE 105.1" and requiring correction by "OBTAIN A PERMIT FOR ALL WORK PERFORMED AND PASS ALL SUBSEQUENT INSPECTIONS” by March 26, 2015 **CE15-0167** – Code enforcement order finding the property in violation for "PROPERTY IS OCCUPIED AND DOES NOT HAVE A PERMIT FOR REPLACEMENT OF MAIN INGRESS/EGRESS IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 103.5" and requiring correction by "OBTAIN PERMITS FOR WORK DONE AND PASS ALL INSPECTIONS" by March 25, 2016. ★ Owner: Dibiasi & Absolute Best ★ Case Number(s): CE14-0394 & 15-0167 ★ **Exhibit 11:** Initial Order of Violation 14-0394 ★ **Exhibit 12:** Initial Order of Violation 15-0167

EXHIBIT 6 : Timeline of 80 Ave E

3/28/16	Affidavits of Noncompliance are issued in **CE14-0394** & **CE15-0167** stating that reinspection was performed, and the property was still in violation.
3/30/16	Code Enforcement Orders to Impose Lien were entered in **CE14-0394** & **CE15-0167** and subsequently recorded. Each order found that the violation in that case had not been abated and imposed a $250.00 per day fine to run beginning March 25, 2016. **CE14-0394** – Code Enforcement Order to Impose Lien (Recorded on 4/12/2016 as 2016000076125) **CE15-0167** – Code Enforcement Order to Impose Lien (Recorded on 4/12/2016 as 2016000076124) ★ Owner: Dibiasi & Absolute Best ★ Case Number(s): CE14-0394 & 15-0167 ★ **Exhibit 13:** Code Enforcement Order to Impose Lien 14-0394 ★ **Exhibit 14:** Code Enforcement Order to Impose Lien 15-0167
7/15/16	The Subject Property was acquired by Joe Orlandini ★ Owner: Orlandini ★ **Exhibit 15:** Warranty Deed to Orlandini
2/9/17	**CE17-0065** – A new Notice of Violation is issued to Orlandini in **CE17-0065** for work without a permit. ★ Owner: Orlandini ★ Case Number: 17-0065 ★ **Exhibit 16:** Notice of Violation CE17-0065
7/26/17	**CE17-0065** – A code enforcement order was entered finding the property in violation for "WORK WITHOUT A PERMIT - PAVERS IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 10-101(a)" and requiring correction by "SECURE REQUIRED PERMITS AND PASS REQUIRED INSPECTIONS (LIMITED DEVELOPMENT REVIEW ORDER "LDO") by August 30, 2017. ★ Owner: Orlandini ★ Case Number: CE17-0065 ★ Instrument Number: 2018000049665 ★ **Exhibit 17:** Order of Violation 17-0065
11/27/18	Separate Notices of Hearing are issued to Joe Orlandini for the following: **CE14-0394** – hearing on 1/17/19 regarding the violations in the notice of violation previously issued in this case. **CE15-0167** – hearing on 1/17/19 regarding the violations in the notice of violation previously issued in this case. ★ Owner: Orlandini ★ Case Number: CE15-0167 & CE14-0394 ★ **Composite Exhibit 18:** ○ Notice of Hearing for CE14-0394 ○ Notice of Hearing for CE15-0167
1/17/19	A lien certification hearing regarding **both CE15-0167** and **CE14-0394** was held with Orlandini present. **CE14-0394** – After the hearing, a Code Enforcement Order Imposing Lien was entered on March 12, 2019 finding that Orlandini had not complied with the previous code enforcement order and stating "the Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00 has accrued and continues to accrue in the amount of $250.00 per day. **CE15-0167** – No written order was entered in CE15-0167.

3/27/19	**CE14-0394** – The Special Magistrate's Code Enforcement Order Imposing Lien entered March 12, 2019 was recorded as Instrument #2019000067137, substituting and replacing the previous order and lien recorded as Instrument #2016000076125 and x6146. ★ Owner: Orlandini ★ Case Number: CE14-0394 ★ Instrument Number: 2019000067137 ★ **Exhibit 19:** Order Replacing and Imposing Lien CE 14-0394
6/20/19	**CE17-0065** - A lien certification/compliance hearing was held in **CE17-0065**, after which the Special Magistrate entered a Code Enforcement Order Imposing Lien finding that Orlandini had not complied with the code enforcement order and that a fine of $46,675.00 had accrued, but ultimately reducing the fine to $500.00.
7/9/19	**CE17-0065** – The Code Enforcement Order Imposing Lien in **CE17-0065** was recorded 7/9/19 as Instrument #2019000160404. ★ Owner: Orlandini ★ Case Number: CE17-0065 ★ Instrument Number: 2019000160404 ★ **Exhibit 20:** Order Imposing Lien CE17-0065 (recorded)
12/9/19	At a Town Council meeting, Mr. Schmid pledged to pay $50,000.00 towards the liens on 80 Ave E in exchange for the partial release of 1560 I St. from the scope of the liens on 80 Ave E. because Mr. Schmid was going to purchase 1560 I St. During public comment Jesse Schmid stated that he was buying a house with lien issues (1560 I St.) and pledged to pay $50,000.00 towards the liens. Former Town Manager Roger Hernstadt indicated to the Town Council they could craft an agreement for them to proceed with satisfying part of the lien for the property in the lien umbrella (1560 I St) and council members agreed with the action. Note: Only the liens under CE14-0394 and 17-0075 encumbered 1560 I St. at this time. The lien under CE15-0167 did not. ★ Owner: Orlandini ★ Case Number: CE14-0394, CE17-0065 ★ **Exhibit 21:** Minutes from December 9, 2019 Town Council meeting
12/12/19	Jesse Schmid delivered a $50,000.00 check to the Town to release 1560 I St. from the liens recorded against 80 Ave E. ★ Property: 1560 I St ★ Owner: Orlandini ★ Case Number: CE14-0394, CE17-0065 ★ **Exhibit 22:** Check for Partial Release of 1560 I St
1/10/20	Three partial releases are recorded to release 1560 I St from the following liens on 80 Ave E in exchange for $50,000.00. - 2019000067137 (CE14-0394) - 2019000160404 (CE17-0065) - 2018000049665 (CE17-0065) Each release specifies that it only releases the property mentioned therein, and all other properties attached as a result of the lien remain. ★ Property: 1560 I St ★ Owner: Orlandini ★ Case Number: CE17-0065, 14-0394 ★ **Composite Exhibit 23:** ○ Partial Release of 1560 I St from 17-0065 ○ Partial Release of 1560 I St from CE14-0394 ○ Partial Release of 1560 I St from 17-0065 (2)

EXHIBIT 6 : Timeline of 80 Ave E

2/3/20	At the Town Council meeting on February 3, 2025, during public comment, Orlandini asked whether he could mitigate liens for 80 Ave E and another of his properties, 1710-1740 Estero Blvd. The Council approved a motion to "waive the rules regarding lien mitigation and allow the Town Manager and Orlandini to work out all of the issues Orlandini has pending with 1710-1740 Estero Blvd and 80 Ave E. ★ Property: 80 Ave E ★ Owner: Orlandini ★ Case Number: CE17-0065, 14-0394, CE15-0167 ★ **Exhibit 24:** Minutes from February 3, 2020 Town Council meeting
3/20/20	White Sand Properties purchased 1560 I Street (not the Subject Property) from Orlandini. ★ **Exhibit 25:** Deed from Joe Orlandini to White Sand Properties (conveying 1560 I St)
3/23/20	Mr. Schmid emailed former Town Manager Hernstadt to set up an appointment to meet with Mr. Hernstadt and Orlandini to "figure out the fines on [Orlandini]'s 80 Ave E." Mr. Schmid said he was closing soon and wanted everything addressed ASAP. On April 1 (after the Deed in Lieu was signed), Daphnie says she can meet. ★ Property: 80 Ave E ★ Owner: Orlandini ★ Case Number: CE17-0065, 14-0394, CE15-0167 ★ **Exhibit 26:** Email Thread re: meeting to discuss 80 Ave E fines (3/23/20)
3/26/20	A Deed in Lieu of Foreclosure is executed from Orlandini to White Sand dated 3/26/2020, however it is not recorded until July 20, 2020. ★ Property: 80 Ave E ★ Owner: Orlandini ★ **Exhibit 27:** Deed in Lieu from Orlandini to White Sand (conveying 80 Ave E)
4/1/20	Mr. Hernstadt emails Mr. Schmid and Mr. Orlandini explaining that 80 Ave E has two code cases that are not in compliance and accruing fines at $250.00 per day (CE14-0394 and CE15-0167) and another code case with $500.00 due (CE17-0065). ★ Property: 80 Ave E ★ Owner: Orlandini ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 28:** Email Thread re: meeting to discuss 80 Ave E fines continued (4/1/20)
4/9/20	After no response to the lien status update on April 1, 2020, Roger follows up on April 9, 2020 and Orlandini asks to speak with Mr. Hernstadt privately because he is still the owner. ★ Property: 80 Ave E ★ Owner: Orlandini ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 29:** Email Thread re: meeting to discuss 80 Ave E fines continued (4/1/20)
4/23/20	In an internal email, Ms. Bercher explains to Mr. Hernstadt that the difference between 80 Ave E and the other matter Mr. Hernstadt negotiated and resolved with Orlandini (1710-1740 Estero) is compliance because the other matter had already been brought into compliance whereas 80 Ave E was still not in compliance. Ms. Bercher explained that they were working with Orlandini to obtain permits to bring 80 Ave E into compliance. ★ Property: 80 Ave E ★ Owner: Orlandini ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 30:** Email Thread re: 80 Ave E noncompliance
4/30/20	Jesse Schmid meets with Ms. Bercher to discuss permits the Town is waiting on.
5/1/20	Ms. Bercher emails a proposed compliance agreement to resolve the liens on 80 Ave E to Jesse Schmid. The compliance agreement lists **CE14-0394**, **CE15-0167**, and **CE17-0065**. The terms are that "in lieu of the violation process, respondent acknowledges these violations and will pay a one-time fine of $61,628.04 (due immediately) and obtain all required permits to correct all violations by July 1, 2020 and obtain certificates of completion for all violations by December 31, 2020. If the

	above is not complied with, a fine of $1,000.00 per day will be assessed until compliance is obtained." Jesse Schmid acknowledges receipt of the agreement via email and states "I would like to pick up the permits when I bring a check of 80 Ave E" ★ Property: 80 Ave E ★ Owner: White Sand ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 31:** Email Thread re: Town's Proposed Compliance Agreement (5/1/20)
5/4/20	Mr. Schmid emails the former Town Manager asking to meet about the permits he is waiting on. ★ **Exhibit 32:** Emails re: Town's Proposed Compliance Agreement ctd. (5/11/20)
5/9/20	Jesse Schmid emails Ms. Bercher saying the email she sent him was all about money and nothing about issuing permits. Ms. Bercher responds that her email was a negotiation he asked for, which the Compliance Agreement states he will pay the amount immediately and if he fails to pay that amount until the permits are open that's his choice. ★ Property: 80 Ave E ★ Owner: White Sand ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 32:** Emails re: Town's Proposed Compliance Agreement ctd. (5/11/20)
5/11/20	Daphnie updates Roger that Jesse doesn't want to pay the negotiated amount until the permits for other properties have been issued, even though the Compliance Agreement states the amount must be paid immediately. ★ Property: 80 Ave E ★ Owner: White Sand ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 32:** Emails re: Town's Proposed Compliance Agreement ctd. (5/11/20)
7/20/20	Deed in Lieu of Foreclosure from Orlandini to White Sand dated 3/26/2020 is recorded. ★ Property: 80 Ave E ★ Owner: White Sand ★ **Exhibit 27:** Deed in Lieu from Orlandini to White Sand (conveying 80 Ave E)
8/21/20	Jesse Schmid contacts Patty Prevost, telling her that he wants to discuss 80 Ave E and to tear it down and rebuild into elevated family units.
11/2/20-11/3/20	Paula Kiker, a realtor, sends Daphnie an agenda for their Jesse Schmid meeting to discuss the status of Mr. Schmid's permits and the fines on 80 Ave E. Ms. Bercher replies, copying Mr. Schmid and explains that when Mr. Schmid acquired the property, the former Town Manager quoted a settlement for the outstanding liens, but Mr. Schmid had not paid anything and no permits had been applied for. Ms. Bercher explained that the Town's new offer was that a $75,000.00 fine needed to be paid and the property needed to be brought into compliance before the liens would be released. Ms. Kiker replies that Mr. Schmid understands if he pays the fine and demos, the outstanding violations go away, and that Mr. Schmid wanted to meet to see what can be built back if he goes that route. Ms. Bercher replies and tells Ms. Kiker and Mr. Schmid that the information requested can be obtained through a Zoning Verification Letter. ★ Property: 80 Ave E ★ Owner: White Sand ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 33:** Emails re: Status of Permits and Liens on 80 Ave E
11/5/20	Jesse Schmid pays for a Zoning Verification Letter on 80 Ave E. ★ **Exhibit 34:** Payment Notification for Zoning Verification Letter
11/18/20	A Zoning Verification Letter is Issued to Mr. Schmid for 80 Ave E.

	★ **Exhibit 35:** Zoning Verification Letter (11/18/20)
January 2021	Mr. Schmid's contractor emails to Town to discuss options to redevelop 80 Ave E. The contractor is told that the redevelopment White Sands wants is not allowed under the code. ★ Property: 80 Ave E ★ Case Number: CE15-0167, CE14-0394, CE17-0065 ★ **Exhibit 36:** Emails re: Redeveloping 80 Ave E
9/24/21	Corrective Deed in Lieu of Foreclosure from Orlandini to White Sand is 9/21/21 and recorded 9/24/21. ★ **Exhibit 37:** A Corrective Deed in Lieu from Orlandini to White Sand (conveying 80 Ave E)
12/8/21	At a Management and Planning Meeting, the Council requested that a discussion regarding collecting fines be added to the next Management and Planning Meeting. ★ **Exhibit 38:** Minutes from December 8, 2021 Management and Planning Meeting
12/9/21	The next day after the M&P Meeting, Patty Prevost prepares and sends Ms. Bercher a "Lien List as of 12.9.21", which lists the status of the liens on 80 Ave E as follows: - CE14-0394 – $514.150.00 still accruing at $250.00 per day. - CE15-0167 – $514,150.00 still accruing at $250.00 per day. - CE17-0065 – Certified Fine $500.00. ★ **Exhibit 39:** Lien List as of December 9, 2021
1/13/22	At the January 13, 2021 M&P meeting, Former Town Manager Roger Hernstadt reported that there were some code enforcement cases with large liens and the property owners were not cooperating with the Town to resolve their violations. The Vice Mayor asked Former Town Attorney John Herin to provide a list of violators at the next Town Council Meeting. ★ **Exhibit 40:** Minutes from January 13, 2022 Management and Planning Meeting
1/24/22	At the next Town Council Meeting, the Town Attorney provided a list of 14 code enforcement liens, including the liens on 80 Ave E, and noted there were only two options to bring the properties into compliance - foreclosure or injunction. The Town Manager indicated that the property owners on this list were the ones they were unable to work things out with. The Town Council reached a consensus to move forward with title searches for foreclosure. ★ **Exhibit 41:** Minutes from January 24, 2022 Town Council Meeting
4/7/22	At the April 7, 2022 M&P meeting, the Council discussed "Code Enforcement Philosophies". Roger Hernstadt discussed property owners who profited from violating codes. Daphnie Saunders stated there were approximately 25 liens. John Herin produced a list of liens with significant fines that continued to accrue, including the 3 liens on 80 Ave E and explained the foreclosure process. Consensus was reached to add the topic to the next regular Town Council meeting agenda. ★ **Exhibit 42:** Minutes from April 7, 2022 Management and Planning Meeting
4/18/22	The Town Council unanimously moved to approve a motion to authorize the Town Attorney to enforce the code enforcement violations and liens in Attachment A (including 80 Ave E) through court actions including foreclosure. ★ **Exhibit 43:** Minutes and Attachments from April 18, 2022 Town Council Meeting
5/13/22-5/26/22	Former Town Attorney John Herin emails Ms. Bercher asking her to verify his recollection that Mr. Schmid acquired 80 Ave E with full knowledge of the violations and lien and that no permits had been issued. Daphnie confirms his recollection and adds "Additionally, Roger has offered to work with Mr. Schmid several times, but Mr. Schmid has never followed through." ★ **Exhibit 44:** Emails and Attachments re: Lien Status (May 2022)
8/12/22	Foreclosure Complaint filed by John Herin.
9/28/22	Properties are deemed compliant as of this date because Hurricane Ian demolished the property. ★ **Composite Exhibit 45:** Affidavits of Compliance CE14-0394, CE15-0167, CE17-0065
1/29/24	Notice of Foreclosure hearing service was served to foreclose these three liens: 2013000076145, 2016000076146, & 2019000160404 ★ **Exhibit 46:** Notice of Foreclosure Hearing CE14-0394, CE15-0167, CE17-0065

EXHIBIT 6 : Timeline of 80 Ave E

3/12/24	Foreclosure Findings of Fact, Conclusions of Law, and Order dated 2/22/24 was recorded on 3/12/24 ★ **Exhibit 47:** First Foreclosure Authorization Order
4/26/24	White Sand files its motion to forgive fines to the Town Council. ★ **Exhibit 48:** Respondent's Verified Motion to Forgive Fines to the Town Council
5/6/24	Town Council considered Respondent's request for lien reduction and agreed to reduce the total amount owed from $1,189,950 to $247,000.00, contingent upon payment in full of the reduced amount within 30 days of the Council's approval date. ★ **Exhibit 49:** Minutes from May 6, 2024 Town Council Meeting
1/10/2025	A Notice of Hearing was issued for Authorization to Foreclose the Lien in CE14-0394. ★ **Exhibit 50:** Notice of Hearing to Foreclose the Lien in CE14-0394
1/25/2025	A hearing was held before the Special Magistrate in the Town's request to foreclose Lien in CE14-0394.
Feb. 2025	The Special Magistrate entered an Order was entered dismissing the Town's Request for authorization to foreclose the lien in CE14-0394 without prejudice. ★ **Exhibit 51:** Order on Hearing to Foreclose the Lien in CE14-0394

INSTR # 2014000207524, Doc Type D, Pages 1, Recorded 10/08/2014 at 12:30 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $3850.00 Rec. Fee $10.00 Deputy Clerk ERECORD

After Recording Return to:
Leigh Hassano
Stewart Title Company
1327-A Cape Coral Parkway East
Cape Coral, FL 33904

This Instrument Prepared by:
Leigh Hassano
Stewart Title Company
1327-A Cape Coral Parkway East
Cape Coral, FL 33904
as a necessary incident to the fulfillment of conditions contained in a title insurance commitment issued by it.

Property Appraisers Parcel I.D. (Folio) Number(s):
19-46-24-W4-0070A.0020
File No.: 01206-27900

WARRANTY DEED

This Warranty Deed, Made the 3 day of October, 2014, by **Four Diamond Investment Corporation, a Florida Corporation**, having its place of business at **6249 Presidential Court SW, Suite B, Fort Myers, FL 33919**, hereinafter called the "Grantor", to **Leo J. Dibiasi , Individually and as Trustee of the Leo J. Dibiasi and Valerie J Dibiasi Revocable Living Trust,** whose post office address is: **12071 McGregor Boulevard, Fort Myers, FL 33919**, hereinafter called the "Grantee".

WITNESSETH: That said Grantor, for and in consideration of the sum of **Five Hundred Fifty Thousand Dollars and No Cents ($550,000.00)** and other valuable considerations, receipt whereof is hereby acknowledged, by these presents grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in **Lee** County, Florida, to wit:

Lot 2, Block A, Crescent Beach, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.
To Have and to Hold, the same in fee simple forever.
And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2013, reservations, restrictions and easements of record, if any.
(Wherever used herein the terms "Grantor" and "Grantee" included all the parties to this instrument and the heirs, legal representatives and assigns of the individuals, and the successors and assigns of the Company)

IN WITNESS WHEREOF, Grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES
TWO SEPARATE DISINTERESTED WITNESSES REQUIRED

ATTEST: _____
Secretary

Witness Signature: Leigh Hassano
Printed Name: Leigh Hassano

Witness Signature: Danielle Sheppard
Printed Name: Danielle Sheppard

Harald J. Burke, President, Four Diamond Investment Corporation, a Florida Corporation

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this day of October, 2014 by Harald J. Burke as President of Four Diamond Investment Corporation, a Florida Corporation on behalf of the the Company. He/She is personally known to me or has produced driver license(s) as identification.

Leigh Hassano
Notary Public Signature
Printed Name: _____

My Commission Expires: _____
(SEAL)

LEIGH HASSANO
Notary Public - State of Florida
My Comm. Expires Aug 10, 2014
Commission # EE 16198

Town of Fort Myers Beach

CODE COMPLIANCE
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0591

7/14/2015

CASE NUMBER: **CE15-0167**
Certified Mail: 7014 2870 0000 6232 3267
Posted Property: 7/14/15

DIBIASI LEO J + DIBIASI LEO J
12071 MCGREGOR BLVD
FORT MYERS, FL 33919

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on ***4/16/15*** by Lee County Building Inspector, William Sammons, per 2013-2015 interlocal agreement with Lee County, indicates that violation(s) of the following Town Codes currently exist on said property (see attached report):

- Town of Fort Myers Beach LDC, Chapter 6 Section 111: Adoptions; amendments, adopting the Florida Building Code as amended. Florida Building Code section:

  103.5 Unsafe buildings or systems. All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and must be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Unsafe Building Abatement Code (see article I of this chapter).

You are hereby directed to abate or remedy these violations on or before ***8/4/15 (15 Days)***.

The violation(s) can be abated or corrected by taking the following actions:

- Premises must be vacated.
- Remove ladder.
- Obtain a permit to replace deck and stairs and pass all subsequent inspections.

Town of Fort Myers Beach

CODE COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0591

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 if you have any questions concerning this Notice of Violation.

Respectfully,

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

80 Ave E
CE15-0167
Unsafe Deck

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage	

FORT MYERS BEACH JUL 14 2015 USPS 33931 Postmark Here

7014 2870 0000 6232 3267

Sent To Leo Dibiasi
Street & Apt. No. or PO Box No. 12071 McGregor Blvd
City, State, ZIP Fort Myers, FL 33919

PS Form 3800, July 2014

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Leo Dibiasi
12071 McGregor Blvd
Fort Myers, FL 33919

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* C. Date of Delivery 7-15-15

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail® ☐ Priority Mail Express™
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ Collect on Delivery

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7014 2870 0000 6232 3267

PS Form 3811, July 2013 Domestic Return Receipt

7-16-15

FT. Myers Beach

Accessory

LEE COUNTY
SOUTHWEST FLORIDA

UNSAFE BUILDING CHECKLIST

Address: 80 Avenue E B-Building Date: 4-16-2015

	Broken or Missing	Deteriorated Dilapidated Decayed	Damaged by fire, wind, flood, other	Needs Repair		Broken or Missing	Deteriorated Dilapidated Decayed	Damaged by fire, wind, flood, other	Needs Repair
STRUCTURAL:					12. Windows				
1. Exterior Damage					a. panes				
2. Crawl Space					b. frames				
3. Footings					c. sills				
a. walls					13. Exterior Appendage				
b. piers					14. Chimney				
c. columns					15. Beams				
4. Piers					16. Ceiling Joists				
5. Columns					17. Rafters				
6. Foundation Walls					18. Sheathing				
a. front					19. Roofing _____				
b. left					20. Overhang				
c. right					21. Gutters				
d. rear		/			22. Exterior Siding				
7. Floor Joists -1st					23. Means of Egress		/		
-2nd					24. Door Exterior				
a. subflooring:					a. sill				
plywood ____					b. frame				
particle board ____					c. doors				
8. Girders					25. Hardware Exterior		//		
9. Exterior Walls					26. Exterior Stairs		//		
a. front					a. treads/riser		//		
b. left					b. hand/guard rails		//		
c. right					27. Porches				
d. rear					a. roof				
10. Interior _____ Walls					b. floor		/		
_____ Ceilings					c. other				
_____ Floors									
11. Accessory Buildings					28. Septic				
Garage _____					a. cover				
Shed _____					b. waste line				
Pool Enclosure _____					c. plumbing				
Pool _____					29. Electrical Meter				
Miscellaneous _____	/	/			on___ off___ removed___				
ENTRANCE DECK									

Comments: UNSAFE BUILDING- Demo ENTRANCE STAIRS + DECK STRUCTURAL COMPONENTS OF DECK + STAIRS HAVE DECAYED + ARE IN IMMINENT DANGER OF COLLAPSE. UNDER DECK FRAMING HAS DETERIORATED + SHOULD ALL BE REPLACED. ALL VERTICAL MEMBERS SHOULD BE LOOKED AT + RE SECURED TO TOP + BOTTOM OF STRUCTURE.

The above referenced items cause this structure(s) to be an unsafe building(s). The above referenced items must be repaired or replaced as directed or the building(s) demolished at the option of the owner. The condition of this building(s) violates the Standard Unsafe Building Abatement Code 1985 Edition, Section 101.6 - Maintenance, and Section 104 - Violations and Penalties, as adopted by Section 6-211 of the Lee County Land Development Code.

Bill Sammons

Code Inspector
Development Services Division
239-533-5499

Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

11/21/2015

CASE NUMBER: **CE14-0394**
Certified Mail: **7015 1660 0000 4352 0170**

DIBIASI LE J+DIBIASI LEO J TR
12071 MCGREGOR BLVD
FORT MYERS, FL 33919

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on ***11/3/15*** by Town of Fort Myers Beach Code Enforcement Officer ***MOLLY JACOBS*** indicates that the following items are a violation:

- ***Remodel done without permits***
- ***Stairwell constructed without a permit***

These items are a violation of the following Town Codes:

Town of Fort Myers Beach Land Development Code

- Sec. 6 – 111: Adoptions; amendments, adopting the Florida Building Code as amended. Florida Building Code section:

  105.1 Required. 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.

You are hereby directed to abate or remedy these violations within ***10 days*** of the receipt of this notice.

Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

The violation(s) can be abated or corrected by taking the following actions:

- ***Obtain a permit for remodel work done and pass all subsequent inspections***
- ***Obtain a permit for stairwell build and pass all subsequent inspections.***

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 if you have any questions concerning this Notice of Violation.

Respectfully,

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

80 Ave E
CE14-0394
Remodel NOV

7015 1660 0000 4352 0170

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

OFFICIAL USE

Certified Mail Fee
$

Extra Services & Fees *(check box, add fee as appropriate)*
- ☐ Return Receipt (hardcopy) $
- ☐ Return Receipt (electronic) $
- ☐ Certified Mail Restricted Delivery $
- ☐ Adult Signature Required $
- ☐ Adult Signature Restricted Delivery $

Postage
$

Total Postage
$

Sent To

Street and Apt.

City, State, ZIP

Leo Dibiasi
12071 McGregor Blvd
Fort Myers, FL 33919

FORT MYERS BEACH FL USPS - 33931
NOV 23 2015
Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Leo Dibiasi
12071 McGregor Blvd
Fort Myers, FL 33919

9590 9403 0956 5223 6991 68

2. Article Number (Transfer from service label)
7015 1660 0000 4352 0170

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☒ Agent
☐ Addressee

B. Received by *(Printed Name)* Joe Lascola
C. Date of Delivery 11-25

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

11/25/15

3. Service Type
- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

INSTR # 2015000260051, Doc Type D, Pages 2, Recorded 12/04/2015 at 02:06 PM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $0.70 Rec. Fee $18.50 Deputy Clerk ALUCKEY

THIS INSTRUMENT PREPARED BY:
Leo DiBiasi
12071 McGregor Blvd.
Ft. Myers, FL 33919

Property Appraisers Parcel I.D. (Folio Number):
FOLIO # 102281170
STRAP # 19-46-24-W4-007A.0020

TRUSTEE'S DEED

By this Deed, Made the ____ day of December, 2015, by Leo J. DiBiasi, Individually and as Trustee of **The Leo J. DiBiasi and Valerie J. DiBiasi Revocable Living Trust dated August 19th, 2014,** whose post office address is: **12071 McGregor Boulevard, Fort Myers, FL 33919, hereinafter called the "Grantor", to ABSOLUTE BEST RATE RENTALS LLC, a Florida Limited Liability LLC in good standing,** whose post office address is**: 12071 McGregor Boulevard, Fort Myers FL 33919**

Witnesseth, that said grantor, for and in consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt of which is hereby acknowledged, hereby grant, bargain, sell, alien, remise, release, convey, and confirm unto said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying, and being in Lee County, Florida to-wit:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

PHYSICAL POST OFFICE ADDRESS
80 AVENUE E
FORT MYERS BEACH, FLORIDA 33931

This property is not the homestead of the Grantor(s) under the laws and constitution of the state of Florida in that neither Grantor(s) nor any member of the household of Grantor(s) reside there-on.

Together, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and To Hold, the same in fee simple forever.

GRANTOR COVENANTS with grantee that the grantor(s) are lawfully seized of said land in the fee simple; that the grantor(s) that the grantor(s) has good right and lawful authority to sell and convey said land, and hereby and hereby warrants title to said land and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, Grantor(s) has hereunto set Grantor's hand and seal the day and year first above written.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES
TWO SEPARATE DISINTERESTED WITNESSES REQUIRED

Witness Signature

George Pellegrino

Witness Printed Name

Witness

Witness Printed Name

The Leo J. DiBiasi and Valerie J. DiBiasi
Revocable Living Trust dated 8/19/2014

By: _____
Leo J. DiBiasi, Individually and as Trustee

The foregoing instrument was acknowledged before me this 2ND day of DECEMBER, 2015 by Leo J. DiBiasi, Individually and as Trustee of The Le J. DiBiasi and Valerie J. DiBiasi Revocable Living Trust dated 8/19/2014, who is/are personally known to me or has produced driver license as identification

Notary Seal Commission Expires: 10/31/18

VINCENT E D'AMORE
MY COMMISSION #FF165123
EXPIRES October 31, 2018
(407) 398-0153 FloridaNotaryService.com

Signature of Notary Public

VINCENT D'AMORE

Printed Name of Notary Public

2016 FLORIDA LIMITED LIABILITY COMPANY ANNUAL REPORT

FILED
Mar 05, 2016
Secretary of State
CC3305445194

DOCUMENT# L10000023006

Entity Name: ABSOLUTE BEST RATE RENTALS LLC

Current Principal Place of Business:

12071 MCGREGOR BLVD
FORT MYERS, FL 33919

Current Mailing Address:

12071 MCGREGOR BLVD
FORT MYERS, FL 33919

FEI Number: 27-2009721

Certificate of Status Desired: Yes

Name and Address of Current Registered Agent:

DIBIASI, LEO J
12071 MCGREGOR BLVD
FORT MYERS, FL 33919 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent — Date

Authorized Person(s) Detail :

Title	PRES
Name	DIBIASI, LEO J
Address	12071 MCGREGOR BLVD
City-State-Zip:	FORT MYERS FL 33919

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am a managing member or manager of the limited liability company or the receiver or trustee empowered to execute this report as required by Chapter 605, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: LEO J DIBIASI PRESIDENT 03/05/2016

Electronic Signature of Signing Authorized Person(s) Detail — Date

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE14-0394

Petitioner,

v.

ABSOLUTE BEST RATE RENTALS, LLC,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on February 24, 2016, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931:

REMODEL WORK PERFORMED WITHOUT A PERMIT AND STAIRWELL DEMOLISHED AND BUILT WITHOUT A PERMIT IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 105.1).

5. Petitioner has incurred administrative costs and expenses in the amount of **$150.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in violation of Town of Fort Myers Beach LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 105.1).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   OBTAIN A PERMIT FOR ALL WORK PERFORMED AND PASS ALL SUBSEQUENT INSPECTIONS.

   In the event that the said violation is not corrected or abated as indicated above **PRIOR TO MARCH 25, 2016**, a fine of **$250.00 per day** shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to MARCH 25, 2016, these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931.

Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on February 24, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. mail, interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman 7/24/16
Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE15-0167

Petitioner,

v.

ABSOLUTE BEST RATE RENTALS, LLC,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on February 24, 2016, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue East, Bldg B, Fort Myers Beach, FL 33931:

PROPERTY IS OCCUPIED AND DOES NOT HAVE A PERMIT FOR REPLACEMENT OF MAIN INGRESS/EGRESS IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 103.5).

5. Petitioner has incurred administrative costs and expenses in the amount of **$150.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in violation of Town of Fort Myers Beach LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 103.5).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   OBTAIN A PERMITS FOR WORK DONE AND PASS ALL INSPECTIONS.

   In the event that the said violation is not corrected or abated as indicated above **PRIOR TO MARCH 25, 2016**, a fine of **$250.00 per day** shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to MARCH 25, 2016, these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931.

Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on February 24, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. mail, interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman 2/26/16
Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

INSTR # 2016000076125, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy Clerk ALUCKEY

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA Petitioner, vs. ABSOLUTE BEST RATE RENTALS, LLC Respondent.	:	CASE NO.: CE14-0394

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-111 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman

Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

INSTR # 2016000076124, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy Clerk ALUCKEY

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA Petitioner, vs. ABSOLUTE BEST RATE RENTALS, LLC Respondent. _____/	CASE NO.: CE15-0167

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and

2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Section 6-111 still exists on the subject property; and

3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016, and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue E (Bldg. B), Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION

OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

INSTR # 2016000153777, Doc Type D, Pages 2, Recorded 07/20/2016 at 10:47 AM, Linda Doggett, Lee County Clerk of Circuit Court, Deed Doc. D $4900.00 Rec. Fee $18.50 Deputy Clerk CFELTMAN

Prepared by and Return Recorded Original to:

Charles R. Meador, Jr., Attorney at Law
2085 Estero Boulevard
Fort Myers Beach, FL 33931
Telephone: (239) 463-6619
Facsimile: (239) 463-6454

Property Appraiser Parcel I.D. No. 19-46-24-W4-0070A.0020
Grantee Taxpayer I.D. No. _____
Documentary Stamp Tax on Transfer: $ 700,000

Reserved For Recorder

(STATUTORY FORM - Section 689.02, F.S.)

WARRANTY DEED

THIS WARRANTY DEED, made this 15 day of July, A.D. 2016, between LEO J. DIBIASI, INDIVIDUALLY AND AS SOLE TRUSTEE OF THE LEO J. DIBIASI AND VALERIE J. DIBIASI REVOCABLE LIVING TRUST DATED AUGUST 19TH, 2014, with full power and authority in the said Trustee under the said trust to deal in and with the property herein described or any interest therein or any part thereof, including, without limitation, full power and authority to protect, conserve and to sell, or to lease, or to encumber, or otherwise to manage and dispose of the real property herein described, and ABSOLUTE BEST RATE RENTALS LLC, a Florida limited liability company, whose post office address is 12071 McGregor Boulevard, Fort Myers, FL 33919, hereinafter called Grantor, and JOSEPH B. ORLANDINI, whose post office address is 281 Palermo Cir, Fort Myers Beach, FL 33931 hereinafter called Grantee.

WITNESSETH, That said Grantor, for and in consideration of the sum of Ten and No/100's Dollars ($10.00), and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida.

THE ABOVE-DESCRIBED PROPERTY IS NOT NOW, NOR HAS IT EVER BEEN, THE HOMESTEAD PROPERTY OF THE GRANTOR, NOR CONTIGUOUS TO ANY HOMESTEAD PROPERTY OF THE GRANTOR.

SUBJECT TO easements, restrictions and reservations of record and taxes for the current and subsequent years.

and said Grantor does hereby fully warrant the title to said land, and will defend the same against

Reserved For Recorder

lawful claims of all persons whomsoever.

*"Grantor" and "Grantee" are used for singular and plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed in the presence of:

ABSOLUTE BEST RATE RENTALS LLC, a Florida limited liability company

By: _____(SEAL)
Leo J. DiBiasi, President

_____(SEAL)
Leo J. DiBiasi, Individually and as Trustee Aforesaid

KEIRN SCHROEDER
#1 Witness Name - print or type

EDGAR VAZQUEZ
#2 Witness Name - print or type

STATE OF FLORIDA
COUNTY OF LEE

EXECUTION OF the foregoing instrument was acknowledged before me this 15th day of July 2016, 2016, by LEO J. DIBIASI, INDIVIDUALLY AND AS SOLE TRUSTEE OF THE LEO J. DIBIASI AND VALERIE J. DIBIASI REVOCABLE LIVING TRUST DATED AUGUST 19TH, 2014, who is (CHECK ONE OF THE FOLLOWING AS APPLICABLE) [ ] personally known to me, or [X] who has produced (DRIVERS LICENSE) as identification.

NOTARY PUBLIC - SIGNATURE ABOVE
NOTARY NAME - VINCENT D'AMORE
COMMISSION NO. - FF165123
COMMISSION EXP. DATE - OCT 31 2018
(Notary Name/Commission No./Exp. Date - typed or printed)

(Notary Seal)

VINCENT E D'AMORE
MY COMMISSION #FF165123
EXPIRES October 31, 2018
FloridaNotaryService.com

Town of Fort Myers Beach

CODE COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

2/9/2017

CASE NUMBER:	**CE17-0065**
CERTIFIED MAIL:	**7016 2140 0000 1484 1959**

ORLANDINI JOSEPH B
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on ***2/3/2017*** by Town of Fort Myers Beach Code Enforcement Officer ***JOE KONTOMANOLIS*** indicates that the following items are a violation:

Work w/ out permit-building C

These items are a violation of the following Town Codes:

LDC Sec 6-111 The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.

FBC 105.1 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.

You are hereby directed to abate or remedy these violations within 14 days of receipt of this notice.

The violation(s) can be abated or corrected by taking the following actions: Secure required permit and associated inspections.

Florida Statute 162.06: Enforcement procedure- If a repeat vilation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation.

Town of Fort Myers Beach

CODE COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 476-2467 if you have any questions concerning this Notice of Violation.

Respectfully,

JOE KONTOMANOLIS
Code Enforcement Officer
Town of Fort Myers Beach

Received By: _____ Date: _____

INSTR # 2018000049665, Doc Type LI, Pages 3, Recorded 03/01/2018 at 02:08 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $27.00 Deputy Clerk ERECORD

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE17-0065

Petitioner,

v.

JOSEPH ORLANDINI,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on July 26, 2017 before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, JOSEPH ORLANDINI, present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue E, Fort Myers Beach, FL 33931:

   WORK WITHOUT A PERMIT-Pavers IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 10-101 (a).

5. Petitioner has incurred administrative costs and expenses in the amount of **$175.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in repeat violation of Town of Fort Myers Beach LDC 10-101 (a).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   SECURE REQUIRED PERMITS AND PASS REQUIRED INSPECTIONS (LIMITED DEVELOPMENT REVIEW ORDER "LDO")

   The said violation was not corrected or abated as indicated above **PRIOR TO AUGUST 30, 2017** a fine of **$150.00 per day** shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to **AUGUST 30, 2017** these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

   Town of Fort Myers Beach
   Attention: Code Enforcement
   2525 Estero Boulevard
   Fort Myers Beach, FL 33931.

   Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on JULY 26, 2017.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

JOSEPH ORLANDINI
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

11/27/2018

Case Number:	**CE14-0394**
Certified Mail:	**7018 1830 0001 0504 0626**
Regular Mail:	**11/27/2018**

TOWN OF FORT MYERS BEACH
Petitioner

vs.

ORLANDINI JOSEPH B
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Site Address: **80 AVENUE E**
Parcel Strap No.: **194624W40070A0020**

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you, exists on the above-described property. A Hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for:

01/17/2019 at 10:30 A.M. in the Council Chambers at Town Hall, locate at 2525 Estero Boulevard, Fort Myers Beach, Florida.

A copy of the previously issued **NOTICE OF VIOLATION** is attached hereto and incorporated herein by reference.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is **your** responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

11/27/2018

Case Number:	**CE15-0167**
Certified Mail:	**7018 1830 0001 0504 0503**
Regular Mail:	**11/27/2018**

TOWN OF FORT MYERS BEACH
Petitioner

vs.

ORLANDINI JOSEPH B
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Site Address: **80 AVENUE E**
Parcel Strap No.: **194624W40070A0020**

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you, exists on the above-described property. A Hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for:

01/17/2019 at 10:30 A.M. in the Council Chambers at Town Hall, locate at 2525 Estero Boulevard, Fort Myers Beach, Florida.

A copy of the previously issued **NOTICE OF VIOLATION** is attached hereto and incorporated herein by reference.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is **your** responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 13th of ~~January~~ MARCH 2019.

Myrnabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

INSTR # 2018000049665, Doc Type LI, Pages 3, Recorded 03/01/2018 at 02:08 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $27.00 Deputy Clerk ERECORD

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE17-0065

Petitioner,

v.

JOSEPH ORLANDINI,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on July 26, 2017 before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, JOSEPH ORLANDINI, present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue E, Fort Myers Beach, FL 33931:

   WORK WITHOUT A PERMIT-Pavers IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 10-101 (a).

5. Petitioner has incurred administrative costs and expenses in the amount of **$175.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in repeat violation of Town of Fort Myers Beach LDC 10-101 (a).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   SECURE REQUIRED PERMITS AND PASS REQUIRED INSPECTIONS (LIMITED DEVELOPMENT REVIEW ORDER "LDO")

   The said violation was not corrected or abated as indicated above **PRIOR TO AUGUST 30, 2017** a fine of **$150.00 per day** shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to **AUGUST 30, 2017** these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

   Town of Fort Myers Beach
   Attention: Code Enforcement
   2525 Estero Boulevard
   Fort Myers Beach, FL 33931.

   Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on JULY 26, 2017.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

JOSEPH ORLANDINI
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

Fort Myers Beach Town Council

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Monday, December 9, 2019** **9:00 AM**

FINAL

I. CALL TO ORDER

The meeting was called to order at 9:00 AM by Mayor Anita Cereceda

A. Roll Call

Members present: Mayor Cereceda, Vice Mayor Murphy, Council Member Butcher, Council Member Hosafros and Council Member Shamp.

II. INVOCATION

Contracts Manager Amy Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

RESULT:	**APPROVAL [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Ray Murphy, Vice Mayor
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

V. PUBLIC COMMENT

•Jesse Schmid, resident, stated that he was buying a house with lien issues and pledged to pay $50,000.00 towards the liens.

•Joe Orlandini, resident, indicated that Mr. Schmid was purchasing one of his homes and he explained the umbrella lien situation. Mr. Orlandini noted that selling the property would help to remove some debt.

A. Karen Woodson

•Karen Woodson, resident, applied for a position on the Bay Oaks Recreational Campus Advisory Board (BORCAB). She introduced herself and reviewed her experience.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Murphy, introduced Captain Casey Streeter from the Florida Commercial Waterman's Conservation Group. He described how they monitored red tide offshore. A new measuring device was purchased with the donation from the Town and a local captain would be collecting data offshore. Captain Streeter thanked Council for their support and described the data collected so far. He explained how the equipment worked and his involvement with the group. Vice Mayor Murphy presented Captain Streeter with a $10,000.00 check.

Council Member Hosafros recognized volunteers from Beach Baptist Church, Chapel by the Sea and Beach Methodist Church.

Council Member Shamp congratulated the Beach Kids Foundation and the Chamber Boat Parade. She encouraged people to support the Mound House and the Christmas Tree Festival. She noted that Friends of Bay Oaks needed board members and to contact Denise Monahan for details.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

Kathy Light, Chair of the Anchorage Advisory Committee (AAC), discussed renewing the contract with Matanzas Inn, expanding the number of restrooms and possibly expanding the Mooring Field. She noted that the AAC recommended that Council direct staff to look into sites to build a new facility but their first choice was to build at Bayside Park.

VIII. APPROVAL OF MINUTES

November 4, 2013 Town Council Meeting

A. Town Council - Regular Meeting - Nov 18, 2019 9:00 AM

Amendment to Packet Page 13: He stated that the LPA came to the conclusion that there was not a negative affect and it was better than people <u>sloshing</u> ~~slashing~~ across the lagoon or trespassing on neighbor's property.

Amendment to Packet Page 10: Town Attorney Herin, Jr. noted that ~~the applicant would improve the vacated~~ <u>another</u> public access would <u>be improved</u> and it would continue to be ADA accessible.

RESULT:	**ACCEPTED AS AMENDED [UNANIMOUS]**
MOTION BY:	Joanne Shamp, Council Member
SECOND BY:	Ray Murphy, Vice Mayor
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

IX. CONSENT AGENDA

RESULT:	**APPROVAL [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

A. Request for Appointment to the Bay Oaks Recreational Campus Advisory Board (BORCAB)

Request for Appointment to the Bay Oaks Recreational Campus Advisory Board (BORCAB)

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. New Year's Eve Fireworks 2019

Authorize the Town Manager to execute the associated documents for the New Year's Eve Fireworks Show. (cost of fireworks will be reimbursed to the Town by the FMB Fireworks Fund, along with donations and from businesses and individuals on and around the island.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

C. New Year's Eve Open Container 2019/2020 in Times Square

Times Square Merchants are requesting a special event permit to allow open containers of alcohol in Times Square for the New Year's Eve fireworks starting at noon until 1:00 a.m.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

X. PUBLIC HEARINGS

A. 126 Mango Street Variance & Special Exception

Approve/approve with conditions/deny the requested special exception for a bed and breakfast use in RM zoning. Approve/approve with conditions/deny the variance from Sec. 34-1803(c) for 126 Mango Street.

Town Attorney Herin, Jr. swore in those providing testimony for the Mango St. Inn variance and the Publix CPD. Mayor Cereceda requested ex parte communication. Council Member Shamp - site visit; Council Member Hosafros - spoke to Mr. Andre and Mayor Cereceda - spoke to Mr. Andre.

Community Development Planner Sarah Propst reviewed the background of the request.

Dan Andre, owner, agreed that he needed a variance and he requested a refund of $3,800.00 for the application fee. He stated that he had to spend $20,000.00 to reconfigure the Inn to avoid fines. He agreed with the conditions as stated.

Council Member Shamp confirmed that Mr. Andre would register as a B&B if required. She noted that the request met the intent of 34-1803(c) for density even though it was a four/two configuration compared to a three/three.

MOTION: Vice Mayor Murphy moved to approve with conditions the requested special exception for a bed and breakfast use in RM zoning, approve with conditions the variance from Sec. 34-1803(c) for 126 Mango Street and refund Mr. Andre's $3,800.00 application fee; second by Council Member Hosafros.

VOTE: Motion approved; 5-0.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. First reading and public hearing: Ordinance 19-14, Publix CPD

Motion to approve/ deny the request to move Ordinance 19-14 to second reading for consideration of adoption, amending the previously approved Publix CPD.

Mayor Cereceda requested ex parte communication. Council Member Butcher - site visit and Mayor Cereceda - public comments.

Town Attorney Herin, Jr. stated that the publication was properly advertised.

Director of Community Development Services Jason Green reviewed the background of the request as stated on the Blue Sheet. Discussion was held regarding the turn lane to be discussed later. Director Green confirmed that they would check the strength of the lights on the property.

Vice Mayor Murphy questioned whether the people south of the property were interested in creating an opening in the wall for access.

Council Member Butcher questioned the status of the expanded exit lane.

Director Green replied that they had not reviewed any plans.

Attorney Adrienne Noto from Greenspoon Marder LLP represented Publix. She stated that the ordinance would be amended to allow a future pharmacy; there was no decision regarding banning single-use plastic bags; prices were based on different factors; the lighting used was HPS and future replacements would be consistent with amber lighting and they agreed with adding a right-hand turn lane. Schematics would be provided before the next hearing.

Council Member Shamp requested that they do not display fireworks again this year.

Mayor Cereceda discussed the need for a pharmacy at the location and she hoped they would consider eliminating single-use plastic bags.

Public comment:

•Benny Sierra., Manager of Skipper's Liquors, explained that they could not compete with a chain on prices. He stated that the competition was unfair. He felt they should expand the grocery store instead of adding a liquor store.

•Dave Arndt, resident of the Estero Beach Club, questioned why he received a notice that the issue would affect him a mile away from the store.

•Jignesh Patel, part-owner of Skipper's Liquors, requested that they keep businesses local. He did not support the request because they could not compete.

Public comment closed.

Director Green indicated that the property appraiser provided the addresses for notifying people within 500 feet. He explained that if a corner of a condominium property was within 500 feet of Publix, all residents would receive a letter.

MOTION: Council Member Hosafros moved to set the second public hearing for January 21, 2020, at 9:00 a.m.; second by Council Member Butcher.

VOTE: Motion approved; 5-0.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Bruce Butcher, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

C. LDC Amendment to Division 17 Fences, Walls and Entrance Gates

Ordinance 19-16 amending Chapter 34, Division 17 of the Land Development Code.

Planner Propst reviewed the background of the amendment.

Planner Propst explained that chain link fences were removed from Packet Page 245 because it was repetitive.

Council Member Shamp suggested that (b) on Packet Page 247 be more specific regarding adequate stacking. Planner Propst commented that they required 18 feet. Council Member Shamp questioned sending courtesy letters to people who had non-compliant fences. Planner Propst will meet with code enforcement regarding the letters.

Council Member Butcher questioned the 18-feet requirement for people who lived on side streets. Town Manager Hernstadt indicated that they could set parameters for lesser amounts on properties, not on Estero Blvd. and allow administrative approval. Mayor Cereceda supported the request. Planner Propst explained the Pool Safety Act and fence height. She stated that they included hedges in the height requirement to match fences. Discussion was held regarding building fences to withstand high winds and balancing requirements with flood zones.

Mayor Cereceda noted that her fence was six feet high and she questioned whether she would be allowed to replace a small section of fence. Town Attorney Hernstadt replied negatively. Planner Propst pointed out that they did not have front yards versus side yards in the code, they had right-of-way frontage. Discussion was held regarding different zoning districts and how the height requirement would affect properties.

Council Member Shamp requested landscape examples before the second hearing.

MOTION: Council Member Hosafros moved to move Ordinance 19-16 to a hearing on January 21, 2020, at 9:00 a.m.; second by Council Member Shamp.

VOTE: Motion approved; 5-0.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

XI. ADMINISTRATIVE AGENDA

A. Resolution 19-40, Correcting Scriveners' Errors in Ordinance 19-08, Calling for Election

Adopt Resolution No. 19-40, correcting scrivener's errors in Ordinance No. 19-08 calling an election on amendments to the Town Charter

Town Manager Herin, Jr. described the Scrivener's Errors identified by the Supervisor of Elections. Council Member Shamp questioned how they would disseminate the information to the public so they would understand what their vote meant. Council Member Shamp offered to create four different charts to reflect four possibilities.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. Raftelis Rate Study

Authorize the Town Manager to enter into a contract with Raftelis to perform a rate study of the Water, Stormwater and Impact fees in the amount of $94,890.00 due to the passage of time and certain changes in policy.

Town Manager Hernstadt reviewed the background of the request for a study. He noted that they did not bid out the project because Raftelis had been contracted in the past and they were familiar with the Town's rates. Council Member Butcher questioned what they charged the last time. Town Manager Hernstadt replied that they performed a mini-study and charged approximately $20,000.00.

Council Member Shamp distributed a 2016 document from Jim Steele regarding the stormwater utility, the general fund and maintenance. She commented that the rate study would show what the ERUs and rates would end up being. She requested that the study be reviewed with maintenance through the general fund and maintenance through the ERUs.

Town Manager Hernstadt noted that they could omit the impact fee portion of the study since the Town was nearly built out.

Council Member Hosafros questioned whether they had time to bid the project out. Town Manager Hernstadt replied that there were a limited number of firms who performed the work and he did not think the end result would be much different. Council Member Hosafros questioned whether Mr. Steele could perform the study. Town Manager Hernstadt was more comfortable with a third-party performing the work in case of a rate increase. Town Attorney Herin, Jr. directed Council to the 2016 agreement with Raftelis to provide additional work.

MOTION: Council Member Hosafros moved to deny the request to enter into the contract and requested that the Town Manager seek other bids for the work; second by Council Member Butcher.

VOTE: Motion approved; 4-1 with Council Member Shamp dissenting.

RESULT:	**DEFEATED [4 TO 1]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Bruce Butcher, Council Member
AYES:	Anita Cereceda, Rexann Hosafros, Bruce Butcher, Ray Murphy
NAYS:	Joanne Shamp

C. EvolvTec Contract

Renew the annual contract with EvolvTec for $102,300

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

D. Upland Mooring Field Services with Matanzas Inn

Authorize the Town Manager to exercise the final year option and execute the Professional Services Agreement Renewal for Upland Services for the Town Mooring Field with Estero Bay Hotel Company dba Matanzas Inn.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

E. Connecticut Street Sidewalk Maintenance Agreement - FDOT

Authorize a Transportation Off System Post-Project Maintenance Agreement with FDOT for the maintenance of the Connecticut Street sidewalk

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

F. Lien Reduction Request 205 Sterling Ave. (CE18-0246)

A Lien Reduction Request for Code Enforcement Cases CE16-0150, CE-16-051 and CE18-0246

Council Member Hosafros suggested that they hear both mitigation cases together since they were entwined. Council Members agreed.

Sarah Spector with Roetzel & Andress represented the applicant. She apologized for the convoluted case and the amount of supplemental information she had to provide to explain the matter. She presented a visual display and provided a copy to Council. She requested that the fines be reduced due to the complications.

She displayed a color-coded illustration of the base structure of 149 Sterling regarding the three areas addressed in 2016. The applicant thought that all three areas had been taken care of with one permit. Community Development staff requested a letter from the engineer stating that the repairs were completed per code, which he did. A year later, the applicant discovered that the roof had never been closed out. Attorney Spector stated that it was a misunderstanding between Town staff and the owner that the roof was not included in the original permit. She requested that the fines stop the day the building permit was issued. She requested the following reductions: 150 Sterling - $5,000.00; 151 Sterling - $2,500.00 and 149 Sterling - $5,000.00.

Attorney Spector addressed CE18-0246 and stated it had to do with the confusion regarding the 50% rule. She noted the 2017 permit was voided and a new permit was filed in May 2018 for the same areas. The applicant maintained contact with the Town and a letter from the engineer was sent to the Town, which resulted in a November meeting that determined they were below the 50% threshold and could proceed. She requested the fine be reduced to zero.

Council Member Hosafros questioned why the applicant did not fulfill the May 23, 2018 Compliance Agreement. Attorney Spector did not have an answer.

Council Member Hosafros did not support lien reductions for 150 or 151 Sterling; however, she agreed with discussing CE18-0246 and CE16-0149. Council Member Shamp agreed. Council Member Hosafros did not support the original lien reduction since they did not pay it within 30 days. Council Members Shamp and Bucher agreed along with Vice Mayor Murphy.

MOTION: Council Member Hosafros moved that CE16-0150 remain at $6,800.00 pursuant to the ordinance and CE16-0151 remain at $3,400.00 pursuant to the ordinance; second by Council Member Shamp.

VOTE: Motion approved; 5-0.

Discussion was held regarding who was responsible for the delays. Vice Mayor Murphy suggested the fine be split 50/50. Council Members Hosafros and Shamp disagreed.

MOTION: Council Member Hosafros moved to reduce lien CE18-0246 to $17,922.50 and CE16-0149 to $28,542.00; second by Council Member Shamp.

VOTE: Motion approved; 5-0.

G. Lien Reduction Request 205 Sterling Ave. (CE16-0149)

A Lien Reduction Request for Code Enforcement case #CE16-0149 in the amount of $42,600.00.

MOTION: Council Member Hosafros moved to reduce lien CE18-0246 to $17,922.50 and CE16-0149 to $28,542.00; second by Council Member Shamp.

VOTE: Motion approved; 5-0.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt noted that the State DOT was to begin studying I-75 between East of Collier Blvd. to Bayshore Rd, and welcomed comments. He indicated that they would gather comments and send them to the DOT regarding the current lane configuration.

Town Manager Hernstadt stated that Lee County DOT was making an application to fund the trail system between Estero Blvd. from Big Hickory Pass Bridge to Big San Carlos Pass Bridge. Council Members supported their request for funding. Council Member Shamp questioned how it would impact Estero Blvd. Town Manager Hernstadt responded that they could add a sentence regarding respect for local ordinances.

XIV. TOWN ATTORNEY'S ITEMS

A. Vacation of Plats and Rights-of-Way

Direct the Town Attorney and staff to begin drafting amendments to the Town's current regulations governing the vacation of Town property & rights-of-way

Town Attorney Herin, Jr. provided examples for feedback. Council Member Butcher questioned accidental ownership circumstances with Donora properties. Town Attorney Herin, Jr. replied that if it fell within the criteria, it fell into the abbreviated process and would still require two hearings.

Council Members Hosafros and Shamp agreed with re-writing the entire section to simplify the process.

Mayor Cereceda questioned whether they needed to readdress the vacation awarded to Margaritaville. Town Attorney Herin, Jr. replied that they could resubmit a request. Town Manager Hernstadt recommended that Margaritaville reapply and complete the new process. Town Attorney Herin, Jr. clarified that the process would take approximately two months. Town Manger Hernstadt stated that if Margaritaville did not like the new regulations they did not have to apply.

MOTION: Council Member Hosafros moved to direct the Town Attorney and staff to begin a complete rewrite of the Town's current regulations governing the vacation of Town property and rights-of-way; second by Vice Mayor Murphy.

VOTE: Motion approved; 5-0.

RESULT:	**ADOPTED AS AMENDED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Ray Murphy, Vice Mayor
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. Legal Services Discussion, Evaluation and Contract Renewal

Legal Services Evaluation / Contract Renewal

Town Attorney Herin, Jr. stated that he intended to meet and exceed expectations.

MOTION: Council Member Shamp moved to renew the contract for Town Attorney Herin, Jr.; second by Council Member Butcher.

VOTE: Motion approved; 3-2 with Mayor Cereceda and Council Member Hosafros dissenting.

RESULT:	**ADOPTED [3 TO 2]**
MOTION BY:	Joanne Shamp, Council Member
SECOND BY:	Bruce Butcher, Council Member
AYES:	Joanne Shamp, Bruce Butcher, Ray Murphy
NAYS:	Anita Cereceda, Rexann Hosafros

XV. COUNCILMEMBERS ITEMS AND REPORTS

•Council Member Shamp questioned whether holding pedestrians at lights would be synchronized with the traffic flow. Town Manager Hernstadt will remind the District Captain. Council Member Shamp questioned whether they should send a letter of support for the Jewish Faith Group event. Vice Mayor Murphy noted that he would attend the event. Council Member Shamp questioned the status of the Liki Tiki noise issues. Town Manager Hernstadt replied that staff would monitor activities between 9:00-10:00 p.m. Council Member Shamp mentioned the trash against the retainer wall under the bridge and questioned what they could do to make the area more attractive. Town Manager Hernstadt replied that it would be addressed with the design and branding efforts.

•Council Member Hosafros indicated that the AAC requested that Council direct staff to investigate looking into possible sites to build a facility. Town Manager Hernstadt stated that they would look into alternatives. Council Member Hosafros suggested they shelve the mural issue and bring backside setbacks and sunlight plane issues. Town Manager Hernstadt agreed to move the discussions back to the front.

•Vice Mayor Murphy reported that Town Manager Hernstadt joined him at lunch with Senator Benacquisto; he attended an event at Diamond Head and attended the boat parade with his father.

•Council Member Butcher questioned whether they could change setbacks for pool screens to the waterline instead of the property line regarding Donora properties. Town Manager Hernstadt replied that they would look at clarifying the item. Council Member Butcher commented on recommendations by the American Medical Association.

•Mayor Cereceda brought up Mr. Schmid's request concerning satisfying part of the lien for the property in the lien umbrella. Town Manager Hernstadt indicated that they could craft an agreement for them to proceed. Council Members agreed with the action. Mayor Cereceda questioned the status of the PIO. Town Manager Hernstadt replied that his goal was for the person to start in January.

XVI. ADJOURNMENT

The meeting was closed at 12:33 PM

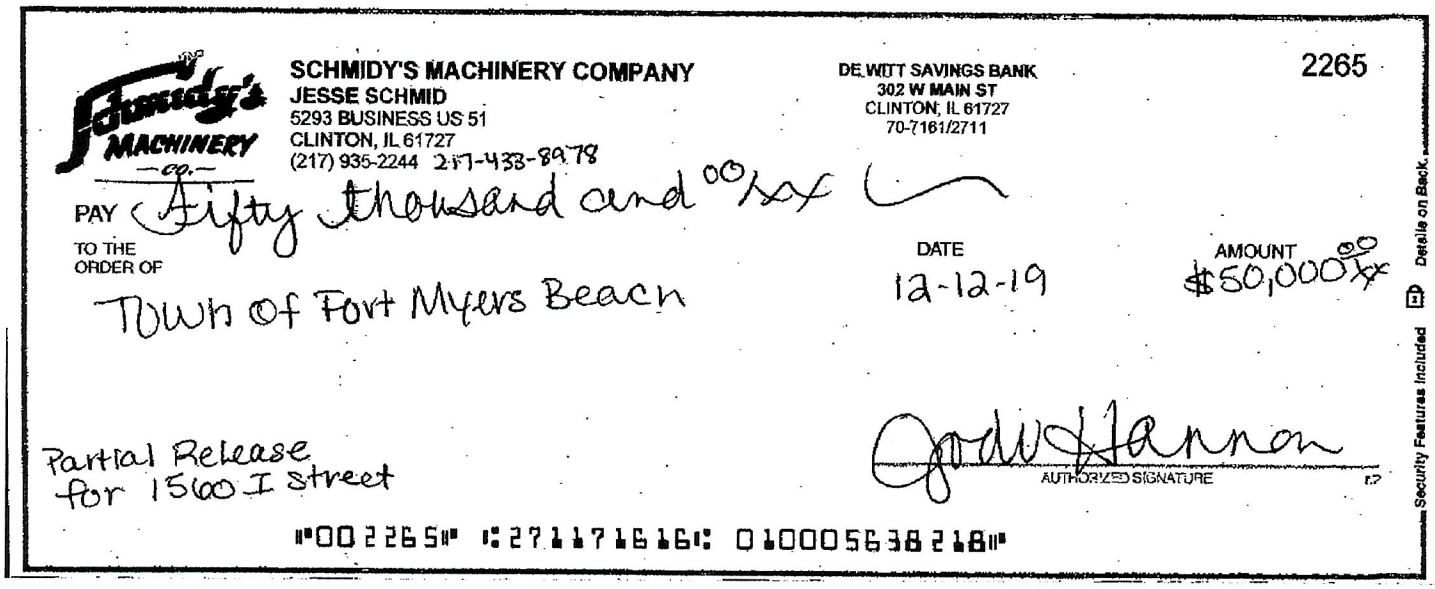
Minutes adopted as presented, January 6, 2020; Motion by Council Member Shamp and seconded by Council Member Butcher. Passed 5-0.

Michelle D. Mayher CMC

DeWitt Savings Bank

Account Number:	100056382
Capture Date:	December 13, 2019
Item Number:	5250001234270
Posted Date:	December 13, 2019
Posted Item Number:	600219
Serial Number:	2265
Amount:	50,000.00
BOFD Return RT:	067016325
BOFD Sequence:	461154912

SCHMIDY`S MACHINERY
5293 BUSINESS US 51
CLINTON IL 61727



SCHMIDY'S MACHINERY COMPANY
JESSE SCHMID
5293 BUSINESS US 51
CLINTON, IL 61727
(217) 935-2244 217-433-8978

DE WITT SAVINGS BANK
302 W MAIN ST
CLINTON, IL 61727
70-7161/2711

2265

PAY TO THE ORDER OF: Fifty thousand and 00/xx

Town of Fort Myers Beach

DATE: 12-12-19

AMOUNT: $50,000.00xx

Partial Release
for 1500 I Street

AUTHORIZED SIGNATURE

Details on Back. Security Features Included

"002265" "271171616" 0100056382 18"

PAY TO THE ORDER OF
FIRST FLORIDA INTEGRITY BANK
067016325
FOR DEPOSIT ONLY
TOWN OF FORT MYERS BEACH
OPERATING ACCT 1101666

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000025483, Doc Type PR, Pages 1, Recorded 1/29/2020 at 11:05 AM, Deputy Clerk LESPOSITO ERECORD
Rec Fees: $10.00

This instrument prepared by:
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Parcel #: 19-46-24-W4-0070C.0090

PARTIAL RELEASE OF LIEN

This is to certify that the lien filed by the undersigned, Town of Fort Myers Beach, Lee County, Florida, recorded on 3/27/2019, as Instrument #2019000067137, and as Doc. Type LI in the Lee County Clerk of Courts, Florida, in respect to Town of Fort Myers Beach Code Enforcement Case No. CE14-0394 was filed against 80 Avenue E, Fort Myers Beach, FL, 33931 and attached to the following described real property:

Lot 9 and the East ½ of Lot 8, Block C, CRESCENT BEACH, according to the map or plat thereof as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida, together with that part of the vacated alley adjacent to the North side of said Lots, described as that part of alleyway lying between Lot 6, Block C, and the East ½ of Lot 8, and the Northwesterly ½ of Lot 9, Block C, CRESCENT BEACH.

Property Owner's Name: KLINE LYLE L TR
FOR LYLE L KLINE TRUST + ORLANDINI JOSEPH B T/C
Parcel # 19-46-24-W4-0070C.0090
1560 I Street
Fort Myers Beach, FL 33931

In accordance to the decision by Town Council on December 9, 2019, to release the above mentioned property from this lien for the amount of $50,000.00 has been satisfied in full, and that the undersigned hereby releases the lien as to the whole of the above-described real property, and consents that the same be discharged of record.

This Partial Release of Lien releases only the property mentioned herein. All other properties attached as a result of DOC TYPE LI, Instrument #2019000067137 remain.

Dated: January 28, 2020

Town Manager,
In and for the Town of Fort Myers Beach

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of Jan, 2020 in and for the Town of Fort Myers Beach. They are personally known to me. They did not take an oath.

My Commission Expires:

Notary Public State of Florida
Daphnie D Bercher
My Commission GG 908307
Expires 08/27/2023

Initials

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000008535, Doc Type PR, Pages 2, Recorded 1/10/2020 at 11:05 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $18.50

This instrument prepared by:
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Parcel #: 19-46-24-W4-0070C.0090

PARTIAL RELEASE OF LIEN

This is to certify that the lien filed by the undersigned, Town of Fort Myers Beach, Lee County, Florida, recorded on 7/9/2019, as Instrument #2019000160404, and as Doc. Type LI in the Lee County Clerk of Courts, Florida, in respect to Town of Fort Myers Beach Code Enforcement Case No. CE17-0065 was filed against 80 Avenue E, Fort Myers Beach, FL, 33931 and attached to the following described real property:

Lot 9 and the East ½ of Lot 8, Block C, CRESCENT BEACH, according to the map or plat thereof as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida, together with that part of the vacated alley adjacent to the North side of said Lots, described as that part of alleyway lying between Lot 6, Block C, and the East ½ of Lot 8, and the Northwesterly ½ of Lot 9, Block C, CRESCENT BEACH.

Property Owner's Name:

KLINE LYLE L TR
FOR LYLE L KLINE TRUST + ORLANDINI JOSEPH B T/C

Parcel # 19-46-24-W4-0070C.0090
1560 I Street
Fort Myers Beach, FL 33931

In accordance to the decision by Town Council on December 9, 2019, to release the above mentioned property from this lien for the amount of $50,000.00 has been satisfied in full, and that the undersigned hereby releases the lien as to the whole of the above-described real property, and consents that the same be discharged of record.

This Partial Release of Lien releases only the property mentioned herein. All other properties attached as a result of DOC TYPE LI, Instrument #2019000160404 remain.

THIS SPACE INTENTIONALLY LEFT BLANK

Initials

Dated: January 7, 2020

Town Manager,
In and for the Town of Fort Myers Beach

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 7th day of January, 2020 in and for the Town of Fort Myers Beach. They are personally known to me. They did not take an oath.

My Commission Expires:

PATRICIA E PREVOST
Notary Public - State of Florida
Commission # GG 299115
My Comm. Expires Mar 3, 2023
Bonded through National Notary Assn.

Initials

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000025485, Doc Type PR, Pages 1, Recorded 1/29/2020 at 11:06 AM, Deputy Clerk TKING ERECORD
Rec Fees: $10.00

This instrument prepared by:
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Parcel #: 19-46-24-W4-0070C.0090

PARTIAL RELEASE OF CODE ENFORCEMENT ORDER

This is to certify that the code enforcement order filed by the undersigned, Town of Fort Myers Beach, Lee County, Florida, recorded on 3/1/2018 as Instrument #2018000049665, and as Doc. Type LI in the Lee County Clerk of Courts, Florida, in respect to Town of Fort Myers Beach Code Enforcement Case No. CE17-0065 was filed against 80 Avenue E, Fort Myers Beach, FL, 33931 and attached to the following described real property:

Lot 9 and the East ½ of Lot 8, Block C, CRESCENT BEACH, according to the map or plat thereof as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida, together with that part of the vacated alley adjacent to the North side of said Lots, described as that part of alleyway lying between Lot 6, Block C, and the East ½ of Lot 8, and the Northwesterly ½ of Lot 9, Block C, CRESCENT BEACH.

Property Owner's Name: KLINE LYLE L TR
FOR LYLE L KLINE TRUST + ORLANDINI JOSEPH B T/C
Parcel # 19-46-24-W4-0070C.0090
1560 I Street
Fort Myers Beach, FL 33931

In accordance to the decision by Town Council on December 9, 2019, to release the above mentioned property from this code enforcement order for the amount of $50,000.00 has been satisfied in full, and that the undersigned hereby releases the code enforcement order as to the whole of the above-described real property, and consents that the same be discharged of record.

This Partial Release of Code Enforcement Order releases only the property mentioned herein. All other properties attached as a result of DOC TYPE LI, Instrument #2018000049665 remain.

Dated: January 28, 2020

Town Manager,
In and for the Town of Fort Myers Beach

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of Jan, 2020 in and for the Town of Fort Myers Beach. They are personally known to me. They did not take an oath.

My Commission Expires:

Notary Public State of Florida
Daphnie D Bercher
My Commission GG 908307
Expires 08/27/2023

Initials DB

Fort Myers Beach Town Council

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Monday, February 3, 2020** **9:00 AM**

FINAL

I. CALL TO ORDER

The meeting was called to order at 9:00 AM by Mayor Anita Cereceda

A. Roll Call

Members present: Mayor Cereceda, Vice Mayor Murphy, Council Member Butcher, Council Member Hosafros and Council Member Shamp.

II. INVOCATION

Town Clerk Mayher.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Public Hearing A was continued to February 18, 2020 as requested by the applicants. Public Hearing D was pulled due to an advertising issue. Administrative item D was moved up to follow the lien mitigation request, which made it Item C.

RESULT:	**APPROVAL [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

V. PUBLIC COMMENT

•Christine Patton, resident, discussed why she was against changing the ordinance regarding vacating Town property. She did not support changing the notice to property owners from 500 feet to 300 feet and opined that the Town was taking away public easements for private

purposes. She requested that they do not change the ordinance.

•Linda Miller with Shop Local Productions requested a permit for a Friday market at the Beach Baptist Church.

•Penny Jarrett, resident, expressed concern regarding the dune walkover. She provided data concerning shorebird habitats on the south end of the Island and listed the number and species of birds she recently identified.

•Gail Crabtree-Pergoli, resident, begged Council to protect the birds on the Island.

•Ellen Vaughn, resident, discussed the birds and stated that any structure would have an adverse effect on the birds. She asked members of the audience to stand up if they supported the birds.

•Gloria Abramoff, resident, participated in the bird count with Ms. Jarrett. She read the definition of a critical wildlife area from the Fish & Wildlife Conservation Commission (FWCC). She noted that economic profits should not affect a decision that could damage the habitat.

•Becky Werner, resident, was against setting a precedent to build more dune walkovers.

•Tom Bratton, resident, agreed the birds should be protected but they were on private property. He supported the right of the property owner to build a walkover.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member Shamp congratulated the Community Foundation for their recent event. She encouraged residents to apply for educational scholarships. She commended Tunaskins for cleaning up the beach and she mentioned the new art show at the Art Association.

Council Member Hosafros reiterated applying for the scholarship program.

Vice Mayor Murphy congratulated Tunaskins and the Community Foundation.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Bay Oak Recreational Campus Advisory Board (BORCAB)

BORCAB Report

Chair Betty Simpson reviewed BORCAB's recommended improvements. She noted they were trying to create a healthy lifestyle and a sense of community.

Council Member Butcher asked about the next steps. Town Manager Hernstadt responded that the consultant will make a presentation based on BORCAB's input at the M&P Session on February 6, 2020. Council Members thanked BORCAB for their hard work. Council Member Butcher expressed the benefits of creating partnerships similar to Sanibel. Mayor Cereceda agreed.

VIII. APPROVAL OF MINUTES

November 4, 2013 Town Council Meeting

A. Town Council - Management & Planning - Jan 15, 2020 10:00 AM

Clarification under the CRAB report on packet page 12: ~~He~~ Town Manager Hernstadt noted that interviews for the PIO (Public Information Officer) were scheduled and the app would be included with the marketing program.

RESULT:	**ACCEPTED AS AMENDED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. Town Council - Regular Meeting - Jan 21, 2020 9:00 AM

RESULT:	**ACCEPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
YES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

IX. CONSENT AGENDA

A. Proclamation: Drug House Odyssey

Announce Drug House Odyssey event at the Lee County Civic Center February 4th - 6th, 2020

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Joanne Shamp, Council Member
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. Special Event Application: Bay Oaks Sock Hop

Request for Approval of Bay Oaks Sock Hop Special Event for February 14, 2020.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Joanne Shamp, Council Member
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

X. PUBLIC HEARINGS

A. SEZ2019-0049 Rehearing for Dune walkover and boardwalk at 8150 and 8170 Estero Blvd

Motion to approve/approve with conditions/deny the special exception application for a dune walkover and boardwalk within the EC Zoning District, associated with 8150 and 8170 Estero Boulevard.

The Public Hearing was rescheduled for February 18, 2020 at 9:00 a.m. as requested by the applicants.

RESULT:	**CONTINUED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Bruce Butcher, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. 2nd reading and Final Public Hearing: Ordinance 20-06,Vacation of Town Interest in Real Property

ORDINANCE 20-06 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH REPEALING SUBDIVISION II OF DIVISION 5 OF ARTICLE II OF CHAPTER 10 ENTITLED "VACATION OF TOWN INTEREST IN REAL PROPERTY" OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE AND ADOPTING A NEW ARTICLE VI OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "VACATION OF TOWN INTEREST IN REAL PROPERTY" "VACATION OF TOWN INTEREST IN REAL PROPERTY" REGARDING THE VACATION OF TOWN OWNED PROPERTY AND RIGHT-OF-WAY; PROVIDING FOR INCLUSION IN THE CODE AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Cereceda read the title of the ordinance. Town Attorney Herin, Jr. stated that the issue was not legally required to be reviewed by the LPA (Local Planning Agency). Vice Mayor Murphy questioned how it related to the Comprehensive Plan. Town Attorney Herin, Jr. replied there was no implication of development involved. Town Manager Hernstadt noted that they could amend the 300 feet requirement to 500 feet for consistency. Town Attorney Herin, Jr. acknowledged the change.

No public comment.

Council Member Shamp did not think that the street ends accessing the beach or bay were protected. She referred to packet page 131 and suggested referencing working with Lee County and the School Board. She questioned whether they could add a process to assist with canal-front properties and adding more of a public benefit.

Town Attorney Herin, Jr. noted that staff attempted to streamline the process and Council would have to provide direction on how to address each canal situation after the new regulation is adopted.

Council Member Shamp supported sending vacation requests to the LPA before Council. Council Member Hosafros did not agree with sending them to the LPA, but she agreed with changing the 300 feet requirement to 500 feet. Vice Mayor Murphy and Council Member Butcher did not oppose sending it to the LPA first. Town Attorney Herin, Jr. stated that vacating a right-of-way was separate from a development approval, but he would work on adding language to meet their request. He read language that separated rights-of-way on water for review.

Council Member Shamp questioned whether working with Lee County and the School Board needed to be addressed. Town Attorney Herin, Jr. did not believe that it needed to be added, but he would check. Council Member Shamp asked

why the word monetary was included. Town Attorney Herin, Jr. replied that the Town was allowed to sell rights-of-way for cash if they owned the property and it was no longer needed. Platted and dedicated rights-of-way could be renounced, but there was no ownership interest. Subsection B addressed improvements to said property.

Public comment:

•James Reed, resident, brought up an easement issue on Bay Mar Drive. Council Member Hosafros and Town Attorney Herin, Jr. will discuss the topic with Mr. Reed during a break.

Public comment closed.

Town Attorney Herin, Jr. stated that they would add *utilities* to the list of approvals. Council Member Butcher brought up considering the lagoon and back bay as well as canals.

The ordinance was continued to February 18, 2020, at 9:00 a.m.

RESULT:	**CONTINUED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

Recess: 10:19 AM ***Reconvene: 10:30 AM***

C. Second and Final Public Hearing: Ordinance 19-16, Amendment to Division 17 of the LDC

Approve, deny, or modify Ordinance 19-16 ORDINANCE 19-16 AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, DIVISION 17 FENCES, WALLS AND ENTRANCE GATES LIMITING THE HEIGHT OF FENCES WITHIN RIGHT-OF-WAY SETBACKS AND ENHANCING SITE VISIBILITY TRIANGLES, PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Mayor Cereceda read the title of the ordinance. Town Attorney Herin, Jr. stated that the hearing was properly advertised and the previous hearing was also properly advertised.

Community Development Planner Sarah Propst reviewed changes to the ordinance.

Council Member Butcher expressed concern regarding hedges and questioned whether the Town would cut hedges down to four feet. Planner Propst replied probably not, but it could be a potential violation issue. Town Manager Hernstadt noted that most visibility complaints were directed at commercial properties. Council Member Butcher described the eight-foot hedge on his side yard and questioned whether he would have to cut it to six feet. Town Manager Hernstadt noted that they could increase the height in certain situations if Council agreed. Council Member Shamp stated that people had a right to privacy. Mayor Cereceda agreed and suggested adding a height setback from the front of the property for visibility.

Planner Propst stated that hedges of any height were allowed in side or rear yards, not on water bodies. She suggested deleting "Landscape buffers or hedges used in lieu of fences shall also comply with these regulations" on packet page 152.

Council Member Shamp indicated that the ordinance should regulate visibility issues at intersections rather than intruding on property owners' right to landscape. She questioned whether property owners on Estero Blvd. could not have landscaping higher than a fence. Planner Propst explained that a solid hedge could not be higher than 48 inches tall on the front. Community Development Services Director Jason Green stated that people were using solid hedges to circumvent fence heights.

Discussion was held regarding landscaping encroaching on setbacks, as illustrated on packet page 147 and sunset clauses. Council Member Hosafros made a motion to continue the hearing to a date and time certain; second by Vice Mayor Murphy. After discussion, Vice Mayor Murphy withdrew his second. Motion failed.

Director Green read a sunset clause to include in the ordinance.

Mayor Cereceda brought up having to replace pool fences.

Council Member Hosafros discussed rewriting the ordinance during a hearing.

Council Member Shamp was concerned regarding safety issues.

The issue was continued to February 18, 2020, at 9:00 a.m.

RESULT:	**CONTINUED [4 TO 1]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Ray Murphy, Vice Mayor
AYES:	Anita Cereceda, Rexann Hosafros, Bruce Butcher, Ray Murphy
NAYS:	Joanne Shamp

D. Second and Final Hearing: Ordinance 20-01, Minimum Use Determination Regulations

This item was pulled with the adoption of the final agenda.

XI. ADMINISTRATIVE AGENDA

A. Special Event Permit Application: 62nd Annual Lions Club Shrimp Festival

Request approval for a special event permit application for the 62nd Annual Lion's Club Shrimp Festival to be held March 14 & 15, 2020, with a 5K race, parade and arts and crafts expo; pending permit approvals from required agencies.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

B. Lien Reduction Request: First Baptist Church of Fort Myers Beach

First Baptist Church of Fort Myers Beach request for lien reduction.

Town Manager Hernstadt reviewed the background of the request and noted that not all violations had been abated.

Council Member Hosafros asked whether the applicant was informed when they filed their request for a lien reduction that they could not move forward because they were not in compliance. Community Services Administrator Daphnie Saunders replied that she sent an email to the respondent regarding noncompliance on approximately January 15, 2020. She clarified that the fence was the only item not in compliance.

Pastor of Beach Baptist Shawn Critser stated that the fence issue was new to him. He read a notice of violation from October 23, 2014, that did not mention a fence. The fence that they referenced now was built in 2008 by the neighbor. Administrator Saunders stated that the fence was included in the notice of violation. Pastor Critser read the Special Magistrate's order that did not mention a fence. He stated that the lien was based on that order.

Council Member Shamp asked what he had to do to come into compliance. Administrator Saunders replied that he needed a permit for the fence and she indicated the fence was built in 2014, not 2008. Council Members did not find a notice of violation in the material that included a fence. Administrator Saunders commented that she saw mention of a fence somewhere in the trove of documents. The code enforcement order did not mention anything about a fence.

Council Members agreed to hear a lien reduction hearing.

Pastor Critser provided notebooks of his information to each Council Member. He requested a mitigation based on the March 30, 2016, Special Magistrate hearing. Per the Special Magistrate, he met with several people from the Town and Lee County on October 31, 2016, to reach an agreement for compliance. Pastor Critser suggested that some participants were not truthful at the meeting and the actions caused a six-month delay and created the current mess. He finally requested a demolition permit but it was denied and he was told that he had to have a full building re-engineering before a permit would be issued. Pastor Critser noted that he could not afford $8,000.00 for re-engineering to tear down something that was already there. He explained that nothing they did was good enough and no one from the Town could agree on what they needed to do.

Pastor Critser reviewed the timeline from July 2018 to September 2018. He stated that the Bonita Springs fire department disagreed with everything that had been agreed upon. He was told he had to spend $75,000.00 to install sprinklers in an old building instead of fire coatings. He remarked that he was told he never applied for a permit, so he submitted his canceled check. The Town conceded that they lost the application and reissued the permit. He noted that the former Special Magistrate encouraged everyone involved to work together to resolve the issue and that the Town was not in the business of making money from fines.

Pastor Critser agreed that he was responsible for administrative fees and the current

staff's time but not $90,000.00 worth.

Council Member Hosafros clarified that Pastor Critser started at the church in 2005 and he inherited some of the issues. Council Member Shamp described safety issues concerning the fire code and she referenced information that noted several things in the building had changed.

Pastor Critser replied that nothing changed inside the structure and the issue was that someone slept too close to a public-use pantry. He described every measure they took to encapsulate the caretaker's cottage for fire safety.

Council Member Butcher asked whether they were in compliance today. Pastor Critser replied that according to the order, they were in compliance. Administrator Saunders agreed. Council Member Butcher asked when the fence was built. Mr. Critser replied 2008.

Council Member Hosafros supported a minimal monetary amount. Town Manager Hernstadt reviewed mitigation criteria and he encouraged flexibility in the case. He suggested $10,000.00.

Council Member Butcher supported $900.00 and 'time served'. Council Member Shamp supported $10,000.00 due to safety violations. Council Member Hosafros agreed with $900.00 and Vice Mayor Murphy concurred.

MOTION: Council Member Hosafros moved to set the number at $900.00 with a due date longer than 30 days if needed; second by Council Member Butcher.

VOTE: Motion approved; 4-1 with Council Member Shamp dissenting.

RESULT:	**APPROVAL [4 TO 1]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Bruce Butcher, Council Member
AYES:	Anita Cereceda, Rexann Hosafros, Bruce Butcher, Ray Murphy
NAYS:	Joanne Shamp

C. Recurring Farmer's Market Beach Baptist Church Additional Day- Friday

Beach Baptist Farmers Market requesting to add an additional day (Friday) to their permit for 2019/2020. Fridays in February, March, April and the 1st Friday in May 2020

Council Member Shamp requested that they include the stipulation that the permit would not be renewed next year if the fence was not in compliance. Council Member Hosafros commented that they had to come before Council next year to renew the permit regardless of the fence issue.

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Rexann Hosafros, Council Member
SECOND BY:	Joanne Shamp, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

D. Applications to fill vacancy on the Marine Resources Task Force

Fort Myers Beach residents Wendy DeGaetano, Renee Heil and Jennifer Rusk each have requested to be appointed to the MRTF.

Jennifer Rusk introduced herself and described her involvement in the community. She revealed that there were two vacancies on the committee.

Jennifer Rusk and Renee Heil were appointed to MRTF.

E. Budget Amendment #1, FY2019-2020

Appropriation of funding: Traffic Signal Crescent/Old San Carlos-$75,000 and FBIP Grant match-$63,800

RESULT:	**ADOPTED [UNANIMOUS]**
MOTION BY:	Ray Murphy, Vice Mayor
SECOND BY:	Rexann Hosafros, Council Member
AYES:	Cereceda, Hosafros, Shamp, Butcher, Murphy

XII. FINAL PUBLIC COMMENT

Joe Orlandini questioned whether he could mitigate liens for two properties with the Town Manager and staff. He described issues he had with the process over the years.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated that he would work directly with Mr. Orlandini regarding mitigation if that was the will of Council. He requested that he be allowed to set the final mitigation number. Town Attorney Herin, Jr. did not encourage modifying the rules. Council Member Shamp suggested that the Town Manager and Mr. Orlandini reach an agreement and present it to Council for approval.

Council Member Hosafros supported waiving the rules to let them negotiate. Council Member Shamp supported rubber stamping the process and did not want to set a precedent. Council Member Butcher and Mayor Cereceda agreed with Council Member Hosafros. Mayor Cereceda stated that the issue had gone on for years and it needed to be mitigated. Vice Mayor Murphy indicated he would vote with the majority.

MOTION: Council Member Hosafros moved that Council waive the rules regarding lien mitigation and allow the Town Manager and Mr. Orlandini to work out all of the issues that Mr. Orlandini has pending with 1710-1740 Estero Blvd. and 80 Ave. E.; second by Council Member Butcher.

VOTE: Motion approved; 4-1 with Council Member Shamp dissenting.

Town Manager Hernstadt revealed that the Lani Kai did not submit a permit application for their stage over spring break. Council agreed that they needed a permit for the stage. Town Manager Hernstadt will notify them.

XIV. TOWN ATTORNEY'S ITEMS

No items.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Shamp questioned the status of the chart to assist with ballot referenda in March. Town Clerk Mayher distributed a draft. Mayor Cereceda noted inaccuracies on the chart. Council Member Shamp offered to create a new chart. She stated that no one in the LPA was able to Chair the Historic Preservation Board (HPB) or participate in the Historic Preservation Advisory Committee (HPAC). She questioned how they wanted to move forward. Council Member Hosafros suggested that they change the code to create a separate board. Town Attorney Herin, Jr. stated that current LPA members felt they did not have the time to participate on the HPB and they requested that a separate board be created. Council Member Shamp confirmed that the encroaching trees on Carolina had been addressed. She asked about a recent event of trenching on the beach. Council Member Hosafros noted that she sent the information to the Island Sand Paper regarding trenching. Council Member Shamp asked whether the Town Attorney checked the plat for Palm Ave. Town Attorney Herin, Jr. will check it.

Council Member Hosafros reported that the Pastor from the Beach Methodist Church would lose handicapped parking in front of the church if the sidewalk on Bay St. was constructed. Town Manager Hernstadt proposed changing the plan to accommodate parking similar to the Red Coconut solution. Council Members agreed with changing the plan. Council Member Hosafros discussed Lee County School District's plan to change how children were assigned to schools. She contacted a candidate for the School Board to express her concerns. Council Member Hosafros clarified that the Town did not remove the *No Wake* signs at the south end. She discussed publicity over the ballot information. Mayor Cereceda stated that she would meet with the newspaper to present information regarding the ballot.

Vice Mayor Murphy sent condolences to the family of Nick Karras. He attended the Horizon Council annual meeting on Friday.

Council Member Butcher was shocked that the *No Wake* signs had been removed. He described his neighbor's problems with getting a permit for pavers and noted that the engineer he hired would be sending a letter to the Town regarding the process.

Mayor Cereceda would like the Audit Committee to review the stormwater funding. Town Attorney Herin, Jr. noted that they could provide an analysis in their next report.

XVI. ADJOURNMENT

The meeting closed at 1:12 PM

Minutes adopted as presented, February 18, 2020; Motion by Council Member Shamp and seconded by Council Member Hosafros. Passed 5-0.

Michelle D. Mayher CMC

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000073526, Doc Type D, Pages 2, Recorded 3/23/2020 at 3:42 PM, Deputy Clerk TKING ERECORD
Rec Fees: $18.50 Deed Doc: $23,100.00

Prepared by and return to:
Toni Hitchens
Assurance Title Agency, LLC
3618 Del Prado Blvd. S
Cape Coral, FL 33904

File Number: **11-19OrlandiniB**

Consideration: $3,300,000.00

(Space Above This Line For Recording Data)

Warranty Deed

This Warranty Deed made this **20th day of March, 2020**, between **Joseph B. Orlandini as to a 1,025,000/1,425,000th interest**, whose post office address is **281 Palermo Cir., Fort Myers Beach, FL 33991**, grantor, and **White Sand Properties of Fort Myers Beach LLC, a Florida limited liability company** whose post office address is **415 Palermo Cir, Fort Myers Beach, FL 33931**, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in the **Lee County, Florida**, to-wit:

Lot 9 and the East 1/2 of Lot 8, Block C, CRESCENT BEACH, according to the map or plat thereof as recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida, together with that part of the vacated alley adjacent to the North side of said Lots, described as that part of alleyway lying between Lot 6, Block C, and the East 1/2 of Lot 8, and the Northwesterly 1/2 of Lot 9, Block C, CRESCENT BEACH.

Parcel Identification Number: 19-46-24-W4-0070C.0090

This property is not now, nor has it ever been during the period of ownership, the homestead property of the grantor, nor is it contiguous to any homestead property of the grantor. Grantor resides at 281 Palermo Cir., Fort Myers Beach, FL 33931

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2019.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

1st Witness sign _____
1st Witness Print Name: Francis P. Scola

_____
Joseph B. Orlandini

2nd Witness sign: _____
2nd Witness Print Name: Scott McGuire

State of FL
County of LEE

The foregoing instrument was acknowledged before me this 20 day of March, 2020, by means of (✓) physical presence or ( ) online notarization, by **Joseph B. Orlandini**, he (✓) is personally known to me or (___) has produced passport or driver's license as identification.

_____
Notary Public

Printed Name: **Toni B. Hitchens**

My Commission Expires: 7/28/22

TONI B. HITCHENS
Notary Public - State of Florida
Commission # GG 226152
My Comm. Expires Jul 28, 2022
Bonded through National Notary Assn.

From: scott mcguire on behalf of scott mcguire <smcguire707@gmail.com>
To: Roger Hernstadt
Subject: Re: Jesse schmid 80 ave e
Date: Wednesday, March 25, 2020 10:20:23 AM

Thanks Roger
We are ready to close on property this is the last hurdle we have to cross. So if we can do this by email that is maybe best at this time . Would really like to get this figured out very soon.
Thanks
Jesse Schmid

Sent from my iPhone

> On Mar 25, 2020, at 10:00 AM, Roger Hernstadt <roger@fmbgov.com> wrote:
>
> We are working on defining all the issues with this property. Pls stand by.
>
> ---
>
> **From:** scott mcguire <smcguire707@gmail.com>
> **Sent:** Monday, March 23, 2020 1:12 PM
> **To:** Roger Hernstadt <roger@fmbgov.com>
> **Subject:** Jesse schmid 80 ave e
>
> Hey Roger this is Jesse I was just wondering if we can set a appointment up this week where I can get Joe here me and we can figure out the fines on his 80 Avenue E
> I'm closing on it soon and I want to have everything addressed ASAP
>
> Sent from my iPhone

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2020000163414, Doc Type D, Pages 2, Recorded 7/20/2020 at 9:38 AM, Deputy Clerk JMILLER
Rec Fees: $18.50 Deed Doc: $2,779.00

Prepared by and return to:
Steven A. Ramunni, P.A.
Post Office Box 1118
LaBelle, Florida, 33975
Telephone: 863-230-2268

[Space Above This Line For Recording Data]

Deed in Lieu of Foreclosure

This Deed in Lieu of Foreclosure made this 26th day of March, 2020 between **Joseph B. Orlandini** whose address is 281 Palermo Circle, Fort Myers Beach, Florida, grantor, and **White Sand Properties of Fort Myers Beach, LLC** whose address is 415 Palermo Circle, Fort Myers Beach, Florida, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS ($10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in **Lee County, Florida** to-wit:

Lot 2, Block A, Crescent Beach Subdivision, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida

Parcel Identification Number: 19-46-24-W4-0070A.0020

This is not nor has ever been the homestead property of the grantor.

Subject to covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

This deed is an absolute conveyance and satisfaction of that certain Mortgage Deed dated October 3, 2014, and recorded October 8, 2014 Instrument # 2014000207525 of the Public Records of Lee County, Florida, given by Leo J. Dibiasi a married man, individually and as Trustee of the Leo J. Dibiasi and Valerie J. Dibiasi Living Trust dated August 19, 2014, and George Pellegrino to Four Diamond Investment Corporation.

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 grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Melanie Burton
Comm.# GG954050
Expires: Feb. 2, 2024
Bonded Thru Aaron Notary

Signed, sealed and delivered in our presence:

_____ (Seal)

Witness Name: JOSEPH ORLANDINI

Melanie Burton - Melanie Burton

Witness Name: Scott McGuire

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization on this 26th day of March, 2020 by Joseph Orlandini, who [X] is personally known or [ ] has produced _____ as identification.

Melanie Burton
Notary

Printed Name: Melanie Burton

My Commission Expires: 2/02/24

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Roger Hernstadt
Subject: RE: Jesse schmid 80 ave e
Date: Wednesday, April 1, 2020 11:39:21 AM

I'm working on it now. I'll have something to you by 1

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: Roger Hernstadt <roger@fmbgov.com>
Date: 4/1/20 11:10 AM (GMT-05:00)
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: FW: Jesse schmid 80 ave e

How long to unravel?

From: scott mcguire <smcguire707@gmail.com>
Sent: Wednesday, March 25, 2020 10:20 AM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: Re: Jesse schmid 80 ave e

Thanks Roger
We are ready to close on property this is the last hurdle we have to cross. So if we can do this by email that is maybe best at this time . Would really like to get this figured out very soon.
Thanks
Jesse Schmid

Sent from my iPhone

> On Mar 25, 2020, at 10:00 AM, Roger Hernstadt <roger@fmbgov.com> wrote:
>
> We are working on defining all the issues with this property. Pls stand by.
>
> ---
>
> **From:** scott mcguire <smcguire707@gmail.com>
> **Sent:** Monday, March 23, 2020 1:12 PM
> **To:** Roger Hernstadt <roger@fmbgov.com>
> **Subject:** Jesse schmid 80 ave e
>
> Hey Roger this is Jesse I was just wondering if we can set a appointment up this week where I can get Joe here me and we can figure out the fines on his 80 Avenue E
> I'm closing on it soon and I want to have everything addressed ASAP

Sent from my iPhone

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From: Roger Hernstadt on behalf of Roger Hernstadt <roger@fmbgov.com>
To: scott mcguire
Cc: Joe Orlandini
Subject: FW: 80 Ave E
Date: Wednesday, April 1, 2020 1:47:37 PM

Here are the fines to date (does not include other town costs)
Other conditions to follow

From: Daphnie Bercher <DaphnieB@fmbgov.com>
Sent: Wednesday, April 1, 2020 1:44 PM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: 80 Ave E

80 Ave E has 2 code cases that are not in compliance; 1 in compliance, but with fines due, as explained below:

CE14-0394, Work Without Permit, Bldg. A – Underground Utility/Remodel
Ordered to pay $150 admin. fees, $250 per day beginning March 25, 2016, until compliance is obtained
Not in Compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until compliance

***

CE15-0167, Unsafe Structure, Middle Bldg. Deck/Stairs
Ordered to pay $150 admin fees, $250 per day beginning March 25, 2016, until compliance is obtained
Not in compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until compliance

***

CE17-0065, Repeat Work Without Permit, Driveway Pavers
In Compliance - $500 fine due

***

Total Due: $734,800, with daily fines of $500 being imposed until compliance

From: joe@joe22.com
To: Roger Hernstadt
Subject: RE: 80 Ave E
Date: Thursday, April 9, 2020 3:39:11 PM

Roger,

I would like to talk to you with out Jesse on the call with us. I am still the owner and I don't need him on our call.

Today or tomorrow any time, what ever works for you.

Thank you,

Joe Orlandini
Orlandini Development
Premiere Plus Realty
C- 239-537-1333
F - 239-790-3079
joe@joe22.com
www.FMBJOE.com

> --------- Original Message ---------
> Subject: RE: 80 Ave E
> From: "Roger Hernstadt" <roger@fmbgov.com>
> Date: 4/9/20 3:32 pm
> To: "scott mcguire" <smcguire707@gmail.com>
> Cc: "Joe Orlandini" <joe@joe22.com>
>
> Any feedback?
>
> ---
>
> **From:** Roger Hernstadt
> **Sent:** Wednesday, April 1, 2020 1:48 PM
> **To:** 'scott mcguire' <smcguire707@gmail.com>
> **Cc:** 'Joe Orlandini' <joe@joe22.com>
> **Subject:** FW: 80 Ave E
>
> Here are the fines to date (does not include other town costs)
>
> Other conditions to follow
>
> ---
>
> **From:** Daphnie Bercher <DaphnieB@fmbgov.com>
> **Sent:** Wednesday, April 1, 2020 1:44 PM
> **To:** Roger Hernstadt <roger@fmbgov.com>

Subject: 80 Ave E

80 Ave E has 2 code cases that are not in compliance; 1 in compliance, but with fines due, as explained below:

CE14-0394, Work Without Permit, Bldg. A – Underground Utility/Remodel

Ordered to pay $150 admin. fees, $250 per day beginning March 25, 2016, until compliance is obtained

Not in Compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until compliance

***

CE15-0167, Unsafe Structure, Middle Bldg. Deck/Stairs

Ordered to pay $150 admin fees, $250 per day beginning March 25, 2016, until compliance is obtained

Not in compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until

compliance

***

CE17-0065, Repeat Work Without Permit, Driveway Pavers

In Compliance - $500 fine due

***

Total Due: $734,800, with daily fines of $500 being imposed until compliance

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From: Roger Hernstadt on behalf of Roger Hernstadt <roger@fmbgov.com>
To: Daphnie Bercher
Subject: RE: 80 Ave E (Orlandini)
Date: Thursday, April 23, 2020 1:13:33 PM

What was the fine total for the other case?

From: Daphnie Bercher <DaphnieB@fmbgov.com>
Sent: Thursday, April 23, 2020 1:11 PM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: 80 Ave E (Orlandini)

80 Avenue E has 3 code cases/3 liens.

CE14-0494 and CE15-0157 are not in compliance. As of today's date each case has a lien of $372,650. With fines of $500 daily continuing to accrue ($250 per each case.

The total owed on these 2 cases as of today's date is $745,300.

The third case, CE17-0065, is in compliance but has a lien of $47,575.

The total owed as of this date for all three cases is $792,875 with fines of $500 per day continuing to accrue due to lack of compliance.

The big difference between this property and the other matter you negotiated is compliance. When you negotiated the other matter it had already been brought into compliance.

We are working with Orlandini in order for him to obtain the appropriate permits to bring this into compliance, but I'm not sure how long that will take.

Let me know if you have any questions.

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Roger Hernstadt
Subject: 80 Ave E (revised)
Date: Thursday, April 23, 2020 2:09:50 PM

The date Council told you to negotiate with Joe was Feb. 3, 2020.

The new amounts with an end date of Feb. 3, 2020 are:

CE14-0394
3/25/2016 – 2/3/2020 = 1410 days
1410 days x $250 per day = $352,500
$352,500 + $150 admin fee = $352,650

CE15-0167
3/25/2016 – 2/3/2020 = 1410 days
1410 days x $250 per day = $352,500
$352,500 + $150 admin fee = $352,650

CE17-0065
8/30/17 – 7/12/18 = 316 days
316 days x $150 per day = $47,400
$47,400 + $175 admin fee = $47,575

Total amount due (with no further accruing fees) $752,875

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: jodi -
Subject: 80 Avenue E Compliance Agreement
Date: Friday, May 1, 2020 11:59:15 AM
Attachments: 80 Ave E Compliance Agreement.docx

Attached please find the 80 Avenue E Compliance Agreement. Once we have received the check for the amount determined in the Compliance Agreement, and the check has cleared, we will filed releases for the three liens listed in the agreement. If the permits have not been finaled and violations cured within the amount of time determined in the Compliance Agreement, the lien process will resume and new liens will be filed.

Let me know if you have any questions.

Daphnie

Town of Fort Myers Beach

CODE ENFORCEMENT COMPLIANCE AGREEMENT

Case No: CE14-0394, CE15-0167, CE17-0065 Date: May 1, 2020

Owner: Orlandini, Joseph B

Mailing Address: 281 Palermo Circle

Site Address: 80 Avenue E, Fort Myers Beach, FL, 33931

Parcel/STRAP#: 19-46-24-W4-0070A.0020

Petitioner, Town of Fort Myers Beach, and Respondent, MICTIA Properties, LLC, hereby stipulate to the following:

A. Respondent is in violation of ***LDC Sec 6-111 The Florida Building Code hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.***

FBC 105.1 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.

CE14-0394: Work Without Permit/Bldg. A
CE15-0167: Unsafe Structure/Deck/Bldg. B
CE17-0065 Repeat Work Without Permit/Pavers

B. In lieu of the violation process, which could include additional appearance(s) before the Special Magistrate, additional hearing costs and/or fines, Respondent is acknowledging the violations and agrees to:

1. Pay a one-time fine and enforcement cost in the amount of $61,628.04. Fine is due immediately;

2. Apply for and obtain all required permits to correct all violations by July 1, 2020, and obtain Certificate of Completions for all violations by December 31, 2020.

C. If the above stated action is not complied with, a fine of $1,000 per day will be assessed until compliance is obtained.

D. If a reoccurrence of the violation is found, pursuant to Ch. 162.09(2)(a)(1), Fla. Stat., the Town may ask the Special Magistrate to find the reoccurred violation as irreparable and irreversible in nature and seek a fine of up to $5,000 for each violation.

_____	_____	_____
Property Owner	Printed Name	Date
_____	_____	_____
Town Staff	Printed Name	Date

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: "jodi -"
Subject: RE: 80 Avenue E Compliance Agreement
Date: Friday, May 1, 2020 2:56:03 PM

I have no idea when the permits will be ready. Like I said we will release the liens once we received the check and it has cleared.

From: jodi - [mailto:jodi@schmidysmachinery.com]
Sent: Friday, May 1, 2020 1:02 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Re: 80 Avenue E Compliance Agreement

Thanks for getting this on 80 Ave E. to me. Once you know the status on the other permits I inquired about let me know where we at as I would like to pick up the permits when I bring you a check for 80 Ave E.

Thanks

Jesse Schmid

On Fri, May 1, 2020 at 11:59 AM Daphnie Bercher <DaphnieB@fmbgov.com> wrote:

> Attached please find the 80 Avenue E Compliance Agreement. Once we have received the check for the amount determined in the Compliance Agreement, and the check has cleared, we will filed releases for the three liens listed in the agreement. If the permits have not been finaled and violations cured within the amount of time determined in the Compliance Agreement, the lien process will resume and new liens will be filed.
>
> Let me know if you have any questions.
>
> Daphnie
>
> Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

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disclosure.

From: Roger Hernstadt on behalf of Roger Hernstadt <roger@fmbgov.com>
To: jodi -
Subject: Re: Jesse Schmid / Permits
Date: Monday, May 4, 2020 11:14:54 AM

By phone - you can call me tomorrow or Wednesday.

Sent from my iPhone

> On May 4, 2020, at 10:38 AM, jodi - <jodi@schmidysmachinery.com> wrote:
>
> Hi Roger,
>
> I was going to see if I could possibly meet with you this week in regards to several permits I am currently waiting to be issued. If you could call me on my cell it would be greatly appreciated.
>
> Thanks
>
> Jesse Schmid
> Cell#217-433-8978

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From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: "jodi -"
Cc: chadd@fmb.com
Subject: RE: Jesse Schmid/ Properties
Date: Monday, May 11, 2020 10:23:11 AM

Jesse,

The email I sent you was a negotiation you asked for, which the manager greatly reduced the amount of liens totally $750,000 – the Compliance Agreement states that you will pay the amount immediately. If you choose the not pay that amount until the permits are issued, that's your choice. You failed to mention that you began work without a permit on several projects including the house and tiki hut…and illegally bulldozed through a dune.

Due to your complaint of your neighbor's yard, we are opening a code case against him.

My husband had emergency surgery last week and I was out. I am spending the day working on your permits and will have a status to you as soon as I can.

Also, please don't include Chadd on anything regarding permits. That's not his department.

Daphnie

From: jodi - [mailto:jodi@schmidysmachinery.com]
Sent: Saturday, May 9, 2020 1:31 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: chadd@fmb.com
Subject: Jesse Schmid/ Properties

Daphnie

This is Jesse and I am confused because when we met, you told me it wasn't about money. The E-mail you sent me in return to min was all about money and nothing about issuing my permits. Huminston & Moore engineering firm has been in contact with the city at least five times, and made several revisions just for a paver driveway and still no permit has been issued. A tiki permit was filed four weeks ago several revisions were requested and made along with engineering plans and now it's not even in the system. I just wrote a check for over $14,000 to restore the dune and 40 inch pathway, then was issued a $1.000 fine along with a dune restoration plan. The neighboring property clearly has way more issues than I have and have only received a $25 ticket. I am at a loss over this and cant seem to get an answer as to why all surrounding properties to mine can seem to do whatever they want. On a neighboring cottage street property a paver driveway took 2 weeks and drainage plan is to the street, which I was told you have to retain all you on water on your own property. Also, there are neighboring properties on Cottage Ave that have decks, fences, tiki huts, etc... over the coastal construction setback line. I need some clarification on these issues and would really like to know how this keeps happening. I have spent tens of thousands of dollars on engineering and

architects for my properties to keep from running into roadblocks as well as $30,000 in surveying. Please advise me of all properties permitting next to mine along with drawings, revision and engineering so I can compare. This is getting to become a major issue for all of us. Before this turns into anything further let me know how we can settle all of this. If plans need revisions can we have all revisions at one time so it can be corrected the first time instead of constantly going back and forth. As you well know I have spent millions on this beach to only make it a better place. I was told you can't cross the coastal construction line, but four of my neighboring properties have. Please advise me on what direction at this point I need to go, as I have millions invested and getting no return on my investments due to permits not being issued. We are building two new homes one on Cottage and one on I street along with the build out of 80 Ave E which has been an eye sore for many years. I want a smooth permitting process as I think the city should want as well.

Thanks,

Jesse & Jodi Schmid and Family

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From:	Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To:	Roger Hernstadt
Subject:	RE: 80 Avenue E Compliance Agreement
Date:	Monday, May 11, 2020 10:28:53 AM

Jesse doesn't want to pay the negotiated amount until the permits (for other properties) have been issued – despite the fact that the Compliance Agreement states that the amount must be paid immediately.

From: Roger Hernstadt
Sent: Thursday, May 7, 2020 11:04 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>; Robert Bogart <Bogart@fmbgov.com>
Subject: FW: 80 Avenue E Compliance Agreement

What's the delay?

From: jodi - <jodi@schmidysmachinery.com>
Sent: Thursday, May 7, 2020 10:56 AM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: Fwd: 80 Avenue E Compliance Agreement

---------- Forwarded message ---------
From: **Daphnie Bercher** <DaphnieB@fmbgov.com>
Date: Fri, May 1, 2020 at 2:56 PM
Subject: RE: 80 Avenue E Compliance Agreement
To: jodi - <jodi@schmidysmachinery.com>

I have no idea when the permits will be ready. Like I said we will release the liens once we received the check and it has cleared.

From: jodi - [mailto:jodi@schmidysmachinery.com]
Sent: Friday, May 1, 2020 1:02 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Re: 80 Avenue E Compliance Agreement

Thanks for getting this on 80 Ave E. to me. Once you know the status on the other permits I inquired about let me know where we at as I would like to pick up the permits when I bring you a check for 80 Ave E.

Thanks

Jesse Schmid

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From: Paula Kiker on behalf of Paula Kiker <Paula@fmbsun.com>
To: Daphnie Bercher (DaphnieB@fmbgov.com)
Subject: Agenda for Jesse Schmid Meeting
Date: Monday, November 2, 2020 10:16:36 AM
Attachments: Agenda for Jesse Schmid.pdf

Daphnie,

Attached is the agenda for our meeting - at this time we would like to meet sooner than later - tomorrow am. is good for both of us if you have time? I have a 1:00 funeral to attend, but anytime up till then? I would think 1 hour should be sufficient if we have current status for all his permits?

Wednesday - I am open from 10:30 on if that is helpful.

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
Office: 239-463-0000 ext. 128
Fax: 239-463-5617
Email: paula@fmbsun.com
Website: fmbsun.com

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Agenda for Jesse Schmid/White Sand Properties of FMB, LLC

1560 I Street

- Status of Permits (plans approved by Sarah, then had to be re-approved by Jason?)
- Dune Restoration Plan Status

1550 I Street

- Chair rental license
- Lien

80 Avenue E

- Fines on Avenue E ($75K)

49/51 Pompano

- Dune Restoration Plan – Jesse will submit on Wednesday

2520 & 2522 Cottage

- Status of Permitting of two 24 foot driveways (over 2 months?)
- Status of Building Permits
- Status of Moving a tree violation

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: FW: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 10:20:07 AM

Below please find the status of the issues mentioned in your agenda:

1560 I Street –

- ***Status of permit (plans approved by Sarah, then had to be re-approved by Jason)***

Permit #201086

The information provided is incorrect. Sarah and Jason are zoning. The zoning for this permit was approved on 9/7/2020 (submitted 8/24/2020); however, there are two resubmittal reviews still pending that were received on 10/23/2020) which were Flood and Building. These resub reviews should be finished this week.

This is the only building permit application for 1560 I street.

***

- ***Dune Restoration Plan Status***

(this should be for 1550, not 1560) – Code Case #CE20-0491:

The Code Enforcement Order states:

Respondent is ordered to pay a fine of $1000 to be paid within 30 days; and

Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20 (Sept. 20 is the 30 day time frame pursuant to the order) a fine of $250 per day began. Even though the Restoration Plan was received and the fine paid, the order will not be released until the all terms of the order are met (the imposed fines ($250 per day) have been paid and the dune restored in accordance with the order).

The Respondent was issued a Notice of Hearing for November 19, 2020 at 11:00 a.m. for an Imposition of Lien Hearing.

***

1550 I Street

-

- ***Chair rental license***

On September 30 (the last day beach vendors are allowed to submit their permit renewal pursuant to the Town's ordinance), I received the below email from Mr. Schaab (the owner of the beach chair rental company):

Mrs. Bercher, I will not be applying for a license this year, I have not been able to obtain the new owners authorization. Jesse Schmidt the new owner of 1550 I street has asked me if I would sell this license. I explained to him that a license at a nonconforming location is not transferable. Maybe he does not want chairs and umbrellas, or possibly he has found a way around the ordinance. Thank you for your time.
Chris Schaab

On October 29, I received another email from Mr. Schaab:

Good afternoon Daphnie, Jesse Schmid and I finally came to an agreement for the chairs and umbrellas on 1550 I Street. I left the application at Town Hall this morning and I realize and that this is over a month late. Thank you for your time and consideration.
Chris Schaab

Pursuant to the Town's code, permit applications/renewals are received from September 1 – 30. The Town Manager told Mr. Schaab that he can appeal Staff's decision to Council. An Appeal application and the fee ($1,000) must be submitted, which I explained to Mr. Schaab today. Staff will process the application and get it on the soonest available Council agenda for the Council to hear the item.

***

- ***Lien***

See Code Case CE20-0491 above

***

80 Avenue E

- ***Fines on Avenue E***

When Mr. Schmid acquired this property, the Town Manager quoted a settlement for the outstanding liens. In accordance to the Compliance Agreement sent to Mr. Schmid on May 1, 2020, a one-time fine of $61,628.04 was due immediately. Additionally, in order to release the lien, all permits were to be applied for and issued by July 1, 2020 and Certificate of Completion was supposed to be issued by Dec. 31.

Mr. Schmid has not paid the settlement offered as of this date and no permits have been applied for. Roger told me the new reduced fine is $75,000. That fine needs to be paid and the violations need to come into compliance in order to release the lien.

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Further, if work has begun on this property, it will be a work without permit code violation.

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49/51 Pompano

- ***Dune Restoration Plan – Jesse will submit on Wednesday***

Code Case No: CE20-0294:

The Code Enforcement Order states:

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Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20, (Sept. 20 is the 30 day time frame pursuant to the order) an additional fine of $250 was to begin accruing. However, Respondent's attorney submitted a Motion for Extension of Time in this matter, which was granted. No daily fines will accrue until January and only if the property is not in compliance.

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2520 & 2522 Cottage Avenue

- ***Status of two 24 foot driveways (over 2 months?)***
- ***Status of Building Permits***
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Status of two 24 foot driveways – no driveway or permits have been submitted.

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2520 Cottage has two open code cases:

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CE20-0656, Relocation of Protected Tree without Permit. The Notice of Violation was issued on October 14, 2020 which provided 7 days to get the appropriate permit. No permit application has been submitted. This is set for hearing before the Special Magistrate on November 19.

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Please note that this review was conducted expeditiously in order to provide a quick response. A more in depth review may provide different or additional information.

Sincerely,

Daphnie Bercher Saunders
Community Services Administrator
Town of Fort Myers Beach
daphnieb@fmbgov.com
239-765-0202

From: Paula Kiker [mailto:Paula@fmbsun.com]
Sent: Monday, November 2, 2020 10:17 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Agenda for Jesse Schmid Meeting

Daphnie,

Attached is the agenda for our meeting - at this time we would like to meet sooner than later - tomorrow am. is good for both of us if you have time? I have a 1:00 funeral to attend, but anytime up till then? I would think 1 hour should be sufficient if we have current status for all his permits?

Wednesday - I am open from 10:30 on if that is helpful.

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From: Paula Kiker on behalf of Paula Kiker <Paula@fmbsun.com>
To: "Daphnie Bercher"; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: RE: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 10:29:42 AM

Daphnie,

Thank you and your staff for putting this synopsis together - I will be sure and go over everything with Jesse & his contractors/vendors - we may still want to meet in person (perhaps tomorrow sometime), to clear up/clean up these issues. I have been working with Jesse to get everything back on track and I appreciate everyone's time and consideration in these matters.

Paula Kiker
Broker/Owner, Lahaina Realty
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6035 Estero Blvd, Fort Myers Beach, FL 33931
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From: Daphnie Bercher [mailto:DaphnieB@fmbgov.com]
Sent: Tuesday, November 03, 2020 10:20 AM
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: FW: Agenda for Jesse Schmid Meeting

Below please find the status of the issues mentioned in your agenda:

1560 I Street –

- ***Status of permit (plans approved by Sarah, then had to be re-approved by Jason)***

Permit #201086

The information provided is incorrect. Sarah and Jason are zoning. The zoning for this permit was approved on 9/7/2020 (submitted 8/24/2020); however, there are two resubmittal reviews still pending that were received on 10/23/2020) which were Flood and Building. These resub reviews

should be finished this week.

This is the only building permit application for 1560 I street.

***

- ***Dune Restoration Plan Status***

(this should be for 1550, not 1560) – Code Case #CE20-0491:

The Code Enforcement Order states:

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Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20 (Sept. 20 is the 30 day time frame pursuant to the order) a fine of $250 per day began. Even though the Restoration Plan was received and the fine paid, the order will not be released until the all terms of the order are met (the imposed fines ($250 per day) have been paid and the dune restored in accordance with the order).

The Respondent was issued a Notice of Hearing for November 19, 2020 at 11:00 a.m. for an Imposition of Lien Hearing.

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1550 I Street

- ***Chair rental license***

On September 30 (the last day beach vendors are allowed to submit their permit renewal pursuant to the Town's ordinance), I received the below email from Mr. Schaab (the owner of the beach chair rental company):

Mrs. Bercher, I will not be applying for a license this year, I have not been able to obtain the new owners authorization. Jesse Schmidt the new owner of 1550 I street has asked me if I would sell this license. I explained to him that a license at a nonconforming location is not transferable. Maybe he does not want chairs and umbrellas, or possibly he has found a way around the ordinance. Thank you for your time.
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On October 29, I received another email from Mr. Schaab:

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Pursuant to the Town's code, permit applications/renewals are received from September 1 – 30. The Town Manager told Mr. Schaab that he can appeal Staff's decision to Council. An Appeal application and the fee ($1,000) must be submitted, which I explained to Mr. Schaab today. Staff will process the application and get it on the soonest available Council agenda for the Council to hear the item.

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- ***Lien***

See Code Case CE20-0491 above

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80 Avenue E

- ***Fines on Avenue E***

When Mr. Schmid acquired this property, the Town Manager quoted a settlement for the outstanding liens. In accordance to the Compliance Agreement sent to Mr. Schmid on May 1, 2020, a one-time fine of $61,628.04 was due immediately. Additionally, in order to release the lien, all permits were to be applied for and issued by July 1, 2020 and Certificate of Completion was supposed to be issued by Dec. 31.

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To: "Daphnie Bercher"; sales@schmidysmachinery.com
Cc: Roger Hernstadt; "steve@sutterbuilder.com"
Subject: RE: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 12:19:40 PM

Daphnie,

Thanks for the call and further clarifications, I have added Jesse's contractor Steve Sutter to this email chain, so everyone is on the same page of what needs to be done by ALL the parties in order to get this all cleaned up. My clarifications are in **RED**. Please let us know if we can set a meeting up for the 80 Avenue Questions?

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The Respondent was issued a Notice of Hearing for November 19, 2020 at 11:00 a.m. for an Imposition of Lien Hearing.

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Further, if work has begun on this property, it will be a work without permit code violation. **JESSE UNDERSTANDS IF HE DEMOS THE HOME, THE OUTSTANDING CODE VIOLATIONS GO AWAY (AND FEE NEEDS PAID NO MATTER WHAT), BUT WOULD LIKE TO HAVE A MEETING WITH THE PARTIES**

THAT BE, TO SEE WHAT CAN BE BUILT BACK SHOULD HE DECIDE TO GO THAT ROUTE. SHOULD HE DECIDE TO KEEP, WE UNDERSTAND THAT STEVE SUTTER NEEDS TO APPLY FOR A AFTER THE FACT BUILDING PERMIT FOR ALL THE WORK THAT HAS BEEN DONE AND HAS THE OPTION TO HIRE A 3RD PARTY ENGINEER TO STATE THAT ALL THE WORK TO DATE IS "IN COMPLIANCE" . THE HOME MUST BE IN COMPLIANCE BEFORE THE LIEN WILL BE REMOVED.

***

49/51 Pompano

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***

2520 & 2522 Cottage Avenue

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- ***Status of Building Permits***
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CE20-0623, Work Without Permit/Tiki Huts. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19. **STEVE SUTTER IS SUBMITTING FOR PERMIT THIS WEEK.**

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CE20-0656, Relocation of Protected Tree without Permit. The Notice of Violation was issued on October 14, 2020 which provided 7 days to get the appropriate permit. No permit application has been submitted. This is set for hearing before the Special Magistrate on November 19. **I HAVE BEEN TOLD THAT JESSE'S WIFE SUBMITTED DIRECTLY TO CHADD LAST WEEK?**

***

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To: "Daphnie Bercher"; sales@schmidysmachinery.com
Cc: Roger Hernstadt; steve@sutterbuilder.com
Subject: RE: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 1:22:47 PM

Thanks, I'll follow up with Jesse tomorrow - off to a Celebration of Life now.

Paula Kiker
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Sent: Tuesday, November 03, 2020 1:21 PM
To: Paula Kiker; sales@schmidysmachinery.com
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Subject: RE: Agenda for Jesse Schmid Meeting

Re: 49/51 Pompano – no restoration plan has been submitted. Chadd has 17 reviews ahead of any plan that Jesse submits for review. Due to the code violations, I will have Chadd expedite his review of both restoration plans, once we receive the 49/51 plan.

Re: 2520 Cottage – again, no permit has been submitted.

Re: 2522 Cottage, I researched Chadd's emails – no email or permit was received regarding relocation of the tree. Please send me a copy of the email sent to Chadd.

Re: 80 Avenue E – The information requested can be obtained through a Zoning Verification Letter (link provided for the Zoning Verification Letter below). The fee for the Zoning Verification Letter is $250.

http://fmbgov.com/DocumentCenter/View/15634/Zoning-Verification-Aplication

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Subject: RE: Agenda for Jesse Schmid Meeting

Daphnie,

Thanks for the call and further clarifications, I have added Jesse's contractor Steve Sutter to this email chain, so everyone is on the same page of what needs to be done by ALL the parties in order to get this all cleaned up. My clarifications are in **RED**. Please let us know if we can set a meeting up for the 80 Avenue Questions?

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
Office: 239-463-0000 ext. 128
Fax: 239-463-5617
Email: paula@fmbsun.com
Website: fmbsun.com

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From: Daphnie Bercher [mailto:DaphnieB@fmbgov.com]
Sent: Tuesday, November 03, 2020 10:20 AM
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: FW: Agenda for Jesse Schmid Meeting

Below please find the status of the issues mentioned in your agenda:

1560 I Street –

- ***Status of permit (plans approved by Sarah, then had to be re-approved by Jason)***

Permit #201086

The information provided is incorrect. Sarah and Jason are zoning. The zoning for this permit was approved on 9/7/2020 (submitted 8/24/2020); however, there are two resubmittal reviews still pending that were received on 10/23/2020) which were Flood and Building. These resub reviews should be finished this week. **AGREED**

This is the only building permit application for 1560 I street.

***

- ***Dune Restoration Plan Status***

(this should be for 1550, not 1560) – Code Case #CE20-0491:

The Code Enforcement Order states:

Respondent is ordered to pay a fine of $1000 to be paid within 30 days; and

Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20 (Sept. 20 is the 30 day time frame pursuant to the order) a fine of $250 per day began. Even though the Restoration Plan was received and the fine paid, the order will not be released until the all terms of the order are met (the imposed fines ($250 per day) have been paid and the dune restored in accordance with the order). **We are waiting for approval from Chadd on plan, then dune will be restored. Hopeful before the November 19th hearing.**

The Respondent was issued a Notice of Hearing for November 19, 2020 at 11:00 a.m. for an Imposition of Lien Hearing.

***

1550 I Street

- ***Chair rental license***

On September 30 (the last day beach vendors are allowed to submit their permit renewal pursuant to the Town's ordinance), I received the below email from Mr. Schaab (the owner of the beach chair rental company):

Mrs. Bercher, I will not be applying for a license this year, I have not been able to obtain the new owners authorization. Jesse Schmidt the new owner of 1550 I street has asked me if I would sell this license. I explained to him that a license at a nonconforming location is not transferable. Maybe he does not want chairs and umbrellas, or possibly he has found a way around the ordinance. Thank you for your time.
Chris Schaab

On October 29, I received another email from Mr. Schaab:

Good afternoon Daphnie, Jesse Schmid and I finally came to an agreement for the chairs and umbrellas on 1550 I Street. I left the application at Town Hall this morning and I realize and that this is over a month late. Thank you for your time and consideration.

Chris Schaab

Pursuant to the Town's code, permit applications/renewals are received from September 1 – 30. The Town Manager told Mr. Schaab that he can appeal Staff's decision to Council. An Appeal application and the fee ($1,000) must be submitted, which I explained to Mr. Schaab today. Staff will process the application and get it on the soonest available Council agenda for the Council to hear the item. **AGREED**

***

- ***Lien***

See Code Case CE20-0491 above

***

80 Avenue E

- ***Fines on Avenue E***

When Mr. Schmid acquired this property, the Town Manager quoted a settlement for the outstanding liens. In accordance to the Compliance Agreement sent to Mr. Schmid on May 1, 2020, a one-time fine of $61,628.04 was due immediately. Additionally, in order to release the lien, all permits were to be applied for and issued by July 1, 2020 and Certificate of Completion was supposed to be issued by Dec. 31.

Mr. Schmid has not paid the settlement offered as of this date and no permits have been applied for. Roger told me the new reduced fine is $75,000. That fine needs to be paid and the violations need to come into compliance in order to release the lien.

The only permits for 80 Avenue E are:

A demo permit (application submitted on 4/1/2019) for the upper floor/3 units that has been abandoned.

A demo permit for stairs and deck on middle building (application submitted on 4/1/2019). This permit was issued 11/14/2019, but expired on May 12, 2020 and has not been renewed.

Further, if work has begun on this property, it will be a work without permit code violation. **JESSE UNDERSTANDS IF HE DEMOS THE HOME, THE OUTSTANDING CODE VIOLATIONS GO AWAY (AND FEE NEEDS PAID NO**

MATTER WHAT), BUT WOULD LIKE TO HAVE A MEETING WITH THE PARTIES THAT BE, TO SEE WHAT CAN BE BUILT BACK SHOULD HE DECIDE TO GO THAT ROUTE. SHOULD HE DECIDE TO KEEP, WE UNDERSTAND THAT STEVE SUTTER NEEDS TO APPLY FOR A AFTER THE FACT BUILDING PERMIT FOR ALL THE WORK THAT HAS BEEN DONE AND HAS THE OPTION TO HIRE A 3RD PARTY ENGINEER TO STATE THAT ALL THE WORK TO DATE IS "IN COMPLIANCE" . THE HOME MUST BE IN COMPLIANCE BEFORE THE LIEN WILL BE REMOVED.

***

49/51 Pompano

- ***Dune Restoration Plan – Jesse will submit on Wednesday***

Code Case No: CE20-0294:

The Code Enforcement Order states:

Respondent is ordered to pay a fine of $1000 to be paid within 30 days; and

Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20, (Sept. 20 is the 30 day time frame pursuant to the order) an additional fine of $250 was to begin accruing. However, Respondent's attorney submitted a Motion for Extension of Time in this matter, which was granted. No daily fines will accrue until January and only if the property is not in compliance. **WE ARE WAITING ON CHADD TO APPROVE PLAN BEFORE WE RESTORE THE DUNE.**

***

2520 & 2522 Cottage Avenue

- ***Status of two 24 foot driveways (over 2 months?)***
- ***Status of Building Permits***
- ***Status of moving a tree violation***

***

Status of two 24 foot driveways – no driveway or permits have been submitted.

***

2520 Cottage -

2520 Cottage has two open code cases:

CE20-0619, Work without Permit/Installation of Pavers. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19; and **JESSE HIRED TROPICAL PAVER & STONE AND WAS UNDER THE ASSUMPTION A PERMIT WAS PULLED, STATES BILL WITH PAVER COMPANY HAS BEEN IN COMMUNICATION WITH LLEN EXPOSITO LOPEZ AND IS/HAS SUBMITTED FOR A PERMIT? JESSE WILL FOLLOW UP WITH VENDOR.**

CE20-0623, Work Without Permit/Tiki Huts. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19. **STEVE SUTTER IS SUBMITTING FOR PERMIT THIS WEEK.**

***

2522 Cottage –

2522 Cottage has two open code cases:

CE20-0287, Work without Permit/Interior Remodel. The Notice of Violation was issued on 4/30/2020 which provided 30 days to obtain the permit. A permit was applied for (Permit #200531) on May 4, 2020. Staff is waiting for more information required from the reviewers. No activity has happened on this since May 18, 2020. This is set for hearing before the Special Magistrate on November 19**. STEVE SUTTER SUBMITTED AN NOC FOR A CHANGE OF CONTRACTOR LAST WEEK. STEVE WILL REVIEW THE STATUS OF WHAT IS OUTSTANDING AND SUBMIT ACCORDINGLY.**

CE20-0656, Relocation of Protected Tree without Permit. The Notice of Violation was issued on October 14, 2020 which provided 7 days to get the appropriate permit. No permit application has been submitted. This is set for hearing before the Special Magistrate on November 19. **I HAVE BEEN TOLD THAT JESSE'S WIFE SUBMITTED DIRECTLY TO CHADD LAST WEEK?**

***

This review of Mr. Schmid's matters took me an entire day to research. In most of these issues, we are waiting for Mr. Schmid to provide something to the Town. Once the Town receives the information required by the reviewers, restorations plans, tree removal permit, payment of fines, permit applications, etc., Staff can proceed with each issue.

Please note that this review was conducted expeditiously in order to provide a quick response. A more in depth review may provide different or additional information.

Sincerely,

Daphnie Bercher Saunders
Community Services Administrator
Town of Fort Myers Beach
daphnieb@fmbgov.com
239-765-0202

From: Paula Kiker [mailto:Paula@fmbsun.com]
Sent: Monday, November 2, 2020 10:17 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Agenda for Jesse Schmid Meeting

Daphnie,

Attached is the agenda for our meeting - at this time we would like to meet sooner than later - tomorrow am. is good for both of us if you have time? I have a 1:00 funeral to attend, but anytime up till then? I would think 1 hour should be sufficient if we have current status for all his permits?

Wednesday - I am open from 10:30 on if that is helpful.

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
Office: 239-463-0000 ext. 128
Fax: 239-463-5617
Email: paula@fmbsun.com
Website: fmbsun.com

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From: Fort Myers Beach on behalf of Fort Myers Beach <wo@iworq.net>
To: patty@fmbgov.com
Subject: A CC Payment was made for Permit # 20200099
Date: Thursday, November 5, 2020 11:34:19 AM

A CC Payment was made for Permit # 20200099

Click Here to open Permit # 20200099

Permit #: 20200099
Address: 80 AVENUE E
City: FORT MYERS BEACH
State:
Zip: 33931
Receipt #: 162
Date: 11/05/2020
Paid By: Jesse Schmid
Description: Invoice: 154155
Payment Type: Syncopal CC
Payment Type Description:
Accepted By:

Fees Paid

Fee Name	Description	Factor	Total Fee Amount	Amount Paid
Zoning Verification Letter	10.20.000.32900	0.00	250.00	250.00
			Total:	**$250.00**

November 18, 2020

White Sands Properties of FT Myers
415 Palermo Cir
Fort Myers Beach, FL 33931

Re: ZVL20-0099, 80 Avenue E, Ft. Myers Beach

Dear White Sands Properties of FT Myers,

The Community Development Department has reviewed the zoning verification letter request for 80 Avenue E and can provide the following responsive information:

- 80 Avenue E is in the *Downtown* Zoning District. Permitted uses are included in the attached document:
  - Use Groups Permitted: OPEN
    - Residential
    - Lodging
    - Office
    - Retail
    - Civic
  - Use Groups Permitted: LIMITED
    - Marine

- The primary structure setbacks for properties, in accordance with the land development code, in the Downtown zoning, are as follows:
  - Right-of-Way property line 5-10 feet,
  - Side property line 5 feet
  - Rear property line 25 feet.

- It appears that the structure existing on this lot is nonconforming in regard to setbacks. The overall parcel is nonconforming for size.

- The property is located in the Pedestrian Commercial Future Land Use district, allows 6 dwelling units per acre.

- The property is currently located within the VE-15 flood zone.

- There are no active Code Enforcement cases on this property.

This letter is responsive to the zoning verification application submitted 11/05/2020. Information provided in this letter may expire upon changes to zoning, maps, or policies.

Sincerely,

Carl Benge
Assistant Community Development Director
Town of Fort Myers Beach
Community Development

From:	Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To:	Stephen Sutter
Cc:	Jack Mcstravic; Jesse Schmid; Jason Green; Carl Benge
Subject:	RE: 80 Ave E
Date:	Tuesday, January 26, 2021 2:54:21 PM
Attachments:	ZVL20-0099 - 80 Ave E.pdf

Density has changed since the original building date which allowed 8 units. Again, you can apply for the variance which will give the council the opportunity to make a determination regarding increasing the density.

Attached is the Zoning Verification letter sent to Mr. Schmid on November 18, 2020. If Mr. Schmid states that he did not receive the letter, we will gladly issue a refund – and make certain that all future communications are via email.

From: Stephen Sutter <steve@sutterbuilder.com>
Sent: Tuesday, January 26, 2021 2:10 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: Jack Mcstravic <mcstravic@fmbgov.com>; Jesse Schmid <sales@schmidysmachinery.com>; Jason Green <green@fmbgov.com>; Carl Benge <cbenge@fmbgov.com>
Subject: Re: 80 Ave E

We are reducing the existing number of unit by 1/2 there are 8 units to be removed and 4 units to be built otherwise we will just put lipstick on the pig and keep all the units we're trying to lower existing density and built out of the flood zone and we assume the city would be in favor of this, we are still waiting for a meeting and we paid for a zoning determination in November and still have not received any official response so please just refund the $250 to Mr Schmid thanks

Steve Sutter 239-287-2080
SF Sutter Builder LLC
1332 Monarch Circle
Naples, Fl. 34116
CRC 1331400

> On Jan 26, 2021, at 11:12 AM, Daphnie Bercher <DaphnieB@fmbgov.com> wrote:
>
> The Town's zoning for that area allows six dwelling units per acre. The 80 Avenue E property is only 6,882 sq ft. which only allows for a single family residence (the square footage of an acre is 43,560 sq. ft).
>
> If you would like to increase the density, you'd need to apply for a variance – the Council may or may not approve the increase in density.

From: Stephen Sutter <steve@sutterbuilder.com>
Sent: Monday, January 25, 2021 9:13 AM
To: Jack Mcstravic <mcstravic@fmbgov.com>
Cc: Jesse Schmid <sales@schmidysmachinery.com>; Daphnie Bercher <DaphnieB@fmbgov.com>; Jason Green <green@fmbgov.com>; Carl Benge <cbenge@fmbgov.com>
Subject: Re: 80 Ave E

Please let us know when we can all meet we are removing 8 units and plan on doing 4 units in there place

Steve Sutter 239-287-2080
SF Sutter Builder LLC
1332 Monarch Circle
Naples, Fl. 34116
CRC 1331400

> On Jan 20, 2021, at 7:10 AM, Jack Mcstravic <mcstravic@fmbgov.com> wrote:
>
> Good morning,
>
> In regards to 80 Ave E zoning verification, it would be best for us have a discussion with the entire team. Based upon the LDC of the town, the only thing that could be constructed at this location would be a single-family home.
>
> Please provide a couple of dates when we can schedule a meeting to discuss any option available to you for repairing or moving forward with re-development of this property.
>
> Thank you
> Jack McStravic

From: Stephen Sutter <steve@sutterbuilder.com>
Sent: Sunday, January 10, 2021 5:32 PM

To: Jack McStravic <JMcStravic@universalengineering.com>
Cc: Jack Mcstravic <mcstravic@fmbgov.com>; Jack McStravic <jmcstravic@teamgfa.com>; Jesse Schmid <sales@schmidysmachinery.com>
Subject: Re: 80 Ave E

See you about 10 Tuesday thanks

Steve Sutter 239-287-2080
SF Sutter Builder LLC
1332 Monarch Circle
Naples, Fl. 34116
CRC 1331400

> On Jan 8, 2021, at 3:11 PM, Jack McStravic <JMcStravic@universalengineering.com> wrote:
>
> I will be into the office on Tuesday 1/12/20201. I'll be there from 10-2.
>
> Thank you
>
>
> Jack McStravic, CBO
> Code Compliance Department Manager
> 201 Waldo Avenue North,
> Lehigh Acres, Florida 33971
> o: (239) 489-2443 | f: (239) 489-3438
> d: (239) 920-5238 | c: (239) 229-5239
> jmcstravic@univerisalengineering.com
> Inspections – schedulefm@universalengineering.com
>
>
>
>
>
> -----Original Message-----
> From: Stephen Sutter <steve@sutterbuilder.com>
> Sent: Thursday, January 7, 2021 11:34 AM
> To: Jack Mcstravic <mcstravic@fmbgov.com>; Jack McStravic <jmcstravic@teamgfa.com>
> Cc: Jesse Schmid <sales@schmidysmachinery.com>
> Subject: Re: 80 Ave E
>

> Second request for meeting tomorrow
>
> Steve Sutter 239-287-2080
> SF Sutter Builder LLC
> 1332 Monarch Circle
> Naples, Fl. 34116
> CRC 1331400
>
>
>
>> On Jan 6, 2021, at 10:52 AM, Stephen Sutter <steve@sutterbuilder.com> wrote:
>>
>> Jack; We would like to redevelop 80 Ave E can you meet with Jesse Schmid and I on Friday morning 10:00am at your office to discuss the options we want to reduce the density and demo that old mess so the new will be above flood it's looks like a win win but we need a quick meeting with you before we spend a ton of money on plans and engineering. Hope to hear from you soon thanks Steve
>>
>> Steve Sutter 239-287-2080
>> SF Sutter Builder LLC
>> 1332 Monarch Circle
>> Naples, Fl. 34116
>> CRC 1331400
>>
>>
>

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Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2021000315050, Doc Type D, Pages 3, Recorded 9/24/2021 at 1:19 PM, Deputy Clerk ATAFOYA
Rec Fees: $27.00

This instrument prepared by:
Steven A. Ramunni, P.A.
Post Office Box 1118
LaBelle, Florida 33975

ACTUAL CONSIDERATION: $1.00
Parcel ID#19-46-24-W4-0070.A-0020

CORRECTIVE DEED IN LIEU OF FORECLOSURE

By this Deed in Lieu of Foreclosure, Joseph B. Orlandini, aka Joe B. Orlandini Grantor, in consideration of $1.00 and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, conveys to Grantee, White Sand Properties of Fort Myers Beach, LLC, whose address is 3210 Estero Blvd., Ft. Myers Beach, Fla. 33931 the following described property in Lee County, Florida:

LOT 2, BLOCK A, CRESCENT BEACH SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 4, PAGE 45, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

Grantor declares that this conveyance is freely and fairly made, to correct the error in the Deed in Lieu of Foreclosure dated March 26, 2020, Recorded July 20, 2020 under Instrument #2020000163414, as to the full satisfaction of the below described mortgage, and the parties agree that no advantage was taken by the Grantee of the relationship between the parties and that there are no agreements, oral or written, other than this corrective warranty deed in lieu of foreclosure between Grantor and Grantee with respect to the real property.

THIS CORRECTIVE DEED IS GIVEN IN LIEU OF FORECLOSURE OF THE BELOW DESCRIBED MORTGAGE SOLELY AS TO GRANTOR'S LIABILITY THEREUNDER AND IS AN ABSOLUTE CONVEYANCE OF ALL OF GRANTOR'S RIGHTS, TITLE AND INTERESTS IN OR WITH RESPECT TO THE REAL PROPERTY, AND IS NOT GIVEN OR INTENDED AS SECURITY OR COLLATERAL FOR ANY DEBT OF ANY NATURE WHATSOEVER OF THE GRANTOR, IS GIVEN IN EXCHANGE FOR FAIR AND ADEQUATE CONSIDERATION AND NO ADVANTAGE WAS TAKEN BY THE GRANTEE OF THE RELATIONSHIP OF THE PARTIES.
THIS DEED IS BEING GIVEN IN LIEU OF FORECLOSURE OF THAT CERTAIN MORTGAGE FROM LEO J. DIBIASI INDIVIDUALLY AND LEO J. DIBIASI AS SOLE TRUSTEE OF THE LEO J. DIBIASI AND VALERIE J. DIBIASI REVOCABLE LIVING TRUST DATED AUGUST 19, 2014, AND GEARGE PEKKIGRINO IN THE ORIGINAL AMOUNT OF $400,000.00 TO FOUR DIAMOND INVESTMENT CORPORATION DATED OCTOBER 3, 2014, RECORDED UNDER INSTRUMENT NUMBER 2014000207525, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

NOTWITHSTANDING ANY PROVISIONS HEREOF WHICH COULD BE CONSTRUED TO THE CONTRARY, THE MORTGAGE AND SUCH OTHER INSTRUMENTS ARE NOT, NOR SHALL THEY BE DEEMED TO BE, OTHERWISE CANCELED, EXTINGUISHED, RELEASED OR RELINQUISHED IN ANY MANNER OR RESPECT, AND THE MORTGAGE AND SUCH OTHER INSTRUMENTS SHALL REMAIN VALID AND CONTINUOUS AND IN FULL FORCE AND EFFECT, AS LIENS AND ENCUMBRANCES AGAINST THE REAL PROPERTY. NEITHER THE GRANTOR NOR THE GRANTEE INTEND THAT THERE BE, AND THERE SHALL NOT IN ANY

EVENT BE, A MERGER OF THE MORTGAGE WITH THE TITLE OR OTHER INTEREST OF THE GRANTEE BY VIRTUE OF THIS CONVEYANCE, AND THE PARTIES EXPRESSLY PROVIDE THAT EACH SUCH INTEREST IN THE MORTGAGE AND SUCH OTHER INSTRUMENTS ON ONE HAND, AND OWNERSHIP INTEREST OR TITLE IN THE REAL PROPERTY ON THE OTHER HAND BE AND REMAIN AT ALL TIMES SEPARATE AND DISTINCT. THE TITLE AND OTHER INTEREST OF THE GRANTEE IN THE REAL PROPERTY UNDER THIS DEED WILL NOT MERGE WITH ANY LIEN OR SECURITY INTEREST IN THE REAL PROPERTY CREATED UNDER THE MORTGAGE OR ANY SUCH OTHER INSTRUMENT, AND FOR PURPOSES OF PRIORITY AS BETWEEN (I) INTERVENING OR INFERIOR LIENS, CLAIMS OR ENCUMBRANCES ON OR AGAINST THE REAL PROPERTY, AND (II) THE MORTGAGE AND SUCH OTHER INSTRUMENTS AND ANY AND ALL RIGHTS OF THE HOLDER OF THE MORTGAGE AND THE PROMISSORY NOTE(S) AND SUCH OTHER INSTRUMENTS TO EXERCISE ITS REMEDIES UNDER THE MORTGAGE, THE PROMISSORY NOTE(S) AND SUCH OTHER INSTRUMENTS, INCLUDING WITHOUT LIMITATION THE RIGHT TO FORECLOSE THE SAME. THE MORTGAGE, THE PROMISSORY NOTE(S) AND SUCH OTHER INSTRUMENTS, ARE INTENDED TO BE AND SHALL REMAIN IN FULL FORCE AND EFFECT, AND NOTHING HEREIN OR IN ANY INSTRUMENTS EXECUTED IN CONNECTION HEREWITH SHALL BE CONSTRUED TO SUBORDINATE THE PRIORITY OF THE MORTGAGE OR ANY SUCH OTHER INSTRUMENT TO ANY OTHER LIENS OR ENCUMBRANCES WHATSOEVER.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of said grantees forever.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

DATED this 21 of September, 2021.

Witness #1 Signature

JOSEPH ORLANDINI aka JOE B. ORLANDINI

Scott McGuire
Witness #1 print name

Witness #2 Signature

Eric L Kudritzki
Witness #2 print name

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me by JOSEPH ORLANDINI aka

JOE B. ORLANDINI by means of physical presence on this 21 day of September, 2021.

Signature of Notary: Tina Allen

(Check one) Personally known

Or Produced identification. Type of identification produced:

_____

3

Tina Allen
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG310520
Expires 6/1/2023

Fort Myers Beach Management & Planning Session

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Wednesday, December 8, 2021** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Bus Shelter Installation/Advertising Discussion

Discussion on Bus Shelter Installation/Advertising

Town Manager Hernstadt discussed the options available and included proposed locations with examples of advertising. He noted bus shelters cost around $10,000.00 each. Council Member Veach questioned whether advertising would be on both sides.

Dawn Huff from LeeTran stated that typically advertising was on both sides, but they could put advertising on one side and a route schedule on the other side. She noted that they were applying for a grant to pay for the shelters, which did not include an advertising requirement. Public Works Director Chelsea O'Riley explained that the grant required a maintenance agreement with LeeTran and allowing advertising on the shelters would help offset the cost.

Mayor Murphy questioned who would solicit advertising. Ms. Huff replied thatthe marketing department was particular about any advertising. Council Member Allers questioned whether beach businesses would have first dibs with advertising. Ms. Huff thought the county would entertain the idea. She was unsure about the advertising rates and thought locations were awarded on a first-come, first-serve basis. She was confident that the county would agree with advertising on the inside of benches with the route schedule on the outside.

Town Manager Hernstadt suggested that the county give first preference to beach businesses. Ms. Huff agreed.
Vice Mayor Hosafros suggested that the shelter by the library be expanded. Town Manager Hernstadt replied that it should not be a problem.
Public Works Director O'Riley stated it would be a federally funded LAP (Local Agency Program) project and the availability of funding could be July of 2022. The next step would be a formalized interlocal maintenance agreement between the Town and LeeTran.
Ron Gagoi from the MPO (Metropolitan Planning Commission) described the grant and commented that he had already coordinated with FDOT (Florida Department of Transportation). He noted the grant was Covid-related for infrastructure funds. He described the MPO and LAP funds. Director O'Riley pointed out the Town would be responsible for managing the project.
Council Member Veach recommended moving forward with the grant. He suggested including funding for emergency call capabilities and additional benches in high traffic areas. Town Manager Hernstadt indicated that they would determine what features, if any, were grant eligible. He noted there were ongoing costs for emergency shelters. Ms. Huff stated that the recommended shelters were solar-powered.

B. TDC Projects for Grant Cycle FY22 23

Discussion of TDC funded projects for FY22/23

Town Manager Hernstadt explained that they wanted to have a final project list for discussion by January.

C. FMB Camera Project

FMB Camera Project updates

Town Manager Hernstadt commented that they received additional information from Flock but not Greenwire. He questioned whether they wanted to wait for Greenwire's response before proceeding. Mayor Murphy and Council Member Veach felt they should wait. Town Manager Hernstadt preferred moving forward with installing Flock cameras at both bridges first. Greenwire cameras would be installed at other locations. Consensus was reached to move ahead with requesting six Flock cameras.

D. Water Sports and Chair Rentals

A discussion of water sports and chair rentals as requested by TownCouncil.

Council Member Veach felt there were unintended consequences and suggested modifying the ordinance. He identified three issues: problems with storing equipment, limited permits were linked to people rather than property and property owners did not have control over their property. He suggested they permit the property owner rather than the vendor, remove the ability to sit on the permit without using it and create an additional performance clause,so property owners have some rights.

Town Manager Hernstadt brought up allowing properties to self-perform by having their own jet skis, chairs or parasailing equipment. He described grandfathered permits.

Vice Mayor Hosafros agreed with preventing vendors from receiving permits and not using them. She suggested hearing from property owners for input regarding changing who held the permit. Council Member Veach agreed with hearing from everyone affected. Town Manager Hernstadt recommended drafting the changes and then meeting with vendors.

Vice Mayor Hosafros commented that they had to make sure they do not allow proliferation, allow properties to self-operate, allow vendors without property to continue to operate and do not allow permits to remain inactive for longer than a year. She received support. Town Manager Hernstadt stated they would draft language and meet with the vendors.

Mayor Murphy read a status report regarding paving on Estero Blvd. The final phase was tentatively scheduled to be completed in early 2022.

IV. AGENDA MANAGEMENT

A. December 2021

Add raising parking and short-term rental rates to the January agenda.Add a discussion regarding collecting fines to the next M&P.
Add a discussion concerning motorized single-wheel vehicles.
Add a discussion about requiring boat rental companies to install propguards.

V. ADJOURNMENT

Council Member Veach moved to adjourn; second by Council Member Allers.Motion carried unanimously.

The meeting was adjourned at 10:28 a.m.

Minutes adopted, January 10, 2022; Motion by Vice Mayor Hosafros and seconded by Council Member Veach. Adopted 5-0.

Amy Baker, Town Clerk

From: Patty Prevost on behalf of Patty Prevost <Patty@fmbgov.com>
To: Daphnie Bercher
Subject: Lien List as of 12.9.2021
Date: Thursday, December 9, 2021 2:40:12 PM
Attachments: Lien List 12.9.2021.docx

Patty Prevost
2525 Estero Blvd.
Fort Myers Beach, FL 33931
Phone # 239 765-0202 ex 1303
Patty@fmbgov.com

Liens on File 12/9/2021

80 Ave E – Orlandini – CE14-0394 – SWO – Work without a permit Bld A = $514.150.00 still accruing at $250.00 per day

80 Ave E – Orlandini – CE15-0167 – Unsafe Structure- Bld B = $514,150.00 still accruing at $250.00 per day.

80 Ave E – Orlandini – CE17-0065- Work Without a permit = Certified Fine $500.00.

1028 Estero – Persaud- CE18-0234- Operating without a permit Beach Vending- = Certified Fine $117,750.00.

1028 Estero – Persaud- CE20-0018- Beach Chair rental without a permit- Certified Fine Totaled $9,575.00.

1046 Estero- Persaud- CE17-0659- Portable sign off premises = $242,625.00 still accruing at $200.00 per day.

1046 Estero- Persaud- CE17-0707 - Parking = Certified Fine $80,050.00.

1046 Estero – Persaud- CE18-0235- Beach Chair rental = Certified Fine $11,750.00.

1046 Estero –Persaud - CE18-0446 - Dumpster not screened= $ 207,250.00.

1046 Estero- Persaud- CE20-0017- Beach chair rental without a permit-$ 76,825.00 Still accruing at $250.00 per day.

268/270 Nature View Ct, - CE18-0700- Work without a permit- Remodel after fire = $154,750.00 still accruing at $250.00 per day.

268/270 Nature View Ct. - CE18-0724- Work without a permit – Roof- $154,750.00 still accruing at $250.00 per day.

268/270 Nature View Ct.- CE20-0597- Repeat, rental less than 7 days-24 violations= Certified Fine $12,075.00.

1661 Estero – CE19-0026- Parking Lot = $123,800.00 still accruing at $200.00 per day.

Fort Myers Beach Management & Planning Session

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Thursday, January 13, 2022** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. FDOT Foot of the Bridge Update

FDOT Presentation on the Foot of Matanzas Pass Bridge

Victoria Peters, Community Liaison from the Florida Department of Transportation (FDOT), introduced Chris Speece. Project Manager Speece stated that a public hearing was scheduled for the bridge project on February 3, 2022 at Chapel by the Sea. He utilized PowerPoint for his presentation. Slides included: Project Limits, Project Goals and Preferred Alternative. He stated that, due to timing, FDOT could not move forward without the PD&E being completed and the public hearing. They were waiting for a corrosion analysis from the state to determine whether they could include a cantilever to provide access for pedestrian traffic on both sides of the bridge. They would not know the corrosion analysis results until after the public hearing. They were told they could only present what they knew they could put forward at the hearing. If they determine they can add the cantilever, they will bring back the findings. Council Member Veach stated that bicycles would end up weaving in and out of traffic. Vice Mayor Hosafros questioned why they did not design a four-foot lane on both sides rather than one lane at eight feet. Project Manager Speece replied that a four-foot lane was not enough room to navigate safely. Council Member Veach stated that the alternating light and the guard rail were premised on having two lanes of continuous traffic. Project Manager Speece continued with the presentation. Slides included: Preferred Alternative - South Carlos Blvd. at Main St. Intersection: Main St. to Hurricane Bay Bride, Hurricane

Bay Bridge and Seafarers Alternative. Council Member Allers questioned the status of the second right-hand turn lane in front of Winds. Town Manager Hernstadt replied that the town controlled the right-of-way, but they had not pursued the idea. Project Manager Speece remarked that adding the right-of-way would delay the project. Mayor Murphy felt they should look into it even if it delayed the project. Project Manager Speece stated he would take it back to the designer. Slides continued with The Preferred Alternative Evaluation Matrix, Project Schedule, Project Schedule and Funding and Project Contacts. Council Members discussed keeping the alternating light, or the option, even with two lanes. Council Member Atterholt brought up crosswalks at the base of the bridge and hoped they would keep a pedestrian overpass in mind or at least guardrails to channel pedestrians to the crosswalks. Vice Mayor Hosafros stated that they have asked for guardrails over the past eight years. Project Manager Speece commented that he would take it back to the designer.

B. Lee County Update

An update of Lee County projects on Fort Myers Beach

Rob Phelan from the Lee County Department of Transportation (LDOT) notedthat he sent an update and the project was nearly complete. He stated the final lift of asphalt was scheduled for the end of February. Mayor Murphy thanked ChrisTel Construction Manager Darin Brown for his hard work over the past seven years. Mr. Phelan indicated that he sent an update to the town regarding green bike lane markings and they would evaluate areas with potential conflicts. He stated the existing RRFBs (Rectangular Rapid Flashing Beacons) would be reinstalled and the plan was to add another set at the south end as part of the Big Carlos Pass project. Mr. Phelan commented that they were out to bid for the signal at Crescent St. and bids were due by the end ofthe month.

C. Discussion of Council Policy Relating to Code Enforcement Liens, Beach Activities, and Bicycle Safety

Discussion of Council Policy Relating to Code Enforcement Liens, Beach Activities, and Bicycle Safety

Town Manager Hernstadt reported there were some cases with large liens and the property owners were not cooperating with the Town to resolve their violations. He noted they created guidelines for qualifying cases, which were included in their information packet. Town Attorney Herin, Jr. discussed the current code and indicated that they could change the criteria with a modified ordinance, which would require two public hearings. He described the current Special Magistrate process. Council Member Allers commented that a violator could pay their accrued fees without correcting the violation. Town Attorney Herin, Jr. replied that daily fees would continue to accrue if the property owner paid the fines without coming into compliance. Vice Mayor Hosafros expressed the same concern. Town Attorney Herin, Jr.

shared the circumstances and results of two different situations. He felt that the current language in the code provided enough flexibility. Vice Mayor Hosafros suggested that Town Attorney Herin, Jr. provide a list of violators during Attorney's Items at Town Council meetings. Town Attorney Herin, Jr. agreed but recommended using a six-month benchmark. Council Member Veach and Vice Mayor Hosafros preferred to be notified of property owners out of compliance over 90 days. Vice Mayor Hosafros suggested providing a list of violators over 90 days and another six months. Town Attorney Herin, Jr. agreed to provide.

Town Manager Hernstadt provided draft language requiring rental companies and other businesses to add lights and audible devices on bicycles. Council Member Allers supported requiring rental companies, short-term rentals and hotels to install bells and lights on bikes. Town Manager Hernstadt noted that the town sold lights and bells at cost. He added that some rental companies indicated they did not have to provide bells or lights because renters signed agreements that stated they would not ride after dusk. Consensus was reached to add additional language to the ordinance.

Town Manager Hernstadt reviewed the history of the current ordinance. He questioned whether they wanted to give property owners of existing qualified properties the right to perform one or more of the activities. Vice Mayor Hosafros questioned limiting dormant licenses. Council Member Veach stated that he discovered only one inactive license and they were working with the property owner. He thought that most businesses were satisfied with the current setup. He would limit how long a permit could be inactive and create a lottery system when licenses become active rather than first come first serve. Council Member Allers questioned whether they could modify the ordinance to allow property owners to apply for a license if they wanted to self-perform. Town Attorney Herin, Jr. stated they would have to develop criteria or make it random. The current process awards the same people licenses at their current locations. Council Member Allers questioned how they would handle other people applying for the licenses. Town Manager Hernstadt replied that they did not look at that because it had not happened in years. Council Member Atterholt questioned whether there was a barrier to prevent a new resort from obtaining a license. Town Attorney Herin, Jr. stated that resorts could apply for a license to self-perform as long as they met the criteria. He commented that they capped the grandfathered numbers. Vice Mayor Hosafros stated that they intended to have an upper limit on the number of operators on the beach and she was opposed to raising the number. The ordinance capped licenses at 11. Council Member Veach did not support raising the cap. Council Member Allers supported a system that would allow resort owners to self-perform. Vice Mayor Hosafros agreed as long as they did not lift the cap. Council Member Veach questioned whether they could create another category for resorts.

Town Attorney Herin, Jr. replied that the cap would increase unless there were unused licenses. Town Manager Hernstadt stated that if a property wanted to self-perform, they would have to sign an agreement with an existing license holder. Council Member Veach suggested they get rid of inactive permit holders entirely.

Council Member Atterholt questioned whether each license holder was limited to one location. Town Manager Hernstadt replied that some had multiple locations. He noted there was a limit on the permit holders and a 500 foot limit on the distance. Vice Mayor Hosafros supported removing a license after two years of inactivity. Town Attorney Herin, Jr. stated that the entire code should be read in context because the number of licenses was already capped. He reviewed the section regarding inactive licenses and suggested they modify it and prohibit inactive licenses.

Mayor Murphy suggested that Town Attorney Herin, Jr. provide suggested language regarding inactive licenses. Town Attorney Herin, Jr. distributed copies of specific code sections for discussion. He commented that he wouldbring back draft language.

D. Discussion of Tree Protection and Removal Policy

Discussion of Tree Protection and Removal Policy

Vice Mayor Hosafros discussed the lack of trees and noted the Comprehensive Plan called for shade trees. Council Member Veach agreed. Vice Mayor Hosafros supported the bulleted items from the January 13 M&P agenda and ideas from other communities. She did not support requiring irrigation.

Town Manager Hernstadt noted they did not have a way to prevent people from clearing their lots. He suggested a free tree inspection process to allow the town to tag trees to prevent removal before lots were cleared. He commented that it was a short-term fix but would give them time to develop a broader policy. Vice Mayor Hosafros indicated that Marco Island's code contained good ideas. Town Attorney Herin, Jr. referred to page 18 in their packet concerning their immediate needs and he will bring back language to address a long-term solution.

Vice Mayor Hosafros stated the tree giveaway was January 21, 2022, from 9:00-noon at Bay Oaks. All Council Members agreed that condominium owners were allowed to take trees.

E. American Rescue Plan Act

American Rescue Plan Act

Town Manager Hernstadt provided a list of ideas regarding how the funds could be used. He noted that water and stormwater projects were eligible,but other items on the list also met the criteria. Vice Mayor Hosafros supported using part of the funds for water for the three projects and the remainder for water and stormwater. Council Member Atterholt agreed.

Council Member Allers supported using a portion for non-profits. Council Member Atterholt explained why using the funds on water projects and stormwater was prudent. Council Member Veach and Mayor Murphy agreed. Council Member Allers brought up considering broadband services. Council Member Atterholt was not opposed. Town Manager Hernstadt stated that the funds would be paid out in two installments and he would move forward with their guidelines for the first installment. They would revisit distribution when the second installment wasreceived.

IV. AGENDA MANAGEMENT

A. January 2022

Add discussion to research a right-hand turn lane in front of Winds.

Add tree ordinance.

V. ADJOURNMENT

Mayor Murphy adjourned the meeting at 1:06 p.m.

Minutes adopted, January 24, 2022; Motion by Council Member Allers and seconded by Council Member Veach. Adopted 5-0.

Amy Baker, Town Clerk

Fort Myers Beach Town Council

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Monday, January 24, 2022** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member Veach moved to approve the final agenda; second by Vice Mayor Hosafros.
Motion carried unanimously.

V. PUBLIC COMMENT

Kathy Light, resident, commented regarding the acquisition of the property on Tropical Shores and Chapel St. She was concerned because Resolution 22-04 gave the Town the right to do whatever it wanted with the property and not necessarily for the upland service facility.
Jay Light, resident, explained that the Town did not have to go through the regular variance process like other property owners. He noted the lot on Chapel St. was zoned residential. He commented that the "whereas" and "other appropriate uses" clauses in the resolution terrified him. He discussed how moving the trash transfer station behind the building affected property owners on Chapel St. He asked the Town to be cautious with the property and noted some neighbors would be negatively affected.

Chris Mosteiro, resident, discussed drainage issues on 3rd St. He stated that he had not received a solution regarding the flooding on the street and said it was worse than ever. He stated that if the Town could not get an easement to install drains, they should at least fix the road to remove the water.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Hosafros thanked everyone who participated in the free tree event on Friday, January 21, 2022. She noted it was well organized and they gave out more trees than expected.

Council Member Veach commended MRTF (Marine Resources Task Force) for their beach walk with FWC (Fish & Wildlife Conservation Commission) and everyone who participated in the tree event.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

A. Bay Oaks Recreational Campus Advisory Board (BORCAB)

BORCAB Member Bruce Butcher reported that the cupcakes at the Towns birthday party was a success. He noted that the committee had met Chris Bornfleth, the new Campus Manager for Bay Oaks. He indicated that they had to address the labor shortage at Bay Oaks. He commented that BORCAB was pleased with the Town Manager's report regarding the sequence of development for the project. He noted the addition of a bike repair station at the new entrance of Bay Oaks had a lot of support along with shade trees and hydration stations around the campus.

He noted that the Friends of Bay Oaks has been re-established and received $1,700 from the Putt and Pub Crawl event.

Town Manager Hernstadt discussed the timeline of the project and stated it should start sometime in May.

VIII. APPROVAL OF MINUTES

A. January 10, 2022 Town Council meeting

Council Member Allers moved to approve the minutes; second by Council Member Veach.

Motion carried unanimously.

B. January 13, 2022 Management & Planning Session

Council Member Allers moved to approve the minutes; second by Council Member Veach.

Motion carried unanimously.

IX. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Mayor Murphy.
Motion carried unanimously.

A. RFP-18-20-PW; Miscellaneous Supplies Final Renewal

Authorize the Town Manager to exercise the last renewal in the Professional Services Agreement for On-going Uniform, Mats and Miscellaneous Janitorial Supplies with UniFirst for one year as allowed in the original contract.

Vice Mayor Hosafros moved to approve authorization; second by Mayor Murphy.
Motion carried unanimously.

X. PUBLIC HEARINGS

A. Ordinance 22-03; Bicycle and Vehicle Safety Amendments

First Reading and Public Hearing: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III "BEACH BICYCLE AND VEHICLE SAFETY OF CHAPTER 28 "TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, REQUIRING SAFETY EQUIPMENT ON ALL RENTAL OR LOANED BICYCLES OPERATED WITHIN THE TOWN'S JURISDICTION AS REQUIRED BY STATE LAW; AND PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on February 7, 2022 at 9:00 AM

Mayor Murphy read the title of the ordinance.
Public comment:
Bruce Butcher, resident, was very excited regarding the ordinance. He described the importance of bells and lights, especially around construction areas.
Jay Light, resident, suggested that sheriff deputies get out of their vehicles and walk around the town to be more visible to people.
Public comment closed.
Council Member Allers noted that John Goggin, former Chair of the PSC (Public Safety Committee) suggested that they add language regarding a speed limit on the sidewalk and create a list of appropriate Town ordinances to give to all rental agencies.
Mayor Murphy brought up riding bicycles on sidewalks. Council Member Veach indicated that bicyclists had to follow the same rules as pedestrians.
Acting Town Attorney Victor Sanabria stated that bicycles had to follow the rules of the road when riding on roads and he would research rules for riding on sidewalks. He added that including a speed limit on sidewalks might be hard to enforce, but he would research the issue.

Council Member Allers questioned wording that made bicycle renters liable for not using bells or lights. Attorney Sanabria explained that the ordinance put the responsibility on the owners to equip the bicycle, but users who refused to use the devices were responsible for their behavior. Vice Mayor Hosafros felt they had to add language after the word compliance to be more precise. Town Manager Hernstadt suggested adding "compliance with 28-81."
Vice Mayor Hosafros was more concerned regarding the lack of helmets.

Council Member Allers moved to continue Ordinance 22-03 to the second reading on February 7, 2022, at 9:00 a.m.; second by Vice Mayor Hosafros.
Motion carried unanimously.

XI. ADMINISTRATIVE AGENDA

A. Special Event: 64th Annual Shrimp Festival

Approval for the 64th Annual Shrimp Festival

Town Manager Hernstadt noted the application was in their packet. Lion's Club members Yelle and McCarthy introduced themselves and indicated they were glad to be back. The only difference this year was the addition of a couple of community groups. Lion Club member McCarthy described the event and stated that details were on their website.

Vice Mayor Hosafros moved to approve the special events permit for the 64th Annual Shrimp Festival; second by Council Member Allers.
Motion carried unanimously.

B. STA #13: Construction of Mooring Field Expansion

Approve Supplemental Task Authorization #13 with Coastal Engineering Consultant's Inc., in the not to exceed amount of $29,450 for Professional Engineering Services for the Mooring Field Expansion Construction, which includes construction plans and specifications, bidding assistance, construction management services and coordination, and authorizing the Town Manager to execute the Supplemental Task Authorization and expend budgeted funds.

Vice Mayor Hosafros moved to approve authorization; second by Council Member Veach.
Motion carried unanimously.

C. Execute CVA Grant for Pump Out Boat Procurement

Approve Resolution 22-02 authorizing the Town Manager to execute the Clean Vessel Act grant agreement and the purchase of a new pump-out boat from Pumpout USA in an amount not to exceed $159,100.00, utilizing the trade-in value of the existing boat as grant match and authorizing the Town Manager to execute contract documents.

Council Member Veach moved to approve the resolution; second by Vice Mayor Hosafros.
Motion carried unanimously.

D. Resolution 22-04; Land Acquisition

Approve Resolution 22-04, Authorizing the execution of a purchase and sale agreement between Gordon Zeng and the Town for the purchase of 2 parcels of land adjacent to Town Hall, appropriating and allocating funds for the purchase, and authorizing the Mayor, Town Manager and Town Attorney to take all necessary steps to close the Town's purchase of the property described as folio #'s 10227569 and 10574347.

Vice Mayor Hosafros moved to approve Resolution 22-04 for discussion; second by Mayor Murphy.

Vice Mayor Hosafros stated that the resolution did not give the Town power to change the official use of a property. Attorney Sanabria agreed. Vice Mayor Hosafros added that she thought the location would be good for the Town. Town Manager Hernstadt noted that the Town would apply for an FWC grant and any other eligible grants. Town Manager Hernstadt explained that the Town has a $400,000.00 contingency, $300,000.00 in transitionary funds and approximately a $3 million in renewal replacement fund. He believed that replacement items could be stretched out to six months without hurting the Town and $300,000.00 could be used from the fund. He added that the Town would not be able to fund any new initiatives for the remainder of the fiscal year.
Mayor Murphy questioned whether the Town would have to go through the same process that other developments went through. Town Manager Hernstadt replied affirmatively and used Bayside Park as an example.
Council Member Atterholt questioned whether the Mooring Field was a break-even proposition. Town Manager Hernstadt replied that it was when occupancy was up. He discussed upgrading amenities to bring more patrons to the mooring field and indicated that the goal was to break even.
Mayor Murphy stated that the purchase price of $1 million had been negotiated by Public Works Director Chelsea O'Riley under the supervision of Town Manager Hernstadt, and the Town saved a substantial amount of money on the purchase because of her negotiation.

Motion carried unanimously.

E. Resolution 22-03; American Rescue Plan Act funds priorities/uses

Approval of Resolution establishing the Town's prioritization of ARPA funds for: any loss of general fund revenues due to the impacts of COVID-19, water and stormwater exclusively at Bay Oaks Recreational Campus, Times Square and Bayside Park, and Town wide Water projects.

Vice Mayor Hosafros moved to approve Resolution 22-03; second by Council Member Atterholt.

Council Member Atterholt read the last "whereas" on packet page 133 and questioned whether town-wide water projects included drinking water but not stormwater projects. Town Manager Hernstadt noted they could add potable water to distinguish. Council Member Veach questioned whether they should include the new parcel in the resolution. Town Manager Hernstadt replied that if it became an issue, they could amend the resolution. Council Member Allers suggested they keep their minds open regarding other priorities. Town Manager Hernstadt replied that they could add items after water. Council Member Allers brought up upgrading broadband capabilities.

Motion carried unanimously.

F. Control Solutions Variable Frequency Drives for Moss Marina Station pumps including installation and training.

Authorize the Town Manager to approve the purchase of potable water pump control systems VFD (variable frequency drives) for the pumps located at Moss Marina pump station.

Council Member Veach moved to authorize; second by Vice Mayor Hosafros. Motion carried unanimously.

G. Vehicle Purchase: 2022 Ford Transit

Authorize the Town Manager to approve the Utilities Department to purchase a 2022 Ford Transit from Step One Automotive Group, Ford Crestview, as per state contract 25-0000-21-STC for $29,512.00.

Council Member Allers moved to authorize; second by Vice Mayor Hosafros. Motion carried unanimously.

XII. FINAL PUBLIC COMMENT

No public comment.

XIII. TOWN MANAGER'S ITEMS

Town Manager Hernstadt reported that the Town has been researching the addition of charging stations for electric vehicles. Equipment could be purchased and the Town could sell the electricity or work with FP&L to install stations at FP&L's cost at Town locations and FP&L would sell electricity. The town received an agreement to create four spots in high-density locations. He identified potential spaces on Center St. Vice Mayor Hosafros commented that FP&L would use the Town's property but the Town would get nothing for it. Town Manager Hernstadt replied that they we would be providing an amenity for the public. He added that charging spaces cost approximately $50,000.00. Vice Mayor Hosafros received support to add it to an M&P session.

Town Manager Hernstadt discussed the drainage issues on 3rd St. and the lack of easements. They were bringing in a second engineer to review the situation and provide recommendations. Utilities Director Christy Cory indicated she had been looking at the issues on 3rd St. and communicating with the residents. She stated residents on Harbor St. refused to allow the Town to install an outfall. They reached out to Moss Marina regarding connecting to their system. Moss Marina suggested the Town build them a pier, a seawall and other items. Director Cory stated that they were not able to connect to the Old San Carlos drainage system either. Town Manager Hernstadt guessed that what Moss Marina wanted would cost the town approximately $500,000.00.

Vice Mayor Hosafros brought up introducing eminent domain in negotiations with property owners. Council Member Allers questioned why the engineering firm was not responsible for fixing the problem. Town Manager Hernstadt replied that they needed an engineer to identify what the engineering firm did wrong before trying to recoup the money. He stated that the bottom line was that they would take care of the drainage problem.

XIV. TOWN ATTORNEY'S ITEMS

A. Special Magistrate Compliance Report

Attorney Sanabria stated the list contained 14 code enforcement liens and the orders were final. He noted there were two options: foreclosing on the liens or filing an injunction to force the property owners to bring properties into compliance. He indicated the first step was to run a title search on each property before evaluating which option was more appropriate. He explained the foreclosure process and stated the mortgage holder was paid first along with any other lien holders. If there was any money left, the Town could get paid. If the property was unencumbered, the Town would be in a better position to recoup funds. With injunctive relief, the court would issue an order compelling them to bring their property into compliance. If the property owner refused, they would be in violation of a court order and the court would sanction them.

Town Manager Hernstadt noted that title searches involved a cost and they needed some guideline thresholds. Council Member Veach supported taking the next steps. Council Member Atterholt questioned what other communities were doing to address the problem. Attorney Sanabria replied that the goal

was to bring properties into compliance and there were different ways to do that. He explained that a foreclosure action did not mean that they had to foreclose on the property. Council Member Atterholt questioned why nothing was done with the liens before now. Town Manager Hernstadt replied that attempts have been made to work things out with property owners first, but the list contained property owners who were not working in good faith. Council Member Atterholt questioned the best practices utilized by others.

Attorney Sanabria responded that every municipality was different, but usually, code enforcement worked with the property owner to bring them into compliance even after the lien was approved. If the property owners refused to cooperate, most took enforcement action. Town Manager Hernstadt reported that some of the property owners on the list were making money off their violations.

Vice Mayor Hosafros noted the list of 14 included five different properties. Consensus was reached to move forward with title searches. Mayor Murphy described the Nature View Court violations and suggested they start with them to provide some relief to the neighborhood. Council Member Veach disagreed and felt they should approach it objectively. He brought up short-term rental owners who did work on their property without a permit. He questioned potential harm to renters. He suggested they come up with a process to treat everything equally and research what other communities did.

Council Member Allers questioned whether they could involve the fire department concerning unsafe structures. Town Manager Hernstadt will check with the fire department. Attorney Sanabria stated the town did not know that they were unsafe because they were not inspected. He agreed that if there was a known issue, the fire department could get involved.

Mayor Murphy stated his opinion regarding Nature View Court was based on repeated calls from that neighborhood and site visits.

XV. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Atterholt referred to an email sent to everyone from condos at the south end regarding sidewalks. The email sender suggested they advertise beach accesses in the area. Vice Mayor Hosafros responded to the email sender to inform him that the beach access in question did not belong to the public. Town Manager Hernstadt stated that staff would take a look at the area.

Vice Mayor Hosafros researched affordable housing and noted that Sanibel's CHR (Community Housing & Resources) was created in 1979 and currently has 74 rental units in 11 locations, including a 12-unit complex designated for seniors.

Council Member Veach added that it was part of state law that they have a housing element in their comprehensive plan.

No items from other members.

XVI. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn the meeting; second by Council Member Veach.
Motion carried unanimously.

The meeting was adjourned at 11:13 a.m.

Minutes adopted, February 7, 2022; Motion by Council Member Allers and seconded by Vice Mayor Hosafros. Adopted 5-0.

Amy Baker, Town Clerk

Top Liens

1. 80 Ave E – CE14-0394, SWO – Work Without a Permit Bld A - $514.150.00 still accruing at $250.00 per day

2. 80 Ave E – CE15-0167, Unsafe Structure- Bld B - $514,150.00 still accruing at $250.00 per day.

3. 80 Ave E – CE17-0065, Work Without a Permit - Certified Fine $500.00.

4. 1028 Estero – CE18-0234, Beach Chair Rental Without a Permit - Certified Fine $117,750.00.

5. 1028 Estero – CE20-0018, Beach Chair Rental Without a permit - Certified Fine Totaled $9,575.00.

6. 1046 Estero – CE17-0659, Portable Sign Off Premises - $242,625.00 still accruing at $200.00 per day.

7. 1046 Estero – CE17-0707, Operating Unapproved Parking Lot - Certified Fine $80,050.00.

8. 1046 Estero – CE18-0235, Beach Chair Rental Without a Permit - Certified Fine $11,750.00.

9. 1046 Estero – CE18-0446, Dumpster Not Screened - Certified Fine $ 207,250.00.

10. 1046 Estero – CE20-0017, Beach Chair Rental Without a Permit -$ 76,825.00 Still accruing at $250.00 per day.

11. 268/270 Nature View Ct – CE18-0700, Work Without a Permit/Remodel After Fire - $154,750.00 still accruing at $250.00 per day.

12. 268/270 Nature View Ct. – CE18-0724, Work Without a Permit/Roof - $154,750.00 still accruing at $250.00 per day.

13. 268/270 Nature View Ct. – CE20-0597, Repeat, Rental Less than 7 Days (24 violations) - Certified Fine $12,075.00.

14. 1661 Estero – CE19-0026, Operating Unapproved Parking Lot - $123,800.00 still accruing at $200.00 per day.

Fort Myers Beach Management & Planning Session

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Thursday, April 7, 2022** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Beach Renourishment Update

Update on the beach renourishment project

Environmental Project Manager Chadd Chustz utilized PowerPoint for his presentation. Slides included: Erosion Control Line vs. Critically Eroded; Erosion Control Line or ECL; Critically Eroded Designation and Construction Budget by Reach. Discussion was held regarding the cost of the project.

Town Attorney Herin, Jr. addressed the requests from the Attorney representing Island Winds and noted the town had been seeking public input and there would be additional opportunities for public comments. The Association mentioned hiring an independent engineer to assess the town's shore protection project and JCP (Joint Coastal Permit) implications.

Town Attorney Herin, Jr. remarked that was standard practice and could take years to go through the state process. He stated there would be multiple opportunities for the public to have input into the JCP process. He indicated that the process to determine critically eroded beaches had already been done and did not affect the JCP. Mayor Murphy discussed educational opportunities for property owners and encouraged future input.

B. Structural Inspections

A discussion on multi-story/condominium structural inspections as requested by Town Council.

Town Manager Hernstadt noted that the state did not pass legislation regarding inspecting buildings. Mayor Murphy questioned whether the town was equipped to inspect buildings and whether the fire department could provide an opinion. Vice Mayor Hosafros did not think it would be difficult to require inspections after a building was a certain age. Town Attorney Herin, Jr. agreed that it did not have to be a complex process and noted that Miami-Dade and Broward counties created provisions for a 40-year recertification process. He offered to provide copies of the documents. Council Member Allers questioned whether condominiums inspected their buildings. Mayor Murphy felt the associations were waiting for a decision from the state or town. He supported obtaining copies from Miami-Dade and Broward for discussion at a future M&P. Consensus was reached to obtain documents and add the topic to an M&P.

C. Code Enforcement Philosophies

A discussion of the Code Enforcement Philosophies as requested by Town Council.

Council Member Veach indicated that most code enforcement was complaint-driven except for public safety and environmental issues. He shared his experience with trucks parked on sidewalks and bicycle lanes on Estero Blvd. for a couple of weeks during season. He noted that bicycles were blocked and had to enter the traffic lane. After he called code enforcement, the problem was taken care of within 15 minutes. He questioned finding a middle ground between a complaint-driven system and proactively driving around town issuing citations.

Mayor Murphy stated that there was a problem with landscapers using the center lane for parking their vehicles while servicing lawns. He agreed that staff should have more leeway with enforcing obvious code violations.

Vice Mayor Hosafros stated that it was up to the Sheriff's Department to address violators who parked in the center lane since Estero Blvd. was county-owned.

Council Member Allers indicated that public safety or environmental issues should be addressed by town staff immediately. He felt it was a common-sense issue. Town Manager Hernstadt commented that construction companies could obtain a permit from the town to park on town streets safely.

Council Member Veach brought up enforcing short-term rental rules and noted it was difficult to get the evidence to make charges stick. He suggested requiring short-term rental registration numbers on signs and indicating whether they were weekly or monthly rentals. He brought up requiring owners to use a town calendar for reservations so they could be tracked for compliance. He noted that the town was not enforcing violations by jet ski vendors.

Council Member Allers reiterated that staff should be able to address common sense issues affecting public health or the environment without a complaint. He cited porta-potties on the sidewalks and parking in the center lane as common sense issues.

Vice Mayor Hosafros indicated that since the state no longer allowed anonymous complaints, some people would hesitate to call in complaints because of potential retribution. She suggested that code enforcement could call the Sheriff's Office to report issues like vehicles in the center lane of Estero Blvd.

Town Manager Hernstadt stated that code enforcement emphasized public and environmental safety and irrevocable violations. Council Member Atterholt brought up educating the community concerning ordinances and did not think the town should depend on fines as a source of revenue. He felt they needed to be more specific and provide more guidance and education. He agreed with a common sense approach unless public safety or environmental issues were involved. Council Member Veach agreed with education before issuing citations.

Mayor Murphy stated that fines were not a profit center but a deterrent for violators.

Town Manager Hernstadt discussed property owners who profited from violating codes. He stated that codes were put in place because they served a purpose. Mayor Murphy added that the codes and ordinances put in place had improved the quality of life on the beach.

Town Attorney Herin, Jr. explained the code enforcement timeline from a warning to a hearing with the Special Magistrate before entering a lien on properties. He stated that by the time a lien was ordered, the property owner generally had three to four months to bring the property into compliance.

Community Services Administrator Daphnie Saunders stated there were approximately 25 liens.

Town Attorney Herin, Jr. produced a list of liens with significant fines that continued to accrue. He identified all but two properties that were unencumbered by other liens so the town would have priority. He explained the foreclosure process and injunctive relief.

Consensus was reached to add the topic to the next regular Town Council meeting agenda.

IV. AGENDA MANAGEMENT

A. April 2022

Council Member Atterholt noted there was a conflict between their M&P session and the TDC meeting in December. Consensus was reached to change the date of the M&P meeting to Wednesday, December 7, 2022.

V. ADJOURNMENT

Mayor Murphy adjourned the meeting at 11:22 a.m.
The meeting was adjourned at 1:05 p.m.

Minutes adopted as presented, April 18, 2022; Motion by Vice Mayor Hosafros seconded by Council Member Allers. Adopted 5-0.

Amy Baker, Town Clerk

Fort Myers Beach Town Council

Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931

Minutes **Monday, April 18, 2022** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Murphy, Vice Mayor Hosafros, Council Member Allers, Council Member Atterholt and Council Member Veach.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Mayor Murphy questioned pulling Ordinance 22-09 from the agenda and rewriting it since TPI decided not to self-perform. Town Attorney Herin, Jr. suggested that the ordinance be redone and workshopped before funneling it through the LPA (Local Planning Agency) and MRTF (Marine Resources Task Force) for their review. The ordinance would then be brought back to Council for a first and second public hearing. Council Member Veach supported leaving it on the agenda for discussion and deciding whether the ordinance needed a rewrite or just a modification.

Vice Mayor Hosafros moved to approve the final agenda and delete Ordinance 22-09 from the agenda; second by Mayor Murphy.
Council Members Veach and Allers disagreed and wanted to keep it on the agenda for discussion and continue it to a later date. Town Attorney Herin, Jr. cautioned that if there were significant changes to the scope of Ordinance 22-09, the process would have to start from scratch.
Motion failed, 3-2, with Council Members Allers, Atterholt and Veach dissenting.

Council Member Veach moved to approve the final agenda; second by Council Member Atterholt.
Motion carried unanimously.

Council Member Allers stated he would submit form 8B to the Town Clerk to abstain from Public Hearings Item A: Ordinance 22-06 Tuckaway Café CPD Amendment.

V. PUBLIC COMMENT

Richard Sabina, resident, commented on the beach renourishment plan and indicated he did not want to relinquish control of their beach. He felt they would lose control if the FDEP (Florida Department of Environmental Protection) classified their beach as critically eroded. He stated that the area between R-200 and R-203 was an accreting beach and did not need additional sand. He discussed why he did not support creating dunes with plants.

Dave Nusbaum, resident and President of Island Winds Condominium discussed the cost and availability of the new tinted windows. He noted that MRTF recommended a one-year moratorium, but it was an unreasonable timeframe, and he requested a minimum five-year moratorium. Mr. Nusbaum stated that Environmental Project Manager Chadd Chustz spoke at a condominium association meeting and indicated that condominiums could opt out of beach renourishment and dune plantings. Project Manager Chustz added that the associations would have to approach the Town Council regarding written approval.

Glen Harris with Alair Homes, builder of the home on Randy Lane, requested that proposed Ordinance 22-05 be delayed for further discussion. He displayed an illustration of a 7,500 footprint and discussed how the proposed ordinance would have affected the Randy Lane home. He commented that he had four clients who had or would be affected by the proposed ordinance.

Mike Miller, resident, commented that they purchased a vacant lot next to their home to expand their house. He discussed how the setback changes and limited footprint ordinance cost him money. He requested that they vote no on the ordinance.

Bruce Butcher, resident, represented the Laguna Shores homeowner association. He presented a petition with over 50% of homeowners' signatures agreeing to pay 50% of the dredging costs.

Attorney Beverly Grady requested a workshop for beach vendors and those proposed ordinances be ready for distribution earlier.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Vice Mayor Hosafros thanked the Beach Ministerial Association for their efforts in coordinating the Easter sunrise service.

Council Member Allers thanked Cultural, Parks & Recreation Director Alison Giesen and staff for hosting an Easter egg hunt at Bay Oaks on Saturday.

Mayor Murphy thanked Council Member Allers for dressing up as a easter bunny at the Bay Oaks Easter egg hunt.

No items from other members.

VII. ADVISORY COMMITTEES ITEMS AND REPORTS

MRTF Chair Steve Johnson reported on recommendations from their recent meeting including providing additional staff to enforce compliance with the sea turtle lighting ordinance, placing a one-year moratorium on the 15% window tint requirement and temporarily allowing the 45% tint with the caveat that the town will enforce the sea turtle ordinance. MRTF objected to the use of broadcast herbicides in the EC (Environmentally Critical) zone; however, FWC (Fish & Wildlife Conservation) will broadcast Imazapyr on Carlos Beach. MRTF questioned whether signs would be installed warning beachgoers about the use of the herbicide. Council Member Veach expanded on the use of Imazapyr.

VIII. APPROVAL OF MINUTES

A. April 4, 2022 Town Council

Vice Mayor Hosafros moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.

B. April 7, 2022 Management & Planning

Vice Mayor Hosafros moved to approve the minutes; second by Council Member Allers.
Motion carried unanimously.

IX. PRESENTATIONS

A. Presentation: Marcus Goodson, Executive Director, Lee County Housing Authority

Mr. Goodson reviewed his background and experience in Fort Myers and Puerto Rico. He discussed the lack of affordable housing in Lee County. He noted that a housing unit was considered affordable if gross rent plus utilities cost no more than 30% of household income. He continued presenting statistics and reported that rent prices increased by 30% in the last year, while the average increase was typically between 2-3%. He noted that HUD (Department of Housing and Urban Development) did not distinguish between affordable and workforce housing. Mr. Goodson described available funds from Lee County and tax credits. He applauded the Town Council for having the conversation and stated he would help move the project forward. Vice Mayor Hosafros expressed her disappointment with Lee County for backing out of a deal to construct an affordable housing complex. She described another situation where Lee County made it difficult to build affordable housing by charging high permitting fees to a non-profit organization. She suggested that Lee County lower the fees or eliminate them for non-profits. She felt the lack of affordable housing was one of the biggest problems the county and the town faced. Mr. Goodson explained that in the instance, the developer decided to default and paid to return the money to Lee County. Those funds were used to finance an affordable housing project in Cape Coral.

B. Discussion of Roadway Safety Lighting

Town Lighting Engineers and Florida Power & Light will be available for questions.

Town Manager Hernstadt commented that responses to questions posed by Town Council Members to FP&L (Florida Power & Light) and the lighting consultants were distributed via email. He indicated that Lee County did not commit to lighting Estero Blvd. and offered to consider turning funds over to the town.

Council Member Atterholt noted that if FP&L approved the Visionnaire light, it would cost the town approximately $1,482,000.00 under the tariff program.

Since Lee County pledged $1,400,000.00 for lighting Estero Blvd., it would offset costs for the town.

Joe Hancock from Town Lighting stated the tariff was state-funded and was not an incentive program to upgrade lights. He explained the tariff program and said that costs were fully contained and not subsidized. He noted the initial cost for Estero Blvd. would be $1.8 million.

Vice Mayor Hosafros suggested they focus on lighting Estero Blvd. and work it into next year's budget. Council Member Allers disagreed and stated they had to look at lighting the entire island.

Suzanne Lansford from Town Lighting provided lighting costs. Zachary Jarrell from FP&L explained the town's current bill. He stated the Visionnaire fixture was being tested and if it passed, it could be added to the FP&L catalog by October. The estimate for the fixtures was $25.00 per month. He indicated that FP&L did not own stock or manufacture fixtures. Mr. Hancock stated that the FDOT (Florida Department of Transportation) approved the Visionnaire fixture, and it was already in use.

Eric Culling from FP&L discussed the cost as reflected in the Visionnaire chart. Additional hardened in-line distribution poles would be a one-time upfront cost to the town, but poles dedicated to lighting would result in a monthly charge. The town would not pay the upfront capital for installing and purchasing the poles. He added there might be opportunities to avoid in-line distribution poles, but there was limited room in the right-of-way.

Council Member Veach indicated the estimated total monthly cost would increase from $4,600.00 to $9,500.00 for Estero Blvd. Including the side streets would increase the bill to $24,000.00 per month. Council Member Allers clarified that the Visionnaire fixture would cost approximately $1.5 million for Estero Blvd.

Eric Culling noted that if FP&L approved the Visionnaire fixtures in October, it would take 8-12 weeks to receive the fixtures, not 9 months. Council Member Allers questioned how the town would pay for the lights. Town Manager Hernstadt stated the money was not budgeted for the project and the Town Council would have to determine whether to consider a future tax increase.

X. CONSENT AGENDA

Vice Mayor Hosafros moved to approve the consent agenda; second by Council Member Veach.

Motion carried unanimously.

A. Resolution 22-13; Interlocal Agreement with Lee County regarding Hazardous Waste Enforcement

Adopt Resolution 22-13 approving an Interlocal Agreement with Lee County for Hazardous Waste Enforcement and authorizing the Town Manager to execute the ILA and expend budgeted funds on behalf of the Town.

Vice Mayor Hosafros moved to adopt the resolution; second by Council Member Veach.
Motion carried unanimously.

XI. PUBLIC HEARINGS

A. Ordinance 22-06; Tuckaway Cafe CPD Amendment

First Reading and Public Hearing for proposed Ordinance 22-06: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REPLACING TOWN OF FORT MYERS BEACH RESOLUTION NO. 12-07, AND AMENDING THE SCHEDULE OF USES FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 2301, 2307 & 2311 ESTERO BLVD. AND 111 & 121 MANGO ST., FORT MYERS BEACH; AMENDING THE MASTER CONCEPT PLAN FOR THE RESTAURANT USE(S); PROVIDING FOR REVISIONS TO CONDITIONS OF APPROVAL, AND OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the first public hearing and schedule for second reading and final adoption on May 2, 2022 at 9:00 AM

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. swore in those providing testimony. He stated the public hearing was properly advertised. Ex parte communications: All Council Members (except Council Member Allers) disclosed a site visit or familiarity with the site.

Community Development Planner Sarah Propst reviewed the request to allow beer brewing for consumption on-premises. She utilized PowerPoint to display slides, including Application/Request Information; Background Information; Request Information; Findings and Conclusions; Conditions and Deviations and Staff Recommendation. Staff recommended approval with conditions.

Vice Mayor Hosafros questioned whether the establishment's name should be changed in the ordinance to reflect the current name. Town Attorney Herin, Jr. replied that the correct name could be added. Vice Mayor Hosafros noted the number of conditions should be changed for clarity.

Tre Gillet, applicant, explained why he wanted to add a small brewing operation to his restaurant.

No public comment.

Council Member Veach moved to schedule for second reading and final adoption of Ordinance 22-06 to May 2, 2022, at 9:00 a.m.; second by Council Member Atterholt.
Motion carried unanimously.

B. Ordinance 22-05; Building Footprint Limits

Second Reading and Public Hearing for proposed Ordinance 22-05: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING ARTICLE III., DIVISION 3, SECTIONS 34-638 "MINIMUM SETBACKS", TABLE 34-3 "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS", AND TABLE 34-1 "LAND USES ASSIGNED TO USE GROUPS AND SUB-GROUPS" OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING FOR CODIFICATION, CONFLICTS, SCRIVENER'S ERRORS, SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly advertised.
Planner Propst utilized PowerPoint for her presentation. Slides included: Several Approaches were Evaluated; Proposed Solution; Since the LPA Meeting and Questions & Answers about the Proposed Change.
Council Member Atterholt questioned whether they could extend the effective date to protect property owners with pending projects. Planner Propst agreed it was a good idea. Town Attorney Herin, Jr. stated that Town Council could decide whenever the ordinance took effect.
Council Member Allers questioned how to determine the point of no return before property owners had to comply with the ordinance. Glen Harris, developer, explained that a client could spend thousands on architectural and engineering designs before submitting plans to the town. He indicated it could take a minimum of 8-12 weeks between designs and submitting an application for a permit. He stated that one design currently in the permitting process would be affected by the change. Council Member Atterholt questioned whether extending the effective date to six months after passage would address Mr. Harris's concerns. Mr. Harris replied affirmatively.
Town Attorney Herin, Jr. explained that a 60 to 90-day effective date after passage was typical. He stated that an application would have to be submitted within the 90-day period to be considered in the pipeline.
Applications submitted after the effective date were subject to the new regulations.
Public comment:
Carolyn Caney from Woodland Custom Homes commented that the 90-day extension after applying for a permit was no use to anyone.
Mike Miller, resident, commented that he did not have a complete set of blueprints yet to submit an application, although he had already spent thousands of dollars. He needed more time to complete the blueprints. He felt that a six-month extension would probably work for his team.

Town Attorney Herin, Jr. explained that extending the effective date to six months would allow more people to apply before being subject to the new regulations.
Nate Johnson of Potter Homes requested that the effective date be extended to six months.
Public comment closed.
Council Member Veach discussed why the ordinance was contemplated in the first place. He felt that six months was excessive and would consider a two to a three-month extension.
Town Manager Hernstadt requested a short break to discuss a possible solution. The request was granted.
Town Manager Hernstadt suggested that after a sketch was submitted, staff could calculate whether the intention was to exceed 7,500 feet. If the final plans reflected the survey, the application could move forward. Town Attorney Herin, Jr. suggested 30 days to submit the drawing and 60 days to submit and obtain a building permit. Vice Mayor Hosafros agreed with the compromise as proposed with the addition by Town Attorney Herin, Jr.
Council Member Allers suggested requiring the drawing to be submitted within 30 days and allowing property owners six months to submit their application for a permit. Director Green explained the application timeline and indicated a back-end deadline was difficult, especially with incomplete applications. Council Member Allers stated that if property owners submitted a sketch in the next 30 days, they would not have enough time to submit an application for a permit within six months anyway.
Vice Mayor Hosafros stated they were only limiting people to 7,500 square feet, which was almost 14,000 square feet of livable space. She discussed the adverse effects of building huge houses in neighborhoods. She supported the compromise proposed by Town Attorney Herin, Jr. Council Member Atterholt felt that only a few properties would qualify and six months was fair.
Director Green clarified that property owners should have done a substantial design by the time the sketch was submitted. If anything changed from the drawing, the application would be denied. He stated that most of the applications were returned because they were not complete, which delayed the process.
Mayor Murphy thought they could compromise between 90 days and 6 months.

Council Member Allers moved to approve, as amended, Ordinance 22-05 with a six-month time frame. 30 days to get the initial drawing as described to the town and the six-month timeframe to obtain a permit; second by Council Member Atterholt.
Motion carried 4-1 by roll call vote with Vice Mayor Hosafros dissenting.

Lunch break.

C. Ordinance 22-09; PWVL/PAL's

Second Reading and Public Hearing for Proposed Ordinance 22-09 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 27 "PERSONAL WATERCRAFT AND PARASAILING", SECTION 27-45 "DEFINITIONS"; SECTION 27-49 "REGULATIONS AND LOCATIONS FOR PERSONAL WATERCRAFT RENTALS"; SECTION 27-52 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE APPLICATIONS AND REGULATORY FEES"; SECTION 27-53 "PERSONAL WATERCRAFT VENDOR LICENSE AND PARASAILING ACTIVITY LICENSE RENEWALS"; SECTION 27-55 "TRANSFERABILITY OF PWVL AND PAL LICENSES" OF THE CODE OF ORDINANCES, TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DEFINITIONS; AMENDING OPERATIONAL REQUIREMENTS AND LICENSE RENEWAL REQUIREMENTS; PROVIDING A LIMITED EXEMPTION TO THE CAP ON THE NUMBER OF ANNUAL LICENSES; PROVIDING THAT PERSONAL WATERCRAFT VENDOR LICENSES AND PARASAILING ACTIVITY LICENSE THAT ARE NOT ANNUALLY RENEWED OR ARE INACTIVE FOR ONE-YEAR OR MORE SHALL REVERT BACK TO THE TOWN; ESTABLISHING NEW REQUIREMENTS FOR THE SALE AND TRANSFER OF PWVL AND PAL LICENSES; PROVIDING FOR CODIFICATION; CONFLICTS; SCRIVENER'S ERRORS; SEVERABILITY AND AN EFFECTIVE DATE.

Mayor Murphy read the title of the ordinance. Town Attorney Herin, Jr. stated the hearing was properly advertised. He reviewed the changes and noted they were double-underlined.

Council Member Veach remarked that Tom Torgerson decided not to move forward with a jet ski or parasailing business on his property. He referred to 3 & 4 on page 20 and recommended that licenses expire every three to five years and vendors reapply based on a point system. Operators with violations would be penalized and risk losing their licenses.

Council Member Allers felt that the ordinance should clarify that even though the town did not own the businesses, they did own the licenses. He provided a document for Council Members with highlighted sections to discuss. He felt that the town should require boat inspections by the Coast Guard. He read section 27-49 regarding direct access and land-based sites. Council Veach was not sure that a land-based site was necessary, but Vice Mayor Hosafros commented that a land-based site was needed for service of process if someone wanted to sue.

Council Member Allers brought up the lack of enforcement by the town. He felt the town, vendors and landowners needed to provide input before redoing the ordinance. He questioned why they needed a cap on the number of permits if vendors were already meeting the safety requirements. He added that the safety factor was more important to him than the numbers. Mayor Murphy disagreed and remarked that vendors were out of control before the cap. Council Member Allers clarified that he meant the number did not seem as important as the operator itself.

Council Member Veach stated many non-conforming sites were grandfathered. He suggested they change the rules so the grandfathered locations could adapt. He indicated there were two vendors ten feet away from each other. He brought up adding language regarding jet ski tours. Mayor Murphy recommended continuing the discussion with more input before reworking the ordinance. He agreed with conducting workshops.
Town Attorney Herin, Jr. stated they could eliminate Ordinance 22-09 and start from scratch or amend the ordinance. In the meantime, the existing regulations would continue to be in effect.
Public comment:
Attorney Beverly Grady represented Mid-Island Water Sports. She noted there were unintended consequences in the draft ordinance and disagreed with the definition of a land-based site. She brought up other issues that concerned the vendors.
Chris Weber, of Mid-Island Water Sports, stated that insurance companies inspect his operation once a year.
Tracey Gore, resident, stated that a promise was never made to TPI that they could self-perform. She read condition 9 of the TPI CPD. She felt adding additional language was unnecessary.
Public comment closed.
Town Attorney Herin, Jr. stated he would research what other municipalities were doing and make the town's draft ordinance easier to understand and follow. Town Manager Hernstadt suggested that specific policy decisions be made before drafting another ordinance.

Vice Mayor Hosafros moved that they overrule proposed Ordinance 22-09 and start over; second by Mayor Murphy.
Motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. New Beach Access Naming

The naming of the new beach access, which could replace Canal St., was provided by TPI Hospitality as a condition of development approval.

Mayor Murphy suggested that they name the road that circled the Mound House after Ann and Dan Hughes. He suggested a contest to name the new beach access. Vice Mayor Hosafros stated that it made sense to name it after the street like the rest of the beach accesses. Mayor Murphy commented that Council Members could think about the issue.

B. Preliminary Audit Review

Review of Preliminary Audited Financials

Wade Sansbury from Mauldin & Jenkins commented that Council Members had a draft of the financial statements. The audit showed an increase in the overall net position of about $6.3 million from the governmental activities and about $2.6 million from the business activities. The general fund would end the year with just about $7 million in total fund balance. He noted the building

fund erased its deficit balance from the prior year and the beach access fund reduced its deficit from the preceding year. He added that the beach access fund showed an unavailable revenue of about $200,000 because of when revenues were received. Mr. Sansbury stated the overall fund balance was closer to a zero fund balance, which was reasonable.

The water fund had about $6.1 million in total revenue and the stormwater had approximately $1.1 million. Both had a positive operating income, with the water fund at about $2.2 million and the stormwater fund at about $632,000.00.

The cash flow statement had positive operating cash flows from the water fund of about $2.2 million and approximately $662,000.00 from the stormwater fund. Mr. Sansbury stated that overall the fund performance was good for the year. He indicated they were trying to wrap up the audit and were waiting for information from a third-party consultant regarding a possible duplicate draw from the State Revolving Fund.

Mr. Sansbury remarked that it looked like a couple of the same findings would be repeated from last year. He did not think it was a reflection of the current staff but a reflection of the current system.

Mayor Murphy indicated they needed people with a finance background to join the Audit Committee.

C. Resolution 22-16; Exposhows, Inc. Agreement

Adopt Resolution 22-16, Approving a piggyback contract between the Town and Exposhows, Inc. to provide fireworks for the 4th of July and New Years Eve, in an amount not to exceed $60,000, utilizing the City of Marco Island's fireworks contract #2022-007, authorizing the Town Manager to execute the Agreement, expend budgeted funds, and take all appropriate actions to conduct the fireworks displays, and providing for an effective date.

Vice Mayor Hosafros moved to adopt Resolution 22-16; second by Council Member Veach.

Vice Mayor Hosafros noted the cost went up because the town no longer had the same provider. She mentioned informing the Chamber of Commerce.

Town Manager Hernstadt remarked that he had a pending meeting with Chamber Director

Motion carried unanimously.

D. Approval of Bridge closure for 4th of July parade and fireworks.

Approve closing of Matanzas Pass Bridge on July 4, 2022, from 9:30am to 11:30am for the parade, and from 9pm to 11:30pm for traffic coming on the island.

Council Member Veach moved to approve the bridge closures; second by Vice Mayor Hosafros.

Motion carried unanimously.

E. Resolution 22-15, Updating Joint Local Mitigation Strategy

Adopt Resolution 22-15, Updating the Town's Joint Local Mitigation Strategy.

Vice Mayor Hosafros moved to adopt Resolution 22-15; second by Council Member Veach.
Motion carried unanimously.

F. STA#12: Times Square LAP Project Administration

Approve Supplemental Task Authorization #12 with DRMP, Inc. for engineering services in the not to exceed amount of $78,200 and approve the one-year renewal for DRMP and authorize the Town Manager to execute the contract documents.

Council Member Veach moved to approve the supplemental task authorization; second by Vice Mayor Hosafros.
Motion carried unanimously.

G. Potable Water - South Tank Repairs

Authorize the Town Manager to spend an additional $131,896.00 for the emergency repairs to the South Potable Water storage tank.

Vice Mayor Hosafros moved to authorize; second by Mayor Murphy.
Town Manager Hernstadt explained that the tank had to be recoated on the inside and it was discovered that the outside of the tank also had issues.
Motion carried unanimously.

XIII. FINAL PUBLIC COMMENT

No public comment.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hernstadt stated he would bring back an assessment of $3,000.00 for the Laguna Shores residents' dredging project and a resolution to authorize the contractor's dredging contract.
Town Manager Hernstadt indicated staff had checked with a window company regarding the tinted windows and was told that the price was comparable to regular windows. He discussed the additional work that would be created by allowing a phasing-in period for installation. Council Member Atterholt discussed the dark tint of the windows. He suggested that individual violators be punished instead of everyone who lived on the beach.

XV. TOWN ATTORNEY'S ITEMS

A. Code Violations / Liens

Vice Mayor Hosafros moved to authorize the Town Attorney to enforce code violations and liens as shown in Attachment A, through court actions to include - but not be limited to - foreclosure, injunctive relief, monetary judgment and attorney fees, if possible; second by Council Member Veach.
Motion carried unanimously.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

Council Member Allers commented that the lighting consultants seemed underprepared and felt that continuing to pay them was a waste of money. Mayor Murphy agreed. Town Manager Hernstadt stated that they could stop engaging with the consultants at any time.

Council Member Veach read a letter provided by Allie McCue from the FWC. She requested that the town approve the use of Imazapyr in the bird nesting area.

Council Member Veach recommended approval. Consensus was reached to approve the use.

No items from other members.

XVII. ADJOURNMENT

Vice Mayor Hosafros moved to adjourn; second by Mayor Murphy.
Motion carried unanimously.

The meeting was adjourned at 2:26 p.m.

Minutes adopted as presented, May 2, 2022; Motion by Council Member Veach, seconded by Vice Mayor Hosafros. Adopted 5-0.

Amy Baker, Town Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
Allers Daniel Lee	Fort Myers Beach Town Council
MAILING ADDRESS	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
5485 Avenida Pescador A	☑ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY: Fort Myers Beach — COUNTY: Lee	NAME OF POLITICAL SUBDIVISION: Town of Fort Myers Beach
DATE ON WHICH VOTE OCCURRED: 4/18/2022	MY POSITION IS: ☑ ELECTIVE ☐ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Daniel Albers, hereby disclose that on April 18th, 20 22:

(a) A measure came or will come before my agency which (check one or more)

X inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, _____;

___ inured to the special gain or loss of my relative, _____;

___ inured to the special gain or loss of _____, by whom I am retained; or

___ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows: I am one of three people involved in the brewing of the beer at Tuckaway Cafe that would be sold for profit.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

4/18/22
Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2022-629**

1. **Requested Motion:**

Meeting Date: April 18, 2022

Authorize the Town Attorney to enforce code violations and liens as shown in Attachment A, through court action to include - but not be limited to - foreclosure, injunctive relief, or monetary judgment.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**
TOWN ATTORNEY'S ITEMS

3. **Requirement/Purpose:**

4. **Submitter of Information:**

---

5. **Background:**

Attachments:

1. Attachment A: Memo to Town Council re Code Enforcement Lien Title Searches(132769203.1)-C

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 4/12/2022
John R Herin Jr, Town Attorney	Approved - 4/12/2022
Amy Baker, Town Clerk	Approved - 4/13/2022
Roger Hernstadt, Town Manager	Final Approval - 4/13/2022

Fox Rothschild LLP
ATTORNEYS AT LAW

M E M O R A N D U M

TO: Fort Myers Beach Town Council

FROM: Victor Sanabria, Assistant Town Attorney

DATE: April 4, 2022

RE: **Lien Search Results for Properties with Active Code Enforcement Violations**

Dear Town Council:

At the direction of the Town Council, the Town Attorney's Office performed lien searches regarding the properties listed below, each of which is encumbered by at least one Town code enforcement lien. Briefly, after reviewing the lien searches and public records for the properties listed below, it appears that each property has sufficient equity to cover the code enforcement lien(s) encumbering each property in the event the Town sued to foreclose the lien(s).[1]

A. 1046 Estero Boulevard (Folio No. 10127261)

This property is owned by Persaud Properties FL Investment LLC. Other than the Town's code enforcement liens, there are no liens or mortgages encumbering the property.

There are seven Town code enforcement liens recorded against the property. Three liens were recorded on March 27, 2019, with accrued fines of $11,750, $36,600 (with an additional $200 daily fine accruing for as long as the property is in non-compliance), and $11,750, for a total of $60,100, plus the fine accrual of $200 per day since March 21, 2019. The fourth lien was recorded on June 11, 2019, with an accrued fine of $80,050. The fifth lien, recorded on February 13, 2020, had an accrued fine of $44,824 (with an additional $250 daily fine accruing for as long as the property is in non-compliance). The sixth lien, recorded on March 5, 2021, had an accrued fine of $10,575. The seventh lien, recorded on March 30, 2021, had an accrued fine of $9,575.

In total, these liens have $205,124 in accrued fines as of the date of their recording, plus daily accruals for two of them. According to the Lee County Property Appraiser, the fair market value of the property is $2,367,980. Therefore, there is sufficient equity in the property to cover the liens if the Town elects to foreclose on the liens.

[1] Under Florida law, a lienholder cannot foreclosure its interests against a homestead property. However, it does not appear that any of the properties subject to these code enforcement liens is a homestead property.

B. <u>1028 Estero Boulevard</u> (Folio No. 1012762)

This property is owned by Persaud Properties FL Investment LLC. Other than the Town's code enforcement liens, there are no liens or mortgages encumbering the property.

There are two Town code enforcement liens against the property. The first lien, recorded on March 27, 2019, accrued a fine in the amount of $11,750 as of March 12, 2019. The second lien, recorded on March 30, 2021, accrued a fine of $9,575 as of March 24, 2021 824 (with an additional $250 daily fine accruing for as long as the property is in non-compliance).

According to the Lee County Property Appraiser, the fair market value of the property is $2,837,877. Therefore, there is sufficient equity in the property to cover the two liens if the Town elects to foreclose on the liens.

C. <u>268/270 Nature View Court</u> (Folio No. 10228578)

This property is owned by Dania Carballo Ortiz and Daisy Garcia. There are two priority liens encumbering this property. First, there is a mortgage that was recorded on August 12, 2013 and secures a promissory note for $266,250.00. Second, there is a warrant for collection of delinquent tourist development taxes. Lee County recorded this lien on September 5, 2018, in the amount of $2,934.05.

The Town has multiple code enforcement liens against the property. Two liens were recorded on October 7, 2020, with each of the two liens accruing fines of $56,075, (with an additional $250 daily fine accruing on each lien for as long as the property is in non-compliance). A third lien was recorded on June 2, 2021, with an accrued fine of $12,075. The total fines accrued for these liens is $124,225 at the time of recording (with an additional $250 daily fine accruing for as long as the property is in non-compliance),

If the Town were to foreclose on the code enforcement liens, it is likely that they will recover a sum beyond the amount secured by the mortgage and the tax lien. According to Zillow, the fair market value of the property is $1,126,800. According to the Lee County Property Appraiser, the fair market value of the property is $541,674. Therefore, it is likely that the owners have sufficient equity in the property to cover the code enforcement lien if the Town elects to foreclose on the liens. However, as stated above the Town's liens do not have priority.

D. <u>1661 Estero Boulevard</u> (Folio No. 10227974)

This property is owned by Key Estero Shops, LLC. There are no liens or mortgages encumbering the property other than the Town's one code enforcement lien. The Town's lien was recorded on September 11, 2020, with accrued fines of $34,475, (with an additional $200 daily fine accruing on each lien for as long as the property is in non-compliance).

According to the Lee County Property Appraiser, the fair market value of the property is $7,220,518. Therefore, there is likely sufficient equity in the property to cover the code enforcement lien if the Town elects to foreclose on the lien.

E. <u>80 Ave East</u> (Folio No. 10228170)

This property is owned by White Sand Properties of Fort Myers Beach, LLC. The Town has three code enforcement liens encumbering the property. The liens were recorded between April 12, 2016 and July 9, 2019. As of March 27, 2019, the accrued fines for these liens exceeded $257,150, and continue to accrue at $250 per day for two of the three liens.

There are two mortgages on the property, only one of which has priority of the Town's code enforcement liens. The first mortgage, which has priority, was recorded on October 8, 2014, and secured a promissory note for $400,000. The second mortgage was recorded on February 18, 2020 to secure a promissory note for $320,000. There is an active lawsuit filed by the holder of the note and second mortgage, FCG Associates LLC, to foreclose on this mortgage. We have filed a notice of appearance to monitor this lawsuit and preserve the priority of the Town's code enforcement liens regarding the second mortgage being foreclosed. If FGC forecloses on their junior mortgage, then any individual or entity that purchases the property at a foreclosure sale will take title to the property subject to the Town's code enforcement liens and the Town can still foreclose its interests.

The owner likely has equity exceeding the two mortgages. According to Realtor.com, the fair market value of the property is approximately $1.2 million. According to the Lee County Property Appraiser, the fair market value is approximately $1.1 million. Therefore, there is likely sufficient equity to cover the code enforcement liens if the Town elects to foreclose the liens.

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: John Herin
Cc: Jim Atterholt; Roger Hernstadt
Subject: RE: Jesse Schmidt/White Sands - 80 Ave. E
Date: Monday, May 16, 2022 8:20:28 AM

John,

Monday morning, I'm still sick and as of 4 a.m. this morning---still testing positive for Covid. I was supposed to be in France this week with Burt and another couple, but Covid had different plans and they are now enjoying a beautiful river cruise from Lyon to Avignon without me. Thanks for asking.

And you are correct with your synopsis of 80 Ave. E.

Additionally, Roger has offered to work with Mr. Schmid several times, but Mr. Schmid has never followed through.

I will have staff send the documents to Councilman Atterholt.

Daphnie

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: Friday, May 13, 2022 9:36 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: Jim Atterholt <AtterholtJ@fmbgov.com>; Roger Hernstadt <roger@fmbgov.com>
Subject: Jesse Schmidt/White Sands - 80 Ave. E

Daphnie – How you are doing this Friday morning? I received a call from Councilmember Atterholt earlier today (he is copied), who asked me if I had access to Jesse Schmidt/White Sand's code enforcement file for the property located at 80 Ave. E. (next to Mojo's). I told him I did not, but that I would get with you, and you would follow up with him directly. He is looking for the NOV, NOH, and Special Magistrate Order on this property for a clear and concise statement of the corrective action Jesse Schmidt/White Sands needs to take to bring the property into compliance.

Please correct me if I am wrong but isn't this the property that was originally owned by Joe Orlandini – for which he was cited by code enforcement staff for doing work without a permit (complete interior remodel)? Thereafter, because Orlandini took no action to bring the property into compliance his case was brought before the Town's CE Special Magistrate who found Orlandini to be in violation of the Code; and due to non-compliance with the Special Magistrate's Order, a lien was placed on the property? As I recall, somewhere in-between or shortly after the recording of the lien, Jesse Schmidt/White Sands acquired the property **with full knowledge** of the code violation(s) & lien **for a discounted price**. Neither Orlandini, nor Jesse Schmidt/White Sands have ever applied for a building permit, yet the property is being actively leased out – am I correct?

Please reach out to Councilmember Atterholt at your earliest convenience.

John R. Herin, Jr.
Florida Bar Board Certified In City,
County, and Local Government Law
Partner
Fox Rothschild LLP
One Biscayne Tower
2 South Biscayne Blvd., Suite 2750
Miami, FL 33131
(305) 442-6544 - direct
(305) 442-6541 - fax
JHerin@foxrothschild.com
www.foxrothschild.com

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the intended recipient, you may not copy, disclose or use any content in this email. If you received this email in error, please immediately notify the sender at Fox Rothschild LLP by replying to this email and delete the original and reply emails. Thank you.

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the intended recipient, you may not copy, disclose or use any contents in this email. If you have received this email in error, please immediately notify the sender at Fox Rothschild LLP by replying to this email and delete the original and reply emails. Thank you.

Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

From: Patty Prevost on behalf of Patty Prevost <Patty@fmbgov.com>
To: Daphnie Bercher
Subject: Updated 80 Ave E information
Date: Wednesday, May 18, 2022 10:11:07 AM
Attachments: 80 Ave E Lien Case Info.pdf

Patty Prevost
2525 Estero Blvd.
Fort Myers Beach, FL 33931
Phone # 239 765-0202 ex 1303
Patty@fmbgov.com

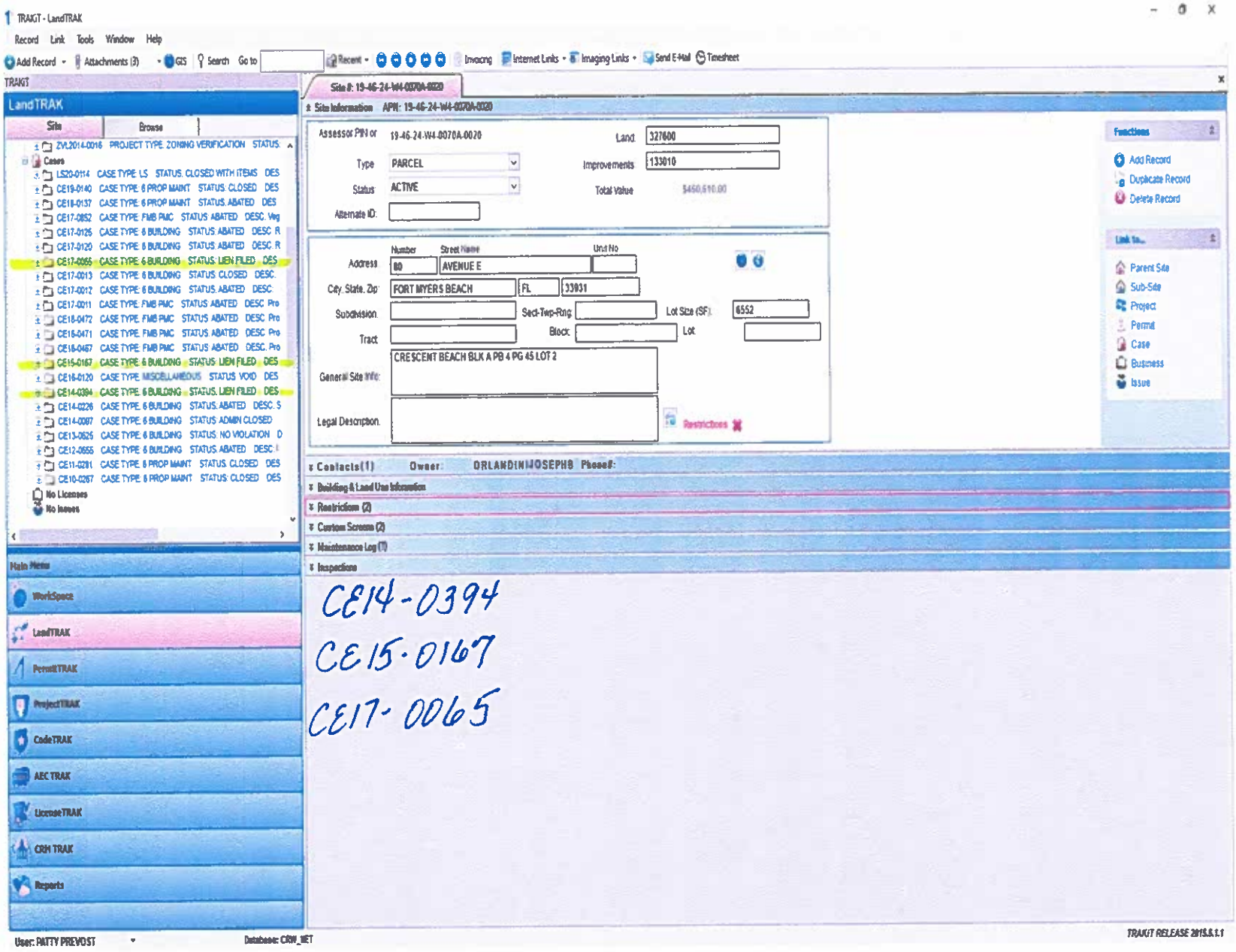
From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Jim Atterholt
Cc: Roger Hernstadt; John Herin
Subject: FW: Updated 80 Ave E information
Date: Thursday, May 26, 2022 7:56:38 AM
Attachments: 80 Ave E Lien Case Info.pdf

Councilor,

Attached please find all the documents you requested regarding liens filed on 80 Ave E. There are 3 liens on this property regarding work without permit or unsafe structure issues, so there are a lot of documents.

Feel free to contact me should you have any questions.

Daphnie


TRAKiT - LandTRAK
Record Link Tools Window Help
Add Record Attachments (3) GIS Search Go to Recent Invoicing Internet Links Imaging Links Send E-Mail Timesheet
TRAKiT
LandTRAK
Site Browse
Site #: 19-46-24-W4-0070A-0020
Site Information APN: 19-46-24-W4-0070A-0020
Assessor PIN or 19-46-24-W4-0070A-0020
Land 327600
Type PARCEL
Improvements 133010
Status ACTIVE
Total Value $460,610.00
Alternate ID:
Number Street Name Unit No
Address 80 AVENUE E
City, State, Zip FORT MYERS BEACH FL 33931
Subdivision Sect-Twp-Rng Lot Size (SF) 6552
Tract Block Lot
General Site Info: CRESCENT BEACH BLK A PB 4 PG 45 LOT 2
Legal Description
Restrictions
Contacts(1) Owner: ORLANDINI JOSEPH Phone#:
Building & Land Use Information
Restrictions (2)
Custom Screens (2)
Maintenance Log (1)
Inspections
Functions
Add Record
Duplicate Record
Delete Record
Link to...
Parent Site
Sub-Site
Project
Permit
Case
Business
Issue
Main Menu
WorkSpace
LandTRAK
PermitTRAK
ProjectTRAK
CodeTRAK
AEC TRAK
LicenseTRAK
CRM TRAK
Reports
CE14-0394
CE15-0167
CE17-0065
User: PATTY PREVOST
Database: CRW_WET
TRAKiT RELEASE 2015.8.1.1

Town of Fort Myers Beach
CODE COMPLIANCE
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

CE17-0065

2/9/2017

CASE NUMBER:	CE17-0065
CERTIFIED MAIL:	7016 2140 0000 1484 1959

ORLANDINI JOSEPH B
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on ***2/3/2017*** by Town of Fort Myers Beach Code Enforcement Officer ***JOE KONTOMANOLIS*** indicates that the following items are a violation:

Work w/ out permit-building C

These items are a violation of the following Town Codes:

LDC Sec 6-111 The Florida Building Code is hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.

FBC 105.1 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.

You are hereby directed to abate or remedy these violations within 14 days of receipt of this notice.

The violation(s) can be abated or corrected by taking the following actions: Secure required permit and associated inspections.

Florida Statute 162.06: Enforcement procedure- if a repeat vilation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable time to correct the violation.

Town of Fort Myers Beach
CODE COMPLIANCE
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 476-2467 if you have any questions concerning this Notice of Violation.

Respectfully,

JOE KONTOMANOLIS
Code Enforcement Officer
Town of Fort Myers Beach

Received By: _____ Date: _____

Town of Fort Myers Beach

NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

February 28, 2017

Case Number:	CE17-0065
Certified Mail:	NA
Regular Mail:	2/28/2017

TOWN OF FORT MYERS BEACH
Petitioner

vs.

ORLANDINI JOSEPH B
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Site Address: **80 AVENUE E**
Parcel Strap No.: **194624W40070A0020**

AMENDED- NOTICE OF CODE ENFORCMENT HEARING

YOU ARE HEREBY NOTIFIED that, on 2/10/2017, ***REPEAT - Work w/ out permit - Pavers*** was identified as a violation of the Town's Codes. . A Hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for:

3/29/2017 at 9:00 A.M. in the Council Chambers at Town Hall, locate at 2525 Estero Boulevard, Fort Myers Beach, Florida.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. This is the only Notice of this hearing that you will receive. Please govern yourself accordingly.

Please be aware that under Florida Statutes chapter 162 and Town of Fort Myers beach Land Development Code Section 2-427(b) a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

SPECIAL MAGISTRATE
FOR THE TOWN OF FORT MYERS BEACH

CODE ENFORCEMENT ORDER

FOR

CODE ENFORCEMENT CASE

CASE NUMBER: CE17-0065

RESPONDENT: JOSEPH B. ORLANDINI

ORIGINAL HEARING DATE: March 29, 2017

NOTICE IS HEREBY GIVEN THAT THE SPECIAL MAGISTRATE CONTINUES THE ABOVE ACTION, WITHOUT ENTERING FINDINGS OF FACT. FURTHER PROCEEDINGS IN THIS MATTER WILL BE HELD ON:

APRIL 27, 2017, at 9:00 A.M.

The hearing will be held at the Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida, and the Respondent urged to be present if the violation has not been abated by that date.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 29, 2017.

Special Magistrate for the Town of Fort Myers Beach, Florida

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

JOSEPH B. ORLANDINI
281 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931

Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

nc.4/3/17

Town of Fort Myers Beach

NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

June 16, 2017

Case Number:	**CE17-0065**
Certified Mail:	**7017 0660 0000 3686 1649**
Regular Mail:	**6/16/2017**

TOWN OF FORT MYERS BEACH
Petitioner

vs.

ORLANDINI JOSEPH B
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Site Address: **80 AVENUE E**
Parcel Strap No.: **194624W40070A0020**

NOTICE OF CODE ENFORCMENT HEARING- AMENDED

YOU ARE HEREBY NOTIFIED that, on, ***REPEAT - Work w/ out permit - Pavers*** was identified as a violation of the Town's Codes. . A Hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for:

7/26/2017 at 9:00 A.M. in the Council Chambers at Town Hall, locate at 2525 Estero Boulevard, Fort Myers Beach, Florida.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. This is the only Notice of this hearing that you will receive. Please govern yourself accordingly.

Please be aware that under Florida Statutes chapter 162 and Town of Fort Myers beach Land Development Code Section 2-427(b) a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Town of Fort Myers Beach
NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

INSTR # 2018000049665, Doc Type LI, Pages 3, Recorded 03/01/2018 at 02:08 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $27.00 Deputy Clerk ERECORD

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE17-0065

Petitioner,

v.

JOSEPH ORLANDINI,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on July 26, 2017 before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, JOSEPH ORLANDINI, present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue E, Fort Myers Beach, FL 33931:

   WORK WITHOUT A PERMIT-Pavers IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 10-101 (a).

5. Petitioner has incurred administrative costs and expenses in the amount of **$175.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in repeat violation of Town of Fort Myers Beach LDC 10-101 (a).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   SECURE REQUIRED PERMITS AND PASS REQUIRED INSPECTIONS (LIMITED DEVELOPMENT REVIEW ORDER "LDO")

   The said violation was not corrected or abated as indicated above **PRIOR TO AUGUST 30, 2017** a fine of **$150.00 per day** shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to **AUGUST 30, 2017** these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

   Town of Fort Myers Beach
   Attention: Code Enforcement
   2525 Estero Boulevard
   Fort Myers Beach, FL 33931.

   Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on JULY 26, 2017.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

JOSEPH ORLANDINI
281 PALERMO CIR
FORT MYERS BEACH, FL 33931

Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000160404, Doc Type LI, Pages 3, Recorded 7/9/2019 at 11:14 AM, Deputy Clerk CDOUGLAS ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE17-0065**

ORLANDINI, JOSEPH,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on June 20, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joe Orlandini, present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joe Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

   Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Cout in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on July 26, 2017, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order of Enforcement finding the Property/Respondent in violation of Section 6-111, Adopting FBC 105.1 of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on June 20, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has complied with the Order of Enforcement after 310 days of non-compliance, not paid the accrued fine in the amount of $46,500.00, nor paid the administrative fee/cost of prosecution in the amount of $175.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, was in violation of Town Code and took 310 days to comply with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate certifies that a fine in the amount of $46,675.00, has accrued every day that Respondent was in non-compliance with the Order of Enforcement previously entered in this case.

2. The Special Magistrate believes property owner has come forth and presented sufficient evidence of mitigating circumstances therein and reduced the lien being imposed to the amount of $500.00.

3. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

4. The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the Town of Fort Myers Beach Code Enforcement Department.

ORDERED this 20 day of June, 2019 and executed this 3 day of July, 2019.

Mymabelle Rocha, Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order was sent by U.S. Mail on the 9 day of July, 2019 to:

Joseph Orlandini
281 Palermo Cir.
Fort Myers Beach, FL 33931

Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: 7/9/19
Dated

Town of Fort Myers Beach

CODE COMPLIANCE
2523 Estero Blvd Fort Myers Beach, Florida 3393
Phone: (239) 765-0202 Fax: (239)765-0591

CE15-0167

7/14/2015

CASE NUMBER:
Certified Mail: 7014 2870 0000 6232 3267
Posted Property: 7/14/15

DIBIASI LEO J + DIBIASI LEO J
12071 MCGREGOR BLVD
FORT MYERS, FL 33919

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on ***4/16/15*** by Lee County Building Inspector, William Sammons, per 2013-2015 interlocal agreement with Lee County, indicates that violation(s) of the following Town Codes currently exist on said property (see attached report):

- Town of Fort Myers Beach LDC, Chapter 6 Section 111: Adoptions; amendments, adopting the Florida Building Code as amended. Florida Building Code section:

  103.5 Unsafe buildings or systems. All buildings, structures, electrical, gas, mechanical, or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems. All such unsafe buildings, structures or service systems are hereby declared illegal and must be abated by repair and rehabilitation or by demolition in accordance with the provisions of the Unsafe Building Abatement Code (see article I of this chapter).

You are hereby directed to abate or remedy these violations on or before ***8/4/15 (15 Days)***.

The violation(s) can be abated or corrected by taking the following actions:

- Premises must be vacated.
- Remove ladder.
- Obtain a permit to replace deck and stairs and pass all subsequent inspections.

Town of Fort Myers Beach

CODE COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0591

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 if you have any questions concerning this Notice of Violation.

Respectfully,

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

1/13/2016

Case Number:	CE15-0167
Certified Mail:	7015 2660 0000 4352 0477
Regular Mail:	1/13/16

TOWN OF FORT MYERS BEACH
Petitioner

vs.

Absolute Best Rate Rentals LLC
12071 McGregor Ave.
Fort Myers Beach, FL 33919

SITE ADDRESS: **80 Ave E, Fort Myers Beach**
PARCEL STRAP NO: **19-46-24-W4-0070A.0020**

NOTICE OF CODE ENFORCMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you, exists on the above-described property. A Hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for:

the **24th** day of **February**, **2016** at **9:00 A.M.** in the Council Chambers at Town Hall, locate at 2525 Estero Boulevard, Fort Myers Beach, Florida.

A copy of the previously issued **NOTICE OF VIOLATION** was sent to the previous owner and is attached hereto and incorporated herein by reference.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE15-0167

Petitioner,

v.

ABSOLUTE BEST RATE RENTALS, LLC,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on February 24, 2016, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue East, Bldg B, Fort Myers Beach, FL 33931:

PROPERTY IS OCCUPIED AND DOES NOT HAVE A PERMIT FOR REPLACEMENT OF MAIN INGRESS/EGRESS IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 103.5).

5. Petitioner has incurred administrative costs and expenses in the amount of **$160.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in violation of Town of Fort Myers Beach LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 103.5).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   OBTAIN A PERMITS FOR WORK DONE AND PASS ALL INSPECTIONS.

   In the event that the said violation is not corrected or abated as indicated above **PRIOR TO MARCH 25, 2016**, a fine of **$250.00** per day shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to MARCH 25, 2016, these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach

NOTICE OF CODE ENFORCEMENT HEARING

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing, has been furnished by certified mail, posting at Town Hall, and regular mail to Absolute Best Rate Rentals LLC.

Molly Jacoby
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931, TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931.

Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on February 24, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. mail, interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman 2/26/16
Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

Town of Fort Myers Beach

AFFIDAVIT OF NON-COMPLIANCE

2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0591

TOWN OF FORT MYERS BEACH Case Number: **CE15-0167**

(Petitioner)

vs.

Absolute Best Rate Rentals LLC
12071 McGregor Ave.
Fort Myers, FL 33919
(Respondent)

STATE OF FLORIDA, COUNTY OF LEE

I, **Molly Jacobs**, Code Enforcement Officer for the Town of Fort Myers Beach, offer the following:

1. That on **2/24/2016**, the Code Enforcement Special Magistrate held a public hearing and issued an Order finding the property listed to be in violation of said code.

2. That, pursuant to said Order, Respondent(s) was to have taken certain corrective action on or before **3/25/2016**.

3. That a re-inspection was performed at **80 Ave E (bldg. B)** on **3/25/2016**

4. That re-inspection revealed the property to still be in violation of said code.

5. The corrective action ordered by the Code Enforcement Special Magistrate has not been taken by the property owner.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true.

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28th day of March 20__, by Molly Jacobs, Code Enforcement Officer for the Town of Fort Myers Beach, who ✓ is/are personally known to me or _____ who has/have produced _____ as identification.

NOTARY PUBLIC
Print Name: Patricia E Prevost
Commission No: FF 205718
Commission Exp: 3-3-2019

PATRICIA E PREVOST
Notary Public - State of Florida
Commission # FF 205718
My Comm. Expires Mar 3, 2019
Bonded through National Notary Assn.
(Notary Seal)

Molly Jacobs
Code Enforcement Officer
Town of Fort Myers Beach

W:\mb-dc\Folders 2\community development\address folders\avenue e\80 avenue e\code enforcement\80 ave e_ce15-0167_unsafe building\80 ave e_magistrate_unsafe_022416\80 ave e_aff non compliance_032516.doc

INSTR # 2016000076124, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy Clerk ALUCKEY

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA Petitioner, vs. ABSOLUTE BEST RATE RENTALS, LLC Respondent.	CASE NO.: CE15-0167

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and

2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Section 6-111 still exists on the subject property; and

3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016, and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue E (Bldg. B), Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION

OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

INSTR # 2016000076124, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy Clerk ALUCKEY

INSTR # 2016000076145 Pages 2
Doc Type LI, Recorded 04/12/2016 at 12 32 PM
Linda Doggett, Lee County Clerk of Circuit Court
Rec Fee $18 50
Deputy Clerk ALUCKEY
#2

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA Petitioner, vs. ABSOLUTE BEST RATE RENTALS, LLC Respondent.	CASE NO.: CE15-0167

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and

2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Section 6-111 still exists on the subject property; and

3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016, and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue E (Bldg. B), Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION

OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
In and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Diblasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE LINDA DOGGETT, CLERK OF CIRCUIT COURT, STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk

DATED: APR 12 2016

Town of Fort Myers Beach
CODE COMPLIANCE
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

CE14-0394

STOP WO

BUILDING SAFETY SERVICES

NOTICE

This construction has been inspected and is in violation of **THE FLORIDA BUILDING CODE** please correct as noted below before any further work is done.

DO NOT REMOVE THIS NOTICE

Owner: **Leo Diabiasi**
Address: **80 Ave E, Fort Myers Beach**
Case #: **CE14-0394**

Code Violation: Town of Fort Myers Beach LDC Chapter 6 Div. 3 Sec. 6-111 adopting the Florida Building Code as amended. Florida Building Code section:

105.1 Required. 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.

Violation:
Work without a permit(s).

Corrective Action:
Stop all work immediately and obtain proper permits

Date: 10/28/2014 **Inspector**_____

Town of Fort Myers Beach
CODE COMPLIANCE
2523 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

REMOVE AND BRING THIS SHEET WITH YOU

Owner: **Leo Diabiasi**
Address: **80 Ave E, Fort Myers Beach**
Case #: **CE14-0394**

Code Violation: Town of Fort Myers Beach LDC Chapter 6 Div. 3 Sec. 6-111 adopting the Florida Building Code as amended. Florida Building Code section:

103.3 Stop work orders. Upon notice from the building official, work on any building, structure, electrical, gas, mechanical, or plumbing system that is being done contrary to the provisions of this code, or in a dangerous or unsafe manner, must immediately cease. Such notice must be writing and posted on the permit board, stating the reasons for the order. Work may only resume after lifting of the stop work order by the building official.

Violation:

Work without a permit(s).

Corrective Action:

Stop all work immediately and obtain proper permits

Date: 10/28/2014 **Inspector**_____

Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

11/21/2015

CASE NUMBER: **CE14-0394**
Certified Mail: **7015 1660 0000 4352 0170**

DIBIASI LE J+DIBIASI LEO J TR
12071 MCGREGOR BLVD
FORT MYERS, FL 33919

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on ***11/3/15*** by Town of Fort Myers Beach Code Enforcement Officer ***MOLLY JACOBS*** indicates that the following items are a violation:

- ***Remodel done without permits***
- ***Stairwell constructed without a permit***

These items are a violation of the following Town Codes:

Town of Fort Myers Beach Land Development Code

- Sec. 6 – 111: Adoptions; amendments, adopting the Florida Building Code as amended. Florida Building Code section:

  105.1 Required. 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.

You are hereby directed to abate or remedy these violations within ***10 days*** of the receipt of this notice.

Town of Fort Myers Beach
CODE COMPLIANCE
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

The violation(s) can be abated or corrected by taking the following actions:

- ***Obtain a permit for remodel work done and pass all subsequent inspections***
- ***Obtain a permit for stairwell build and pass all subsequent inspections.***

ONCE YOU HAVE ABATED OR CORRECTED THE VIOLATIONS, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED BY A CODE OFFICER TO VERIFY THAT THE VIOLATION(S) HAVE BEEN ABATED OR CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) abated and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to $250.00 per day for the first violation or $500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at (239) 765-0202 if you have any questions concerning this Notice of Violation.

Respectfully,

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

PARCEL #: 19-46-24-W4-0070A.0020

SPACE ABOVE RESERVED FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

CASE NO. CE14-0394

Petitioner,

v.

ABSOLUTE BEST RATE RENTALS, LLC,

Respondent(s)
_____/

CODE ENFORCEMENT ORDER

THIS CAUSE came on for public hearing on February 24, 2016, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT

1. The Respondent is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property.

2. The Respondent received notice of the alleged existence of a certain condition on the property described herein, and that such condition constituted a violation of a Town of Fort Myers Beach Ordinance.

3. The notice given to the Respondent specified that certain actions to abate the alleged violation were to be taken by a time certain, but Respondent failed to complete such actions timely.

4. The following condition exists on the subject property, as reported by Petitioner, at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931:

REMODEL WORK PERFORMED WITHOUT A PERMIT AND STAIRWELL DEMOLISHED AND BUILT WITHOUT A PERMIT IN VIOLATION OF TOWN OF FORT MYERS BEACH LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 105.1).

5. Petitioner has incurred administrative costs and expenses in the amount of **$150.00** in the prosecution of this case.

B. CONCLUSION OF LAW

1. Respondent, by reason of the foregoing, is in violation of Town of Fort Myers Beach LDC 6-111 (ADOPTING THE FLORIDA BUILDING CODE 105.1).

2. The costs incurred herein shall constitute a legal debt against the Respondent, pursuant to Section 162.09, Florida Statutes, which is due and owing to the Petitioner as of the date of this Order.

C. ORDER

WHEREFORE IT IS ORDERED that Respondent shall:

1. Correct or abate the aforesaid violation in the following manner **PRIOR TO** the date listed below:

   OBTAIN A PERMIT FOR ALL WORK PERFORMED AND PASS ALL SUBSEQUENT INSPECTIONS.

   In the event that the said violation is not corrected or abated as indicated above **PRIOR TO MARCH 25, 2016**, a fine of **$250.00 per day** shall be imposed against Respondent, beginning on that date and continuing for each day that the aforesaid violation continues to exist.

   When the violation has been abated, Respondent **MUST CALL CODE ENFORCEMENT AT 239-765-0202 AND REQUEST A RE-INSPECTION.**

2. Reimburse the Petitioner for costs set out in Paragraph A(5) above.

   In the event the costs awarded herein are not paid prior to MARCH 25, 2016, these costs may become a lien against the Respondent, upon being recorded in the Public Records of Lee County, even if the violation has been abated in accordance with this Order.

   Failure to abate this violation as set forth herein could result in the accrual of additional administrative costs and expenses.

   Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931.

Please include a case number on the check.

Non-compliance with the terms of this Order will result in the imposition of a lien against all real and personal property of Respondent, and could result in a lien foreclosure action.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on February 24, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of Lee County to the Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and will be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and his decision will be made at a public hearing. If the Special Magistrate determines that he will grant a rehearing, he may: schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by U.S. mail, interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman 2/24/16
Assistant to the Special Magistrate for the
Town of Fort Myers Beach, Florida

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

1/13/2016

Case Number:	CE15-0394
Certified Mail:	7015 1660 0000 4352 0484
Regular Mail:	1/13/16

TOWN OF FORT MYERS BEACH
Petitioner

vs.

Leo Dibiasi
Agent For: Absolute Best Rate Rentals LLC
12071 McGregor Blvd
Fort Myers, FL 33919

SITE ADDRESS: **80 Ave E, Fort Myers Beach**
PARCEL STRAP NO: **19-46-24-W4-0070A.0020**

NOTICE OF CODE ENFORCMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you, exists on the above-described property. A Hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for:

the **24th** day of **February**, 2016 at 9:00 A.M. in the Council Chambers at Town Hall, locate at 2525 Estero Boulevard, Fort Myers Beach, Florida.

A copy of the previously issued **NOTICE OF VIOLATION** was sent to the previous owner and is attached hereto and incorporated herein by reference.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0591

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing, has been furnished by certified mail, posting at Town Hall, and regular mail to Leo Dibiasi, Absolute Best Rate Rentals LLC.

Molly Jacobs
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931, TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

Town of Fort Myers Beach

2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: (239) 765-0202 Fax: (239)765-0909

AFFIDAVIT OF NON-COMPLIANCE

Town of Fort Myers Beach
(Petitioner)

CASE NUMBER: **CE14-0394**

vs.

DIBIASI LE J+DIBIASI LEO J TR
12071 MCGREGOR BLVD
FORT MYERS, FL 33919
(Respondent)

SITE ADDRESS: **80 AVENUE E**
PARCEL STRAP NO: **194624W40070A0020**

I, MOLLY JACOBS, the Code Enforcement Officer for the Town of Fort Myers Beach, offer the following:

1. That on **2/24/2016**, the Code Enforcement Special Magistrate held a public hearing and issued an Order finding the property listed above to be in violation of said code.
2. That, pursuant to said Order, Respondent(s) was to have taken certain corrective action on or before **03/25/2016**.
3. That a re-inspection was performed at **80 AVENUE E** on 3/25/16 .
4. That re-inspection revealed the property to still be in violation of said code.
5. The corrective action ordered by the Code Enforcement Special Magistrate has not been taken by the Respondent(s).

MOLLY JACOBS
Code Enforcement Officer
Town of Fort Myers Beach

State of Florida
County of Lee
The foregoing instrument was acknowledged before me this 5th day of March, 2016, by MOLLY JACOBS, Code Enforcement Officer for the Town of Fort Myers Beach, who ✓ is/are personally known to me or ✓ who has/have produced _____ as identification.

(Seal) Print, Type or Stamp Commissioned Name of Notary Public

PATRICIA E PREVOST
Notary Public - State of Florida
Commission # FF 205718
My Comm. Expires Mar 3, 2019
Bonded through National Notary Assn.

Patricia E Prevost
Notary Public Signature

INSTR # 2016000076125, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM, Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy Clerk ALUCKEY

INSTR # 2016000076146 Pages 2
Doc Type LI, Recorded 04/12/2016 at 12:32 PM
Linda Doggett, Lee County Clerk of Circuit Court
Rec Fee $18.50
Deputy Clerk ALUCKEY
#3

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA Petitioner, vs. ABSOLUTE BEST RATE RENTALS, LLC Respondent.	CASE NO.: CE14-0394

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-111 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT,
STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED:

APR 12 2016

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 12th of ~~January~~ March 2019.

Mymabelle Roche, Special Magistrate

~~Rhonda Payne Administrative Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

Instrument Prepared by and Return to:

Town of Fort Myers Beach Code Enforcement

2731 Oak Street

Fort Myers Beach, Florida 33931

TOWN OF FORT MYERS BEACH, FLORIDA

CODE ENFORCEMENT

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Manager for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. On the 24th day of February, 2016, ABSOLUTE BEST RATE RENTALS, LLC. (property owners) were found in violation of the Town of Fort Myers Beach Ordinance No. 105.1, (For work without the required permit. (remodel and construction of a stairwell) at the property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Subject Property") by virtue of a Code Enforcement Order by the Special Magistrate in CE Case No. CE14-0394, which was adjudicated on the 28th day of March, 2016.

2. The Order was recorded as Instrument No. 2016000076125 on the 12th day of April, 2016 in the public records of Lee County, Florida.

3. ABSOLUTE BEST RATE RENTALS, LLC. was given 30 days to come into compliance with the Special Magistrate's Order, which was on or before the 25th day of March, 2016.

4. According to available records in possession of the Town of Fort Myers Beach, a desk inspection of the Subject Property was performed by a Code Enforcement Officer on the 4th day of April, 2024 and the Subject Property was found in compliance on the 28th day of September, 2022 due to hurricane Ian and the property being demoed.

5. No further action has been taken by the Town of Fort Myers Beach regarding this violation, which was corrected as stated above.

6. Code Enforcement Case No. CE14-0394 will be closed upon payment of $594,650.00 lien in full.

7. I have personal knowledge of all these facts based on my review of records in possession of the Town of Fort Myers Beach, Florida.

FURTHER AFFIANT SAYETH NOT.

Signed on this 16 day of April, 2024.

Yozzo, Thomas W

Print Name

Signature

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 16th day of April, 2024 by Thomas Yozzo, as _____, who is personally known to me or has produced _____ as identification.

NOTARY PUBLIC STATE OF FLORIDA

ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

Signature of Notary

Ashley Shepard

(Name typed, printed or stamped)

My Commission expires: April 14, 2026

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Any and all communications may be subject to public disclosure.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | *F.* 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931

Instrument Prepared by and Return to:

Town of Fort Myers Beach Code Enforcement

2731 Oak Street

Fort Myers Beach, Florida 33931

TOWN OF FORT MYERS BEACH, FLORIDA

CODE ENFORCEMENT

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Manager for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. On the 24th day of February, 2016, ABSOLUTE BEST RATE RENTALS, LLC. (property owners) were found in violation of the Town of Fort Myers Beach Ordinance No. 103.5, (For maintaining of unsafe buildings, structures and/or service systems) at the property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Subject Property") by virtue of a Code Enforcement Order by the Special Magistrate in CE Case No. CE15-0167, which was adjudicated on the 28th day of March, 2016.

2. The Order was recorded as Instrument No. 2016000076124 on the 12th day of April, 2016 in the public records of Lee County, Florida.
3. ABSOLUTE BEST RATE RENTALS, LLC. was given 30 days to come into compliance with the Special Magistrate's Order, which was on or before the 25th day of March, 2016.
4. According to available records in possession of the Town of Fort Myers Beach, a desk inspection of the Subject Property was performed by a Code Enforcement Officer on the 4th day of April, 2024 and the Subject Property was found in compliance on the 28th day of September, 2022 due to hurricane Ian and the property being demoed.

5. No further action has been taken by the Town of Fort Myers Beach regarding this violation, which was corrected as stated above.

6. Code Enforcement Case No. CE15-0167 will be closed upon payment of $594,650.00 lien in full.

7. I have personal knowledge of all these facts based on my review of records in possession of the Town of Fort Myers Beach, Florida.

FURTHER AFFIANT SAYETH NOT.

Signed on this 16 day of April, 2024.

Yozzo, Thomas W

Print Name

Signature

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16th day of April, 2024 by Thomas Yozzo, as _____, who is personally known to me or has produced _____ as identification.

ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

Signature of Notary

Ashley Shepard

(Name typed, printed or stamped)

My Commission expires: April 14, 2026

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Any and all communications may be subject to public disclosure.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | *F.* 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931

Instrument Prepared by and Return to:

Fort Myers Beach Code Enforcement

2731 Oak Street

Fort Myers Beach, Florida 33931

TOWN OF FORT MYERS BEACH, FLORIDA

CODE ENFORCEMENT

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Manager for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. On the 3rd day of February, 2017, Orlandini, Joseph B (property owner) was found in violation of the Town of Fort Myers Beach Ordinance No. 105.1, (work without a permit) at the property located at 80 Avenue E, Fort Myers Beach, FL 339311 ("Subject Property") by virtue of a Code Enforcement Order by the Special Magistrate in CE Case No. CE17-0065, which was adjudicated on the 20th day of June, 2019 .
2. The Order was recorded as Instrument No. 2019000160404 on the 9th day of July, 2019 in the public records of Lee County, Florida.

3. Orlandini, Joseph B was given 30 days to come into compliance with the Special Magistrate's Order, which was on or before the 26th day of July, 2017.

4. According to available records in possession of the Town of Fort Myers Beach, an inspection of the Subject Property was performed by a Code Enforcement Officer on the 4th day of April, 2024, and the Subject Property was found in compliance on the 28th day of September, 2022 due to Hurricane Ian and the property being Demoed.

5. No further action has been taken by the Town of Fort Myers Beach regarding this violation, which was corrected as stated above.

6. Code Enforcement Case No. CE17-0065 will be closed upon payment of $650.00 lien in full.

7. I have personal knowledge of all these facts based on my review of records in possession of the Town of Fort Myers Beach, Florida.

FURTHER AFFIANT SAYETH NOT.

Signed on this 16 day of April, 2024.

Vozzo, Thomas W

Print Name

Code Enforcement Officer

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16th day of April, 2024 by Thomas Yoza, as _____, who is personally known to me or has produced _____ as identification.

ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

_____
Signature of Notary

Ashley Shepard
(Name typed, printed or stamped)

My Commission expires: April 14, 2026

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

1/24/2024

Case Number:	**CE15-0167, CE14-0394, CE17-0065**
Certified Mail:	**9589 0710 5270 0183 6372 98**
Regular Mail:	**1/24/2024**

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIR
FORT MYERS BEACH FL 33931,

Respondent.

Site Address: **80 AVENUE E**
Parcel Strap No.: **19-46-24-W4-0070A.0020**

NOTICE OF CODE ENFORCEMENT HEARING TO AUTHORIZE FORCLOSURE

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the recording of three (3) liens on the above-described property as Official Records Instrument Numbers 2013000076145, 2016000076146, and 2019000160404 in the Lee County Public Records. A Hearing before the Town's Code Enforcement Special Magistrate seeking authorization to foreclose the liens has been scheduled for:

February 12, 2024, at 1:00 P.M. at Bay Oaks Recreational Campus, located at 2731 Estero Boulevard, Fort Myers Beach, Florida.

A copy of the referenced liens is attached hereto and incorporated herein by reference.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the request, even though you are not present, and may take other action that will affect your rights.

Bill Stout
Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

INSTR # 2016000076125, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy
Clerk ALUCKEY

INSTR # 2016000076146, Pages 2
Doc Type LI, Recorded 04/12/2016 at 12:32 PM,
Linda Doggett, Lee County Clerk of Circuit Court
Rec. Fee $18.50
Deputy Clerk ALUCKEY
#3

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: CE14-0394
vs.	:	
ABSOLUTE BEST RATE RENTALS, LLC	:	
Respondent.	:	

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-111 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT,
STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED:

APR 12 2016

INSTR # 2016000076124, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy
Clerk ALUCKEY

INSTR # 2016000076145, Pages 2
Doc Type LI, Recorded 04/12/2016 at 12:32 PM,
Linda Doggett, Lee County Clerk of Circuit Court
Rec. Fee $18.50
Deputy Clerk ALUCKEY
#2

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: CE15-0167
vs.	:	
ABSOLUTE BEST RATE RENTALS, LLC	:	
Respondent.	:	

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and

2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Section 6-111 still exists on the subject property; and

3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016, and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue E (Bldg. B), Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION

OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT, STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED: APR 12 2016

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000160404, Doc Type LI, Pages 3, Recorded 7/9/2019 at 11:14 AM, Deputy Clerk CDOUGLAS ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE17-0065**

ORLANDINI, JOSEPH,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on June 20, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joe Orlandini, present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joe Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

   Lot 2, Block A, CRESCENT BEACH SUBDIVISION, accoding to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Cout in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on July 26, 2017, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order of Enforcement finding the Property/Respondent in violation of Section 6-111, Adopting FBC 105.1 of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on June 20, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has complied with the Order of Enforcement after 310 days of non-compliance, not paid the accrued fine in the amount of $46,500.00, nor paid the administrative fee/cost of prosecution in the amount of $175.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, was in violation of Town Code and took 310 days to comply with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate certifies that a fine in the amount of $46,675.00, has accrued every day that Respondent was in non-compliance with the Order of Enforcement previously entered in this case.

2. The Special Magistrate believes property owner has come forth and presented sufficient evidence of mitigating circumstances therein and reduced the lien being imposed to the amount of $500.00.

3. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

4. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the Town of Fort Myers Beach Code Enforcement Department.**

ORDERED this 20 day of June, 2019 and executed this 1 day of July, 2019.

Myrnabelle Roche, Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order was sent by U.S. Mail on the 9 day of July, 2019 to:

Joseph Orlandini
281 Palermo Cir.
Fort Myers Beach, FL 33931

Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: 7/9/19
Dated

9589 0710 5270 0183 6372 98

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at *www.usps.com®*.

Fort Myers Beach, FL 33931

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Extra Services & Fees *(check box, add fee as appropriate)*	$3.65
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☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$0.92
Total Postage and Fees	**$8.97**

200 CAROLINA AVENUE FORT MYERS BEACH, FL 33931-9998
FORT MYERS BEACH POST OFFICE
0440
03
JAN 24 2024
Postmark Here
01/24/2024

Sent To: White Sand Properties of Fort Myers Beach LLC
Street and Apt. No., or PO Box No.: 415 Palermo Cir NOH Foreclosure
City, State, ZIP+4®: Fort Myers Beach, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt;* attach PS Form 3811 to your mailpiece; for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.
  - Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
  - Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
  - Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

PS Form **3800,** January 2023 *(Reverse)* PSN 7530-02-000-9047

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

1/24/2024

Case Number:	**CE15-0167, CE14-0394, CE17-0065**
Certified Mail:	**9589 0710 5270 0183 6372 81**
Regular Mail:	**1/24/2024**

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

STEVEN A RAMUNNI- REG. AGENT FOR:
WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
110 N MAIN STREET
LABELLE, FL 33935,

Respondent.

Site Address: **80 AVENUE E**
Parcel Strap No.: **19-46-24-W4-0070A.0020**

NOTICE OF CODE ENFORCEMENT HEARING TO AUTHORIZE FORCLOSURE

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the recording of three (3) liens on the above-described property as Official Records Instrument Numbers 2013000076145, 2016000076146, and 2019000160404 in the Lee County Public Records. A Hearing before the Town's Code Enforcement Special Magistrate seeking authorization to foreclose the liens has been scheduled for:

February 12, 2024, at 1:00 P.M. at Bay Oaks Recreational Campus, located at 2731 Estero Boulevard, Fort Myers Beach, Florida.

A copy of the referenced liens is attached hereto and incorporated herein by reference.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the request, even though you are not present, and may take other action that will affect your rights.

Bill Stout

Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2525 Estero Blvd Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE 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 TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.

INSTR # 2016000076125, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy
Clerk ALUCKEY

INSTR # 2016000076146, Pages 2
Doc Type LI, Recorded 04/12/2016 at 12:32 PM,
Linda Doggett, Lee County Clerk of Circuit Court
Rec. Fee $18.50
Deputy Clerk ALUCKEY
#3

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: CE14-0394
vs.	:	
ABSOLUTE BEST RATE RENTALS, LLC	:	
Respondent.	:	

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-111 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT,
STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED:

APR 12 2016

INSTR # 2016000076124, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy
Clerk ALUCKEY

INSTR # 2016000076145, Pages 2
Doc Type LI, Recorded 04/12/2016 at 12:32 PM,
Linda Doggett, Lee County Clerk of Circuit Court
Rec. Fee $18.50
Deputy Clerk ALUCKEY
#2

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: CE15-0167
vs.	:	
ABSOLUTE BEST RATE RENTALS, LLC	:	
Respondent.	:	

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and

2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Section 6-111 still exists on the subject property; and

3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016, and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue E (Bldg. B), Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION

OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT, STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED: APR 12 2016

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000160404, Doc Type LI, Pages 3, Recorded 7/9/2019 at 11:14 AM, Deputy Clerk CDOUGLAS ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE17-0065**

ORLANDINI, JOSEPH,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on June 20, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joe Orlandini, present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joe Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

   Lot 2, Block A, CRESCENT BEACH SUBDIVISION, accoding to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Cout in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on July 26, 2017, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order of Enforcement finding the Property/Respondent in violation of Section 6-111, Adopting FBC 105.1 of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on June 20, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has complied with the Order of Enforcement after 310 days of non-compliance, not paid the accrued fine in the amount of $46,500.00, nor paid the administrative fee/cost of prosecution in the amount of $175.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, was in violation of Town Code and took 310 days to comply with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate certifies that a fine in the amount of $46,675.00, has accrued every day that Respondent was in non-compliance with the Order of Enforcement previously entered in this case.

2. The Special Magistrate believes property owner has come forth and presented sufficient evidence of mitigating circumstances therein and reduced the lien being imposed to the amount of $500.00.

3. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

4. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the Town of Fort Myers Beach Code Enforcement Department.**

ORDERED this 20 day of June, 2019 and executed this 1 day of July, 2019.

Myrnabelle Roche, Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order was sent by U.S. Mail on the 9 day of July, 2019 to:

Joseph Orlandini
281 Palermo Cir.
Fort Myers Beach, FL 33931

Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: 7/9/19
Dated

9589 0710 5270 0183 6372 81

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

Labelle, FL 33935

OFFICIAL USE

Certified Mail Fee $4.40	
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy) $0.00	
☐ Return Receipt (electronic) $0.00	
☐ Certified Mail Restricted Delivery $0.00	
☐ Adult Signature Required $0.00	
☐ Adult Signature Restricted Delivery $	
Postage $0.92	
Total Postage and Fees $8.97	

FT. MYERS BEACH POST OFFICE
200 CAROLINA AVENUE
FT. MYERS BEACH, FL 33931-9998
JAN 24 2024
0440
03
Postmark Here
01/24/2024

Sent To: Ramunni, Steven A

Street and Apt. No., or PO Box No.: 110 N. Main St

City, State, ZIP+4®: LaBelle, FL 33935

80 Ave E
Nolt Forclose
Agenda

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

Certified Mail service provides the following benefits:

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt;* attach PS Form 3811 to your mailpiece; for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.
  - Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
  - Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
  - Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

PS Form **3800,** January 2023 *(Reverse)* PSN 7530-02-000-9047

BEFORE THE SPECIAL MAGISTRATE
TOWN OF FT. MYERS BEACH, FLORIDA

TOWN OF FT. MYERS BEACH,

Petitioner,

v.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.

_____/

Case Nos. CE15-0167, CE14-0394, CE17-0065
Property Address: 80 Ave E

AFFIDAVIT OF MAILING AND POSTING OF NOTICE OF HEARING (FORECLOSURE AUTHORIZATION)

STATE OF FLOIRDA
COUNTY OF LEE

Before me, the undersigned authority, personally appeared Bill Stout, a Code Enforcement Officer for the Town of Ft. Myers Beach, who after being duly sworn, deposes and says:

1. That I am a resident of Lee County, Florida, and over the age of 21.

2. That on the 30th day of January, 2024, I mailed a copy of a Notice of Hearing to Authorize Foreclosure of a Code Enforcement Lien ("Notice"), to be held before the Special Magistrate on the 12th day of February, 2024, by first class certified United States mail, return receipt requested and Priority Mail Express to White Sand Properties of Fort Myers Beach, LLC at 415 Palermo Cir., Fort Myers Beach, FL 33931 and to Steven A Ramunni, the registered agent listed with the Florida Division of Corporations, at 110 N Main Street, Labelle, FL 33935. Copies of the Notices are attached as Exhibit AA.

3. That as of the date of this Affidavit, the certified mail and priority mail express sent to the property owner has either been refused or delivery could not be completed.

That as of the date of this Affidavit, a return receipt of the certified mailing and receipt of the priority mail express has been received by the registered agent, a copy of which is attached as Exhibit BB.

4. That I posted a copy of the Notice on the property at 80 Avenue E, Fort Myers Beach, FL 33931 on the 30th day of January, 2024. A copy of a photograph of the posting taken by me is attached as Exhibit CC to this Affidavit.

5. That I posted a copy of the Notice at Town Hall at 2545 Estero Blvd., Fort Myers Beach, FL 33931 on the 30th day of January, 2024. A copy of a photograph of the posting taken by me is attached as Exhibit DD to this Affidavit.

FURTHER AFFIANT SAYETH NOT.

Bill Stout

Printed Name: BILL STOUT

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence OR __ online notarization, this 1st day of February, 2024, by Bill Stout, ✓ who is personally known to me OR ___ who has produced _____ as identification.

Kristin Schumacher
Notary Public Signature

My Commission Expires: April 5, 2024
(SEAL)

KRISTIN SCHUMACHER
Notary Public - State of Florida
Commission # GG 976081
My Comm. Expires Apr 5, 2024
Bonded through National Notary Assn.

KRISTIN SCHUMACHER
Notary Public - State of Florida
Commission # GG 976081
My Comm. Expires Apr 5, 2024
Bonded through National Notary Assn.

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NOS. CE14-0394, CE15-0167, CE17-0065**

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.

FORECLOSURE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

THIS CAUSE came on for public hearing on February 12, 2024, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, White Sand Properties of Fort Myers Beach, LLC, by and through its designated representative, Steven A. Ramunni, P.A., for the purpose of adjudication of the Town's Request for Authorization to Foreclose, the liens recorded in the Official Records Book as Instrument Numbers 2016000076124, 2016000076125, and 2019000160404. Having considered the sworn testimony, evidence, and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, White Sand Properties of Fort Myers Beach, LLC ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL, 33931 ("Property"), legally described as:

Lot 2, Block A, Crescent Beach Subdivision, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The property was previously found in violation of the Town of Fort Myers Beach Code and Respondent's predecessor was ordered to bring the property into compliance within a specific amount of time given for compliance. The property was not brought into compliance during said time.

3. Due to the finding of a failure to comply, fines accrued and liens were filed for the fines against the property in violation and against all other property owned by Respondent's predecessor, both real and personal.

4. Subsequently, Respondent acquired the property at issue, subject to the liens.

5. Respondent did not present sufficient evidence that the liens were ever paid, satisfied, or otherwise released.

6. More than three months have passed since the lien was recorded on 4/12/2016 in the Official Records Book as Instrument Number 2016000076124.

   More than three months have passed since the lien was recorded on 4/12/2016 in the Official Records Book as Instrument Number 2016000076125.

   More than three months have passed since the lien was recorded on 7/9/2019 in the Official Records Book as Instrument Number 2019000160404.

7. Service is not at issue. Respondent was present at the hearing, having received notice of the hearing along with copies of the orders/liens on which foreclosure was requested, and did not have any objections related to service or notice. This case is therefore properly before the Special Magistrate.

B. CONCLUSION OF LAW:

1. The legal prerequisites for requesting authorization to foreclose the liens have been met.

2. Respondent has shown insufficient evidence to support any legal reason to prevent foreclosure or other action to collect the fines.

C. ORDER:

1. Based upon the forgoing Findings of Fact and Conclusions of Law, it is hereby ordered that the Special Magistrate authorizes the Town to foreclose the liens against White Sand Properties of Fort Myers Beach, LLC due to the unpaid liens filed more than three months ago on April 12, 2016, and July 9, 2019.

ORDERED this 12th day of February 2024, and executed this 22nd day of February 2024.

Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ___ online notarization, this 22nd day of February, 2024, by Monica Schaucker, X who is personally known to me OR ___ who has produced _____ as identification.

(SEAL) Notary Public Signature

My Commission Expires:

TERRENCE L. LAVY
MY COMMISSION # HH283323
EXPIRES: July 04, 2026

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 23 day of February, 2024 to:

White Sand Properties of Fort Myers Beach, LLC
415 Palermo Cir.
Fort Myers Beach, FL 33931

Steven A. Ramunni- Reg. Agent for:
White Sand Properties of Fort Myers Beach, LLC
110 N. Main St.
Labelle, FL 33935

Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: _____ Dated February 23, 2024
Town Clerk

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,

Vs.

CASE NOS. CE14-0394, CE15-0167, CE17-0065

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,
Respondent.
_____/

VERIFIED MOTION TO FORGIVE OR IN THE ALTERNATIVE MITIGATE FINES

COMES NOW, Respondent, WHITE SAND PROPERTIES OF FORT MYERS BEACH LLC, (White Sand"), by and through its undersigned attorney and pursuant to Fort Myers Beach Code of Ordinances, §2-432, requests that Town Council forgive or in the alternative mitigate the three Code Enforcement Fines herein, and in in support would allege as follows:

1. The Magistrate, on February 22, 2024, entered Foreclosure Findings Of Fact, Conclusions Of Law And Orders in the three respective cases recited herein. See Exhibit "A".
2. Respondent requests a forgiveness as to all fines based upon the following:
   A. Respondent would show that it was not the offending party in each of the matters resulting in violations for the parcel identified as 80 Avenue E, Ft. Myers Beach, Florida.
   B. Respondent is the purchaser of the real property identified as 1560 I St and 80 Ave E, Fort Myers Beach, Florida.
   C. In December, 2019, Respondent negotiated with then Town Manager, Roger Hernstead, what it believed a full and final release of the subject liens in anticipation of Respondent's purchase of 1560 I Street and 80 Avenue E, Ft. Myers Beach, Florida.
   D. In fulfillment of White Sand's agreement with Fort Myers Beach, Respondent paid the sum of $50,000.00 to Fort Myers Beach. See Exhibit "B" attached hereto.
   E. Fort Myers Beach accepted White sands' Settlement Payment settlement by depositing said sum into one of its accounts. Subsequently, Roger

Hernstead advised the Respondent that the violator still owed the sum of 15,000.00 for his portion of the fine.

F. Respondent believed that the negotiation agreement and payment to Fort Myers Beach had resolved or should have resolved the subject liens as to all property subsequently purchased by Respondent.

3. Respondent would request that the Town Council forgive the fines due to hists good faith negotiations and payment to the Town and that it was not the offending party.
4. In the alternative, Respondent would request a reduction of the fines and final payment of the sum of $15,000.00 for the release of the liens on 80 Avenue E.
5. Respondent would further allege that the correct compliance date (as to Respondent) should be effective as of December 12, 2019, the date of Respondent's payment to the Town. See Affidavits of Compliance attached as Composite Exhibit "C".

Wherefore, Respondent requests that the Court conduct a hearing herein and grant White Sand its requested relief.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this Motion To Forgive or in the alternative to Mitigate Fines and hereby state under oath and under penalties of perjury that the allegations of fact contained herein are true and correct.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC

By: _____
JESSE SCHMID, Manager

STATE OF ~~FLORIDA~~ Illinois
COUNTY OF DeWitt

The foregoing instrument was acknowledged by me this 26 day of April, 2024, by JESSE SCHMID, who (X) personally appeared or ( ) appeared via online and (X) is personally known to me or (·) presented the following identification _____.

JASON S DEERWESTER
Official Seal
Notary Public - State of Illinois
My Commission Expires Mar 2, 2026

_____
Notary Public
Print Name: Jason S Deerwester

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of April 2024, this document was transmitted to the following via e-mail and U.S. mail to:

Amy Baker, Town Clerk
2525 Estero Blvd.
Fort Myers Beach, FL 33931
amy@fmbgov.com

Nancy Stuparich
Vose Law Firm LLP
324 W Morse Blvd.
Winter Park, FL 32789
nstuparich@voselaw.com

Respectfully Submitted:

/s/ Steven A. Ramunni
Steven A. Ramunni, P.A.
Attorney for Respondent
Florida Bar Number: 396702
P.O. Box 1118
LaBelle, FL 33975
Telephone: (863) 230-2268
E-Mail: steve@sramunnipa.com
E-Mail 2: kerensa@sramunnipa.com

EXHIBIT “A”

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs.

CASE NOS. CE14-0394, CE15-0167, CE17-0065

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.

FORECLOSURE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

THIS CAUSE came on for public hearing on February 12, 2024, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, White Sand Properties of Fort Myers Beach, LLC, by and through its designated representative, Steven A. Ramunni, P.A., for the purpose of adjudication of the Town's Request for Authorization to Foreclose, the liens recorded in the Official Records Book as Instrument Numbers 2016000076124, 2016000076125, and 2019000160404. Having considered the sworn testimony, evidence, and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, White Sand Properties of Fort Myers Beach, LLC ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL, 33931 ("Property"), legally described as:

Lot 2, Block A, Crescent Beach Subdivision, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The property was previously found in violation of the Town of Fort Myers Beach Code and Respondent's predecessor was ordered to bring the property into compliance within a specific amount of time given for compliance. The property was not brought into compliance during said time.

3. Due to the finding of a failure to comply, fines accrued and liens were filed for the fines against the property in violation and against all other property owned by Respondent's predecessor, both real and personal.

4. Subsequently, Respondent acquired the property at issue, subject to the liens.

5. Respondent did not present sufficient evidence that the liens were ever paid, satisfied, or otherwise released.

6. More than three months have passed since the lien was recorded on 4/12/2016 in the Official Records Book as Instrument Number 2016000076124.

   More than three months have passed since the lien was recorded on 4/12/2016 in the Official Records Book as Instrument Number 2016000076125.

   More than three months have passed since the lien was recorded on 7/9/2019 in the Official Records Book as Instrument Number 2019000160404.

7. Service is not at issue. Respondent was present at the hearing, having received notice of the hearing along with copies of the orders/liens on which foreclosure was requested, and did not have any objections related to service or notice. This case is therefore properly before the Special Magistrate.

B. CONCLUSION OF LAW:

1. The legal prerequisites for requesting authorization to foreclose the liens have been met.

2. Respondent has shown insufficient evidence to support any legal reason to prevent foreclosure or other action to collect the fines.

C. ORDER:

1. Based upon the forgoing Findings of Fact and Conclusions of Law, it is hereby ordered that the Special Magistrate authorizes the Town to foreclose the liens against White Sand Properties of Fort Myers Beach, LLC due to the unpaid liens filed more than three months ago on April 12, 2016, and July 9, 2019.

ORDERED this 12th day of February 2024, and executed this 22 day of February 2024.

Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of X physical presence OR ____ online notarization, this 22nd day of February, 2024, by Monica Schmuckel, X who is personally known to me OR ___ who has produced _____ as identification.

(SEAL) Notary Public Signature

My Commission Expires:

TERRENCE L. LAVY
MY COMMISSION # HH283323
EXPIRES: July 04, 2026

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 23 day of February, 2024 to:

White Sand Properties of Fort Myers Beach, LLC
415 Palermo Cir.
Fort Myers Beach, FL 33931

Steven A. Ramunni- Reg. Agent for:
White Sand Properties of Fort Myers Beach, LLC
110 N. Main St.
Labelle, FL 33935

Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

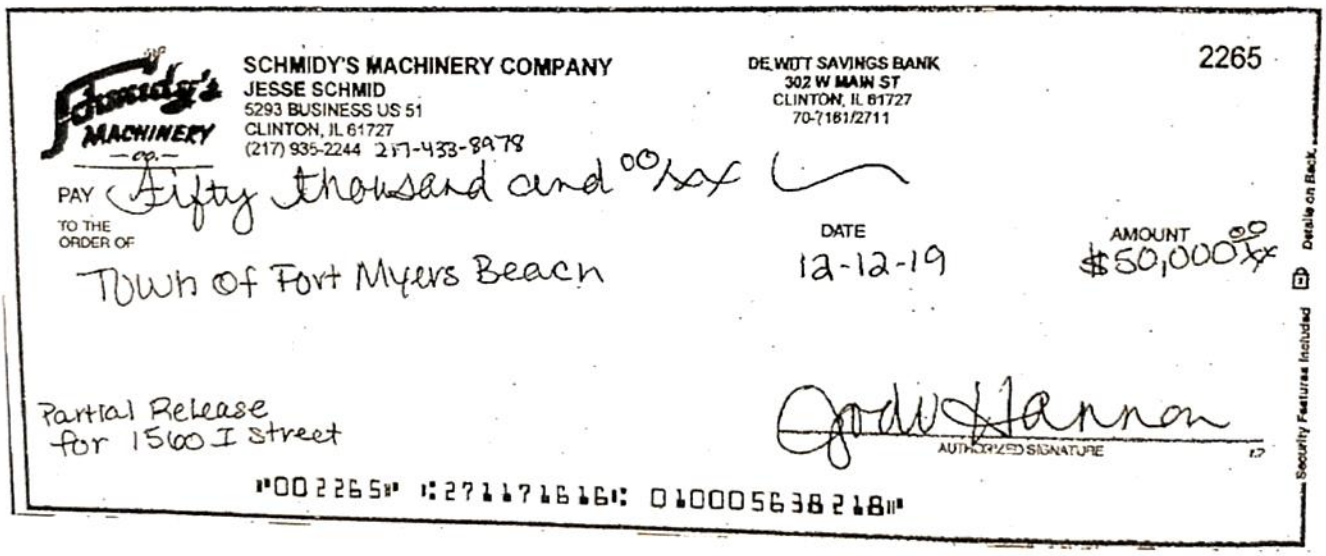
BY: _____ Dated February 23, 2024
Town Clerk

EXHIBIT "B"

DeWitt Savings Bank

Account Number:	100056382
Capture Date:	December 13, 2019
Item Number:	5250001234270
Posted Date:	December 13, 2019
Posted Item Number:	600219
Serial Number:	2265
Amount:	50,000.00
BOFD Return RT:	067016325
BOFD Sequence:	461154912

SCHMIDY'S MACHINERY
5293 BUSINESS US 51
CLINTON IL 61727



Schmidy's Machinery
— or —

SCHMIDY'S MACHINERY COMPANY
JESSE SCHMID
5293 BUSINESS US 51
CLINTON, IL 61727
(217) 935-2244 217-433-8978

DE WITT SAVINGS BANK
302 W MAIN ST
CLINTON, IL 61727
70-7181/2711

2265

PAY TO THE ORDER OF: Fifty thousand and 00/xx

Town of Fort Myers Beach

DATE: 12-12-19

AMOUNT: $50,000.00

Partial Release
for 1560 I Street

AUTHORIZED SIGNATURE

"002265" ⑆271171616⑆ 010005638218"

Security Features Included — Details on Back

PAY TO THE ORDER OF
FIRST FLORIDA INTEGRITY BANK
067016325
FOR DEPOSIT ONLY
TOWN OF FORT MYERS BEACH
OPERATING ACCT 1101666

COMPOSITE
EXHIBIT "C"

Instrument Prepared by and Return to:

Fort Myers Beach Code Enforcement

2731 Oak Street

Fort Myers Beach, Florida 33931

TOWN OF FORT MYERS BEACH, FLORIDA

CODE ENFORCEMENT

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Manager for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. On the 3rd day of February, 2017, Orlandini, Joseph B (property owner) was found in violation of the Town of Fort Myers Beach Ordinance No. 105.1, (work without a permit) at the property located at 80 Avenue E, Fort Myers Beach, FL 339311 ("Subject Property") by virtue of a Code Enforcement Order by the Special Magistrate in CE Case No. CE17-0065, which was adjudicated on the 20th day of June, 2019 .
2. The Order was recorded as Instrument No. 2019000160404 on the 9th day of July, 2019 in the public records of Lee County, Florida.

3. Orlandini, Joseph B was given 30 days to come into compliance with the Special Magistrate's Order, which was on or before the 26th day of July, 2017.

4. According to available records in possession of the Town of Fort Myers Beach, an inspection of the Subject Property was performed by a Code Enforcement Officer on the 4th day of April, 2024, and the Subject Property was found in compliance on the 28th day of September, 2022 due to Hurricane Ian and the property being Demoed.

5. No further action has been taken by the Town of Fort Myers Beach regarding this violation, which was corrected as stated above.

6. Code Enforcement Case No. CE17-0065 will be closed upon payment of $650.00 lien in full.

7. I have personal knowledge of all these facts based on my review of records in possession of the Town of Fort Myers Beach, Florida.

FURTHER AFFIANT SAYETH NOT.

Signed on this 16 day of April, 2024.

Vozzo, Thomas W

Print Name

Code Enforcement Officer

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16th day of April, 2024 by Thomas Yozzo, as _____, who is personally known to me or has produced _____ as identification.

ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

Signature of Notary

Ashley Shepard

(Name typed, printed or stamped)

My Commission expires: April 14, 2026

Instrument Prepared by and Return to:

Town of Fort Myers Beach Code Enforcement

2731 Oak Street

Fort Myers Beach, Florida 33931

TOWN OF FORT MYERS BEACH, FLORIDA

CODE ENFORCEMENT

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Manager for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. On the 24th day of February, 2016, ABSOLUTE BEST RATE RENTALS, LLC. (property owners) were found in violation of the Town of Fort Myers Beach Ordinance No. 105.1, (For work without the required permit. (remodel and construction of a stairwell) at the property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Subject Property") by virtue of a Code Enforcement Order by the Special Magistrate in CE Case No. CE14-0394, which was adjudicated on the 28th day of March, 2016.

2. The Order was recorded as Instrument No. 2016000076125 on the 12th day of April, 2016 in the public records of Lee County, Florida.
3. ABSOLUTE BEST RATE RENTALS, LLC. was given 30 days to come into compliance with the Special Magistrate's Order, which was on or before the 25th day of March, 2016.
4. According to available records in possession of the Town of Fort Myers Beach, a desk inspection of the Subject Property was performed by a Code Enforcement Officer on the 4th day of April, 2024 and the Subject Property was found in compliance on the 28th day of September, 2022 due to hurricane Ian and the property being demoed.

5. No further action has been taken by the Town of Fort Myers Beach regarding this violation, which was corrected as stated above.

6. Code Enforcement Case No. CE14-0394 will be closed upon payment of $594,650.00 lien in full.

7. I have personal knowledge of all these facts based on my review of records in possession of the Town of Fort Myers Beach, Florida.

FURTHER AFFIANT SAYETH NOT.

Signed on this 16 day of April, 2024.

Yozzo, Thomas W

Print Name

Signature

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16th day of April, 2024 by Thomas Yozzo, as _____, who is personally known to me or has produced _____ as identification.

ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

Signature of Notary

Ashley Shepard

(Name typed, printed or stamped)

My Commission expires: April 14, 2026

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Any and all communications may be subject to public disclosure.

Instrument Prepared by and Return to:

Town of Fort Myers Beach Code Enforcement

2731 Oak Street

Fort Myers Beach, Florida 33931

TOWN OF FORT MYERS BEACH, FLORIDA

CODE ENFORCEMENT

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, Code Enforcement Manager for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. On the 24th day of February, 2016, ABSOLUTE BEST RATE RENTALS, LLC. (property owners) were found in violation of the Town of Fort Myers Beach Ordinance No. 103.5, (For maintaining of unsafe buildings, structures and/or service systems) at the property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Subject Property") by virtue of a Code Enforcement Order by the Special Magistrate in CE Case No. CE15-0167, which was adjudicated on the 28th day of March, 2016.

2. The Order was recorded as Instrument No. 2016000076124 on the 12th day of April, 2016 in the public records of Lee County, Florida.
3. ABSOLUTE BEST RATE RENTALS, LLC. was given 30 days to come into compliance with the Special Magistrate's Order, which was on or before the 25th day of March, 2016.
4. According to available records in possession of the Town of Fort Myers Beach, a desk inspection of the Subject Property was performed by a Code Enforcement Officer on the 4th day of April, 2024 and the Subject Property was found in compliance on the 28th day of September, 2022 due to hurricane Ian and the property being demoed.

5. No further action has been taken by the Town of Fort Myers Beach regarding this violation, which was corrected as stated above.

6. Code Enforcement Case No. CE15-0167 will be closed upon payment of $594,650.00 lien in full.

7. I have personal knowledge of all these facts based on my review of records in possession of the Town of Fort Myers Beach, Florida.

FURTHER AFFIANT SAYETH NOT.

Signed on this 16 day of April, 2024.

Yozzo, Thomas W
Print Name

Signature

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16th day of April, 2024 by Thomas Yozzo, as _____, who is personally known to me or has produced _____ as identification.

ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

Signature of Notary

Ashley Shepard
(Name typed, printed or stamped)

My Commission expires: April 14, 2026

Please Note: Florida has very broad public records laws. Most written communications to and from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Any and all communications may be subject to public disclosure.

FORT MYERS BEACH ESTERO ISLAND
P. 239-765-0202 | F. 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931

Steven A. Ramunni

From:	Paul Waters <paul@voselaw.com>
Sent:	Tuesday, April 16, 2024 1:22 PM
To:	Steven A. Ramunni; Chloe Berryman; Nancy Stuparich; Becky Vose
Subject:	Fwd: Affidavits of Compliance
Attachments:	CE17-0065_Affidafit of Compliance and payment amount_DB_20240416.pdf; CE14-0394 _Affidafit of Compliance and payment amount_DB_20240416.pdf; CE15-0167_Affidafit of Compliance and payment amount_DB_20240416.pdf

Steve,

Attached are the affidavits from the Town, which have the dates of compliance and total fine amounts. Please let me know if you are willing to propose a reasonable settlement amount for the Town to consider. Otherwise, we must continue with the foreclosure litigation.

I'm free on Thursday or Friday if you'd like to discuss.

Paul Waters, Esq.
Partner
Vose Law Firm LLP
324 W. Morse Boulevard
Winter Park, Florida 32789
Phone: 407-645-3735
Cell: (904) 495-1054 (Preferred contact number)
Fax: 407-628-5670
email: paul@voselaw.com
web: www.voselaw.com
Toll-Free: 866-789-VOSE
London, UK: +44 (0)20 3355 1473
COUNSEL TO EXTRAORDINARY GOVERNMENTS, BUSINESSES & LEADERS WORLDWIDE SINCE 1973; LOCAL GOVERNMENT REPRESENTATION | BUSINESS LITIGATION | BUSINESS LAW | REAL ESTATE & DEVELOPMENT LAW

Fort Myers Beach Town Council

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes **Monday, May 6, 2024** **9:00 AM**

ORDER OF BUSINESS

FINAL

I. CALL TO ORDER

Members present: Mayor Allers, Vice Mayor Atterholt, Council Member King, Council Member Safford and Council Member Woodson.

II. INVOCATION

Town Clerk Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Council Member King moved to approve the final agenda with items C-I pulled for discussion, seconded by Council Member Safford.
The motion carried unanimously.

V. PUBLIC COMMENT

Bill Veach, resident, commented on the comprehensive plan items and recommended that they open up the uses in the CB zoning districts but make them smaller. For example, a 5,000-square-foot footprint could have a small restaurant and a small shop instead of a 5,000-square-foot restaurant to serve the community better and reduce traffic demands. He also thought it made sense to give people a floor for residential accommodation consistent with the neighborhood zoning for owner-occupied housing, workforce housing or critical services.
Howie Hoffman thanked everyone for their help with senior softball.

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

Council Member King thanked ABC 7 and NBC 2 and its employees for cleaning up the beach at the end of April. He recognized the town manager for his first anniversary. He also thanked his wife for staying with him for 34 years.

Council Member Safford thanked the Chamber of Commerce and the community for their event last week.

Mayor Allers thanked the FMB Kiwanis for the picture donation.

Vice Mayor Atterholt and Council Member Woodson congratulated Council Member King on his anniversary.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Tidal Basin Update

Deputy Director Jeremy Speaks stated that seven projects were obligated for a total of $19.8 million. He thanked the town for their hard work and explained what obligated projects were. He noted that they also wanted to complete approximately 20 projects and $1.5 million was awarded for CB planning. Seven hazard mitigation grants were submitted and six were under review. He added that five hazard mitigation grant applications for Hurricane Nicole were being worked on.

B. Marine & Environmental Resources Task Force

Jennifer Rusk, MERTF member, displayed and reviewed the Children's Activity Book. Lee County Visitor's Bureau requested copies to distribute along with other businesses. She thanked a list of people for helping with the project and commented that 10,000 would be printed. A consensus was reached to print the book.

VIII. APPROVAL OF MINUTES

A. Town Council - April 15, 2024

Under Public Items, A. should read that Mayor Allers read the title of the resolution, not Council Member King.

Council Member King moved to approve the amended minutes, seconded by Council Member Woodson.

The motion carried unanimously.

IX. CONSENT AGENDA

Council Member Woodson moved to approve the remainder of the consent agenda, seconded by Council Member Safford.
The motion carried unanimously.

A. Resolutions 24-81 through 24-84; Extending State of Local Emergency Hurricane Ian

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND EXTENDING THE PROCLAMATION THAT A STATE OF LOCAL EMERGENCY EXISTS BECAUSE OF THE CATASTROPHIC IMPACTS CAUSED BY HURRICANE IAN; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Woodson moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

B. Resolutions 24-85 through 24-88; Extending State of Local Emergency Hurricane Idalia

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE IDALIA; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Council Member Woodson moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

C. Resolution 24-76; CDBG-DR Applications and Grants for Public Facilities and Critical Infrastructure

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA AUTHORIZING THE MAYOR OR TOWN MANAGER TO APPLY FOR AND ADMINISTER A GRANT FROM THE LEE COUNTY CDBG-DR FOR PROJECTS UNDER THE CRITICAL INFRASTRUCTURE AND PUBLIC FACILITIES PROGRAMS; AUTHORIZING THE MAYOR OR TOWN MANAGER TO EXECUTE ANY RELATED DOCUMENTS TO IMPLEMENT AND ADMINISTER THE GRANT; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek reviewed the background of the request as stated on the blue sheet.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

D. Resolution 24-92; Disaster Recovery Services Piggyback Lee County Agreement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AGREEMENT FOR DISASTER RECOVERY SERVICES WITH CROWDER-GULF JOINT VENTURE, INC., BASED ON PRICING COMPETITIVELY PROCURED BY LEE COUNTY THROUGH AN AGREEMENT AND THE TWO ASSOCIATED AMENDMENTS; AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek reviewed the background of the request as stated on the blue sheet. He stated the Bay Oaks property would not be used for a debris pile.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

E. Resolution 24-93; Demolition Services (City of Fort Myers)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AGREEMENT FOR DEMOLITION SERVICES WITH SOUTHWEST BUILDERS INC., BASED ON PRICING COMPETITIVELY PROCURED BY THE CITY OF FORT MYERS, FLORIDA THROUGH AN AGREEMENT; AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek reviewed the background of the request as stated on the blue sheet.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

F. Resolution 24-94; Demolition Services Bonita Springs Piggyback

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AN AGREEMENT FOR DEMOLITION SERVICES WITH HONC DESTRUCTION BASED ON PRICING COMPETITIVELY PROCURED BY THE CITY OF BONITA SPRINGS; AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Operations & Compliance Director Frankie Kropacek reviewed the background of the request as stated on the blue sheet.

Council Member King moved to approve the resolution, seconded by Council Member Safford.
The motion carried unanimously.

G. Resolution 24-91; ITB-23-17-PW, Change Order #1

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING CHANGE ORDER #1 OF CONTRACT ITB-23-17-PW BETWEEN THE TOWN AND AMERICAN INFRASTRUCTURE SERVICES. TO INSTALL STREET SIGNS ON ESTERO ISLAND FOR AN ADDITIONAL COST OF $11,952; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager Hyatt reviewed the background of the request as stated on the blue sheet. He stated he would follow up with the county to replace the yield signs by the bridge.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously.

H. CDBG-DR Planning Subrecipient Agreement

Accept CDBG-DR Planning Funding award in the amount of up to $1,575,000.00

Director Kropacek explained the award as stated on the blue sheet. Council Member King moved to approve the award, seconded by Council Member Woodson.
The motion carried unanimously.

I. Amendment #1; Extension for Bandes Construction Company

AUTHORIZE THE MAYOR TO EXECUTE AN AMENDMENT TO THE PREVIOUS NON-EXCLUSIVE RIGHT OF WAY AGREEMENT WITH BANDES CONSTRUCTION COMPANY, INC. TO EXTEND THE AGREEMENT FOR TWO MONTHS LONGER UNDER THE SAME TERMS AND CONDITIONS

Council Member Safford pointed out an error and noted that it referred to a map in the packet that did not exist. Director Kropacek explained the location of the structure and stated the errors would be corrected.

Council Member King moved to authorize, seconded by Council Member Safford.
The motion carried unanimously.

X. ITEMS REMOVED FROM CONSENT AGENDA

Items C-I were removed for discussion.

XI. PUBLIC HEARINGS

Town Attorney Vose explained the quasi-judicial procedures. Town Clerk Baker confirmed that all agenda items were properly advertised and she swore in those providing testimony.

A. Resolution 24-89, VAR20240050, 590 Carlos Circle

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING VARIANCE VAR20240050, REQUESTING TWO VARIANCES FROM LDC TABLE 34-3 A VARIANCE OF 16-FEET FROM THE REQUIRED 25-FOOT STREET SETBACK, AND A VARIANCE OF 5-FEET FROM THE REQUIRED 20-FOOT REAR SETBACK LOCATED AT 590 CARLOS CIR; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. No ex parte communications were disclosed. The applicant confirmed receipt of the agenda items and background materials.

Community Development Senior Planner Jason Smalley reviewed the background of the request as stated in the blue sheet. The LPA (Local Planning Agency) unanimously recommended approval with an additional condition and the applicant agreed. No objections from the neighbors were received.

Fred Drovdlic from RVI Planning utilized PowerPoint for his presentation. Slides included a Location Map, Pre-Ian Property Overview, Variance Requests, Site Plan, Variance Criteria and Conclusions.

No public comment.

Council Member King moved to approve the resolution, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

B. Resolution 24-90; SEZ20240024, 6614 Estero Blvd "Island Winds Condominium"

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH FLORIDA APPROVING / APPROVING WITH CONDITIONS / DENYING SPECIAL EXCEPTION SEZ20240024 TO ALLOW RECONSTRUCTION OF A WOODEN LANDSCAPE WALL IN THE ENVIRONMENTALLY CRITICAL (EC) ZONING DISTRICT, WITH CONDITIONS, FOR THE PROPERTY LOCATED AT 6614 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. No ex parte communications were disclosed. The applicant confirmed receipt of the agenda items and background materials.

Senior Planner Smalley reviewed the background of the request as stated on the blue sheet. Staff confirmed that this was a replacement in the existing footprint of what existed before the hurricane and the deviation from the 1978 CCCL (Coastal Construction Control Line) was minimal.

Dave Nusbaum, President of the Island Winds Condominium, stated that the landscape wall was in a common area and faced the Gulf of Mexico. The wall was 300 yards from the mean high watermark of the beach. The FDEP (Florida Department of Environmental Protection) issued a permit, and staff informed Mr. Nusbaum that they needed a special exception. He noted that the LPA recommended approval.
No public comment.

Council Member King moved to approve the resolution, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

C. Ordinance 24-09; Moss Marina CPA20230152, 450, 445, 441 & 436 Harbor Court, 435 Bonita Street, and 438 Bonita Street

First Reading and Public Hearing on proposed ordinance 24-09 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING/ DENYING A COMPREHENSIVE PLAN FUTURE LAND USE MAP AMENDMENT FOR PROPERTIES LOCATED AT 450 HARBOR COURT, 445 HARBOR COURT, 441 HARBOR COURT, 436 HARBOR COURT, 435 BONITA STREET, AND 438 BONITA STREET FORT MYERS BEACH FROM MARINA (3.53 ACRES) AND MIXED RESIDENTIAL (1.00 ACRE) TO PEDESTRIAN COMMERCIAL; CONTAINING 4.53 ACRES GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3- 00027.0000, 24-46-23-W3-00026.0020, 24-46-23-W3-0030B.0200, 24-46-23-W3-0030B.0190, 24-46-23-W3-0030C.0060, 24-46-23-W3-0030C.0040, 24-46-23-W3-0030A.0110, PORTIONS OF HARBOR COURT AND BONITA STREET RIGHT-OF-WAY; PROVIDING FOR SCRIVENER'S ERRORS AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on June 3, 2024 at 9:00 AM.

Attorney Jenna Persons-Mulicka represented the applicant and requested a continuance to a date uncertain of the small-scale map amendment until the CPD (Commercial Planned Development) was ready so they could present both at the same time.

Council Member Woodson moved to approve the requested continuance to a date uncertain, seconded by Council Member Safford.
The motion carried unanimously.

D. Ordinance 24-10; Comprehensive Plan

First Reading and Public Hearing on proposed ordinance 24-10 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN IN ITS ENTIRETY, PURSUANT TO 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR ADOPTION OF THE TOWN OF FORT MYERS BEACH COMPREHENSIVE PLAN 2040, INCLUDING AMENDMENTS TO THE FUTURE LAND USE ELEMENT AND THE FUTURE LAND USE MAP, THE COMMUNITY DESIGN ELEMENT, THE TRANSPORTATION ELEMENT, THE HOUSING ELEMENT, THE HISTORIC

PRESERVATION ELEMENT, THE UTILITIES ELEMENT, THE CONSERVATION ELEMENT, THE COASTAL MANAGEMENT ELEMENT, THE RECREATION, & OPEN SPACE ELEMENT, THE INTERGOVERNMENTAL COORDINATION ELEMENT, THE CAPITAL IMPROVEMENTS ELEMENT, AND THE PROPERTY RIGHTS ELEMENT; INCLUSIVE OF ALL ASSOCIATED TABLES, EXHIBITS AND MAPS; AUTHORIZING FINDINGS AND ADMINISTRATIVE ACTIONS; PROVIDING FOR TRANSMITTAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR EFFECTIVE DATE.

Open the public hearing and schedule for second reading and final adoption on June 3, 2024 at 9:00 AM.

Mayor Allers read the title of the ordinance.

Community Development Planner Sarah Propst stated that Ed Ng would present the plan. Vice Mayor Atterholt suggested that Planner Propst be involved in the presentation and she agreed. Council Member Safford requested that the Future Land Use Map be displayed on the screen during the discussion.

Mr. Ng stated that the nodes were distributed throughout the island to help alleviate traffic without intruding into neighborhoods. He indicated that the nodes would allow for different uses. Planner Propst added that the next step was to update the LDC (Land Development Code) and that zoning districts would be based on future land use districts, although existing zoning districts would still apply. She stated that once the comprehensive plan (comp plan) was adopted, she would present language for the CB (Commercial Boulevard) district that would expand some of the uses in that district. Mayor Allers clarified that the future land use amendment would not increase thresholds from what was in place today.

Planner Propst indicated that they could move forward with changes to the LDC before the comp plan was approved by the state and the CB language would come forward in June or August.

Mr. Ng noted that the wetland conservation change had to be reviewed by the state and it might be sent back.

Planner Propst described how the CB district would open up to allow most commercial uses but would be limited on square footage. She commented that they could make the medium residential language more specific to properties fronting Estero Blvd. and make it more explicit by the zoning district without encroaching in the neighborhoods.

Council Member Woodson questioned whether the marina in the Santini district was zoned pedestrian commercial. Planner Propst replied that it was an error and the intensity had to be changed to 2.5 FAR.

Changes to Times Square were designed to capture visitors and the hotel and motel rooms were based on FAR, not density. It was noted that the platted overlay language would have to be utilized. Mr. Ng reviewed the changes to the Civic Center mixed-use district and stated the density would have to be adjusted slightly with the overlay. The Center Island district was reviewed and the marina was kept as a separate use. The Arts and Theater district uses were addressed and offices would be added to retail and restaurants.

It was noted that the platted overlay would have to be used for all districts. Workforce housing was added because the state required it.

Planner Propst stated that height was corrected to three stories because the ground floor was counted. Motel densities were changed to transient densities with FAR. Mayor Allers questioned the verbiage of stories and why it mattered whether there were three stories instead of two as long as they met the 30 feet above base flood elevation requirement and all other code requirements. Planner Propst replied that the LPA did not want to remove the stories because, in the past, people were sneaking additional stories into the attic space. Town Attorney Vose noted that it would allow for more people in residential structures.

The Housing element was about maintaining existing residents to empower aging populations to remain independent in their homes. Mr. Ng indicated that an addition stating that new housing would be built to comply with the applicable Florida building code and FEMA standards was a requirement, along with other requirements from the state. He described micro-units and stated they wanted to limit those.

Most of the Coastal Management element was required and Mr. Ng reviewed the policies.

When possible, language to preserve and enhance view corridors to the beach was added to the Recreation & Open Space. Codifying pocket parks was discussed and Mr. Ng will change the language to "add, preserve and enhance view corridors." He added a monitoring objective policy to track the number of partnership agreements and to track and implement ADA (Americans with Disability Act) accessibility. The LPA recommended that the monitoring section be scaled back to open it up. The park availability LOS was changed to include transient visitors since they used the parks and amenities.

Mr. Ng listed items eliminated in the Transportation element over the years and questioned what they wanted to bring back into the discussion. Vice Mayor Atterholt suggested adding language regarding pedestrian walkovers as a public benefit for entities with property on both sides of Estero Blvd. He would like to add language about pedestrian railings on Estero Blvd. and consider it a public benefit for businesses. He requested that water taxis be added to water ferries, add language to prioritize entities that incentivize people not to rent a car from the airport and businesses that create a shuttle service the beach. Planner Propst stated that pedestrian overpasses were already in the plan and that she was concerned about the potential danger with pedestrian railings. Nr. Ng indicated that pedestrian overpasses could be expanded to include areas outside of Times Square. Vice Mayor Atterholt suggested that the town partner with water ferries to help reduce traffic congestion. Mr. Ng recommended that water transportation be used rather than ferries or taxis and provided language to include involvement by the town. He will also add language regarding incentives for people not to rent cars as a public benefit.

Planner Propst noted that the LPA deferred improvements to Estero Blvd. to the town council. Mayor Allers indicated that the town took over the landscaping responsibility on Estero Blvd. and they could install bushes to direct pedestrians. Mr. Ng indicated he would strike the first sentence in the parking section and Planner Propst provided alternate language.

Mr. Ng reviewed changes to the Historic Preservation element.

Mr. Ng stated that he normally did not include a Capital Improvements element when the town did not have an adopted CIP (Capital Improvements Program), but he thought it might be justified since the town was working on it. He made suggestions of what should be included in a CIP.

The LPA questioned whether a section of the Conservation element should be deleted and the town council agreed. Sections regarding protecting marine life and estuary habitats to protect endangered species will remain in the element. Planner Propst explained the language regarding dredging canals.

Dates in the Intergovernmental Coordination element were updated, but no changes were made.

Mr. Ng reviewed updates in the Utilities element. Vice Mayor Atterholt described a micro-grid pilot program and questioned whether a goal could be added to seek state and federal funds for the program. Mr. Ng agreed it was a worthy goal and suggested adding a new policy.

There were no changes in the Property Rights element.

The Community Design element was reviewed and Mr. Ng pointed out new policies.

Public comment:

James Ink, resident, indicated that the FAR for marinas was listed as 1.0 and should be 1.5. Concerns Mr. Ink had were already changed.

Cathy Shultz, resident, noted that the LPA unanimously recommended keeping the 1999 language as it was and rejected changes to Bowditch in the recreation and open spaces element. She stated that Lee County purchased the property to save it from commercial development and preserve its natural flavor. She described wildlife on the property and did not support changing the element. She thanked the town council for their hard work. The town council agreed to keep the 1999 language.

Public comment closed.

Mr. Ng explained that the comp plan would be transmitted to the state for their review before it came back for a second reading, which could take up to two months.

Mayor Allers moved to approve the first reading for transmittal as amended through the discussion today, seconded by Council Member Safford.

The motion carried unanimously by roll call vote.

E. Ordinance 24-08; Downtown Building Height

Second Reading and Final Public Hearing on an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING CHAPTER 34, ARTICLE III., DIVISION 5, SECTIONS 34-675 BUILDING SIZE TO 1) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON TIMES SQUARE AND BAYFRONT PEDESTRIAN PLAZAS, THE NORTH SIDE OF FIRST STREET, THE SOUTH SIDE OF ESTERO BOULEVARD BETWEEN OLD SAN CARLOS BOULEVARD AND THE MAIN PEDESTRIAN CROSSING; AND 2) CHANGE BUILDING HEIGHT FROM 2 STORIES TO 3 STORIES FOR PROPERTIES THAT FRONT ON LAGOON STREET, CRESCENT STREET, FIRST, SECOND, THIRD AND FIFTH STREETS (EAST OF SKY BRIDGE ONLY); PROVIDING FOR SEVERABILITY; CODIFICATION; SCRIVENER'S ERRORS; CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance.

Planner Propst stated the ordinance language corrected a code issue. No public comments.

Council Member King moved to approve the ordinance, seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

F. Ordinance 24-06; Expedited Variance, Extension and Condition Review

Second Reading and Final Public Hearing on an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING SECTION 34-232 "REQUIRED HEARINGS" OF DIVISION 5 "PUBLIC HEARINGS AND REVIEW" OF ARTICLE II "ZONING PROCEDURES" OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND NONCONFORMITIES" TO REQUIRE ONLY ONE PUBLIC HEARING BEFORE THE LOCAL PLANNING AGENCY ("LPA") FOR VARIANCES, EXTENSIONS, AND SATISFACTION OF CONDITIONS OF PREVIOUSLY APPROVED LAND USE APPROVALS IF THE DECISION BY THE LPA IS UNANIMOUS AND THE TOWN CLERK DOES NOT RECEIVE A REQUEST FROM A MEMBER OF THE PUBLIC FOR AN ADDITIONAL HEARING BEFORE THE TOWN COUNCIL WITHIN 10 BUSINESS DAYS AFTER THE LPA DECISION; A PUBLIC HEARING BEFORE THE TOWN COUNCIL IS REQUIRED FOR VARIANCES, EXTENSIONS, OR SATISFACTION OF CONDITIONS IF THE DECISION BY THE LPA IS NOT UNANIMOUS OR IF ANYONE REQUESTS SUCH HEARING WITHIN 1O BUSINESS DAYS AFTER THE LPA DECISION; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance.

Town Attorney Vose explained the title change as stated on the blue sheet. No public comment.

Vice Mayor Atterholt moved to approve the ordinance, seconded by Council Member King.

The motion carried unanimously by roll call vote.

G. Ordinance 24-04; Emergency Temporary Uses

Second Reading and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING ORDINANCE 23-05 TO PERMIT TEMPORARY USES IN CERTAIN ZONING DISTRICTS IN RESPONSE TO, AND AS A PART OF THE TOWN'S RECOVERY EFFORTS FOLLOWING A NATURAL DISASTER OR OTHER EMERGENCY SITUATION: 1) BY A GOVERNMENTAL ENTITY FOR THE BENEFIT OF THE PUBLIC; 2) FOR RESIDENTIAL MANUFACTURED HOMES, MOBILE HOMES, MOTOR HOMES, RECREATIONAL VEHICLES OR OTHER TEMPORARY DWELLINGS FOR RESIDENTIAL PURPOSES; AND 3) FOR MOVEABLE COMMERCIAL STRUCTURES FOR THE DELIVERY AND SALE OF GOODS AND SERVICES TO THE PUBLIC; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS, SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance.
Town Attorney Vose reviewed the background of the request as stated in the blue sheet. Mayor Allers pointed out an inconsistency and questioned why a sunset clause was not included. Town Attorney Vose suggested drafting a resolution for the sunset clause and referencing it in the ordinance. The town council agreed.
No public comment.

Mayor Allers moved to approve the ordinance with amendments, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

H. Ordinance 24-13; Unsafe Structures

First Reading and Public Hearing on proposed Ordinance 24-13 entitled: ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE CODE OF ORDINANCES OF FORT MYERS BEACH, FLORIDA, TO CLARIFY EXISTING PROVISIONS RELATED TO NOTICE AND EXCEPTIONS; TO AUTHORIZE NOTIFICATION BY CONSTRUCTIVE SERVICE; TO INCLUDE ATTORNEY'S FEES AND COSTS AND NOTICE EXPENSES TO THE DEMOLITION LIEN AGAINST THE PROPERTY ON WHICH THE UNSAFE BUILDING WAS LOCATED, AND TO AUTHORIZE USE OF THE UNIFORM METHOD OF COLLECTION FOR COLLECTION OF LIENS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on May 20, 2024 at 9:00 AM.

Mayor Allers read the title of the ordinance.
Town Attorney Vose reviewed the background of the request as stated in the blue sheet and described the corrections made.
No public comment.

Council Member King moved to approve the ordinance, seconded by Council Member Woodson.
The motion carried unanimously by roll call vote.

I. Ordinance 24-11, Purchasing Policy Amendments

Second Reading and Final Public Hearing of an Ordinance Entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING DIVISION 1 PURCHASING OF GOODS AND SERVICES POLICIES AND PROCEDURES OF ARTICLE V FINANCE OF THE TOWN OF FORT MYERS BEACH TO TRANSFER PURCHASING TO THE TOWN MANAGER OR DESIGNEE FROM THE FINANCE DEPARTMENT, TO INCREASE THE AUTHORITY OF THE TOWN MANAGER FOR PURCHASES OF GOODS AND SERVICES, TO CLARIFY EXISTING REGULATIONS, AND TO IMPLEMENT RECOMMENDATIONS PROVIDED TO THE TOWN BASED ON THE DISASTER READINESS ASSESSMENT AND ABATEMENT PLAN PREPARED BY THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT; PROVIDING FOR CONFLICT OF LAW, SCRIVENER'S ERRORS AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance.
Town Manager Hyatt noted that this was to help expedite things and it lined up with FDEM (Florida Department of Emergency Management) new requirements.
No public comment.

Vice Mayor Atterholt moved to approve the ordinance, seconded by Mayor Allers.
The motion carried unanimously by roll call vote.

J. Ordinance 24-12; Elections

Second Reading and Final Public Hearing on an Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA REAFFIRIMING ITS PRIOR AMENDMENT OF THE QUALIFYING PERIOD FOR TOWN COUNCIL CANDIDATES FOR THE NOVEMBER 2024 ELECTION TO NOON ON THE 71ST DAY (JUNE 10, 2024) TO NOON OF THE 67TH DAY (JUNE 14, 2024) PRIOR TO THE AUGUST PRIMARIES TO BE HELD ON AUGUST 20, 2024; PROVIDING FOR SCRIVENER'S ERRORS; CONFLICTS OF LAW; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. No public comment.
Council Member King moved to approve the ordinance, seconded by Council Member Safford.
The motion carried unanimously by roll call vote.

XII. ADMINISTRATIVE AGENDA

A. Lien Reduction request; 80 Avenue E

Review of White Sands Properties of Ft. Myers Beach, LLC's Verified Motion to Forgive or in the Alternative Mitigate Funds submitted by Steven A. Ramunni, Esq., on behalf of White Sands Properties of Ft. Myers Beach, LLC.

Council Member Safford revealed that he had to recuse himself from this item and would submit a form to the Town Clerk.

Attorney Steve Ramunni represented the applicant and reviewed previous negotiations with the town. He stated the applicant paid $50,000.00 to the town for the lien on a property. Mr. Orlandini was part of the agreement but did not fulfill his portion of $15,000.00 and White Sands requested forgiveness or payment of the $15,000.00 to settle. The cashed check was included in the document, but that was the extent of the paper trail. Attorney Ramunni stated that he had not been involved in the case until recently.

Town Attorney Vose explained the details of the case.

Jessie Schmid, owner of the property, explained the negotiations with Mr. Orlandini and the former town manager, Roger Hernstadt. Mr. Schmidt purchased many of Mr. Orlandini's encumbered properties. He described the mess with several properties and stated he could not do anything until the liens were released. He explained that the violations started because of work without a permit to replace stair treads and pavers. Mr. Schmidt bought the property and removed the stairs and pavers. He met with Mr. Hernstadt to resolve it and was told he owed $65,000.00 even though he had already paid $50,000.00. Mr. Hernstadt refused to give him a copy of the signed agreement because he said the fines were in Mr. Orlandini's name. Attorney Ramunni explained why it took so long to come before the town council. Mr. Schmidt stated he had a $1.5 million judgment filed against Mr. Orlandini and has not received a penny. He did not think he needed a permit to mitigate the violation and acknowledged he did not inform the town. Mr. Ramunni stated that Mr. Schmidt was not the violator, even though some details were missed. Mr. Schmidt commented that he purchased five properties from Mr. Orlandini, but they sat vacant because the structures were a mess.

Vice Mayor Atterholt noted that he had the same conversations with Mr. Schmidt $2^{1/2}$ years ago and Mr. Schmidt commented that he had emailed the requested timeline along with other emails.

Town Attorney Vose requested a shade meeting during the next council meeting to discuss the case. Mr. Schmidt wanted to resolve it today. Attorney Ramunni repeated the fact that Mr. Schmidt was not the violator. Discussion was held regarding the amount of the fine.

Council Member King moved to approve a settlement at $247,000.00, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote, with Council Member Safford recused.

B. Award ITB-24-03-EN to Ahtna Marine and Construction as the lowest responsive and responsible bidder to construct the Estero Island Beach Nourishment and Hurricane Recovery Project

Award ITB-24-03-EN to Ahtna Marine and Construction, as the lowest responsive and responsible bidder, to complete the Estero Island Beach Nourishment and Hurricane Recovery Project, contingent and effective on the date the Lee County Board of County Commissioners approves the Interlocal Agreement with the Town for the "Estero Island Beach Nourishment Project," which was approved by Town Council on the 1st day of April 2024 in Resolution 24-15.

Environmental Projects Manager Chadd Chustz reviewed the project and indicated that Ahtna was the lowest responsive bidder. Town Attorney Vose stated there was a bid protest and they have not received a bond. She noted that they could legally move forward because it was necessary for the health, safety and welfare of the town due to the upcoming hurricane season.

Vice Mayor Atterholt moved to approve the award subject to approval by the county of the interlocal agreement and resolution of the bid protest, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

C. Res. 24-80, Authorizing Bridge Loan to Fund FY23 Lost Revenue

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AUTHORIZING THE TRANSFER OF $3,085,209 FROM THE BRIDGE LOAN FUND TO REPLENISH GENERAL FUND CASH THAT WAS DEPLETED AS A RESULT OF THE REVENUE LOST IN FISCAL YEAR 2023 DUE TO THE ECONOMIC IMPACT OF HURRICANE IAN, AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution.

Finance Director Joe Onzick reviewed the reason for the transfer and noted it was a retroactive accounting transaction. He revealed that the loan would be extended to ten years and there was a possibility that it would be forgiven in the future.

Council Member King moved to approve the resolution, seconded by Mayor Allers.

The motion passed unanimously by roll call vote.

D. 7th Amendment to ILA with Lee County for Utility Relocation Project

Motion to Approve the Seventh Amendment to the Interlocal Agreement between Lee county and the Town of Fort Myers Beach for a Utility Relocation Project within the Corporate Limits of the Town of Fort Myers Beach.

Director Onzick indicated that the updated agreement would allow the town to invoice the county for their share of expenses incurred in the Tier I project, which included repair, replacement or relocation of the sewer lines.

Council Member King moved to approve, seconded by Council Member Woodson.

The motion carried unanimously by roll call vote.

XIII. FINAL PUBLIC COMMENT

Leah Greg, resident, was concerned about losing the FEMA insurance discount because a home was allowed to be built on grade before plans were submitted to the town. A stop work order was issued but later rescinded and the code enforcement officer involved was fired. She claimed documents on the town's portal appeared to be falsified and were being sent to FEMA. She stated she met with town officials months ago and shared details regarding the home. She indicated that no one from the town would communicate with her, so she presented the information publicly. She commented that the supervising contractor involved was not licensed in FL, although he represented himself as a licensed contractor.

XIV. TOWN MANAGER'S ITEMS

Town Manager Hyatt indicated that a comprehensive emergency management plan was being drafted and a drill would occur sometime in July or August. The streetlight project should start toward the end of June or first of July. Underground preparations for the conduit will be completed before each delivery. The first delivery of poles will occur on August 9, 2024, the second on September 13, 2024, and the last on October 11, 2024.

He noted that the strategic plan was being worked on, a meeting with FEMA was scheduled for tomorrow regarding the floodplain program, staffing levels were being filled and the new Harbormaster was scheduled to start next week.

XV. TOWN ATTORNEY'S ITEMS

No items.

XVI. COUNCILMEMBERS ITEMS AND REPORTS

No items.

A. Town Manager Evaluation

Yearly review of Town Manager.

Town Manager Hyatt reviewed their wins over the year and he looked forward to next year.

Council Member King thanked the town manager for where they were today.

Vice Mayor Atterholt stated the culture shift under the town manager's leadership was tremendous. The way he delegated his authority demonstrated humility and servant leadership. He encouraged the town manager to begin to more aggressively lead and make smaller decisions without worrying about the town council. He was thankful that the town manager was there and thankful for the team he established.

Council Member Woodson agreed that it was time for the town manager to take the next steps and his team was phenomenal. She felt that the whole team had a great relationship and the town manager spearheaded that. She noted that he did a great job.

Council Member Safford commented as a citizen and was impressed. He referred to the success of the Bayside Park Concert Series and stated the town wanted an engaged leader with a vision. He appreciated his attitude and felt they were headed in the right direction.
Mayor Allers felt the same as the others and shared how they were attached at the hip for the first six months. He noted the town manager picked up things quickly and was aware of the vision and where they wanted to go. He brought up his communication skills and encouraged him to pick up the ball and run, knowing that he had the town council's support. He looked forward to next year.

XVII. ADJOURNMENT

Council Member King moved to adjourn, seconded by Vice Mayor Atterholt. The motion carried unanimously.
The meeting was adjourned at 3:09 p.m.

Minutes adopted as presented, May 20, 2024. Motion by Council Member King and seconded by Council Member Safford. Passed 4-0, Woodson excused.

Amy Baker, Town Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE
SAFFORD - SCOTT - M	TOWN COUNCIL
MAILING ADDRESS: 189 Sabal Dr.	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: ☒ CITY ☐ COUNTY ☐ OTHER LOCAL AGENCY
CITY: Fort Myers Beach COUNTY: Lee	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED: May 6, 2024	MY POSITION IS: ☐ ELECTIVE ☒ APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office MUST ABSTAIN from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also MUST ABSTAIN from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * * * * * * * * * * * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * * * * * * * * * * * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Scott M. Safford, hereby disclose that on May 6, 20 24:

(a) A measure came or will come before my agency which (check one or more)

___ inured to my special private gain or loss;

___ inured to the special gain or loss of my business associate, _____;

___ inured to the special gain or loss of my relative, _____;

✓ inured to the special gain or loss of White Sands, by whom I am retained; or

___ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

White Sands was a customer of mine. I also managed one of the properties in question.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

5/6/24
Date Filed

Scott Safford
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED $10,000.

Fort Myers Beach Special Magistrate Hearing

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Agenda **Wednesday, January 29, 2025** **1:00 PM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

III. SWEARING IN OF WITNESSES

IV. PUBLIC HEARINGS

A. FORECLOSURE AUTHORIZATION AND CORRECTION - 80 AVENUE E
REQUEST TO CORRECT A CLERICAL ERROR AND AUTHORIZATION TO FORECLOSE A RECORDED CODE ENFORECEMENT ORDER IMPOSING LIEN (INSTRUMENT NO. 2019000067137) ENCUMBERING 80 AVENUE E, FORT MYERS, FLORIDA

V. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE SPECIAL MAGISTRATE IN ANY MATTER CONSIDERED AT THIS HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.

	For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

Town of Fort Myers Beach
Agenda Item Summary

Red Sheet Number: **2025-179**

Property Address and Owner:

Hearing Date: January 29, 2025

REQUEST TO CORRECT A CLERICAL ERROR AND AUTHORIZATION TO FORECLOSE A RECORDED CODE ENFORECEMENT ORDER IMPOSING LIEN (INSTRUMENT NO. 2019000067137) ENCUMBERING 80 AVENUE E, FORT MYERS, FLORIDA

Subject:
Code Section:
Reference Number:
Strap Number:
Officer:

Narrative:
On February 12, 2024, the Town requested an Order from the Special Magistrate authorizing foreclosure of a recorded lien encumbering property located at 80 Avenue E, Fort Myers, Florida. A lien, which had been vacated by a prior Special Magistrate dated March 30, 2016 and recorded as Instrument 2016000076125 in the Official Records of Lee County, Florida, was presented to the Special Magistrate due to a clerical error by former staff. The Town seeks to now correct the error in the record and authorization to foreclose the lien dated March 12, 2019 and recorded as Instrument No. 2019000067137 in the Official Records of Lee County, Florida.

Attachments:
1. Hearing Exhibit A - Notice of Hearing
2. Hearing Exhibit B - Affidavit of Notice and Posting
3. Hearing Exhibit C - Ownership information

Town Recommendations:

Town Approvals:

_____ Date: January 22, 2025
nancy stuparich, Town Attorney

HEARING EXHIBIT A

1/10/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

FMB Case Number:	**CE 14-0394**
Certified Mail:	**[#'s9589071052700636642787, 9589071052700636642800, 9589071052700636642794, 9589071052700636642206]**
Regular Mail:	**[Not Applicable]**
DOAH Case Number:	**[Not Applicable]**

vs.

Site Address: 80 Avenue E
Fort Myers Beach, FL

Parcel Strap No.19-46-24-W4-0070A.0020

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931

Respondent(s). /

NOTICE OF HEARING TO CORRECT CLERICAL ERROR IN FORECLOSE AUTHORIZATION ORDER RELATED TO LIEN ENCUMBERING 80 AVENUE E

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statutes and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida. Although not legally required, a hearing will be held on **Wednesday, January 29, 2025 at 1:00 PM in the Town Hall Council Chambers located at 2731 Oak Street, Fort Myers, Beach, Florida**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. [This process is a discretionary one under Florida Statutes, Section 162.09(3) ("After 3 months from the filing of any such lien which remains unpaid, the enforcement board may

authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.")]

A prior Order by the Special Magistrate (copy attached as Exhibit B) was rendered on the 22nd day of February, 2024 incorrectly referencing the wrong lien due to a clerical error by Town staff. Such error was discovered after the hearing. A request will be made at the hearing for the Special Magistrate to enter an Order in a form as reflected on Exhibit C which references the correct lien information. NO ADDITIONAL NOTICE OF THE HEARING TO FORECLOSE THE LIEN WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate may consider the case and take other action even if you are not present, which may affect your rights.

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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 NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

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

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 12th of ~~January~~ March 2019.

Myrnabelle Roche, Special Magistrate

~~Rhonda Payne Adv~~ ~~ve Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

Kristin Schumacher
Code Enforcement Coordinator

INSTR # 2016000076125, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy
Clerk ALUCKEY

INSTR # 2016000076146, Pages 2
Doc Type LI, Recorded 04/12/2016 at 12:32 PM
Linda Doggett, Lee County Clerk of Circuit Court
Rec. Fee $18.50
Deputy Clerk ALUCKEY
#3

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA	:	
Petitioner,	:	CASE NO.: CE14-0394
vs.	:	
ABSOLUTE BEST RATE RENTALS, LLC Respondent.	:	

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-111 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT, STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED:

APR 12 2016

EXHIBIT C

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NOS. CE14-0394**

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

ORDER CORRECTING CLERICAL ERROR IN FEBRUARY 22, 2024 PRIOR ORDER AND FORECLOSURE AUTHORIZATION, FINDINGS OF FACT, CONCLUSIONS OF LAW REGARDING LIEN ENCUMBERING PROPERTY LOCATED AT 80 AVENUE E

THIS CAUSE came on for public hearing on January 29, 2025, before the undersigned Special Magistrate for the Town of Fort Myers Beach, for the purpose of adjudication of the Town's request for authorization to foreclose a code enforcement lien and to correct a clerical error in the February 22, 2024 Order previously issued in Code Enforcement Case No. CE14-0394. The Respondent or its representative was ___ present ___ not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, White Sand Properties of Fort Myers Beach, LLC ("Respondent"), is the owner the subject property located at 80 Avenue E, Fort Myers Beach, FL, 33931 ("Property"), legally described as:

Lot 2, Block A, Crescent Beach Subdivision, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The Respondent's predecessor in title was found in violation of the Town of Fort Myers Beach Code and ordered to bring the property into compliance within a time given for compliance, but Respondent's predecessor in title failed to do so.

3. Due to Respondent's predecessor in title's failure to comply, a fine accrued and the lien was filed for the fine against Respondent's property, both against the property in violation, and against all other property owned by Respondent's predecessor in title's real and personal property.

4. More than three months have passed since the lien attached as Exhibit A to this Order was recorded in the Official Records Book of Lee County Florida on March 27, 2019.

5. The Respondent was properly served with notice of this hearing, and therefore, this case is properly before the Special Magistrate.

B. CONCLUSION OF LAW:

1. The legal prerequisites for requesting authorization to foreclose the lien has been met.

2. Respondent has shown insufficient evidence to support any legal reason to prevent foreclosure or other action to collect the fines.

C. ORDER:

1. Based upon the forgoing Findings of Fact and Conclusions of Law, it is hereby ordered that the Special Magistrate authorizes the Town to foreclose the lien against White Sand Properties of Fort Myers Beach, LLC due to an unpaid lien recorded more than three months ago on March 27, 2019.

ORDERED this ___day of January 2025, and executed this ___ day of _____, 2025.

_____

Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ____ online notarization, this _____day of _____, 2024, by _____, ___ who is personally known to me OR ___ who has produced _____ as identification.

_____
(SEAL) Notary Public Signature

My Commission Expires:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the ___ day of _____, 20__ to:

White Sand Properties of Fort Myers Beach, LLC
415 Palermo Cir.
Fort Myers Beach, FL 33931

Steven A. Ramunni- Reg. Agent for:
White Sand Properties of Fort Myers Beach, LLC
110 N. Main St.
Labelle, FL 33935

_____
Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: _____ Dated _____
Town Clerk

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,
415 PALERMO CIRCLE

FORT MYERS BEACH, FL 33931,

Respondent.
_____/

FMB Case Number:	**CE 14-0394**
Certified Mail:	**[#'s 9589071052700636642787, 9589071052700636642800, 9589071052700636642794, 9589071052700636642206]**
Regular Mail:	**[Not Applicable]**
DOAH Case Number:	**[Not Applicable]**

Site Address: 80 Avenue E, Fort Myers Beach, FL 33931
Parcel Strap No. 19-46-24-W4-0070A.0020

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Compliance & Security Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding that certain Notice of Hearing to Correct Clerical Error in Foreclosure Authorization Order related to Lien Encumbering 80 Avenue E attached as Exhibit A ("the Notice"):

1. I personally mailed by certified mail a copy of the Notice to the following:

a. White Sand Properties of Fort Myers Beach LLC
3210 Estero Blvd
Fort Myers Beach, Fl 33931
Certified Mail No. 958907105270063664278 7
(Property Address)

b. Steven Ramunni, Registered Agent
110 N Main Street
LaBelle, Fl 33935
Certified Mail No. 9589071052700636642800
(Registered Agent)

c. White Sand Properties of Fort Myers Beach LLC
P.O. Box 1118
LaBelle, Fl 33935
Certified Mail No. 9589071052700636642794
(Mailing Address)

d. White Sand Properties of Fort Myers Beach LLC
415 Palermo Circle
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052700636642206
(additional address)

Copies of the certified mailing receipts are attached as Exhibit B.

2. I posted a copy of the Notice at 80 Avenue E, Fort Myers Beach, FL 33931, which is the property upon which the violation occurred and the lien was imposed. I took a photograph of the Notice I posted on the 10th day of January, 2025. A copy of the photograph is attached as Exhibit C.

3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and which is located at 2731 Oak Street, Fort Myers Beach, FL 33931. A copy of a photograph I took of the Notice I posted on the 10th day of January, 2025 is attached as Exhibit D.

4. In addition, posted a copy of the Notice on the Town's publicly accessible website at https://www.fortmyersbeachfl.gov/1294/Public-Notices on the 10th day of January, 2025. A copy of the posted webpage is attached as Exhibit E.

Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x _____
Signature of Affiant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either [X] personal presence or [ ] online notarization this 10th day of January, 2025, by Thomas Yozzo. He [X] is personally known to me or [ ] has produced _____ as identification.

NOTARY PUBLIC STATE OF FLORIDA
ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

[Notary Seal]

_____
Notary Public, State of Florida
Print Name: Ashley Shepard
My Commission Expires: April 14, 2026

FMBgov.com

Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

1/10/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

FMB Case Number:	**CE 14-0394**
Certified Mail:	**[#'s9589071052700636642787, 9589071052700636642800, 9589071052700636642794, 9589071052700636642206]**
Regular Mail:	**[Not Applicable]**
DOAH Case Number:	**[Not Applicable]**

vs.

Site Address: 80 Avenue E
Fort Myers Beach, FL

Parcel Strap No. 19-46-24-W4-0070A.0020

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931

Respondent(s). /

NOTICE OF HEARING TO CORRECT CLERICAL ERROR IN FORECLOSE AUTHORIZATION ORDER RELATED TO LIEN ENCUMBERING 80 AVENUE E

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statutes and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida. Although not legally required, a hearing will be held on **Wednesday, January 29, 2025 at 1:00 PM in the Town Hall Council Chambers located at 2731 Oak Street, Fort Myers, Beach, Florida**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. [This process is a discretionary one under Florida Statutes, Section 162.09(3) ("After 3 months from the filing of any such lien which remains unpaid, the enforcement board may

authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.")]

A prior Order by the Special Magistrate (copy attached as Exhibit B) was rendered on the 22nd day of February, 2024 incorrectly referencing the wrong lien due to a clerical error by Town staff. Such error was discovered after the hearing. A request will be made at the hearing for the Special Magistrate to enter an Order in a form as reflected on Exhibit C which references the correct lien information. NO ADDITIONAL NOTICE OF THE HEARING TO FORECLOSE THE LIEN WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate may consider the case and take other action even if you are not present, which may affect your rights.

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach

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 NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

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

Linda Doggett, Lee County Clerk of Circuit Court
INSTR. # 2019000067137, Doc Type LI, Pages 3, Recorded 3/27/2019 at 9:02 AM, Deputy Clerk LHINSPETER ERECORD
Rec Fees: $27.00

PARCEL #: 19-46-24-W4-0070A-0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NO. CE14-0394**

JOSEPH B ORLANDINI,

Respondent.

CODE ENFORCEMENT ORDER IMPOSING LIEN

THIS CAUSE came on for public hearing on January 17, 2019, before the undersigned Special Magistrate for the Town of Fort Myers Beach, with the Respondent, Joseph B Orlandini present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and decides as follows:

A. FINDINGS OF FACT:

1. The Respondent, Joseph B Orlandini ("Respondent"), is the owner, lessee, responsible entity or otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL 33931 ("Property"), legally described as:

Lot 2, Block A, CRESCENT BEACH SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk o Circuit Court in Plat Book 4, Page 45, Public Records of Lee County, Florida

2. The Respondent was served with a Notice of Violation ("NOV") alleging the existence of a violation of the Town of Fort Myers Beach Code of Ordinances ("Town Code") on the Property.

3. The NOV specified that Respondent was required to correct the violation by a time certain, but Respondent failed to do so.

4. The Respondent was served with a Notice of Hearing as a result of non-compliance with the NOV, and on February 24, 2016, a hearing took place at which competent substantial evidence was entered into the record that the Property/Respondent were in violation of Town Code. Accordingly, the Town of Fort Myers Special Magistrate ("Special Magistrate") entered an Order

of Enforcement finding the Property/Respondent in violation of Section 6-111, adopting Florida Building Code Section 105.1, of the Town Code.

5. Subsequent thereto, an Affidavit of Non-Compliance was prepared by Petitioner stating that Respondent had not complied with the Order of Enforcement, and a Notice of Hearing was served on the Respondent stating that a lien certification public hearing would take place on January 17, 2019. The Notice of Hearing further stated that at said hearing the Special Magistrate would receive evidence, hear testimony, and determine whether or not the Respondent was in compliance with the Order of Enforcement.

6. The Respondent has not complied with the Order of Enforcement, not paid the accrued fine in the amount of $257,150.00, which continues to accrue in the amount of ,$250.00 per day, nor paid the administrative fee/cost of prosecution in the amount of $150.00.

B. CONCLUSION OF LAW:

1. Respondent, by reason of the foregoing facts, is in violation of Town Code and has not complied with the Order of Enforcement.

C. ORDER/IMPOSITION OF LIEN:

1. The Special Magistrate vacates the previous order imposing lien and certifies that a fine in the amount of $257,150.00, has accrued and continues to accrue in the amount of $250.00 per day for every day that Respondent is in non-compliance with the Order of Enforcement previously entered in this case.

2. This Order may be recorded in the public records of Lee County, Florida or in any other county in the State of Florida where Respondent owns property and if so recorded shall constitute a lien against the Property and any other real or personal property that Respondent owns in Lee County or other county in the State of Florida.

3. **The Respondent is ordered to contact the Town of Fort Myers Beach Code Enforcement Department to re-inspect the property to verify compliance. A COMPLIANCE RE-INSPECTION WILL NOT be conducted unless the Respondent contacts the of Fort Myers Beach Code Enforcement Department.**

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on 12th of ~~January~~ March 2019.

Myrnabelle Roche, Special Magistrate

~~Rhonda Payne Adv~~ ~~ve Assistant~~
Kristin Schumacher
Code Enforcement Coordinator

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

REHEARING: Either the Town or the violator may request a rehearing of the decision of the Special Magistrate. A request for rehearing will be made in writing, and must be filed with the clerk within ten (10) business days of the Special Magistrate's execution of the Order. A request for the rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the Special Magistrate. The written request for rehearing will specify the precise reasons therefore. The Special Magistrate will make a determination as to whether or not to rehear the matter and the decision will be made at a public meeting. If the Special Magistrate grants a rehearing, it shall be scheduled as soon as practicable – but no later than the next regularly scheduled Special Magistrate hearing, at which the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or modify or reverse the prior Order, without receiving further evidence, providing the change is based on a finding that the prior decision of the Special Magistrate resulted from a ruling on a questions of law which the Special Magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the Order of the Special Magistrate will be stayed and the time for taking an appeal will not commence to run until the date upon which the Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

PAYMENT OF ADMINISTRATIVE COSTS AND FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 22nd day of March, 2019 to:

Joseph B Orlandini
281 Palermo Circle
Fort Myers Beach, FL 33931

KS

Kristin Schumacher
Code Enforcement Coordinator

INSTR # 2016000076125, Doc Type LI, Pages 2, Recorded 04/12/2016 at 12:25 PM,
Linda Doggett, Lee County Clerk of Circuit Court, Rec. Fee $18.50 Deputy
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Deputy Clerk ALUCKEY
#3

PARCEL #: 19-46-24-W4-0070A.0020

THIS SPACE FOR RECORDING

BEFORE THE SPECIAL MAGISTRATE OF
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA Petitioner, vs. ABSOLUTE BEST RATE RENTALS, LLC Respondent.	:	CASE NO.: CE14-0394

CODE ENFORCEMENT ORDER TO IMPOSE LIEN

THIS CASE was first heard by the undersigned Lee County Hearing Examiner at a public hearing on February 24, 2016, after which an Order was entered which found that a violation existed on the subject property and required the Respondent, ABSOLUTE BEST RATE RENTALS, LLC, as the responsible person or entity to complete certain actions that would abate the violation by a date certain or face the imposition of a specified fine. The subject property is more particularly described as follows:

CRESCENT BEAACH
BLK: A PB: 4 PG: 45 LOT 2

Said legal description is obtained from the Trustee's Deed recorded at Official Record Book Instrument Number 2015000260051, in the Public Records of Lee County, Florida.

On March 28, 2016, written competent and convincing evidence was provided that the violation had not been abated in accord with the above Order, and the Special Magistrate therefore finds and decides:

1. That the above-noted Order has not been complied with; and
2. That the violation of the Town of Fort Myers Beach Land Development Code (LDC) Sections 6-111 still exists on the subject property; and
3. That the Respondent has not paid the prosecution costs in the amount of $150.00 which are now due and owing to the Petitioner per Chapter 162, Florida Statutes.

IT IS ORDERED that Respondent pay to the Town of Fort Myers Beach a fine of $250.00 per day, beginning on March 25, 2016 and continuing for each and every day that the aforesaid violation exists and continues on the property locate, as reported by the Petitioner at 80 Avenue East, Bldg A, Fort Myers Beach, FL 33931.

Upon recording in the Public Records, this Order shall constitute a lien for the fine amount against all real and personal property of Respondent, including, but not limited to, the above-referenced property and subsequent foreclosure of such lien may result in the loss of such property. The prosecution costs awarded herein may also become a lien against Respondent, upon recording, pursuant to Chapter 162, Florida Statutes.

RESPONDENT MUST CONTACT TOWN OF Fort Myers BEACH CODE ENFORCEMENT AT 239-765-0202 TO REQUEST A REINSPECTION FOR DETERMINATION OF COMPLIANCE. RESPONDENT IS ADVISED THAT NUMEROUS PHONE CALLS MAY BE NECESSARY TO ENSURE CONTACT WITH THE CODE ENFORCEMENT OFFICER.

Payment of administrative costs and fines: Checks should be made payable to "Town of Fort Myers Beach" and mailed to:

Town of Fort Myers Beach
Attention: Code Enforcement
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Please include a case number on the check.

DONE AND ORDERED at Town of Fort Myers Beach Town Hall, 2525 Estero Boulevard, Fort Myers Beach, Lee County, Florida on March 30, 2016.

Special Magistrate of Lee County, Florida
in and for the Town of Fort Myers Beach

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by interoffice mail or hand delivery to the Town of Fort Myers Beach and Attorney for the Town of Fort Myers Beach; and by U.S. mail to:

Absolute Best Rate Rentals LLC
c/o Leo J. Dibiasi, Registered Agent
12071 McGregor Blvd.
Fort Myers, FL 33919

Stacy Hartman
Assistant to the Special Magistrate for the Town of Fort Myers Beach, Florida

I CERTIFY THIS DOCUMENT TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
LINDA DOGGETT, CLERK OF CIRCUIT COURT, STATE OF FLORIDA, COUNTY OF LEE

☐ REDACTED COPY PER F.S.119.071

BY: Angela Lucky Deputy Clerk
DATED:

APR 12 2016

EXHIBIT C

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2525 Estero Blvd.
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs. **CASE NOS. CE14-0394**

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,

Respondent.
_____/

ORDER CORRECTING CLERICAL ERROR IN FEBRUARY 22, 2024 PRIOR ORDER AND FORECLOSURE AUTHORIZATION, FINDINGS OF FACT, CONCLUSIONS OF LAW REGARDING LIEN ENCUMBERING PROPERTY LOCATED AT 80 AVENUE E

THIS CAUSE came on for public hearing on January 29, 2025, before the undersigned Special Magistrate for the Town of Fort Myers Beach, for the purpose of adjudication of the Town's request for authorization to foreclose a code enforcement lien and to correct a clerical error in the February 22, 2024 Order previously issued in Code Enforcement Case No. CE14-0394. The Respondent or its representative was ___ present ___ not present. Having considered the sworn testimony, evidence and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. The Respondent, White Sand Properties of Fort Myers Beach, LLC ("Respondent"), is the owner the subject property located at 80 Avenue E, Fort Myers Beach, FL, 33931 ("Property"), legally described as:

Lot 2, Block A, Crescent Beach Subdivision, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. The Respondent's predecessor in title was found in violation of the Town of Fort Myers Beach Code and ordered to bring the property into compliance within a time given for compliance, but Respondent's predecessor in title failed to do so.

3. Due to Respondent's predecessor in title's failure to comply, a fine accrued and the lien was filed for the fine against Respondent's property, both against the property in violation, and against all other property owned by Respondent's predecessor in title's real and personal property.

4. More than three months have passed since the lien attached as Exhibit A to this Order was recorded in the Official Records Book of Lee County Florida on March 27, 2019.

5. The Respondent was properly served with notice of this hearing, and therefore, this case is properly before the Special Magistrate.

B. CONCLUSION OF LAW:

1. The legal prerequisites for requesting authorization to foreclose the lien has been met.

2. Respondent has shown insufficient evidence to support any legal reason to prevent foreclosure or other action to collect the fines.

C. ORDER:

1. Based upon the forgoing Findings of Fact and Conclusions of Law, it is hereby ordered that the Special Magistrate authorizes the Town to foreclose the lien against White Sand Properties of Fort Myers Beach, LLC due to an unpaid lien recorded more than three months ago on March 27, 2019.

ORDERED this ___day of January 2025, and executed this ___ day of _____, 2025.

_____
Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ____ online notarization, this _____day of _____, 2024, by _____, ___ who is personally known to me OR ___ who has produced _____ as identification.

_____
(SEAL) Notary Public Signature

My Commission Expires:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the ___ day of _____, 20__ to:

White Sand Properties of Fort Myers Beach, LLC
415 Palermo Cir.
Fort Myers Beach, FL 33931

Steven A. Ramunni- Reg. Agent for:
White Sand Properties of Fort Myers Beach, LLC
110 N. Main St.
Labelle, FL 33935

_____
Code Compliance Coordinator

I certify this document to a be true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: _____ Dated _____
Town Clerk

9589 0710 5270 0636 6427 94

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

LaBelle, FL 33975

Certified Mail Fee	$4.35
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$2.31
Total Postage and Fees	$11.26

0440
03

Postmark Here

01/10/2025

White Sands Properties of Fort Myers Beach, LLC
P.O. Box 1118
LaBelle, FL 33975

9589 0710 5270 0636 6422 06

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

Fort Myers Beach, FL 33931

Certified Mail Fee	$4.35
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$2.31
Total Postage and Fees	$11.26

0440
03

Postmark Here

01/10/2025

White Sands Properties of Fort Myers Beach, LLC
415 Palermo Circle
Fort Myers Beach, FL 33931

PS Form 3800, January 2023 ... See Reverse for Instructions

9589 0710 5270 0636 6428 00

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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LaBelle, FL 33935

Certified Mail Fee	$4.35
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$2.31
Total Postage and Fees	$11.26

0440
03

Postmark Here

01/10/2025

Ramunni, Steven A.
110 N Main Street
LaBelle, FL 33935

See Reverse for Instructions

9589 0710 5270 0636 6427 87

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com

Fort Myers Beach, FL 33931

Certified Mail Fee	$4.35
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	$0.00
☐ Return Receipt (electronic)	$0.00
☐ Certified Mail Restricted Delivery	$0.00
☐ Adult Signature Required	$0.00
☐ Adult Signature Restricted Delivery	$
Postage	$2.31
Total Postage and Fees	$11.26

0440
03

Postmark Here

01/10/2025

White Sands Properties of Fort Myers Beach, LLC
3210 Estero Blvd
Fort Myers Beach, FL 33931

Jan 10, 2025 12:58:52 PM
Town of Fort Myers Beach
Exhibit C to Hearing Exhibit B

FMBgov.com

Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

1/10/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

FMB Case Number:	CE 14-0394
Certified Mail:	[#'s 9589071052700636642787, 9589071052700636642800, 9589071052700636642794, 9589071052700636642206]
Regular Mail:	[Not Applicable]
DOAH Case Number:	[Not Applicable]

vs.

Site Address: 80 Avenue E
Fort Myers Beach, FL

Parcel Strap No. 19-46-24-W4-0070A.0020

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC
415 PALERMO CIRCLE
FORT MYERS BEACH, FL 33931

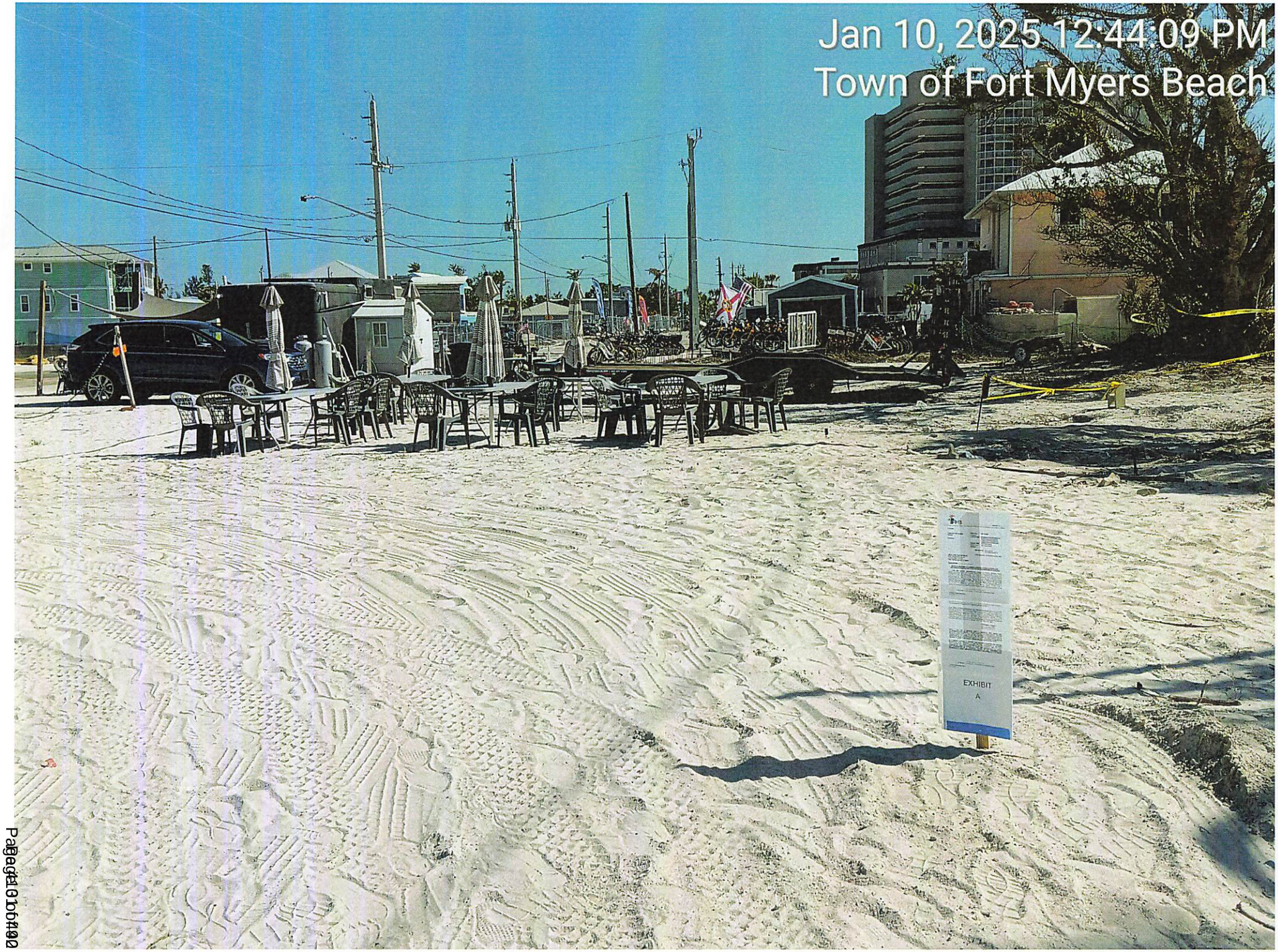
Respondent(s). /

NOTICE OF HEARING TO CORRECT CLERICAL ERROR IN FORECLOSE AUTHORIZATION ORDER RELATED TO LIEN ENCUMBERING 80 AVENUE E

YOU ARE HEREBY NOTIFIED that, pursuant to Section 162.09(3), Florida Statutes and in accordance with Section 2-427(c) of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that three (3) or more months have passed since the lien attached to this Notice as Exhibit A was recorded in the Official Records of Lee County, Florida. Although not legally required, a hearing will be held on **Wednesday, January 29, 2025 at 1:00 PM in the Town Hall Council Chambers located at 2731 Oak Street, Fort Myers, Beach, Florida**, before the Town's Special Magistrate to authorize foreclosure of the lien attached as Exhibit A. [This process is a discretionary one under Florida Statutes, Section 162.09(3) ("After 3 months from the filing of any such lien which remains unpaid, the enforcement board may

Jan 10, 2025 12:43:00 PM
Town of Fort Myers Beach
EXHIBIT
A

Jan 10, 2025 12:43:18 PM
Town of Fort Myers Beach
EXHIBIT
A


Jan 10, 2025 12:44:09 PM
Town of Fort Myers Beach
EXHIBIT
A

REPORT A CONCERN

Public Notices

All Public Notices will be taken off the website after 90 days.
See below for a current list.

TOWN CLERK

Town Clerk

- FEMA Town Hall Reconstruction Final Public Notice
- Authorization for Disaster Debris Management Sites (DDMS) - Debby
- Notice of Public Hearing - Ordinance 24-27, Seagate
- Notice of Intent to Recommend to Award ITB-24-0 EN

- AMENDED Notice of Bid Opening ITB-25-01-PR 12.17.24 4:15PM
- ITB-25-01-PR Bay Oaks Recreational Campus Redevelopment Project Cancellation Rejection Letter

NOTICE OF VIOLATION

Notice of Violations

- 2450 Estero Blvd case #20240946 10/22/2024
- 2500 Estero Blvd case #20240947 10/22/2024
- 2584 Estero Blvd case#20240948 10/22/2024
- 2945 Estero Blvd case #20240949 10/22/2024
- Directly East from 7650 Estero Blvd case #20241035 10/22/2024
- 42 Avenue E case #20241036 10/22/2024
- 3001 Estero Blvd case #20240952 10/23/2024
- 4402 Estero Blvd case #20240953 10/23/2024
- 4452 Estero Blvd case #20240954 10/23/2024
- 4650 Estero Blvd case #20240958 10/23/2024
- 4690/4700 Estero Blvd case #20240959 10/23/2024
- 4900 Estero Blvd case #20240960 10/24/2024
- 4952 Estero Blvd case #20240961 10/24/2024
- 5102 Ester Blvd case #20240962 10/24/2024
- 6240 Estero Blvd case #20240963 10/24/2024
- 6400 Estero Blvd case #20240964 10/24/2024
- 6500/6502 Estero Blvd case #20240965 10/24/2024
- 414/416 Crescent St case #20241040 10/30/2024
- 7783 Estero Blvd case #20241059 10/30/2024
- 3030 Shell Mound Blvd case #20241066 10/30/2024
- 110-138 Connecticut St case #20241086 11/13/2024
- 131 Lenell Rd case #20241087 11/13/2024
- 300 Lazy Way case #20241088 11/13/2024

- 2654 Estero Blvd case #20241089 11/13/2024
- 2812 Estero Blvd case #20241090 11/13/2024
- 2922 Estero Blvd case #20241091 11/13/2024
- 4267 Bay Beach Ln case #20241092 11/13/2024
- 4501-4509 Bay Beach Ln case #20241093 11/13/2024
- 5711 Lauder St case #20241094 11/13/2024
- 5790 Estero Blvd case #20241095 11/13/2024
- 6614 Estero Blvd case #20241097 11/19/2024
- 6642 Estero Blvd case #20241098 11/19/2024
- 6666 Estero Blvd case #20241099 11/19/2024
- 7150 Estero Blvd case #20241100 11/19/2024
- 7225 Estero Blvd case #20241101 11/19/2024
- 7295 Estero Blvd case #20241102 11/19/2024
- 7317 Estero Blvd case #20241108 11/19/2024
- 7404 Estero Blvd case #20241103 11/19/2024
- 7928 Estero Blvd case #20241105 11/19/2024
- 7652 Estero Blvd case #20241104 11/19/2024
- 8285 Estero Blvd case #20241106 11/19/2024
- 8352 Estero Blvd case #20241107 11/19/2024
- 5380 Estero Blvd case #20241032 11/22/2024
- 5660 Williams Dr. case #20241153 12/04/2024
- 5720 Estero Blvd case #20241174 12/05/2024
- 5700 Estero Blvd case #20241175 (Registered Agent) 12/05/2024
- 5700 Estero Blvd case #20241175 (owner) 12/05/2024
- 292 Fairweather Ln case #20241173 12/05/2024
- 292 Fairweather Ln case #20241167 12/05/2024
- 265 Tropical Shores Way case #20240997 12/05/2024
- 5670 Estero Blvd case #20241000 12/10/2024
- 5120 Williams Dr. case #20240972 12/10/2024
- 5110 Williams Dr. case #20240973 12/10/2024

- 2661/2681 Estero Blvd case #20241008 12/10/2024
- 1480 I Street case #20241009 12/10/2024
- 5530 Palmetto St case #20241183 12/10/2024
- 207 Driftwood Ln case #20241151 12/10/2024
- 70 Mango St case #20241193 12/11/2024
- 175/177 Tropical Shores Way case #20241197 12/12/2024
- 210 Estrellita Dr case #20241212 12/17/2024
- 110-138 Connecticut St case #20241198 12/17/2024
- 115 Gulf Island Dr. case #20241217 12/18/2024
- 71 Avenue C case #20241215 12/18/2024
- 5395/5397 Palmetto St case #20241085 12/19/2024
- 107 Gulfview Ave case #20241221 12/20/2024
- 329 Madison Ct case #20241223 01/06/2025
- 4854 Estero Blvd case #20250015 01/07/2025
- 4852 Estero Blvd case #20250012 01/07/2025
- 329 Madison Ct case #20241223 01/07/2025
- 253/255 Delmar Ave case #20250028 01/13/2025
- 177 Mandalay Rd case #20241146 01/13/2025
- 125 Mandalay Rd case #20240864 01/13/2025
- 144 Gulf Island Dr. case #20240862 01/13/2025
- 3720 Estero Blvd case #20250034 01/13/2025
- 248 Key West Ct. case #20250046 01/14/2025
- 113-119 Fairweather Ln case #20250031 01/14/2025
- 131/133 Estero Blvd case #20250056 01/17/2025
- 116 Miramar St case #20250053 01/20/2025
- 127/129 Fairweather Ln case #20250047 01/20/2025
- 300 Lazy Way case #20250054 01/21/2025
- 1250 Estero Blvd case #20250066 01/21/2025
- 3127 Estero Blvd case #20250060 01/22/2025

NOITCE OF HEARING

Notice of Hearings

- 1249 Estero Blvd case #20240919 12/23/2024
- 1035 Estero Blvd case #20240915 12/23/2024
- 406 Estero Blvd case #20240921 12/23/2024
- 4900 Estero Blvd case #20240960 12/23/2024
- 2815 Estero Blvd case #20240994 12/23/2024
- 2450 Estero Blvd case #20240946 12/23/2024
- 1821 Estero Blvd case #20240914 12/23/2024
- 81 Miramar St. case #20240912 12/23/2024
- 2450 Estero Blvd case #20240946 (rescheduled) 12/30/2024
- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240680 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025 (CANCELED)
- 80 Avenue E case #CE140394 01/10/2025

NOTICE TO VACATE AND DEMOLITION NOTICE

Notice to Vacate and Demolition Notice

- 217 Fairweather Ln case #20240937 10/01/2024
- 120 Miramar St case #20240938 10/01/2024
- 3121 Shell Mound Blvd case #20240939 10/01/2024
- 5218 Williams Dr. case #20240708 10/01/2024
- 5740 Lauder St case #20240940 10/01/2024
- 1920 Bayview Dr. case #20240283 10/01/2024

- 6890 Estero Blvd case #20240384 10/01/2024
- 100 Mid Island Dr. case #20241065 10/29/2024
- 136/138 Madison Ct case #20241064 10/29/2024
- 160 Mango St case #20241063 10/29/2024
- 145 Chapel St case #20240295 10/29/2024
- 106 Lovers Ln case #20240300 10/29/2024
- 170 Mid Island Dr. case #20241062 10/29/2024
- 191 Primo Dr. case #20241061 10/29/2024
- 209 Mango St case #20241060 10/29/2024
- 464 Washington Ct case #20240326 10/29/2024
- 226 Fairweather Ln case #20241058 10/29/2024
- 226 Donora Blvd case #20240327 10/29/2024
- 185 Old San Carlos Blvd case #20240537 11/12/2024

OTHER NOTICES

Other

- FEMA Town Hall Reconstruction Final Public Notice

- Stop Work Order 3115 Estero Blvd case #20240993 10/17/2024

FMB PERMITS

FMB Permits

- 8030988 FMB Mechanical Beach Cleaning 2023 (002)
- 8035584-LE Lee CO AW Red tide 3.3.23

CDBG-DR

COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY

- Combined Notice (FONSINOI/RROFFinal/Floodplain/Wetlands/Notice) Lee County CDBG-DR

Government Websites by CivicPlus®

Live Edit is off. Click this button to turn it on so you can edit your page content and menus.

Property Data

STRAP: 19-46-24-W4-0070A.0020 Folio ID: 10228170

Hurricanes Helene/Milton Tax Roll Value Letter Hurricane Ian Tax Roll Value Letter

Generated on 1/10/2025 1:57 PM

Owner Of Record - Sole Owner

[Change Mailing Address]

WHITE SAND PROPERTIES OF FORT
415 PALERMO CIR
FORT MYERS BEACH FL 33931

Site Address

Site Address maintained by E911 Program Addressing

80 AVENUE E
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!

CRESCENT BEACH BLK A PB 4 PG 45 LOT 2

View Recorded Plat at LeeClerk.org - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 4 and 45 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	0
1st Year Building on Tax Roll	N/A
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	19	0070A	0020
Municipality	**Latitude**	**Longitude**		
Town of Fort Myers Beach	26.45057	-81.949		

View Parcel on Google Maps

[Tax Map Viewer] [View Comparables]

[Pictometry Aerial Viewer]

Image of Structure

Photo Date February of 2024 View other photos

Last Inspection Date: 02/01/2024

Property Values / Exemptions / TRIM Notices

Generated on 1/10/2025 1:57 PM

Property Details (Current as of 1/9/2025)

Generated on 1/10/2025 1:57 PM

Property Details (2024 Tax Roll)

Generated on 1/10/2025 1:57 PM

Taxing Authorities

Generated on 1/10/2025 1:57 PM

Sales / Transactions

Page 189 of 492

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Building / Construction Permit Data

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Parcel Numbering History

Generated on 1/10/2025 1:57 PM

Solid Waste (Garbage) Roll Data

Generated on 1/10/2025 1:57 PM

Flood and Storm Information

Generated on 1/10/2025 1:57 PM

Generated on 1/10/2025 1:57 PM

Previous Parcel Number Next Parcel Number New Query Search Results Home

PARCEL #: 19-46-24-W4-0070A.0020
This Document Prepared By and Return To:
Town of Fort Myers Beach Code Enforcement Department
2731 Oak Street
Fort Myers Beach, FL 33931

CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH, FLORIDA,
Petitioner,

vs. **CASE NO.: CE14-0394**

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC,
Respondent.

CODE ENFORCEMENT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This Cause came for public hearing on January 29, 2025, before the undersigned Special Magistrate for the Town of Fort Myers Beach, for the purposes of adjudication of the Town's request for hearing to correct a clerical error in foreclosure authorization Order dated February 22, 2024, related to the lien encumbering 80 Avenue E, Fort Myers Beach, Florida 33931. Respondent was present at the hearing and was represented by counsel. Having considered the sworn testimony, evidence, and arguments presented, the Special Magistrate finds and orders as follows:

A. FINDINGS OF FACT:

1. Respondent, White Sand Properties of Fort Myers Beach, LLC ("Respondent"), is the owner, lessee, responsible entity or is otherwise in charge of or responsible for the subject property located at 80 Avenue E, Fort Myers Beach, FL, 33931 ("Property"), legally described as:

   Lot 2, Block A, Crescent Beach Subdivision, according to the map or plat thereof recorded in Plat Book 4, Page 45, Public Records of Lee County, Florida.

2. Before the instant hearing, a Special Magistrate hearing was held on February 12, 2024, for the purpose of adjudication of the Town's request for authorization to foreclose on the liens recorded in Official Records Book as Instrument Numbers 2016000076124, 2016000076125, and 2019000160404, under case numbers CE15-0167, CE14-0394, and CE17-0065, all of which were encumbering the same property at issue here.

3. Specifically, at the February 12, 2024, hearing, the Town presented evidence that Case Number CE14-0394 involved the lien recorded on April 12, 2016, as Instrument Number 2016000076125.

4. Pursuant to the evidence presented at that hearing, the Special Magistrate authorized the Town to proceed with a foreclosure action on those liens recorded as Instrument Numbers 2016000076124, 2016000076125, and 2019000160404. Most relevant to this case, the Special Magistrate found that more than three months had passed since the lien was recorded as Instrument 2016000076125 on April 12, 2016.

5. The Town later realized that the lien recorded as Instrument Number 2016000076125 had been vacated by a subsequent order, and that it meant to foreclose on the lien that was recorded as Instrument Number 2019000067137 on March 27, 2019. However, the Town never referenced Instrument Number 2019000067137 at the February 12, 2024, hearing; it did not introduce that lien as evidence, and it did not request to foreclose on that lien. The lien that the Town requested authorization to foreclose under the instant case number was 2016000076125 recorded on April 12, 2016.

6. Respondent has made it clear that it wants a hearing on the matter of authorization of the foreclosure of the lien recorded as Instrument Number 2019000067137.

B. CONCLUSIONS OF LAW

1. The Town's request to foreclose on the lien recorded as Instrument Number 2016000076125 instead of Instrument Number 2019000067137, when it presented evidence of the former and not the latter, and the Special Magistrate specifically authorized foreclosure of the former and never made any findings as to the latter, is not simply a clerical error.

2. Even if the request to foreclose on Instrument Number 2016000076125 was initially a clerical error on the part of the Town, that produced a larger substantive issue when the evidence, findings, and order authorizing foreclosure were all based on an entirely different Instrument. The February 22, 2024, Foreclosure Authorization Order authorized foreclosure on three liens that actually existed at one time, none of which are the ones that the Town now wishes to foreclose. Thus, to now foreclose on the "correct"

Instrument, the Town would have to take those same steps as to the "correct" Instrument.

3. Respondent did not have the opportunity to defend its case at the February 12, 2024, hearing as to foreclosure of lien recorded as Instrument Number 2019000067137. Respondent should have the opportunity to be fully heard as to that Instrument.

4. The February 22, 2024, Order should not be disturbed at this point.

5. The Town also cannot piggyback a fourth lien onto a Foreclosure Authorization Order that was entered nearly one year ago based on evidence and documents related to an entirely different instrument, even if it was on the same property and against the same Respondent, and even if it is in the form of issuing a new and separate order. An order authorizing foreclosure on a fourth lien does not need to reference or correct a previous order authorizing foreclosure on three other liens.

6. The Notice of Hearing for the instant hearing stated that the Town was requesting to correct a clerical error on the previous Order, both in the Notice's title and in its body. Despite the Town's later clarification (at hearing and in its response brief) that it seeks a whole new order for a separate Instrument based on different evidence, the Hearing Notice provided in advance of the hearing was confusing and not sufficiently clear so as to provide Respondent adequate notice of what the Town was seeking to do. If the Town seeks a whole new Order on an entirely new Instrument, then that would be independent of the previous hearing and not correcting a clerical error on the previous order; if it seeks to correct a clerical error on the previous order, it would not be a whole new order based on a new hearing with new evidence and new findings. The Notice was confusing and thus deficient.

7. To ensure that everyone involved is fully and fairly heard, and that all the evidence considered is the evidence related to the specific lien the Town wishes to foreclose, authorization for foreclosure on the lien recorded as Instrument Number 2019000067137 should not be granted at this time. That is not to say that it is not ripe for a proper foreclosure authorization hearing upon proper Notice.

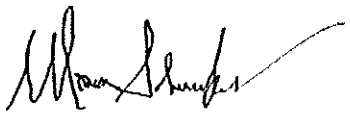
8. If the Town wishes to request authorization to foreclose on the lien that was recorded as Instrument Number 2019000067137, the Town should properly Notice said hearing as a hearing on its request for authorization to foreclose that Instrument, completely independent of the matters it brought before the Special Magistrate at the February 12, 2024, hearing.

C. ORDER:

Based upon the foregoing Findings of Fact and Conclusions of Law, the Town's Request to correct clerical error in the February 22, 2024, Order is DENIED.

To the extent that the Town requests authorization to foreclose on Instrument Number 2019000067137, that Request is DENIED WITHOUT PREJUDICE based on the instant hearing. If the Town wishes to request authorization to initiate foreclosure proceedings, the Town shall properly Notice a Hearing to Request Authorization to Foreclose on the specific instrument on which it wishes to initiate those foreclosure proceedings.

ORDERED this 11th day of February 2025.



Monica Schmucker, Special Magistrate

REHEARING: Either party may request a rehearing of this decision by filing such a request in writing with the clerk within ten business days of the execution of this Order, pursuant to Section 2-428 of the Fort Myers Beach Land Development Code. The request for rehearing must be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the special magistrate. The written request for rehearing must specify the precise reasons therefor.

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copy of the Order was sent by U.S. Mail on the 12th day of February, 20 25 to:

White Sand Properties of Fort Myers Beach, LLC
415 Palermo Cir.
Fort Myers Beach, FL 33931

Steven A. Ramunni- Reg. Agent for:
White Sand Properties of Fort Myers Beach, LLC
110 N. Main St.
Labelle, FL 33935

Amy Baker, Town Clerk

I certify this document to be a true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: _____ Dated Feb. 12, 2025
Amy Baker, Town Clerk

Town of Fort Myers Beach
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner, **CASE NO.: CE14-0394**

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC

Respondent.
_____/

AFFIDAVIT OF CUSTODIAN OF RECORDS OF THE TOWN OF FORT MYERS BEACH, FLORIDA

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Jason Freeman, who being duly sworn by me, on oath, deposes and says the following:

1. My name is Jason Freeman. I am over 18 years of age and am competent to testify to the matters set forth herein. I make this Affidavit based upon my personal knowledge.

2. I am the Deputy Town Clerk for the Town of Fort Myers Beach ("Town") and have custody of the public records of the Town.

3. Written agreements between the Town and property owners to settle code enforcement liens, payments of code enforcement fines and settlements made to the Town are matters of a kind of which a memorandum, report, record, or data compilation is regularly made and preserved by the Town of Fort Myers Beach in the course of the Town's regularly conducted activity as a local government in the State of Florida.

4. I certify that there is no entry in the public records of the Town of any of the following to the best of my knowledge:

a. A fully executed written agreement to satisfy and release the code enforcement lien recorded against the property located at 80 Avenue E, Fort Myers Beach, Florida 33931 in case number CE14-0394.

b. A fully executed written agreement between the Town of Fort Myers Beach and Jesse Schmid to satisfy and release the code enforcement lien recorded against the property located at 80 Avenue E, Fort Myers Beach, Florida 33931 in case number CE14-0394.

c. A fully executed written settlement agreement between the Town of Fort Myers Beach and Joeseph Orlandini to satisfy and release the Code Enforcement Lien recorded against the property located at 80 Avenue E, Fort Myers Beach, Florida 33931 in case number CE14-0394.

d. A fully executed written settlement agreement between the Town of Fort Myers Beach and White Sand Properties of Fort Myers Beach, LLC, to satisfy and release the code enforcement lien recorded against the property located at 80 Avenue E, Fort Myers Beach, Florida 33931 in case number CE14-0394.

e. Payment made to satisfy and release the code enforcement lien recorded against 80 Avenue E, Fort Myers Beach, Florida 33931 in code enforcement case number CE14-0394.

SWORN AND ATTESTED BY:

Jason Freeman, Deputy Town Clerk
Town of Fort Myers Beach

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either [✓] personal presence or [ ] online notarization this 5 day of September, 2025, by Jason Freeman. He [✓] is personally known to me or [ ] has produced _____ as identification.

[Notary Seal]

Tracie Raski
Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

Town of Fort Myers Beach
6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner, **CASE NO.: CE14-0394**

vs.

WHITE SAND PROPERTIES OF FORT MYERS BEACH, LLC

Respondent.
_____/

AFFIDAVIT OF CUSTODIAN OF RECORDS OF THE TOWN OF FORT MYERS BEACH, FLORIDA

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Jason Freeman, who being duly sworn by me, on oath, deposes and says the following:

1. My name is Jason Freeman. I am over 18 years of age and am competent to testify to the matters set forth herein. I make this Affidavit based upon my personal knowledge.

2. I am the Deputy Town Clerk for the Town of Fort Myers Beach ("Town") and have custody of the public records of the Town.

3. I certify to the best of my knowledge that each of the documents attached hereto as **Exhibit "A"** was kept in the course of the Town's regularly conducted activity, (b) was made as a regular practice in the course of the Town's regularly conducted activity, and (c) was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person having knowledge of these matters ("Documents").

4. I have reviewed the Documents attached hereto and certify to the best of my knowledge that they are true and correct copies of the official public records reflecting the business

of the Town, or of documents of this public office authorized by law to be filed in this office and actually filed in this office.

5. The contents of the Documents attached hereto set forth the activities of this office or matters observed pursuant to duty imposed by law as to matters which these were a duty to report.

6. The Documents attached hereto as **Exhibit "A"** consist of memoranda, reports, records, and data compilations of acts, events, conditions, and opinions made at or near the time by, or from information transmitted by, a person with knowledge.

7. Specifically, those documents are:

a. Hearing Exhibit 26 – Emails related to a meeting to discuss 80 Ave E fines (dated on or about 3/23/20)

b. Hearing Exhibit 28 – Emails related to a meeting to discuss 80 Ave E fines continued (dated on or about 4/1/20)

c. Hearing Exhibit 29 – Emails related to a meeting to discuss 80 Ave E fines continued (dated on or about 4/9/20)

d. Hearing Exhibit 30 – Emails related to 80 Ave E noncompliance (dated on or about 4/23/20)

e. Hearing Exhibit 31 – Emails related to the Town's proposed Compliance Agreement and Attachment (dated on or about 5/1/20)

f. Hearing Exhibit 32 – Emails related to the Town's proposed Compliance Agreement continued (dated on or about 5/11/20)

g. Hearing Exhibit 33 – Emails related to the status of permits and liens on 80 Ave E (dated on or about 11/2/20)

h. Hearing Exhibit 36 – Emails related to redeveloping 80 Ave E (dated on or about January 2021)

i. Hearing Exhibit 39 – Lien List as of December 9, 2021 (dated on or about 12/9/21)

j. Hearing Exhibit 44 – Emails related to lien status of 80 Ave E (dated on or about May 2022)

SWORN AND ATTESTED BY:

Jason Freeman, Deputy Town Clerk
Town of Fort Myers Beach

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either [✓] personal presence or [ ] online notarization this 5 day of September, 2025, by Jason Freeman. He [✓] is personally known to me or [ ] has produced _____ as identification.

Notary Public State of Florida
Tracie Raski
My Commission HH 636110
Expires 2/3/2029

Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

[Notary Seal]

EXHIBIT "A"

HEARING EXHIBIT 26

From: scott mcguire on behalf of scott mcguire <smcguire707@gmail.com>
To: Roger Hernstadt
Subject: Re: Jesse schmid 80 ave e
Date: Wednesday, March 25, 2020 10:20:23 AM

Thanks Roger
We are ready to close on property this is the last hurdle we have to cross. So if we can do this by email that is maybe best at this time . Would really like to get this figured out very soon.
Thanks
Jesse Schmid

Sent from my iPhone

> On Mar 25, 2020, at 10:00 AM, Roger Hernstadt <roger@fmbgov.com> wrote:
>
> We are working on defining all the issues with this property. Pls stand by.
>
> ---
>
> **From:** scott mcguire <smcguire707@gmail.com>
> **Sent:** Monday, March 23, 2020 1:12 PM
> **To:** Roger Hernstadt <roger@fmbgov.com>
> **Subject:** Jesse schmid 80 ave e
>
> Hey Roger this is Jesse I was just wondering if we can set a appointment up this week where I can get Joe here me and we can figure out the fines on his 80 Avenue E
> I'm closing on it soon and I want to have everything addressed ASAP
>
> Sent from my iPhone

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HEARING EXHIBIT 29

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Roger Hernstadt
Subject: RE: Jesse schmid 80 ave e
Date: Wednesday, April 1, 2020 11:39:21 AM

I'm working on it now. I'll have something to you by 1

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: Roger Hernstadt <roger@fmbgov.com>
Date: 4/1/20 11:10 AM (GMT-05:00)
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: FW: Jesse schmid 80 ave e

How long to unravel?

From: scott mcguire <smcguire707@gmail.com>
Sent: Wednesday, March 25, 2020 10:20 AM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: Re: Jesse schmid 80 ave e

Thanks Roger
We are ready to close on property this is the last hurdle we have to cross. So if we can do this by email that is maybe best at this time . Would really like to get this figured out very soon.
Thanks
Jesse Schmid

Sent from my iPhone

> On Mar 25, 2020, at 10:00 AM, Roger Hernstadt <roger@fmbgov.com> wrote:
>
> We are working on defining all the issues with this property. Pls stand by.
>
> ---
>
> **From:** scott mcguire <smcguire707@gmail.com>
> **Sent:** Monday, March 23, 2020 1:12 PM
> **To:** Roger Hernstadt <roger@fmbgov.com>
> **Subject:** Jesse schmid 80 ave e
>
> Hey Roger this is Jesse I was just wondering if we can set a appointment up this week where I can get Joe here me and we can figure out the fines on his 80 Avenue E
> I'm closing on it soon and I want to have everything addressed ASAP

Sent from my iPhone

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HEARING EXHIBIT 29

From: Roger Hernstadt on behalf of Roger Hernstadt <roger@fmbgov.com>
To: scott mcguire
Cc: Joe Orlandini
Subject: FW: 80 Ave E
Date: Wednesday, April 1, 2020 1:47:37 PM

Here are the fines to date (does not include other town costs)
Other conditions to follow

From: Daphnie Bercher <DaphnieB@fmbgov.com>
Sent: Wednesday, April 1, 2020 1:44 PM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: 80 Ave E

80 Ave E has 2 code cases that are not in compliance; 1 in compliance, but with fines due, as explained below:

CE14-0394, Work Without Permit, Bldg. A – Underground Utility/Remodel
Ordered to pay $150 admin. fees, $250 per day beginning March 25, 2016, until compliance is obtained
Not in Compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until compliance

***

CE15-0167, Unsafe Structure, Middle Bldg. Deck/Stairs
Ordered to pay $150 admin fees, $250 per day beginning March 25, 2016, until compliance is obtained
Not in compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until compliance

***

CE17-0065, Repeat Work Without Permit, Driveway Pavers
In Compliance - $500 fine due

***

Total Due: $734,800, with daily fines of $500 being imposed until compliance

From: joe@joe22.com
To: Roger Hernstadt
Subject: RE: 80 Ave E
Date: Thursday, April 9, 2020 3:39:11 PM

Roger,

I would like to talk to you with out Jesse on the call with us. I am still the owner and I don't need him on our call.

Today or tomorrow any time, what ever works for you.

Thank you,

Joe Orlandini
Orlandini Development
Premiere Plus Realty
C- 239-537-1333
F - 239-790-3079
joe@joe22.com
www.FMBJOE.com

--------- Original Message ---------
Subject: RE: 80 Ave E
From: "Roger Hernstadt" <roger@fmbgov.com>
Date: 4/9/20 3:32 pm
To: "scott mcguire" <smcguire707@gmail.com>
Cc: "Joe Orlandini" <joe@joe22.com>

Any feedback?

From: Roger Hernstadt
Sent: Wednesday, April 1, 2020 1:48 PM
To: 'scott mcguire' <smcguire707@gmail.com>
Cc: 'Joe Orlandini' <joe@joe22.com>
Subject: FW: 80 Ave E

Here are the fines to date (does not include other town costs)

Other conditions to follow

From: Daphnie Bercher <DaphnieB@fmbgov.com>
Sent: Wednesday, April 1, 2020 1:44 PM
To: Roger Hernstadt <roger@fmbgov.com>

Subject: 80 Ave E

80 Ave E has 2 code cases that are not in compliance; 1 in compliance, but with fines due, as explained below:

CE14-0394, Work Without Permit, Bldg. A – Underground Utility/Remodel

Ordered to pay $150 admin. fees, $250 per day beginning March 25, 2016, until compliance is obtained

Not in Compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until compliance

***

CE15-0167, Unsafe Structure, Middle Bldg. Deck/Stairs

Ordered to pay $150 admin fees, $250 per day beginning March 25, 2016, until compliance is obtained

Not in compliance/no permits issued

March 25, 2016 – April 1, 2020 = 1468 Days

1468 days x $250 per day = $367,000

$367,000 + $150 = $367,150 now owed with $250 per day being imposed until

compliance

***

CE17-0065, Repeat Work Without Permit, Driveway Pavers

In Compliance - $500 fine due

***

Total Due: $734,800, with daily fines of $500 being imposed until compliance

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HEARING EXHIBIT 30

From: Roger Hernstadt on behalf of Roger Hernstadt <roger@fmbgov.com>
To: Daphnie Bercher
Subject: RE: 80 Ave E (Orlandini)
Date: Thursday, April 23, 2020 1:13:33 PM

What was the fine total for the other case?

From: Daphnie Bercher <DaphnieB@fmbgov.com>
Sent: Thursday, April 23, 2020 1:11 PM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: 80 Ave E (Orlandini)

80 Avenue E has 3 code cases/3 liens.

CE14-0494 and CE15-0157 are not in compliance. As of today's date each case has a lien of $372,650. With fines of $500 daily continuing to accrue ($250 per each case.

The total owed on these 2 cases as of today's date is $745,300.

The third case, CE17-0065, is in compliance but has a lien of $47,575.

The total owed as of this date for all three cases is $792,875 with fines of $500 per day continuing to accrue due to lack of compliance.

The big difference between this property and the other matter you negotiated is compliance. When you negotiated the other matter it had already been brought into compliance.

We are working with Orlandini in order for him to obtain the appropriate permits to bring this into compliance, but I'm not sure how long that will take.

Let me know if you have any questions.

HEARING EXHIBIT 30

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Roger Hernstadt
Subject: 80 Ave E (revised)
Date: Thursday, April 23, 2020 2:09:50 PM

The date Council told you to negotiate with Joe was Feb. 3, 2020.

The new amounts with an end date of Feb. 3, 2020 are:

CE14-0394
3/25/2016 – 2/3/2020 = 1410 days
1410 days x $250 per day = $352,500
$352,500 + $150 admin fee = $352,650

CE15-0167
3/25/2016 – 2/3/2020 = 1410 days
1410 days x $250 per day = $352,500
$352,500 + $150 admin fee = $352,650

CE17-0065
8/30/17 – 7/12/18 = 316 days
316 days x $150 per day = $47,400
$47,400 + $175 admin fee = $47,575

Total amount due (with no further accruing fees) $752,875

HEARING EXHIBIT 31

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: jodi -
Subject: 80 Avenue E Compliance Agreement
Date: Friday, May 1, 2020 11:59:15 AM
Attachments: 80 Ave E Compliance Agreement.docx

Attached please find the 80 Avenue E Compliance Agreement. Once we have received the check for the amount determined in the Compliance Agreement, and the check has cleared, we will filed releases for the three liens listed in the agreement. If the permits have not been finaled and violations cured within the amount of time determined in the Compliance Agreement, the lien process will resume and new liens will be filed.

Let me know if you have any questions.

Daphnie

Town of Fort Myers Beach

CODE ENFORCEMENT COMPLIANCE AGREEMENT

Case No: CE14-0394, CE15-0167, CE17-0065 Date: May 1, 2020

Owner: Orlandini, Joseph B

Mailing Address: 281 Palermo Circle

Site Address: 80 Avenue E, Fort Myers Beach, FL, 33931

Parcel/STRAP#: 19-46-24-W4-0070A.0020

Petitioner, Town of Fort Myers Beach, and Respondent, MICTIA Properties, LLC, hereby stipulate to the following:

A. Respondent is in violation of ***LDC Sec 6-111 The Florida Building Code hereby adopted by reference and made a part of this article, including all revisions and amendments approved in accordance with state law.***

FBC 105.1 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.

CE14-0394: Work Without Permit/Bldg. A
CE15-0167: Unsafe Structure/Deck/Bldg. B
CE17-0065 Repeat Work Without Permit/Pavers

B. In lieu of the violation process, which could include additional appearance(s) before the Special Magistrate, additional hearing costs and/or fines, Respondent is acknowledging the violations and agrees to:

1. Pay a one-time fine and enforcement cost in the amount of $61,628.04. Fine is due immediately;

2. Apply for and obtain all required permits to correct all violations by July 1, 2020, and obtain Certificate of Completions for all violations by December 31, 2020.

C. If the above stated action is not complied with, a fine of $1,000 per day will be assessed until compliance is obtained.

Town of Fort Myers Beach

CODE ENFORCEMENT COMPLIANCE AGREEMENT

D. If a reoccurrence of the violation is found, pursuant to Ch. 162.09(2)(a)(1), Fla. Stat., the Town may ask the Special Magistrate to find the reoccurred violation as irreparable and irreversible in nature and seek a fine of up to $5,000 for each violation.

Property Owner	Printed Name	Date
Town Staff	Printed Name	Date

Town of Fort Myers Beach
2525 Estero Blvd., Fort Myers Beach, Florida 33931
Phone: 239-765-0202 Permits@FortMyersBeachFL.gov Fax: 239-765-0909

From: Roger Hernstadt on behalf of Roger Hernstadt <roger@fmbgov.com>
To: jodi -
Subject: Re: Jesse Schmid / Permits
Date: Monday, May 4, 2020 11:14:54 AM

By phone - you can call me tomorrow or Wednesday.

Sent from my iPhone

> On May 4, 2020, at 10:38 AM, jodi - <jodi@schmidysmachinery.com> wrote:
>
> Hi Roger,
>
> I was going to see if I could possibly meet with you this week in regards to several permits I am currently waiting to be issued. If you could call me on my cell it would be greatly appreciated.
>
> Thanks
>
> Jesse Schmid
> Cell#217-433-8978

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HEARING EXHIBIT 32

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: "jodi -"
Cc: chadd@fmb.com
Subject: RE: Jesse Schmid/ Properties
Date: Monday, May 11, 2020 10:23:11 AM

Jesse,

The email I sent you was a negotiation you asked for, which the manager greatly reduced the amount of liens totally $750,000 – the Compliance Agreement states that you will pay the amount immediately. If you choose the not pay that amount until the permits are issued, that's your choice. You failed to mention that you began work without a permit on several projects including the house and tiki hut...and illegally bulldozed through a dune.

Due to your complaint of your neighbor's yard, we are opening a code case against him.

My husband had emergency surgery last week and I was out. I am spending the day working on your permits and will have a status to you as soon as I can.

Also, please don't include Chadd on anything regarding permits. That's not his department.

Daphnie

From: jodi - [mailto:jodi@schmidysmachinery.com]
Sent: Saturday, May 9, 2020 1:31 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: chadd@fmb.com
Subject: Jesse Schmid/ Properties

Daphnie

This is Jesse and I am confused because when we met, you told me it wasn't about money. The E-mail you sent me in return to min was all about money and nothing about issuing my permits. Huminston & Moore engineering firm has been in contact with the city at least five times, and made several revisions just for a paver driveway and still no permit has been issued. A tiki permit was filed four weeks ago several revisions were requested and made along with engineering plans and now it's not even in the system. I just wrote a check for over $14,000 to restore the dune and 40 inch pathway, then was issued a $1.000 fine along with a dune restoration plan. The neighboring property clearly has way more issues than I have and have only received a $25 ticket. I am at a loss over this and cant seem to get an answer as to why all surrounding properties to mine can seem to do whatever they want. On a neighboring cottage street property a paver driveway took 2 weeks and drainage plan is to the street, which I was told you have to retain all you on water on your own property. Also, there are neighboring properties on Cottage Ave that have decks, fences, tiki huts, etc... over the coastal construction setback line. I need some clarification on these issues and would really like to know how this keeps happening. I have spent tens of thousands of dollars on engineering and

architects for my properties to keep from running into roadblocks as well as $30,000 in surveying. Please advise me of all properties permitting next to mine along with drawings, revision and engineering so I can compare. This is getting to become a major issue for all of us. Before this turns into anything further let me know how we can settle all of this. If plans need revisions can we have all revisions at one time so it can be corrected the first time instead of constantly going back and forth. As you well know I have spent millions on this beach to only make it a better place. I was told you can't cross the coastal construction line, but four of my neighboring properties have. Please advise me on what direction at this point I need to go, as I have millions invested and getting no return on my investments due to permits not being issued. We are building two new homes one on Cottage and one on I street along with the build out of 80 Ave E which has been an eye sore for many years. I want a smooth permitting process as I think the city should want as well.

Thanks,

Jesse & Jodi Schmid and Family

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From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Roger Hernstadt
Subject: RE: 80 Avenue E Compliance Agreement
Date: Monday, May 11, 2020 10:28:53 AM

Jesse doesn't want to pay the negotiated amount until the permits (for other properties) have been issued – despite the fact that the Compliance Agreement states that the amount must be paid immediately.

From: Roger Hernstadt
Sent: Thursday, May 7, 2020 11:04 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>; Robert Bogart <Bogart@fmbgov.com>
Subject: FW: 80 Avenue E Compliance Agreement

What's the delay?

From: jodi - <jodi@schmidysmachinery.com>
Sent: Thursday, May 7, 2020 10:56 AM
To: Roger Hernstadt <roger@fmbgov.com>
Subject: Fwd: 80 Avenue E Compliance Agreement

---------- Forwarded message ---------
From: **Daphnie Bercher** <DaphnieB@fmbgov.com>
Date: Fri, May 1, 2020 at 2:56 PM
Subject: RE: 80 Avenue E Compliance Agreement
To: jodi - <jodi@schmidysmachinery.com>

I have no idea when the permits will be ready. Like I said we will release the liens once we received the check and it has cleared.

From: jodi - [mailto:jodi@schmidysmachinery.com]
Sent: Friday, May 1, 2020 1:02 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Re: 80 Avenue E Compliance Agreement

Thanks for getting this on 80 Ave E. to me. Once you know the status on the other permits I inquired about let me know where we at as I would like to pick up the permits when I bring you a check for 80 Ave E.

Thanks

Jesse Schmid

On Fri, May 1, 2020 at 11:59 AM Daphnie Bercher <DaphnieB@fmbgov.com> wrote:

> Attached please find the 80 Avenue E Compliance Agreement. Once we have received the check for the amount determined in the Compliance Agreement, and the check has cleared, we will filed releases for the three liens listed in the agreement. If the permits have not been finaled and violations cured within the amount of time determined in the Compliance Agreement, the lien process will resume and new liens will be filed.
>
> Let me know if you have any questions.
>
> Daphnie
>
> Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

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From: Paula Kiker on behalf of Paula Kiker <Paula@fmbsun.com>
To: Daphnie Bercher (DaphnieB@fmbgov.com)
Subject: Agenda for Jesse Schmid Meeting
Date: Monday, November 2, 2020 10:16:36 AM
Attachments: Agenda for Jesse Schmid.pdf

Daphnie,

Attached is the agenda for our meeting - at this time we would like to meet sooner than later - tomorrow am. is good for both of us if you have time? I have a 1:00 funeral to attend, but anytime up till then? I would think 1 hour should be sufficient if we have current status for all his permits?

Wednesday - I am open from 10:30 on if that is helpful.

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
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HEARING EXHIBIT 33

Agenda for Jesse Schmid/White Sand Properties of FMB, LLC

1560 I Street

- Status of Permits (plans approved by Sarah, then had to be re-approved by Jason?)
- Dune Restoration Plan Status

1550 I Street

- Chair rental license
- Lien

80 Avenue E

- Fines on Avenue E ($75K)

49/51 Pompano

- Dune Restoration Plan – Jesse will submit on Wednesday

2520 & 2522 Cottage

- Status of Permitting of two 24 foot driveways (over 2 months?)
- Status of Building Permits
- Status of Moving a tree violation

HEARING EXHIBIT 33

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: FW: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 10:20:07 AM

Below please find the status of the issues mentioned in your agenda:

1560 I Street –

- ***Status of permit (plans approved by Sarah, then had to be re-approved by Jason)***

Permit #201086

The information provided is incorrect. Sarah and Jason are zoning. The zoning for this permit was approved on 9/7/2020 (submitted 8/24/2020); however, there are two resubmittal reviews still pending that were received on 10/23/2020) which were Flood and Building. These resub reviews should be finished this week.

This is the only building permit application for 1560 I street.

***

- ***Dune Restoration Plan Status***

(this should be for 1550, not 1560) – Code Case #CE20-0491:

The Code Enforcement Order states:

Respondent is ordered to pay a fine of $1000 to be paid within 30 days; and

Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20 (Sept. 20 is the 30 day time frame pursuant to the order) a fine of $250 per day began. Even though the Restoration Plan was received and the fine paid, the order will not be released until the all terms of the order are met (the imposed fines ($250 per day) have been paid and the dune restored in accordance with the order).

The Respondent was issued a Notice of Hearing for November 19, 2020 at 11:00 a.m. for an Imposition of Lien Hearing.

***

HEARING EXHIBIT 33

1550 I Street

-

- ***Chair rental license***

On September 30 (the last day beach vendors are allowed to submit their permit renewal pursuant to the Town's ordinance), I received the below email from Mr. Schaab (the owner of the beach chair rental company):

Mrs. Bercher, I will not be applying for a license this year, I have not been able to obtain the new owners authorization. Jesse Schmidt the new owner of 1550 I street has asked me if I would sell this license. I explained to him that a license at a nonconforming location is not transferable. Maybe he does not want chairs and umbrellas, or possibly he has found a way around the ordinance. Thank you for your time.
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On October 29, I received another email from Mr. Schaab:

Good afternoon Daphnie, Jesse Schmid and I finally came to an agreement for the chairs and umbrellas on 1550 I Street. I left the application at Town Hall this morning and I realize and that this is over a month late. Thank you for your time and consideration.
Chris Schaab

Pursuant to the Town's code, permit applications/renewals are received from September 1 – 30. The Town Manager told Mr. Schaab that he can appeal Staff's decision to Council. An Appeal application and the fee ($1,000) must be submitted, which I explained to Mr. Schaab today. Staff will process the application and get it on the soonest available Council agenda for the Council to hear the item.

***

- ***Lien***

See Code Case CE20-0491 above

***

80 Avenue E

- ***Fines on Avenue E***

When Mr. Schmid acquired this property, the Town Manager quoted a settlement for the outstanding liens. In accordance to the Compliance Agreement sent to Mr. Schmid on May 1, 2020, a one-time fine of $61,628.04 was due immediately. Additionally, in order to release the lien, all permits were to be applied for and issued by July 1, 2020 and Certificate of Completion was supposed to be issued by Dec. 31.

Mr. Schmid has not paid the settlement offered as of this date and no permits have been applied for. Roger told me the new reduced fine is $75,000. That fine needs to be paid and the violations need to come into compliance in order to release the lien.

The only permits for 80 Avenue E are:

A demo permit (application submitted on 4/1/2019) for the upper floor/3 units that has been abandoned.

A demo permit for stairs and deck on middle building (application submitted on 4/1/2019). This permit was issued 11/14/2019, but expired on May 12, 2020 and has not been renewed.

Further, if work has begun on this property, it will be a work without permit code violation.

***

49/51 Pompano

- ***Dune Restoration Plan – Jesse will submit on Wednesday***

Code Case No: CE20-0294:

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Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20, (Sept. 20 is the 30 day time frame pursuant to the order) an additional fine of $250 was to begin accruing. However, Respondent's attorney submitted a Motion for Extension of Time in this matter, which was granted. No daily fines will accrue until January and only if the property is not in compliance.

***

2520 & 2522 Cottage Avenue

- ***Status of two 24 foot driveways (over 2 months?)***
- ***Status of Building Permits***
- ***Status of moving a tree violation***

***

Status of two 24 foot driveways – no driveway or permits have been submitted.

***

2520 Cottage -

2520 Cottage has two open code cases:

CE20-0619, Work without Permit/Installation of Pavers. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19; and

CE20-0623, Work Without Permit/Tiki Huts. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19.

***

2522 Cottage –

2522 Cottage has two open code cases:

CE20-0287, Work without Permit/Interior Remodel. The Notice of Violation was issued on 4/30/2020 which provided 30 days to obtain the permit. A permit was applied for (Permit #200531) on May 4, 2020. Staff is waiting for more information required from the reviewers. No activity has happened on this since May 18, 2020. This is set for hearing before the Special Magistrate on November 19.

CE20-0656, Relocation of Protected Tree without Permit. The Notice of Violation was issued on October 14, 2020 which provided 7 days to get the appropriate permit. No permit application has been submitted. This is set for hearing before the Special Magistrate on November 19.

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This review of Mr. Schmid's matters took me an entire day to research. In most of these issues, we are waiting for Mr. Schmid to provide something to the Town. Once the Town receives the information required by the reviewers, restorations plans, tree removal permit, payment of fines, permit applications, etc., Staff can proceed with each issue.

Please note that this review was conducted expeditiously in order to provide a quick response. A more in depth review may provide different or additional information.

Sincerely,

Daphnie Bercher Saunders
Community Services Administrator
Town of Fort Myers Beach
daphnieb@fmbgov.com
239-765-0202

From: Paula Kiker [mailto:Paula@fmbsun.com]
Sent: Monday, November 2, 2020 10:17 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Agenda for Jesse Schmid Meeting

Daphnie,

Attached is the agenda for our meeting - at this time we would like to meet sooner than later - tomorrow am. is good for both of us if you have time? I have a 1:00 funeral to attend, but anytime up till then? I would think 1 hour should be sufficient if we have current status for all his permits?

Wednesday - I am open from 10:30 on if that is helpful.

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From: Paula Kiker on behalf of Paula Kiker <Paula@fmbsun.com>
To: "Daphnie Bercher"; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: RE: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 10:29:42 AM

Daphnie,

Thank you and your staff for putting this synopsis together - I will be sure and go over everything with Jesse & his contractors/vendors - we may still want to meet in person (perhaps tomorrow sometime), to clear up/clean up these issues. I have been working with Jesse to get everything back on track and I appreciate everyone's time and consideration in these matters.

Paula Kiker
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From: Daphnie Bercher [mailto:DaphnieB@fmbgov.com]
Sent: Tuesday, November 03, 2020 10:20 AM
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: FW: Agenda for Jesse Schmid Meeting

Below please find the status of the issues mentioned in your agenda:

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- ***Status of permit (plans approved by Sarah, then had to be re-approved by Jason)***

Permit #201086

The information provided is incorrect. Sarah and Jason are zoning. The zoning for this permit was approved on 9/7/2020 (submitted 8/24/2020); however, there are two resubmittal reviews still pending that were received on 10/23/2020) which were Flood and Building. These resub reviews

should be finished this week.

This is the only building permit application for 1560 I street.

***

- ***Dune Restoration Plan Status***

(this should be for 1550, not 1560) – Code Case #CE20-0491:

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***

1550 I Street

- ***Chair rental license***

On September 30 (the last day beach vendors are allowed to submit their permit renewal pursuant to the Town's ordinance), I received the below email from Mr. Schaab (the owner of the beach chair rental company):

Mrs. Bercher, I will not be applying for a license this year, I have not been able to obtain the new owners authorization. Jesse Schmidt the new owner of 1550 I street has asked me if I would sell this license. I explained to him that a license at a nonconforming location is not transferable. Maybe he does not want chairs and umbrellas, or possibly he has found a way around the ordinance. Thank you for your time.
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***

- ***Lien***

See Code Case CE20-0491 above

***

80 Avenue E

- ***Fines on Avenue E***

When Mr. Schmid acquired this property, the Town Manager quoted a settlement for the outstanding liens. In accordance to the Compliance Agreement sent to Mr. Schmid on May 1, 2020, a one-time fine of $61,628.04 was due immediately. Additionally, in order to release the lien, all permits were to be applied for and issued by July 1, 2020 and Certificate of Completion was supposed to be issued by Dec. 31.

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Further, if work has begun on this property, it will be a work without permit code violation.

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HEARING EXHIBIT 33

49/51 Pompano

- ***Dune Restoration Plan – Jesse will submit on Wednesday***

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Please note that this review was conducted expeditiously in order to provide a quick response. A more in depth review may provide different or additional information.

Sincerely,

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From: Paula Kiker on behalf of Paula Kiker <Paula@fmbsun.com>
To: "Daphnie Bercher"; sales@schmidysmachinery.com
Cc: Roger Hernstadt; "steve@sutterbuilder.com"
Subject: RE: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 12:19:40 PM

Daphnie,

Thanks for the call and further clarifications, I have added Jesse's contractor Steve Sutter to this email chain, so everyone is on the same page of what needs to be done by ALL the parties in order to get this all cleaned up. My clarifications are in **RED**. Please let us know if we can set a meeting up for the 80 Avenue Questions?

Paula Kiker
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1550 I Street

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Further, if work has begun on this property, it will be a work without permit code violation. **JESSE UNDERSTANDS IF HE DEMOS THE HOME, THE OUTSTANDING CODE VIOLATIONS GO AWAY (AND FEE NEEDS PAID NO MATTER WHAT), BUT WOULD LIKE TO HAVE A MEETING WITH THE PARTIES**

THAT BE, TO SEE WHAT CAN BE BUILT BACK SHOULD HE DECIDE TO GO THAT ROUTE. SHOULD HE DECIDE TO KEEP, WE UNDERSTAND THAT STEVE SUTTER NEEDS TO APPLY FOR A AFTER THE FACT BUILDING PERMIT FOR ALL THE WORK THAT HAS BEEN DONE AND HAS THE OPTION TO HIRE A 3RD PARTY ENGINEER TO STATE THAT ALL THE WORK TO DATE IS "IN COMPLIANCE" . THE HOME MUST BE IN COMPLIANCE BEFORE THE LIEN WILL BE REMOVED.

***

49/51 Pompano

- ***Dune Restoration Plan – Jesse will submit on Wednesday***

Code Case No: CE20-0294:

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Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20, (Sept. 20 is the 30 day time frame pursuant to the order) an additional fine of $250 was to begin accruing. However, Respondent's attorney submitted a Motion for Extension of Time in this matter, which was granted. No daily fines will accrue until January and only if the property is not in compliance. **WE ARE WAITING ON CHADD TO APPROVE PLAN BEFORE WE RESTORE THE DUNE.**

***

2520 & 2522 Cottage Avenue

- ***Status of two 24 foot driveways (over 2 months?)***
- ***Status of Building Permits***
- ***Status of moving a tree violation***

***

Status of two 24 foot driveways – no driveway or permits have been submitted.

***

2520 Cottage -

2520 Cottage has two open code cases:

CE20-0619, Work without Permit/Installation of Pavers. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19; and **JESSE HIRED TROPICAL PAVER & STONE AND WAS UNDER THE ASSUMPTION A PERMIT WAS PULLED, STATES BILL WITH PAVER COMPANY HAS BEEN IN COMMUNICATION WITH LLEN EXPOSITO LOPEZ AND IS/HAS SUBMITTED FOR A PERMIT? JESSE WILL FOLLOW UP WITH VENDOR.**

CE20-0623, Work Without Permit/Tiki Huts. The Notice of Violation was issued on September 10, 2020, which provided 30 days to obtain the permit. **As of this date, no permit application has been submitted**. This is set for hearing before the Special Magistrate on November 19. **STEVE SUTTER IS SUBMITTING FOR PERMIT THIS WEEK.**

***

2522 Cottage –

2522 Cottage has two open code cases:

CE20-0287, Work without Permit/Interior Remodel. The Notice of Violation was issued on 4/30/2020 which provided 30 days to obtain the permit. A permit was applied for (Permit #200531) on May 4, 2020. Staff is waiting for more information required from the reviewers. No activity has happened on this since May 18, 2020. This is set for hearing before the Special Magistrate on November 19. **STEVE SUTTER SUBMITTED AN NOC FOR A CHANGE OF CONTRACTOR LAST WEEK. STEVE WILL REVIEW THE STATUS OF WHAT IS OUTSTANDING AND SUBMIT ACCORDINGLY.**

CE20-0656, Relocation of Protected Tree without Permit. The Notice of Violation was issued on October 14, 2020 which provided 7 days to get the appropriate permit. No permit application has been submitted. This is set for hearing before the Special Magistrate on November 19. **I HAVE BEEN TOLD THAT JESSE'S WIFE SUBMITTED DIRECTLY TO CHADD LAST WEEK?**

***

This review of Mr. Schmid's matters took me an entire day to research. In most of these issues, we are waiting for Mr. Schmid to provide something to the Town. Once the Town receives the information required by the reviewers, restorations plans, tree removal permit, payment of fines, permit applications, etc., Staff can proceed with each issue.

Please note that this review was conducted expeditiously in order to provide a quick response. A more in depth review may provide different or additional information.

Sincerely,

Daphnie Bercher Saunders

Community Services Administrator
Town of Fort Myers Beach
daphnieb@fmbgov.com
239-765-0202

From: Paula Kiker [mailto:Paula@fmbsun.com]
Sent: Monday, November 2, 2020 10:17 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Agenda for Jesse Schmid Meeting

Daphnie,

Attached is the agenda for our meeting - at this time we would like to meet sooner than later - tomorrow am. is good for both of us if you have time? I have a 1:00 funeral to attend, but anytime up till then? I would think 1 hour should be sufficient if we have current status for all his permits?

Wednesday - I am open from 10:30 on if that is helpful.

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
Office: 239-463-0000 ext. 128
Fax: 239-463-5617
Email: paula@fmbsun.com
Website: fmbsun.com

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From: Paula Kiker on behalf of Paula Kiker <Paula@fmbsun.com>
To: "Daphnie Bercher"; sales@schmidysmachinery.com
Cc: Roger Hernstadt; steve@sutterbuilder.com
Subject: RE: Agenda for Jesse Schmid Meeting
Date: Tuesday, November 3, 2020 1:22:47 PM

Thanks, I'll follow up with Jesse tomorrow - off to a Celebration of Life now.

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
Office: 239-463-0000 ext. 128
Fax: 239-463-5617
Email: paula@fmbsun.com
Website: fmbsun.com

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From: Daphnie Bercher [mailto:DaphnieB@fmbgov.com]
Sent: Tuesday, November 03, 2020 1:21 PM
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: RE: Agenda for Jesse Schmid Meeting

Re: 49/51 Pompano – no restoration plan has been submitted. Chadd has 17 reviews ahead of any plan that Jesse submits for review. Due to the code violations, I will have Chadd expedite his review of both restoration plans, once we receive the 49/51 plan.

Re: 2520 Cottage – again, no permit has been submitted.

Re: 2522 Cottage, I researched Chadd's emails – no email or permit was received regarding relocation of the tree. Please send me a copy of the email sent to Chadd.

Re: 80 Avenue E – The information requested can be obtained through a Zoning Verification Letter (link provided for the Zoning Verification Letter below). The fee for the Zoning Verification Letter is $250.

http://fmbgov.com/DocumentCenter/View/15634/Zoning-Verification-Aplication

From: Paula Kiker [mailto:Paula@fmbsun.com]
Sent: Tuesday, November 3, 2020 12:20 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>; sales@schmidysmachinery.com
Cc: Roger Hernstadt <roger@fmbgov.com>; 'steve@sutterbuilder.com' <steve@sutterbuilder.com>
Subject: RE: Agenda for Jesse Schmid Meeting

Daphnie,

Thanks for the call and further clarifications, I have added Jesse's contractor Steve Sutter to this email chain, so everyone is on the same page of what needs to be done by ALL the parties in order to get this all cleaned up. My clarifications are in **RED**. Please let us know if we can set a meeting up for the 80 Avenue Questions?

Paula Kiker
Broker/Owner, Lahaina Realty
2013 Realtor of the Year
6035 Estero Blvd, Fort Myers Beach, FL 33931
Cell: 239-565-1970
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From: Daphnie Bercher [mailto:DaphnieB@fmbgov.com]
Sent: Tuesday, November 03, 2020 10:20 AM
To: Paula Kiker; sales@schmidysmachinery.com
Cc: Roger Hernstadt
Subject: FW: Agenda for Jesse Schmid Meeting

Below please find the status of the issues mentioned in your agenda:

1560 I Street –

- ***Status of permit (plans approved by Sarah, then had to be re-approved by Jason)***

Permit #201086

The information provided is incorrect. Sarah and Jason are zoning. The zoning for this permit was approved on 9/7/2020 (submitted 8/24/2020); however, there are two resubmittal reviews still pending that were received on 10/23/2020) which were Flood and Building. These resub reviews should be finished this week. **AGREED**

This is the only building permit application for 1560 I street.

***

- ***Dune Restoration Plan Status***

(this should be for 1550, not 1560) – Code Case #CE20-0491:

The Code Enforcement Order states:

Respondent is ordered to pay a fine of $1000 to be paid within 30 days; and

Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

Respondent paid the fine and submitted the Restoration Plan on Oct. 30; however the dune has not been restored in accordance with the Order. On Sept. 20 (Sept. 20 is the 30 day time frame pursuant to the order) a fine of $250 per day began. Even though the Restoration Plan was received and the fine paid, the order will not be released until the all terms of the order are met (the imposed fines ($250 per day) have been paid and the dune restored in accordance with the order). **We are waiting for approval from Chadd on plan, then dune will be restored. Hopeful before the November 19th hearing.**

The Respondent was issued a Notice of Hearing for November 19, 2020 at 11:00 a.m. for an Imposition of Lien Hearing.

***

1550 I Street

- ***Chair rental license***

On September 30 (the last day beach vendors are allowed to submit their permit renewal pursuant to the Town's ordinance), I received the below email from Mr. Schaab (the owner of the beach chair rental company):

Mrs. Bercher, I will not be applying for a license this year, I have not been able to obtain the new owners authorization. Jesse Schmidt the new owner of 1550 I street has asked me if I would sell this license. I explained to him that a license at a nonconforming location is not transferable. Maybe he does not want chairs and umbrellas, or possibly he has found a way around the ordinance. Thank you for your time.
Chris Schaab

On October 29, I received another email from Mr. Schaab:

Good afternoon Daphnie, Jesse Schmid and I finally came to an agreement for the chairs and umbrellas on 1550 I Street. I left the application at Town Hall this morning and I realize and that this is over a month late. Thank you for your time and consideration.

Chris Schaab

Pursuant to the Town's code, permit applications/renewals are received from September 1 – 30. The Town Manager told Mr. Schaab that he can appeal Staff's decision to Council. An Appeal application and the fee ($1,000) must be submitted, which I explained to Mr. Schaab today. Staff will process the application and get it on the soonest available Council agenda for the Council to hear the item. **AGREED**

***

- ***Lien***

See Code Case CE20-0491 above

***

80 Avenue E

- ***Fines on Avenue E***

When Mr. Schmid acquired this property, the Town Manager quoted a settlement for the outstanding liens. In accordance to the Compliance Agreement sent to Mr. Schmid on May 1, 2020, a one-time fine of $61,628.04 was due immediately. Additionally, in order to release the lien, all permits were to be applied for and issued by July 1, 2020 and Certificate of Completion was supposed to be issued by Dec. 31.

Mr. Schmid has not paid the settlement offered as of this date and no permits have been applied for. Roger told me the new reduced fine is $75,000. That fine needs to be paid and the violations need to come into compliance in order to release the lien.

The only permits for 80 Avenue E are:

A demo permit (application submitted on 4/1/2019) for the upper floor/3 units that has been abandoned.

A demo permit for stairs and deck on middle building (application submitted on 4/1/2019). This permit was issued 11/14/2019, but expired on May 12, 2020 and has not been renewed.

Further, if work has begun on this property, it will be a work without permit code violation. **JESSE UNDERSTANDS IF HE DEMOS THE HOME, THE OUTSTANDING CODE VIOLATIONS GO AWAY (AND FEE NEEDS PAID NO**

MATTER WHAT), BUT WOULD LIKE TO HAVE A MEETING WITH THE PARTIES THAT BE, TO SEE WHAT CAN BE BUILT BACK SHOULD HE DECIDE TO GO THAT ROUTE. SHOULD HE DECIDE TO KEEP, WE UNDERSTAND THAT STEVE SUTTER NEEDS TO APPLY FOR A AFTER THE FACT BUILDING PERMIT FOR ALL THE WORK THAT HAS BEEN DONE AND HAS THE OPTION TO HIRE A 3RD PARTY ENGINEER TO STATE THAT ALL THE WORK TO DATE IS "IN COMPLIANCE" . THE HOME MUST BE IN COMPLIANCE BEFORE THE LIEN WILL BE REMOVED.

***

49/51 Pompano

- ***Dune Restoration Plan – Jesse will submit on Wednesday***

Code Case No: CE20-0294:

The Code Enforcement Order states:

Respondent is ordered to pay a fine of $1000 to be paid within 30 days; and

Respondent is ordered to correct violation by SUBMITTING A DUNE RESTORATION PLAN IN ACCORDANCE WITH LDC SEC. 14-41 AND UPON APPROVAL, RESTORE DUNE ACCORDINGLY; if said violation is not corrected within 30 days, a fine of $250 per day shall be imposed.

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- ***Status of Building Permits***
- ***Status of moving a tree violation***

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Sincerely,

Daphnie Bercher Saunders
Community Services Administrator
Town of Fort Myers Beach
daphnieb@fmbgov.com
239-765-0202

From: Paula Kiker [mailto:Paula@fmbsun.com]
Sent: Monday, November 2, 2020 10:17 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Subject: Agenda for Jesse Schmid Meeting

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HEARING EXHIBIT 36

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Stephen Sutter
Cc: Jack Mcstravic; Jesse Schmid; Jason Green; Carl Benge
Subject: RE: 80 Ave E
Date: Tuesday, January 26, 2021 2:54:21 PM
Attachments: ZVL20-0099 - 80 Ave E.pdf

Density has changed since the original building date which allowed 8 units. Again, you can apply for the variance which will give the council the opportunity to make a determination regarding increasing the density.

Attached is the Zoning Verification letter sent to Mr. Schmid on November 18, 2020. If Mr. Schmid states that he did not receive the letter, we will gladly issue a refund – and make certain that all future communications are via email.

From: Stephen Sutter <steve@sutterbuilder.com>
Sent: Tuesday, January 26, 2021 2:10 PM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: Jack Mcstravic <mcstravic@fmbgov.com>; Jesse Schmid <sales@schmidysmachinery.com>; Jason Green <green@fmbgov.com>; Carl Benge <cbenge@fmbgov.com>
Subject: Re: 80 Ave E

We are reducing the existing number of unit by 1/2 there are 8 units to be removed and 4 units to be built otherwise we will just put lipstick on the pig and keep all the units we're trying to lower existing density and built out of the flood zone and we assume the city would be in favor of this, we are still waiting for a meeting and we paid for a zoning determination in November and still have not received any official response so please just refund the $250 to Mr Schmid thanks

Steve Sutter 239-287-2080
SF Sutter Builder LLC
1332 Monarch Circle
Naples, Fl. 34116
CRC 1331400

> On Jan 26, 2021, at 11:12 AM, Daphnie Bercher <DaphnieB@fmbgov.com> wrote:
>
> The Town's zoning for that area allows six dwelling units per acre. The 80 Avenue E property is only 6,882 sq ft. which only allows for a single family residence (the square footage of an acre is 43,560 sq. ft).
>
> If you would like to increase the density, you'd need to apply for a variance – the Council may or may not approve the increase in density.

From: Stephen Sutter <steve@sutterbuilder.com>
Sent: Monday, January 25, 2021 9:13 AM
To: Jack Mcstravic <mcstravic@fmbgov.com>
Cc: Jesse Schmid <sales@schmidysmachinery.com>; Daphnie Bercher <DaphnieB@fmbgov.com>; Jason Green <green@fmbgov.com>; Carl Benge <cbenge@fmbgov.com>
Subject: Re: 80 Ave E

Please let us know when we can all meet we are removing 8 units and plan on doing 4 units in there place

Steve Sutter 239-287-2080
SF Sutter Builder LLC
1332 Monarch Circle
Naples, Fl. 34116
CRC 1331400

> On Jan 20, 2021, at 7:10 AM, Jack Mcstravic <mcstravic@fmbgov.com> wrote:
>
> Good morning,
>
> In regards to 80 Ave E zoning verification, it would be best for us have a discussion with the entire team. Based upon the LDC of the town, the only thing that could be constructed at this location would be a single-family home.
>
> Please provide a couple of dates when we can schedule a meeting to discuss any option available to you for repairing or moving forward with re-development of this property.
>
> Thank you
> Jack McStravic
>
> ---
>
> **From:** Stephen Sutter <steve@sutterbuilder.com>
> **Sent:** Sunday, January 10, 2021 5:32 PM

To: Jack McStravic <JMcStravic@universalengineering.com>
Cc: Jack Mcstravic <mcstravic@fmbgov.com>; Jack McStravic <jmcstravic@teamgfa.com>; Jesse Schmid <sales@schmidysmachinery.com>
Subject: Re: 80 Ave E

See you about 10 Tuesday thanks

Steve Sutter 239-287-2080
SF Sutter Builder LLC
1332 Monarch Circle
Naples, Fl. 34116
CRC 1331400

> On Jan 8, 2021, at 3:11 PM, Jack McStravic <JMcStravic@universalengineering.com> wrote:
>
> I will be into the office on Tuesday 1/12/20201. I'll be there from 10-2.
>
> Thank you
>
>
> Jack McStravic, CBO
> Code Compliance Department Manager
> 201 Waldo Avenue North,
> Lehigh Acres, Florida 33971
> o: (239) 489-2443 | f: (239) 489-3438
> d: (239) 920-5238 | c: (239) 229-5239
> jmcstravic@univerisalengineering.com
> Inspections – schedulefm@universalengineering.com
>
>
>
>
>
> -----Original Message-----
> From: Stephen Sutter <steve@sutterbuilder.com>
> Sent: Thursday, January 7, 2021 11:34 AM
> To: Jack Mcstravic <mcstravic@fmbgov.com>; Jack McStravic <jmcstravic@teamgfa.com>
> Cc: Jesse Schmid <sales@schmidysmachinery.com>
> Subject: Re: 80 Ave E
>

> Second request for meeting tomorrow
>
> Steve Sutter 239-287-2080
> SF Sutter Builder LLC
> 1332 Monarch Circle
> Naples, Fl. 34116
> CRC 1331400
>
>
>
>> On Jan 6, 2021, at 10:52 AM, Stephen Sutter <steve@sutterbuilder.com> wrote:
>>
>> Jack; We would like to redevelop 80 Ave E can you meet with Jesse Schmid and I on Friday morning 10:00am at your office to discuss the options we want to reduce the density and demo that old mess so the new will be above flood it's looks like a win win but we need a quick meeting with you before we spend a ton of money on plans and engineering. Hope to hear from you soon thanks Steve
>>
>> Steve Sutter 239-287-2080
>> SF Sutter Builder LLC
>> 1332 Monarch Circle
>> Naples, Fl. 34116
>> CRC 1331400
>>
>>
>

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HEARING EXHIBIT 39

From: Patty Prevost on behalf of Patty Prevost <Patty@fmbgov.com>
To: Daphnie Bercher
Subject: Lien List as of 12.9.2021
Date: Thursday, December 9, 2021 2:40:12 PM
Attachments: Lien List 12.9.2021.docx

Patty Prevost
2525 Estero Blvd.
Fort Myers Beach, FL 33931
Phone # 239 765-0202 ex 1303
Patty@fmbgov.com

FMBgov.com

Liens on File 12/9/2021

80 Ave E – Orlandini – CE14-0394 – SWO – Work without a permit Bld A = $514.150.00 still accruing at $250.00 per day

80 Ave E – Orlandini – CE15-0167 – Unsafe Structure- Bld B = $514,150.00 still accruing at $250.00 per day.

80 Ave E – Orlandini – CE17-0065- Work Without a permit = Certified Fine $500.00.

1028 Estero – Persaud- CE18-0234- Operating without a permit Beach Vending- = Certified Fine $117,750.00.

1028 Estero – Persaud- CE20-0018- Beach Chair rental without a permit- Certified Fine Totaled $9,575.00.

1046 Estero- Persaud- CE17-0659- Portable sign off premises = $242,625.00 still accruing at $200.00 per day.

1046 Estero- Persaud- CE17-0707 - Parking = Certified Fine $80,050.00.

1046 Estero – Persaud- CE18-0235- Beach Chair rental = Certified Fine $11,750.00.

1046 Estero –Persaud - CE18-0446 - Dumpster not screened= $ 207,250.00.

1046 Estero- Persaud- CE20-0017- Beach chair rental without a permit-$ 76,825.00 Still accruing at $250.00 per day.

268/270 Nature View Ct, - CE18-0700- Work without a permit- Remodel after fire = $154,750.00 still accruing at $250.00 per day.

268/270 Nature View Ct. - CE18-0724- Work without a permit – Roof- $154,750.00 still accruing at $250.00 per day.

268/270 Nature View Ct.- CE20-0597- Repeat, rental less than 7 days-24 violations= Certified Fine $12,075.00.

1661 Estero – CE19-0026- Parking Lot = $123,800.00 still accruing at $200.00 per day.

FORT MYERS BEACH ESTERO ISLAND
P. 239-765-0202 | *F.* 239-765-0909 | 2525 Estero Boulevard, Fort Myers Beach, FL 33931

HEARING EXHIBIT 44

From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: John Herin
Cc: Jim Atterholt; Roger Hernstadt
Subject: RE: Jesse Schmidt/White Sands - 80 Ave. E
Date: Monday, May 16, 2022 8:20:28 AM

John,

Monday morning, I'm still sick and as of 4 a.m. this morning---still testing positive for Covid. I was supposed to be in France this week with Burt and another couple, but Covid had different plans and they are now enjoying a beautiful river cruise from Lyon to Avignon without me. Thanks for asking.

And you are correct with your synopsis of 80 Ave. E.

Additionally, Roger has offered to work with Mr. Schmid several times, but Mr. Schmid has never followed through.

I will have staff send the documents to Councilman Atterholt.

Daphnie

From: Herin, John R. <JHerin@foxrothschild.com>
Sent: Friday, May 13, 2022 9:36 AM
To: Daphnie Bercher <DaphnieB@fmbgov.com>
Cc: Jim Atterholt <AtterholtJ@fmbgov.com>; Roger Hernstadt <roger@fmbgov.com>
Subject: Jesse Schmidt/White Sands - 80 Ave. E

Daphnie – How you are doing this Friday morning? I received a call from Councilmember Atterholt earlier today (he is copied), who asked me if I had access to Jesse Schmidt/White Sand's code enforcement file for the property located at 80 Ave. E. (next to Mojo's). I told him I did not, but that I would get with you, and you would follow up with him directly. He is looking for the NOV, NOH, and Special Magistrate Order on this property for a clear and concise statement of the corrective action Jesse Schmidt/White Sands needs to take to bring the property into compliance.

Please correct me if I am wrong but isn't this the property that was originally owned by Joe Orlandini – for which he was cited by code enforcement staff for doing work without a permit (complete interior remodel)? Thereafter, because Orlandini took no action to bring the property into compliance his case was brought before the Town's CE Special Magistrate who found Orlandini to be in violation of the Code; and due to non-compliance with the Special Magistrate's Order, a lien was placed on the property? As I recall, somewhere in-between or shortly after the recording of the lien, Jesse Schmidt/White Sands acquired the property **with full knowledge** of the code violation(s) & lien **for a discounted price**. Neither Orlandini, nor Jesse Schmidt/White Sands have ever applied for a building permit, yet the property is being actively leased out – am I correct?

Please reach out to Councilmember Atterholt at your earliest convenience.

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Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.

HEARING EXHIBIT 44

From: Patty Prevost on behalf of Patty Prevost <Patty@fmbgov.com>
To: Daphnie Bercher
Subject: Updated 80 Ave E information
Date: Wednesday, May 18, 2022 10:11:07 AM
Attachments: 80 Ave E Lien Case Info.pdf

Patty Prevost
2525 Estero Blvd.
Fort Myers Beach, FL 33931
Phone # 239 765-0202 ex 1303
Patty@fmbgov.com

HEARING EXHIBIT 44

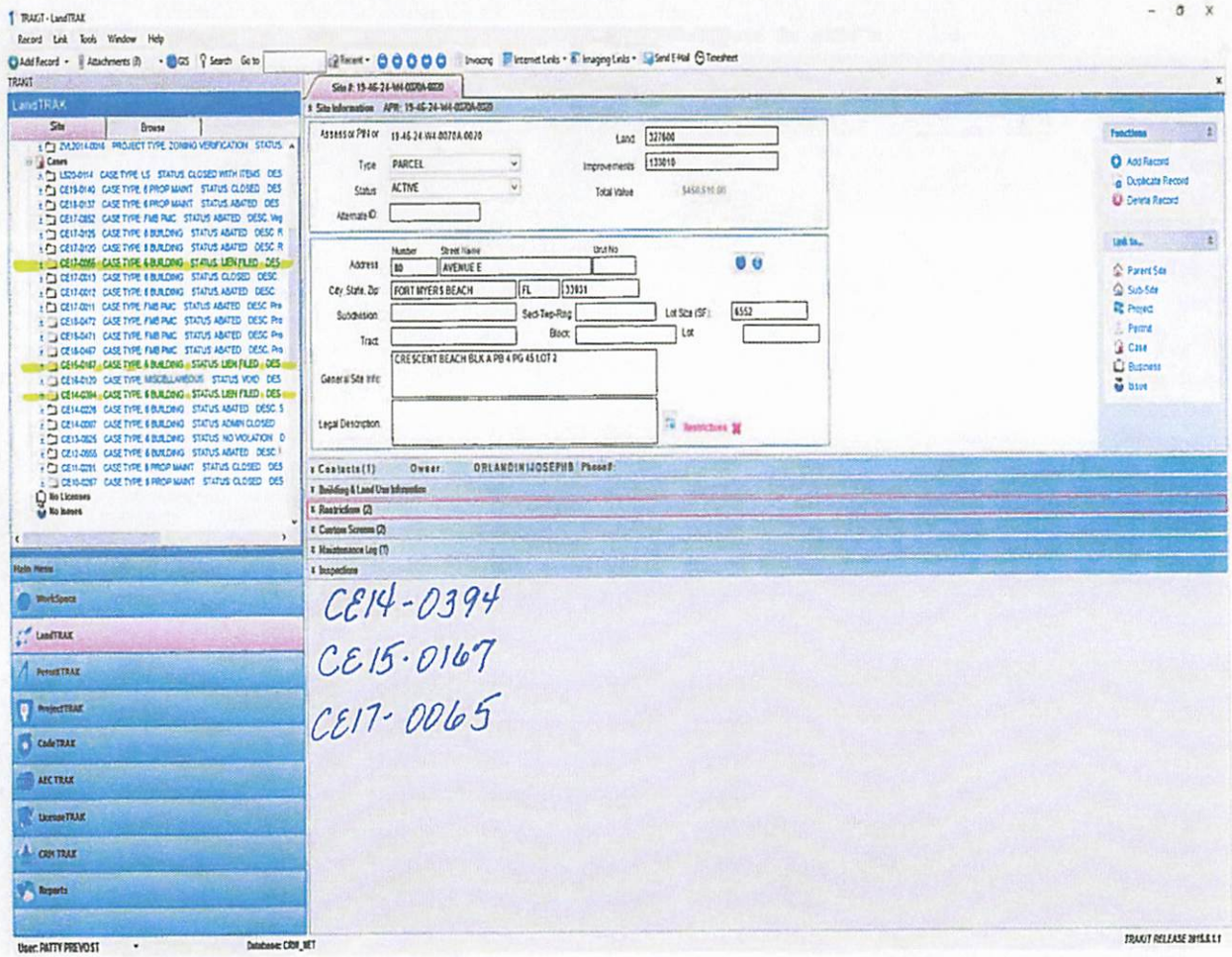
From: Daphnie Bercher on behalf of Daphnie Bercher <DaphnieB@fmbgov.com>
To: Jim Atterholt
Cc: Roger Hernstadt; John Herin
Subject: FW: Updated 80 Ave E information
Date: Thursday, May 26, 2022 7:56:38 AM
Attachments: 80 Ave E Lien Case Info.pdf

Councilor,

Attached please find all the documents you requested regarding liens filed on 80 Ave E. There are 3 liens on this property regarding work without permit or unsafe structure issues, so there are a lot of documents.

Feel free to contact me should you have any questions.

Daphnie



HEARING EXHIBIT 44