

**CITY OF PORT ST. LUCIE
SPECIAL MAGISTRATE HEARING MINUTES
JANUARY 25, 2012**

A SPECIAL MAGISTRATE HEARING of the City of Port St. Lucie was called to order by Special Magistrate Frank Blandino on January 25, 2012, at 9:00 a.m., at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

Present: Frank Blandino, Special Magistrate
 Milton Collins, Assistant City Attorney
 Joel Dramis, Building Official
 Rebecca Figueroa, Code Enforcement Administrative
 Assistant
 Chick Hendrickson, Code Enforcement Officer
 Michael Lubeck, Code Enforcement Officer
 Jasmine Padova, Licensing Clerk, Building
 Department
 Jack Reisinger, Building Department Manager
 Anthony Veltre, Code Enforcement Officer
 April C. Stoncius, Deputy City Clerk

1. PLEDGE OF ALLEGIANCE

Special Magistrate Blandino led the assembly in the Pledge of Allegiance.

2. OPENING

The Special Magistrate said, "You are here because you have received notice that your property is possibly in violation of a particular City Code. You have been given a certain amount of time to comply, and so far you have not done so. The hearings will begin shortly. If found in violation, you have the right to an appeal in the Circuit Court of St. Lucie County."

3. APPROVAL OF MINUTES - DECEMBER 14, 2011

There being no corrections, the minutes were unanimously approved.

4. OATH OF TESTIMONY

The Deputy City Clerk administered the Oath of Testimony to the Code Enforcement officers and Building Department employees.

The Special Magistrate asked if any of the officers had any changes to be made to their cases.

5. VIOLATION HEARINGS**11-5282 GEORGE L. AND YVETTE CANCEL 1550 SE HAGWOOD COURT**

The Special Magistrate stated, "In this case I find that the violators are not present today, and that the violations do exist. The violators are deemed to have admitted guilt to the violations. I further find that the violators be given the number of days recommended by the court officers on the summary sheet to come into compliance, or they may be fined the amount that is also reflected on the summary sheets."

The Special Magistrate asked, "With regard to the alleged violators who are not here today, how were they notified of the hearing this morning?" Ms. Padova replied, "A Notice of Hearing was sent to the violators via certified mail. If the green card was returned, it was placed in the file as due process. Ten days prior to the hearing, a Notice of Hearing was posted on the bulletin board in the lobby of City Hall. A Notice of Hearing was also posted at the property in question, along with an Affidavit of Posting for those where we did not get a green card back or the mail came back undelivered. If the certification card was not returned to the Code Enforcement Department within ten days of the hearing, posting was completed in the same manner as if the card was returned unclaimed."

6. MODIFICATION REQUESTS

Mr. Collins said, "The cases being reviewed today have already been adjudicated to a final conclusion, and these requests are only for a possible adjustment to the existing fines owed to the City of Port St. Lucie for a Code violation, which resulted in an Order of Enforcement recorded in the public records. These cases are being heard as a matter of policy only and are not mandated by statute. The Special Magistrate has received a packet of information about each case in advance of the hearing."

09-13608 BANK OF AMERICA, NA AND VICTORIA M. & HARRY N. BLACKNEY

Mr. Collins said, "The respondent's address is 467 SE Fallon Drive. This case concerns a violation of high grass and weeds. It was opened on September 15, 2009, the compliance date given was June 1, 2011, and the date of compliance was October 13, 2011. The total fine is \$6,936.37, which is comprised of a fine of \$6,650, an administrative fee of \$350, which was paid, a recording fee of \$50, which was paid, an interest fee of \$148.67, and a grass fee of \$138."

Vernesha L. Mayweather, Florida Default Law Group, representing Bank of America said, "We are requesting a reduction, as far as the grass violation. This property has been in foreclosure. We filed a foreclosure action on January 30, 2009. The final summary judgment was issued on September 20, 2010, and we received the Certificate of Title on October 28, 2011. At this time, we have a possible buyer. There is a letter dated December 15, 2011, in the modification packet that reflects that." Mr. Collins asked, "What was your request, as far as the reduction?" Ms. Mayweather replied, "We would request it be reduced as much as possible. I wasn't given a figure, but I request a \$2,000 reduction to bring it down to \$4,000."

The Special Magistrate inquired, "Does the \$6,936.37 take into account the \$350?" Ms. Figueroa responded in the affirmative. The Special Magistrate asked, "Does the City have an amount that they would like to recommend?" Mr. Collins replied, "In the spirit of resolving the matter, it appears to be right in the area we are in. We were looking at a little more than a 50% decrease in the fine. We would recommend \$4,000." The Special Magistrate questioned, "Can this be paid within the next 30 days?" Ms. Mayweather answered, "We would request 45 days." The Special Magistrate replied, "I don't have an issue with that." Ms. Mayweather remarked, "Thank you."

(Clerk's Note: A person from the audience requested to speak on this matter.)

The Special Magistrate advised, "It is a little unconventional to have someone speak. Usually, the modification portion of the hearing doesn't allow members of the audience to speak. It is generally at a violation hearing where they are allowed to speak. We are not here to hear anything on the case as far as what the violation entailed." The audience member asked, "Is this an open meeting?" The Special Magistrate replied in the affirmative. The audience member asked to speak. The Special Magistrate asked him to come forward. Mr. Collins advised, "This is unorthodox."

The Deputy City Clerk administered the Oath of Testimony to Ray Myslakowski, Realtor, who said, "I would like to speak regarding the banks that have properties that they are not maintaining when they involve foreclosures. The banks have a responsibility to maintain them, as they hold the note on the properties. It is the citizen's opinion that the bank should be involved. In Palm Beach County they have banks register on a registry so that they can give them notice 90 days after the payments have stopped, so they can maintain the property." The Special Magistrate stated, "I can appreciate where you are coming from, but this is

something that should be addressed in front of the City Council." Mr. Myslakowski said, "I realize that, but there is an ordinance that states that they shall be fined if they do not maintain the property. The banks are well aware of the ordinance, but they ignore it. They do not maintain the property, and the City has been very liberal in giving them time to clean things up. When they finally clean up the property in a year or two, they should pay the full amount of the fine. It benefits the citizens of Port St. Lucie and the Police Department, as those fines go into the General Fund." The Special Magistrate said, "Again, you need to address your concerns with the City Council."

The Special Magistrate said, "Based on the evidence presented in this case, there is sufficient reason to reduce the total amount of the fine owed to the City to \$4,000. Here the petitioner has 45 days to make full payment of the reduced fine, at which time the City will release the lien filed in the public record within 30 days of receipt of payment. In the event the reduced amount is not paid within the time limit set, the original total amount will remain due and payable to the City. Recording costs here are charged to the petitioner. Recording costs are payable by the petitioner."

11-12882-BL BANK OF AMERICA, NA AND VICTORIA M. & HARRY N. BLACKNEY

Mr. Collins said, "This violation involves an enclosed rear porch without a permit. This matter was opened on September 22, 2010, and the compliance date given was May 13, 2011. The fine is \$9,973, which is comprised of a fine of \$10,000, an administrative fee of \$273, and a recording fee of \$50. There was a \$350 payment, so we deducted that from the total, bringing it to \$9,973."

Vernesha L. Mayweather, Florida Default Law Group, representing Bank of America, said, "There is a letter from the potential buyers dated December 28, 2011. Once there is a closing on the property, they will be able to correct the violation. They submitted a letter requesting that the fines be reduced to \$500, payable by the seller. If you are not willing to entertain the \$500 offer, then we would request a reduction to \$5,000. Apparently, there was an issue with the enclosed porch, but we are not able to correct it this time. The Certificate of Title was issued on October 28, 2011, and the final summary judgment was granted on September 28, 2010. We have not been able to address the violations because of the foreclosure process." Mr. Reisinger advised, "The City does not have a problem with the reduction on this particular case. The only stipulation that we

request is within 30 days of the closing, the owner comes in to obtain the proper permits for what the property is in violation for." The Special Magistrate remarked, "That is reasonable." Mr. Reisinger stated, "If they do not, then we will start this process all over again and the fines will accumulate." Mr. Collins said, "In the interest of trying to settle this matter, the City agrees to reduce the fine by \$5,000. Therefore, we recommend the total amount due be \$4,973."

The Special Magistrate said, "Based on the evidence presented in this case, there is sufficient reason to reduce the total amount of the fine owed to the City to \$4,973. Here the petitioner has 45 days to make full payment of the reduced fine, at which time the City will release the lien filed in the public record within 30 days of receipt of payment. In the event the reduced amount is not paid within the time limit set, the original total amount will remain due and payable to the City. Recording costs here are charged to the petitioner. Recording costs are payable by the petitioner."

10-7326 SEGUNDO PLA & SIXTO REINALDO GONZALEZ

Mr. Collins said, "The address is 756 SW Port St. Lucie Boulevard. It involves a violation of open storage. The case was opened on June 10, 2010, the compliance date given was September 7, 2010, and compliance was achieved in April 30, 2011. The total amount due is \$6,916.44, which is comprised of a fine of \$5,000, an administrative fee of \$350, a recording fee of \$50, an interest fee of \$363.70, and a collections fee of \$152.74."

The Deputy City Clerk administered the Oath of Testimony to Asley Leyva, United Realty Group, who said, "I have worked for the owner, Mr. Segundo, for years. He is an absentee owner who lives in Miami. The property was rented for over two years to tenants. This came to our attention three days after the first hearing. We contacted Code Enforcement to figure out the situation, and we attempted to work with the tenants. I have met with Officer Lubeck multiple times. The tenants were storing materials in the backyard, and were shipping them overseas. We were not aware what was going on in the backyard. The lot next store was also used to store items, and the neighbors from the back complained about it. We told them that they needed to remove it, but they dragged their feet. Every time we came back, something else wasn't moved. Then we started renting to them on a month to month basis. We gave them a 30-day notice at the beginning of 2010, and they left in March. We had a contractor pick up the items that were left, as well as the lot next door. We received an Affidavit of Compliance in May." The Special Magistrate clarified, "Once you were able to evict them, you

went forward swiftly and cleaned the property." Mr. Leyva replied in the affirmative.

Mr. Leyva said, "This is a hardship for the owner to have to pay \$5,000." The Special Magistrate stated, "The case opened on June 10, 2010, and the compliance date was September 7, 2010. I understand that you had problems with evicting the tenants, but it is not like you weren't notified. It took almost a year from when the case was opened to finally have compliance, which is a long time." Mr. Leyva pointed out, "I received notice in September, but I'm not sure if Mr. Segundo was getting his mail in Miami." Mr. Collins asked, "Can you give us a rough estimate of the expenses you incurred post-eviction?" Mr. Leyva replied, "It was somewhere around \$500 to \$1,000 to remove the debris and trash, and to mow the grass." Mr. Collins clarified, "The issue was that you were trying to evict the tenants." Mr. Leyva explained, "At first we told them that they needed to remove all of their stuff, but they just moved it to the backyard. Then the issue with the lot next door came about, and they also had stuff on the porch. We would give them a week, I would come back with Officer Lubeck, but there was always something that they were not doing right. It was unbelievable what they had in the lot next door. It was like a warehouse in the middle of a lot."

Officer Lubeck advised, "This case went on for a year, but we have had prior cases on this property for the same issue for four years. Once Mr. Leyva got onboard, he worked very diligently to rectify it but, Code Enforcement did properly notice them in all of the cases. The owner should have been aware that there was an issue on the property. It was cleaned up after we went to hearing, but it was the owner's responsibility prior to that to bring it into compliance. This property is on a main thoroughfare, and was basically being used to bring items in to ship them to Haiti. It took a year to get it cleaned up, not to mention prior years where we had cases that were opened and closed. The owner was aware that the tenant was an issue. Staff is recommending that no reduction be granted." Mr. Collins inquired, "Were the prior violations also storage issues?" Officer Lubeck responded, "They were for high grass and open storage." The Special Magistrate asked, "Were the tenants paying the rent the whole time?" Mr. Leyva replied, "There were certain issues, but they always came current. When the earthquake occurred in Haiti, the tenant was over there, so we waived the rent for two months, as a courtesy."

The Special Magistrate asked, "What is happening with the property now?" Mr. Leyva replied, "When they left, they vandalized it and took all of the appliances. We are in the process of rehabbing the inside to be able to put it back on the

market." The Special Magistrate questioned, "What kind of a reduction are you asking for?" Mr. Leyva answered, "This is not the same as a bank where you would get the proceeds from the closing to pay the fines. This is going to come from the owner's pocket, so we are asking for it to be the least possible. Going forward, we will make sure the property is kept clean." The Special Magistrate advised, "The officer is recommending no reduction. Does the City have a recommendation that they would like to bring forward?" Mr. Collins responded, "From listening to the testimony, it is somewhat of a hardship situation. Nevertheless, this has been almost a year that the officer has had to deal with this property, and it has been a persistent problem. We would recommend giving the owner credit for cleaning the property post-eviction. He indicated they spent \$500 to \$1,000, and we would knock \$1,000 off of the total fine, for a total of \$5,916.44." The Special Magistrate said, "The tenants did damage to the inside of the house and took the appliances. I don't know how much that will cost." Mr. Leyva commented, "It will cost thousands of dollars." The Special Magistrate stated, "I am going to bring the fine down to \$4,000, including the \$350 that you have already paid. Can this be paid within 30 days?" Mr. Leyva responded, "I'm not 100% sure of his financial situation right now." The Special Magistrate said, "I can give you 60 days, but if it is not paid within 60 days, it will revert back to the original amount. The reason that I didn't go down any further was because it went on for a long time. The reason I did give the reduction was because it is not a property that is up for sale. He is going to rent it out again." Mr. Leyva explained, "He put his retirement money into the property, and it is worth less than half of what he paid for it. I did the best that I could, but these tenants were very difficult to deal with."

The Special Magistrate said, "Based on the evidence presented in this case, there is sufficient reason to reduce the total amount of the fine owed to the City to \$4,000. Here the petitioner has 60 days to make full payment of the reduced fine, at which time the City will release the lien filed in the public record within 30 days of receipt of payment. In the event the reduced amount is not paid within the time limit set, the original total amount will remain due and payable to the City. Recording costs here are charged to the petitioner. Recording costs are payable by the petitioner."

10-8957 NICHOLAS AND STEPHANIE NOTOFRANCO

Mr. Collins stated, "The address is 2267 SE Trillo Street. The violation is for high grass and weeds. The case was opened on July 16, 2010, the compliance date given was December 29, 2010,

and the date of compliance was December 10, 2011. The total fine is \$5,719.82, which is comprised of a fine of \$5,000, an administrative fee of \$350, a recording fee of \$50, an interest fee of \$270.82, and a grass fee of \$4,900."

The Deputy City Clerk administered the Oath of Testimony to Gregory Dalessio, ReMax Realty, who said, "Wells Fargo Bank has asked me to speak on their behalf. We received this assignment on October 13, 2011. The final judgment was filed in September. The foreclosure sale was on October 11, 2011. We immediately had our vendors look at the property to bring it into compliance. One of the issues that the bank was facing was that the asset managers didn't have the authority to authorize work until the Certificate of Title had been filed. It was done on November 23, 2011. We had the work done, but there were multiple issues. It had been vacant for a while, and we found one of the walls was infested with bees. We have also had to treat it for termites. Wells Fargo has put approximately \$2,000 into the property to bring it into compliance." Mr. Collins stated, "I have reviewed the correspondence that was submitted that indicated an offer of \$1,439 to settle this matter. It would be a reduction of the fine from \$5,000 to \$1,000, an administrative fee of \$350, a grass fee of \$49, and a recording fee of \$50. In the interest of settling this matter, the City would recommend that we accept that offer, with the only modification being that the recording fee should be \$50, rather than \$40. The total amount due would be \$1,449." The Special Magistrate said, "I'm going to agree with that recommendation."

(Clerk's Note: Ray Myslakowski, Realtor, requested to speak from the audience on this matter).

The Special Magistrate asked, "Can this be paid within the next 30 days?" Mr. Dalessio replied in the affirmative. The Special Magistrate said, "Before you come forward, if it is the same issue, then you need to address it with the City Council." Mr. Myslakowski said, "This is an open meeting, and I have a right to speak." Mr. Collins stated, "This is a modification request." Mr. Myslakowski said, "I realize that, but there are neighbors that feel that there should not be a modification. There are two cases on this property, so the total amount owed to the City is over \$10,000." Mr. Collins inquired, "Who are you speaking on behalf of?" Mr. Myslakowski responded, "I have a signed affidavit from the neighbors, Rebecca and Rob Johnson, who live at 2273 Trillo, which is right next door to the property."

Mr. Myslakowski said, "I have talked to a number of the neighbors who have indicated that the banks should be held accountable. The existing ordinance requires them to maintain

the property. There have been two different violations in 2009 and 2011. The affidavit from Ms. Johnson states, 'My husband, Rob, cut the grass and maintained this property for six months to keep snakes away.' If the property had been maintained, the bees wouldn't be there either. She said, 'I think the bank should pay the fines for not maintaining the property.' The bushes were over three-foot high, so the neighbors took things into their own hands. The City did nothing, so they started maintaining the property. The bank didn't taking responsibility, even though the City gave them notice in 2009. This house has been vacant since 2007, when the homeowner passed away. It has been a nightmare for the neighbors, because they live next to a house where nothing is being done." Mr. Collins said, "I fail to see the utility in continuing this." Mr. Myslakowski clarified, "The point is that there should be no reduction in the fines. I'm going to the newspapers today when these proceedings end. I'm going to let them know that you are reducing fines, and it is a joke to the banks. They have the money to maintain the property, and the citizens of Port St. Lucie don't want to live next to a house that is out of compliance." Mr. Collins advised, "This isn't the venue for this issue." Mr. Myslakowski stated, "It is because they have over \$10,000 worth of fines, and you are going to reduce them to \$1,500." Mr. Collins said, "This is not the venue for that issue. This is a modification hearing." The Special Magistrate advised, "You need to address the City Council with your concerns."

Mr. Dalessio said, "Unfortunately, Mr. Myslakowski is a realtor that had an offer on this property. Because of the extensive damages, he was informed that an FHA finance offer wouldn't be appropriate on it. In the middle of the night he went there to make repairs on the property." Mr. Myslakowski explained, "I'm speaking for a neighbor. I have a signed affidavit." The Special Magistrate stated, "You already addressed that." Mr. Dalessio stated, "We understand the blight this causes in neighborhoods, but we try very diligently to work with the City in all aspects to bring these properties into compliance. The bank's investment prior to the investment of bringing it up to Code was \$141,000. We have this under contract for \$32,500, so they are losing their tails on it. Mr. Myslakowski's motivation is strictly . . ." Mr. Myslakowski interjected, "Don't speak for me." Mr. Collins said, "This is inappropriate." Mr. Myslakowski remarked, "All of the neighbors are very upset by this."

The Special Magistrate said, "Based on the evidence presented in this case, there is sufficient reason to reduce the total amount of the fine owed to the City to \$1,449. Here the petitioner has 30 days to make full payment of the reduced fine, at which time the City will release the lien filed in the public record within

30 days of receipt of payment. In the event the reduced amount is not paid within the time limit set, the original total amount will remain due and payable to the City. Recording costs here are charged to the petitioner. Recording costs are payable by the petitioner."

09-12081 NICHOLAS AND STEPHANIE NOTOFRANCO

Mr. Collins stated, "The address is 2267 SE Trillo Street. The violation was for high grass and weeds. The case was opened on August 14, 2009, the compliance date given was October 21, 2009, and the date of compliance was May 8, 2010. The total fine is \$3,870.72, which is comprised of a fine of \$2,500, an administrative fee of \$253, a recording fee of \$40, an interest fee of \$432.60, and a collection charge of \$645.12."

Gregory Dalessio, ReMax Realty, said, "The history of the property is the same as the previous case. We are asking for a reduction of the fine to \$500, plus an administrative fee of \$253, a recording fee of \$40, for a total of \$793." Mr. Collins stated, "In the interest of trying to settle the matter, I will accept part of the proposal, with the only change being the fine reduction to \$1,000. The reduction in the fine would be from \$2,500 to \$1,000, with an administrative fee of \$253, a recording fee of \$40, for a total of \$1,293." The Special Magistrate said, "I think that is a reasonable amount. Can it be paid within the next 30 days?" Mr. Dalessio replied in the affirmative.

The Special Magistrate said, "Based on the evidence presented in this case, there is sufficient reason to reduce the total amount of the fine owed to the City to \$1,293. Here the petitioner has 30 days to make full payment of the reduced fine, at which time the City will release the lien filed in the public record within 30 days of receipt of payment. In the event the reduced amount is not paid within the time limit set, the original total amount will remain due and payable to the City. Recording costs here are charged to the petitioner. Recording costs are payable by the petitioner."

7. ADJOURN

There being no further business, the meeting adjourned at 9:50 a.m.

April C. Stoncius, Deputy City Clerk