RESOLUTION 11 – R93

COUNCIL ITEM 11L
DATE 11/21/11

A RESOLUTION DECLARING A PUBLIC NUISANCE AT 3140 SE MORNINGSIDE BOULEVARD, PORT ST. LUCIE, FLORIDA AFTER A SHOW CAUSE HEARING; REQUIRING ABATEMENT OF THE NUISANCE WITHIN A CERTAIN TIME; AUTHORIZING ABATEMENT BY CITY FORCES; PROVIDING FOR THE RECOVERY OF ABATEMENT COSTS AS A SPECIAL ASSESSMENT AGAINST THE PROPERTY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on October 17, 2011, pursuant to Resolution 11–R75 the City Council of the City of Port St. Lucie identified and declared a threat to the health, safety, and general welfare of the community due to conditions located at 3140 SE Morningside Boulevard, Port St. Lucie, Florida, said property being more specifically described as:

> Lot 30, in Block 1, Port St. Lucie Unit 1, according to the Plat thereof, as recorded in Plat Book 12, Page 1 of the Public Records of St. Lucie County, Florida.

WHEREAS, the apparent title holders/owners of such property Eduardo Cano, and other interested parties, specifically The Bank of New York Mellon FKA The Bank of New York, was served with notice of Resolution 11-R75 and provided an order to show cause and hearing date pursuant to Port St. Lucie Code Section 40.17(3); and

WHEREAS, a show cause hearing was held on November 21, 2011 at which time the property owners and mortgagee were given an opportunity to present all evidence and argument as to why such condition(s) should not be declared a public nuisance; and

WHEREAS, on November 21, 2011, the property owner(s) and/or mortgagee failed to show cause why the condition should not be designated a public nuisance; and

WHEREAS, pursuant to Chapter 40, Port St. Lucie City Code, the City Council shall set a reasonable time for the condition to be abated; and

WHEREAS, should the property owner(s) or mortgagee fail to abate the nuisance within the time set forth herein, the City, without further action of Council, is hereby authorized to abate the nuisance with City forces or an independent contractor and record the costs of abatement as a special assessment against the property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, THAT:

Section 1. The conditions at issue violate Port St. Lucie City Code Sections 41.09(a), 41.09(b), and are more fully described as unmaintained pool, not approved pool barrier and missing screen sections.

Section 2. A reasonable time to abate said nuisance **by fixing, repairing, and/or removing the above described issues** is not later than _____. When or if the property owner abates the nuisance as directed herein, in order to prevent further action by the City, **it is the responsibility of the property owner or mortgagee to contact the Neighborhood Services Department (Code Enforcement) in writing and request a re-inspection of the property**. If it is found upon re-inspection that the nuisance has been abated as directed herein, no further action will be taken by the City and this matter will be dismissed.

Section 3. In the event the property owner or mortgagee has not abated the nuisance and requested a re-inspection by the date set forth herein, the City may abate the nuisance and the cost of abatement shall be charged against the subject property described herein. Further, pursuant to Chapter 40, Port St. Lucie City Code and all other applicable law, such costs shall constitute a special assessment against the real property. Such special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior to mortgages and all other liens, irrespective of the date of recording. A failure to pay said assessment, even upon homestead property, may be collected pursuant to any manner specified by law and may result in a loss of title to the property.

Section 4. In the event any specific provision of this Resolution is found invalid, it shall not affect the validity of the remaining provisions.

Section 5. This Resolution becomes effective immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this 21st day of November, 2011.

CITY COUNCIL
CITY OF PORT ST. LUCIE

ATTEST:

By:_____
JoAnn M. Faiella, Mayor

_____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:_____
Roger G. Orr, City Attorney

MEMORANDUM

TO: JERRY A. BENTROTT, CITY MANAGER

THRU: ROGER G. ORR, CITY ATTORNEY

FROM: STEFANIE BESKOVOYNE, ASSISTANT CITY ATTORNEY

DATE: NOVEMBER 15, 2011

SUBJECT: PROPOSED PUBLIC NUISANCE RESOLUTION
3140 SE MORNINGSIDE BOULEVARD

Attached for City Council's consideration is a proposed final resolution declaring a public nuisance at the following property:

- 3140 SE Morningside Boulevard

Please place this item for hearing on the November 21, 2011 city council agenda for action by the City Council. If you have any questions or need any additional information, please contact me at 873-6332.

SB/liw
Attach.

ORDER TO SHOW CAUSE
CITY OF PORT ST. LUCIE NUISANCE ABATEMENT

YOU ARE HEREBY ORDERED TO SHOW CAUSE:

A condition exists on certain property as set forth below, which constitutes a nuisance pursuant to Chapter 40, Port St. Lucie City Code and constitutes a threat to the public health, safety, and general welfare.

Address:

3140 SE Morningside Boulevard, Port St. Lucie, Florida, 34952

Legal Description:

Lot 30, in Block 1, Port St. Lucie Unit 1, according to the Plat thereof, as recorded in Plat Book 12, Page 1 of the Public Records of St. Lucie County, Florida.

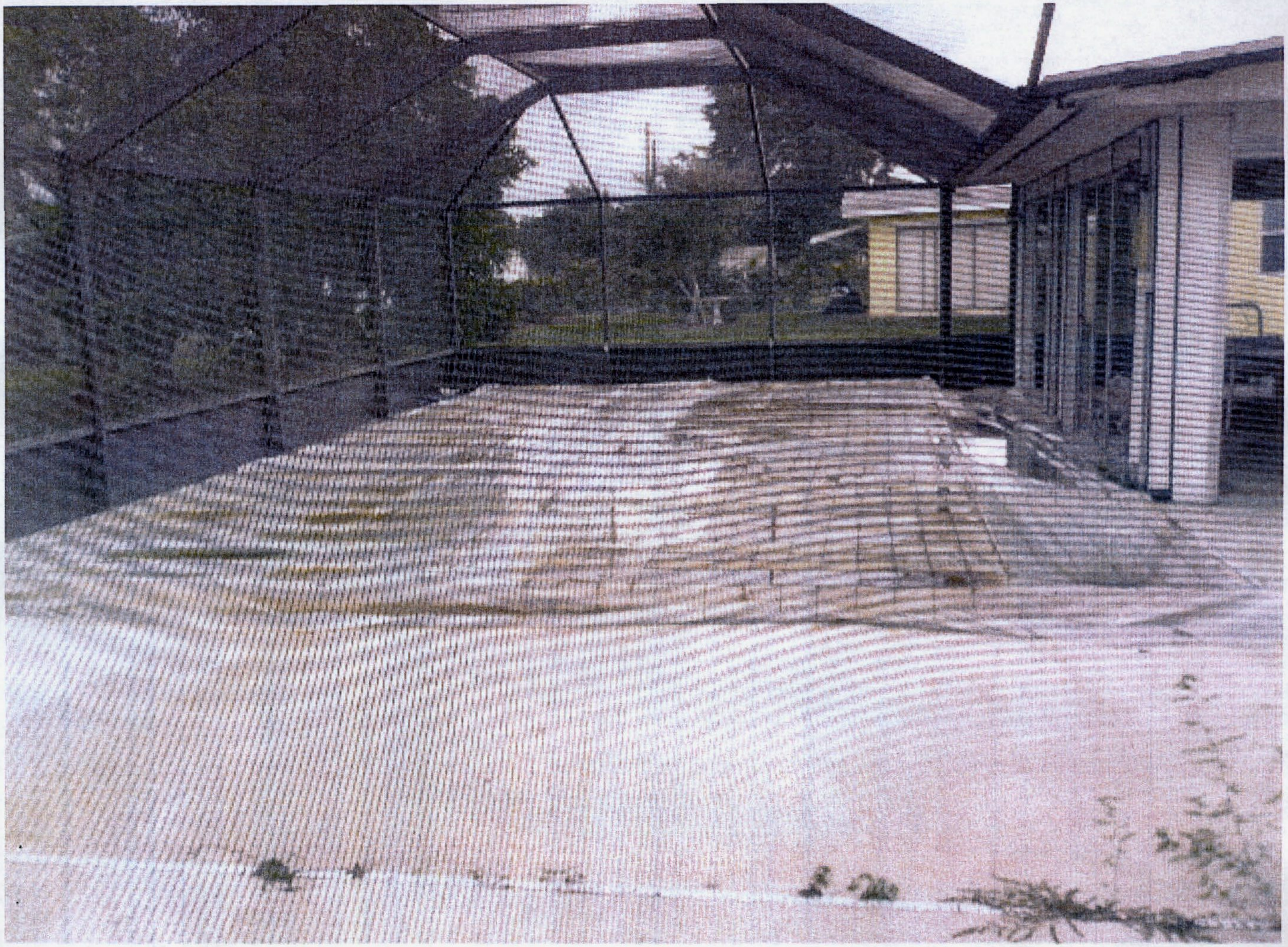
Pursuant to a search of the St. Lucie County Property Appraiser's records and St. Lucie County public records the property appears to be owned by: Eduardo Cano.

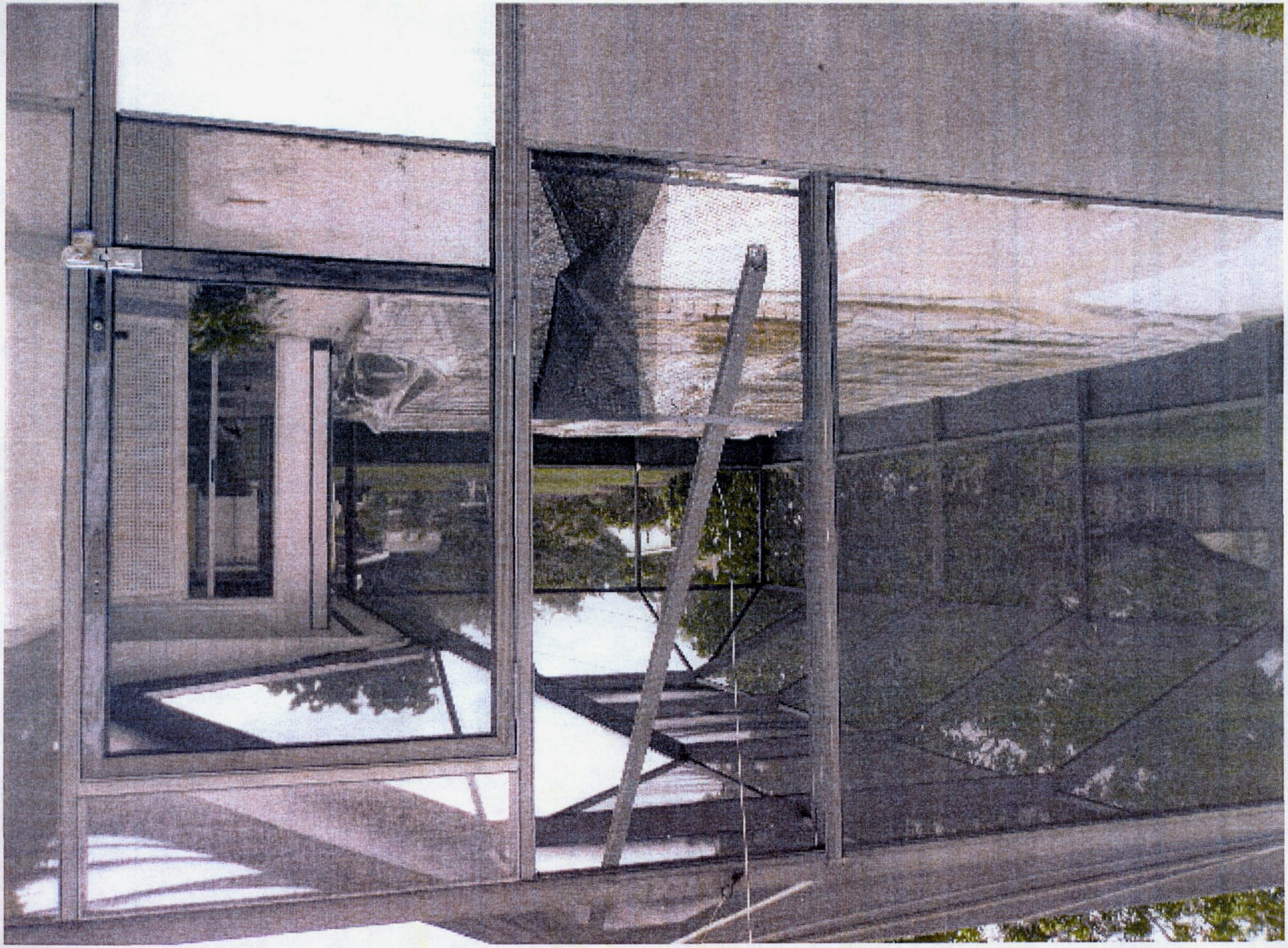
The Bank of New York Mellon FKA The Bank of New York, may have an interest in the property as owner or mortgagee.

The conditions at issue violate Port St. Lucie City Code Section(s) 41.09(a), 41.09(b) and are more fully described as unmaintained pool, not approved pool barrier and missing screen sections.

A hearing is set for the 21st of November, 2011, at 2:00 P.M. in the Chambers of the Port St. Lucie City Council, located at City Hall, 121 S.W. Port St. Lucie Boulevard, Port St. Lucie, Florida 34984. A failure to respond or appear at the hearing shall be deemed an admission of the existence of a public nuisance and may result in the abatement of the nuisance by the City. Further information concerning the hearing may be obtained by calling the Legal Department of the City of Port St. Lucie at 772-873-6525.

At said hearing, the property owner and mortgagee may present all evidence and argument to show cause why the removal or abatement of the public nuisance should not be required. If good and sufficient cause cannot be shown, the City Council may declare the property a public nuisance and shall require the removal or abatement of the public nuisance by the property owner not later than 21 days after such finding. If the property owner fails to abate the nuisance, the City may do so with City forces or by independent contractor and levy the cost of the abatement against the property as a special assessment. Such special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior in dignity to mortgages and all other liens regardless of the date of recording. A failure to pay said lien may result in a loss of title to your property.





Morningside