

SPECIAL MASTER HEARING FOR IMPOSITION OF FINES
City Commission Meeting Room
Judge Floyd Hull, Presiding
September 23, 2004
9:00 A.M. – 12:00 Noon

Staff Present:

Assistant City Attorney
Eve Bazer, Administrative Assistant II
Jennifer Chenault, Secretary
Leonard Ackley, Community Inspections Officer
Alberto Benavides, Community Inspections Officer
Lin Bradley, Community Code Supervisor
Peggy Burks, Community Inspections Officer
Burt Fletcher, Community Inspections Officer
Robert Guilford, Community Inspections Officer
Lee Kaplan, Community Inspections Officer
Skip Margerum, Community Inspections Officer
Todd Nobles, Community Inspections Officer
Cheryl Pingitore, Community Inspections Officer
Maria Christine Roque, Community Inspections Officer
Frank Stockinger, Community Inspections Officer
Ursula Thime, Community Inspections Officer
Kenneth Tyson, Community Inspections Officer

Also Present:

Aracelis Froh, CE04031974
Barry Binkley, 9511605
Ted Gilatis, CE97060394
Timothy Nelson, CE97060394
Dick Coker, CE99031402
Mohammed Haroon, CE99031402
Tom Reich, CE04052123
John Taylor, CE96120156
Arlington & Lucille McKinney, CE01022000
Hector Flores, CE04041572
Mr. Harrington, CE01070082
Margaret Hays, CE02030084
James Patterson, CE96061456
Sera Grossfeld, CE00070960
Nabil Abuznoia, CE00070960
Rodney Dorsett, CE01061367

NOTE: All individuals who presented information to the Special Master during these proceedings affirmed they would speak only the truth.

The meeting was called to order at 9:00 A.M. Judge Hull introduced himself and explained his role in ensuring adherence with the City's codes. He also pointed out that the proceedings were being recorded.

Reference CE01090848

Robert Jessen
400 Northeast 12th Avenue

Ms. Bazer announced that this case was originally heard on January 3, 2002 with compliance ordered by March 4, 2002. The property was complied and fines had accrued in the amount of \$227,300.00.

Ms. Ursula Thime, Community Inspections Officer, listed specific compliance dates for each violation. She presented photographs of the property taken in 2002 and in 2004. She noted that the owner was very ill and could not afford repairs. His homeowners association and his neighbors were helping him to fix up the house, using donations of materials and labor to make repairs. She noted that the homeowners association and neighbors would continue to keep up the property. Ms. Thime requested that the fines be reduced significantly.

Judge Hull asked Ms. Bazer for some idea of how much money the City had spent to pursue this case. Ms. Bazer felt the amount was \$4,000.00 to \$5,000.00.

Judge Hull reduced the fine to \$5,000.00.

Reference CE04031974

Aracelis Froh
3160 Auburn Boulevard

Ms. Bazer announced that this case was originally heard on May 20, 2004 with compliance ordered by July 4, 2004. The property was complied and fines had accrued in the amount of \$1,475.00.

Mr. Burt Fletcher, Community Inspections Officer, testified that the property had been cited for a few violations but only the ground cover section had accrued fines. There had been derelict vehicles, trash and debris present on the property but that had all been cleaned up.

Ms. Aracelis Froh, respondent, stated that this had been an investment property. She thought Inspector Cross had complied the property at one point and did not realize the ground cover violation was accruing fines.

Mr. Fletcher stated that Inspector Cross had told her the property was complied by putting down mulch instead of living ground cover, which was required by code. He agreed with Judge Hull that this was a misunderstanding. Judge Hull did not want to penalize Ms. Froh due to a misunderstanding and agreed to abate the fine.

Judge Hull abated the fine.

Reference CE01100530

Renold Theoc
1341 Northeast 5th Terrace

Ms. Bazer announced that this case was originally heard on December 6, 2001 with compliance ordered by December 9 and 20, 2001. The property was still not complied and fines had accrued in the amount of \$175,700.00. Ms. Bazer also entered a letter into evidence.

Mr. Burt Fletcher, Community Inspections Officer, testified that the violations related to structural and electrical problems and were all complied. Mr. Bazer informed him that the respondent had requested a continuance through his attorney and presented him with a copy of the letter. Judge Hull granted a continuance till the 1/20/05 hearing.

Reference 9511605

Barry & Jean Binkley
1891 Southwest 37th Terrace

Ms. Bazer announced that this case was originally heard on October 19, 1995 with compliance ordered by November 2, 1995. The property was complied and fines had accrued in the amount of \$149,800.00.

Mr. Gilbert Lopez, Community Inspections Officer, informed Judge Hull that the violation concerned a derelict vehicle and was complied in December 1999. The original inspector was no longer with the City.

Mr. Barry Binkley, respondent, stated that he was never aware of the violation. He was newly separated from his wife when the property was cited and never informed of the Notice of Violation or the order. Ms. Bazer noted that the original certified mail had been returned unclaimed three times in 1995. Certified mail had also been sent in 2002 and 2004.

Judge Hull noted the letter Ms. Bazer had entered onto evidence referring to a hearing before the City Commission in February 5, 2002 and a lien settlement for \$3,000.00. Mr. Binkley stated that he was unaware of all of this. He first became aware of the lien when someone was interested in buying his house.

Judge Hull asked why it took Mr. Binkley 4 years to get rid of the vehicle. Mr. Binkley replied that during this time, his wife had left him, he had several medical problems and was unemployed.

Judge Hull reduced the fine to \$1,000.00.

Reference CE97060394

Timothy Nelson
3648 Southwest 15th Court

Ms. Bazer announced that this case was originally heard on August 7, 1997 with compliance ordered by August 14, 1997. The property was complied and fines had accrued in the amount of \$119,750.00.

Mr. Gilbert Lopez, Community Inspections Officer, testified that the property was complied on March 5, 2004. This was another case originally cited by an Inspector no longer employed by the City.

Mr. Ted Gilatis, attorney for the property owner, stated that the owner admitted he allowed the overgrowth and also allowed a friend to store a boat on the property from time to time. At the time of the original violations, Mr. Nelson had a drinking problem and was disabled. He had been unaware that fines were accruing until a letter arrived notifying him of the amnesty program. He then called and Inspector Lopez had visited and complied the property. According to Mr. Gilatis, the property had only been out of compliance for three months and asked Judge Hull to reduce the fine to \$800.00.

Judge Hull reduced the fine to \$800.00.

Reference CE99031402

Mohammed Haroon
1905 Davie Boulevard

Ms. Bazer announced that this case was originally heard April 15, 1999 with compliance ordered by June 14, 1999. The property was complied and fines had accrued in the amount of \$45,150.00.

Mr. Frank Stockinger, Community Inspections Officer, testified that he had closed the case on April 6, 2001. Mr. Haroon had purchased the property and the parcel next to it in hopes of combining the two into one strip mall but construction of a 595 overpass and Davie Boulevard had prevented this. The former tenant had fenced the property in and gotten a guard dog, preventing Mr. Haroon from cleaning up the property.

Mr. Dick Coker, attorney for the owner, stated that the property was complied by August 13, 1999 and his client had subsequently confirmed this via a certified letter to Mr. Stockinger. Mr. Coker presented copies of the return receipt for that letter. He also explained that the tenant had prevented Mr. Haroon from making repairs and Mr. Haroon had then pursued eviction proceedings against the tenant. The tenant was evicted at the beginning of August 1999 and the property was immediately brought into compliance. Mr. Haroon had then met with Mr. Stockinger at City Hall and confirmed compliance. The computer showed a compliance date of April 2000.

Mr. Lin Bradley, Community Code Supervisor, informed Judge Hull that the original code team who had cited the property was Keith Catratti and Frank Paglianite, who had since retired. Mr. Stockinger admitted he could not recall the exact date he complied the property.

Judge Hull reduced the fine to \$2,950.00.

Reference CE04052123

Thomas Reich & Charles & Sylvia Gellis
2495 Northwest 17th Street

Ms. Bazer announced that this case was originally heard on August 5, 2004 with compliance ordered by August 12, 2004. The property was complied and fines had accrued in the amount of \$1,800.00.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that the property was complied on August 31 and there were no extenuating circumstances for the case. She explained that only one violation – the one concerning a derelict vehicle – had resulted in a fine.

Mr. Tom Reich, respondent, explained that the tenant had moved the car on several occasions to fool him into thinking it was gone and the property was complied. He had eventually had to evict the tenant to resolve the problem.

Judge Hull signed the order to impose the \$1,800.00 fine.

Reference CE96120156

John Taylor
1708 Northwest 15th Place

Ms. Bazer announced that this case was originally heard on March 6, 1997 with compliance ordered by March 20, 1997. The property was complied and fines had accrued in the amount of \$112,300.00.

Mr. Dan Mullarkey, Community Inspections Officer, testified that the property was complied on May 14, 2003. The violation concerned trash, overgrowth, and a derelict vehicle.

Mr. John Taylor, respondent, explained that his father had owned the house and rented to a tenant who had caused the violations. Eventually, he had come to own the house. The John Taylor cited for the 1997 violations was actually his father. He claimed that both of his parents had gone to court on this matter and the case had been dismissed but the proper paperwork had not been filed. Now, he could not have the house repaired because of the lien. He stated that he had tried to resolve the matter himself on a few occasions.

Mrs. John Taylor, the previous owner and Mr. Taylor's mother, explained that the old tenant had "totally trashed" the house and the yard. Mrs. Taylor and her husband had both gone to court over this problem. When the house was deeded to Mr. Taylor Jr. after Mr. Taylor Sr.'s death, no lien had appeared on the title.

Mr. Mullarkey confirmed that he had been contacted by a loan officer in 2003, who stated that he needed to know that the property was complied. Mr. Mullarkey had inspected the property and found a derelict vehicle there. He had subsequently complied the property in May 2003. Between June 1997 and June 2003, Mr. Mullarkey had no dealings with the property.

Judge Hull noted that the State of Florida had arrested Mr. Taylor Sr. for the violations in 1997 and he was given 30 days to comply. The court had withheld adjudication on two counts. Judge Hull stated that no notation was made as to whether the property was complied within the 30 days. Mrs. Taylor stated that she had appeared in court with photographs of the property proving the property was complied but was unaware that she needed to do anything else. Mr. Mullarkey admitted he had no personal knowledge of that case. He could not dispute that the property was complied within 30 days of that court date. Judge Hull accepted Mrs. Taylor's date of November 14, 1997 as the date of compliance and agreed to reduce the fine accordingly.

Judge Hull reduced the fine to \$6,195.00.

Reference CE01022000

Arlington & Lucille McKinney.
1626 Northwest 15th Terrace

Ms. Bazer announced that this case was originally heard on April 5, 2001 with compliance ordered by April 12, 2001. The property was still not complied and fines had accrued in the amount of \$219,750.00.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that she had visited the property yesterday and it was still not complied. She had been working on the case since 2001 and had visited the property several times over the years.

Ms. Lucille McKinney, owner, stated that someone had visited the property and complied it. The dogs had been tagged, vaccinated or removed and the vehicles had been removed. There was a new derelict vehicle on the property that would be moved today. Everything else had been done. Inspector Pingitore stated that the property was in the same condition as when she first cited it. Judge Hull stated that he would sign the order.

Later, when Mr. McKinney returned from putting money in the parking meter, he asked to be heard and Judge Hull agreed. Mr. McKinney stated that these violations were from several years ago when he had gone to court and the inspector had provided photographs proving he was in then complied. He had then paid a \$300.00 fine. Three years later, another inspector resurrected the case and told Mr. McKinney that he had not been complied.

Inspector Pingitore stated that in 1991, there had been a criminal case, Mr. McKinney had been given 30 days to comply and he had not. Detective Abrams stated that the property was never complied. The criminal case, perhaps in error, had not included all of the property's code violations in the criminal case. She confirmed that the property was never completely complied. The City refused to prosecute criminal charges a second time.

Judge Hull signed the order to impose the fine.

Reference CE02041212

Delphine Lavery
808 Northeast 14th Avenue

Ms. Bazer announced that this case was originally heard on June 20, 2002 with compliance ordered by July 20, 2002. The property was complied and fines had accrued in the amount of \$10,800.00.

Ms. Deborah Haskins, Community Inspections Officer, testified that the three sections had complied at different times since the ordered date.

Mr. Jerry Dobak, legal guardian and nephew of Delphine Lavery, stated that she had been Baker Act-ed within 6 months of the violations. She was now 86 years old and just "didn't have a clue what was going on." Ms. Haskins stated that Detective Estelle Abrams could offer facts in this case and the next.

Detective Estelle Abrams stated that Mr. Dobak was corrected; his aunt had been exploited and someone arrested for felonies against her. Ms. Lavery had been incapable of making decisions and she had been hospitalized.

Mr. Dobak confirmed that the person who was arrested for exploiting his aunt had signed for one of the certified letters. Judge Hull felt that this service was not sufficient.

Judge Hull abated the fine.

Reference CE04041572

Floval Oil Corp.
1075 West Sunrise Boulevard

Ms. Bazer announced that this case was originally heard on August 5, 2004 with compliance ordered by August 15, 2004. The property was still not complied and fines had accrued in the amount of \$7,600.00.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that there were extenuating circumstances on this case. She had been in constant communication with Mr. Flores, who intended to redevelop the entire property soon. He needed to appear before the Special Master to get an extension. She recommended extending the case.

Mr. Hector Flores, representative of the owner, stated that they were working to put up a new building on the site but could not obtain a permit until the lien issues were cleared. He hoped to demolish the existing building next month, which would comply the code violations. Ms. Pingitore stated that she was confusing this case with his Code Board case. Judge Hull stated that he would reset this hearing for a future date.

Judge Hull reset the hearing date.

Reference CE01070082

Ethel Harrington
441 Northwest 15th Terrace

Ms. Bazer announced that this case was originally heard on August 2, 2001 with compliance ordered by October 1, 2001. The property was complied and fines had accrued in the amount of \$44,600.00.

Mr. Len Ackley, Community Inspections Officer, testified that the property was complied March 31, 2004. The violations concerned derelict vehicles, trash and debris, and peeling paint.

Mr. Harrington, grandson of the deceased owner, explained that he had been unable to afford to fix the violations after his grandmother's death and had applied for various forms of aid. Mr. Stockinger explained that the house had not been put in his name after his grandmother's death, so he had been unable to obtain the aid. Mr. Harrington had declared bankruptcy last year due to unemployment and resulting debt.

The house was still in Mr. Harrington's grandmother's name, who died in 1974. Inspector Ackley stated that service was to the resident of the property. Judge Hull felt that it would

be very difficult for Mr. Harrington to ever get sole legal possession of this house as his grandmother and mother both died intestate.

Judge Hull reduced the fine to \$5,000.00.

Reference CE02030084

Natalie Price
1501 Southwest 9th Street

Ms. Bazer announced that this case was originally heard on June 6, 2002 with compliance ordered by June 20 and July 6, 2002. The property was still not complied and fines had accrued in the amount of \$40,850.00.

Mr. Daniel Mullarkey, Community Inspections Officer, testified that upon his reinspection, both violations still existed.

Margaret Hayes, Ft. Lauderdale Community Development Division, explained that the Community Development Division was trying to help Ms. Price and it had been a lengthy, difficult procedure due to her emotional problems, but her application had been processed. Inspector Mullarkey stated that Ms. Price had herself admitted at a previous Special Master hearing that she was "not right in the head."

Ms. Hays explained that the project had been put out to bid and a contractor had been found. Ms. Price had signed off on the project just yesterday. The project called for the contractor to complete work within 50 days of pulling a permit. Ms. Hays requested that the fines be abated.

Since the property was not yet complied, Judge Hull stopped the fines running and granted a 120-day extension.

Reference CE96061456

James Patterson
1000 Northwest 13th Court

Ms. Bazer announced that this case was originally heard on August 6, 1996 with compliance ordered by August 22, 1996. The property was complied and fines had accrued in the amount of \$14,650.00.

Mr. Dan Mullarkey, Community Inspections Officer, testified that upon his reinspection in August 1996, the derelict vehicles were still present. The property was complied on June 12, 1997, but he could not recall if a code team had complied it or if he had.

Mr. James Patterson, owner, explained that he was a tractor-trailer driver who was absent from his home for weeks at a time. The trailer had been licensed but the car had not been. He stated that the first he knew of the fines was when he received a letter about the amnesty program.

Judge Hull reduced the fine to \$4,000.00.

Reference CE00070960

Munaz Enterprises, Inc.
223 Northwest 6th Street

Ms. Bazer announced that this case was originally heard August 17, 2000 with compliance ordered by August 31, 2000. The property was still not complied and fines had accrued in the amount of \$444,900.00.

Mr. John Hudak, Community Inspections Officer, testified that the fence violation had been complied and the building had been painted, but no one had called Mr. Hudak to reinspect. The remaining violation concerned overgrowth on the property.

Ms. Sera Grossfeld, representative of the property, refreshed Judge Hull's memory from August 12, 2004 when the case had previously been before him. She stated that the old violations were fixed, but there were new problems involving the paving. Mr. Abuznoia had been working with the Code Board and they were to appear at a Code Board hearing on September 28.

Mr. Nabil Abuznoia, one of the owners, stated that he was helping his bother repair the property. Unfortunately, there were new compliance issues with paving and landscaping.

Detective Estelle Abrams felt Mr. Abuznoia would get nowhere with the Code Board hearing because the property was still not complied. She stated he would only be able to get an extension.

Judge hull wanted to coordinate this and Mr. Abuznoia's other case with the Code Board to be resolved together.

Judge Hull continued the case to October 14 2004.

Reference CE01061367

Rodney Dorsett
3501 Riverland Road

Ms. Bazer announced that this case was originally heard on December 6, 2001 with compliance ordered by January 5, 2002. The property was complied and fines had accrued in the amount of \$132,600.00.

Mr. Skip Margerum, Community Inspections Officer, testified that he had complied all three violations on June 8, 2004.

Mr. Rodney Dorsett, respondent, stated that he had made all repairs within 30 days; he had been unaware that he needed to call Mr. Margerum to reinspect. Ms. Bazer was unable to find proof of service to Mr. Dorsett. Inspector Margerum related a list of visits by Detective Abrams with her remarks that the property was never complied.

Detective Estelle Abrams stated that she had tried to serve Mr. Dorsett criminally in regard to these violations. Neighbors consistently complained about Mr. Dorsett's property.

Mr. Dorsett stated that this was the result of a "federal investigation." He stated that he had been under investigation for 4 years for being an "organized crime member."

Judge Hull signed the order to impose the fine.

Reference CE02082288

Clara McCray
712 Northwest 15th Way

Ms. Bazer announced that the owner's attorney had sent a letter requesting a continuance and presented a copy of this letter to Judge Hull.

Cases with Fines Imposed

Ms. Bazer presented Judge Futch with the following cases to sign the order to impose the fine which Judge Hull signed based on the affidavits of the inspectors.

CE04050736	CE04061879	CE04041884	CE04051081
CE04061815	CE03091067	CE04050745	CE04041492
CE04061564	CE04070927	CE04032539	CE04040360
9512150	CE02030303	CE00061317	CE01080005
CE02100190	CE00032103	CE01111067	CE00072096
CE01080206	CE02071861	CE00090257	9200959
CE02011723	9303298	CE00100498	CE99080700

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CE02040898
CE02031799

CE02040899
CE00050489

CE98020247
CE02081932

CE00040447

There being no further business, the hearing was adjourned at 12:00 Noon

Special Master

ATTEST:

Clerk, Special Master