

SPECIAL MASTER HEARING FOR IMPOSITION OF FINES
City Commission Meeting Room
Judge Floyd Hull, Presiding
November 15, 2004
9:00 A.M. – 12:30 P.M.

Staff Present:

Assistant City Attorney
Eve Bazer, Administrative Assistant II
Farida Mohammed, Secretary
Leonard Ackley, Community Inspections Officer
Burt Fletcher, Community Inspections Officer
Robert Guilford, Community Inspections Officer
Deborah Haskins, Community Inspections Officer
John Hudak, Community Inspections Officer
Mike Maloney, Community Inspections Officer
Skip Margerum, Community Inspections Officer
Ken Reardon, Building Inspector
Frank Stockinger, Community Inspections Officer

Also Present:

Jeffrey Perlow, CE0206725, CE99110110, CE99021538
Clarence Alvin Hill, CE01010658
Henry Pacheco, CE04080891
Syed Raza, CE98110389
Byron Ellison, CE99110628
Colleen Morningstar, CE99110628
Janny Pateras, CE04061865
Harold Purdy, CE99110628
Joseph Casacci, CE01010658
Stephen Hall, CE04060971
Donald Lunny, CE99071602
Nader Soliman, CE00081489
Jihad Abuznaid, CE00070960
Sera Grossfeld, CE00070960
Jeannine Markoux, CE04080601
Teresa Menendez Smith, CE02020446
Jacqueline Reed Tufts, CE02020446
Walter Atkins, CE04061865
David Coven, CE00081489
Michelle Zacco, CE00081489
Charles Bowman, CE00081489
Ariel Chmielarz, CE04050211

Ian Berkowitz, CE01102344
Mike Pateras CE04061865

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 CE99110628

Byron Ellison
1460 Northeast 57th Court

Ms. Bazer announced that this case was originally heard on April 6, 2000 with compliance ordered by May 6, 2000. The property was complied and fines had accrued in the amount of \$ 51,000.

Mr. Harold Purdy, representative of the owner, explained that Mr. Ellison had owned the property for 30 years. The problem had begun in late 1999 when Mr. Ellison spent much of his time on the west coast of Florida caring for his terminally ill father. A neighbor had called in a complaint about Mr. Ellison's property at this time. After a series of hearings in 2000, Mr. Ellison thought that everything was taken care of.

Mr. Byron Ellison, owner, stated that he had received no notice and was unaware that fines were running until he received the amnesty letter from the City in January of this year. After this was received, Mr. Purdy had contacted the City and Code Supervisor Bradley. Mr. Purdy presented letters from two neighbors stating that they saw no problems with Mr. Ellison's yard, and receipts showing Mr. Ellison's upgrade of his sprinkler system in 2000.

Mr. Lin Bradley, Community Inspections Supervisor, stated that he had met with Mr. Purdy in April of this year regarding Mr. Ellison's property. He presented a history of the case and an information sheet to Judge Hull and admitted there might have been some miscommunication due to Mr. Ellison's absence.

Mr. Ellison informed Judge Hull that after he received the amnesty letter, he had made several attempts to determine how the over \$100,000 in fines had accrued and had received no explanation from anyone in the City. After he contacted Commissioner Teel, he received a letter restating the fine amount with no explanation or breakdown.

Mr. Bradley confirmed that he had become involved in this case because of action item #207954 from Commissioner Teel; he submitted a copy of this to Judge Hull.

Ms. Colleen Morningstar, the owner's stepdaughter, stated that she personally maintained the yard during the time the fines were accruing. She assured Judge Hull that the yard was maintained and there was no problem with overgrowth.

Judge Hull reduced the fine to \$ 2,500 and signed the order to impose the fine.

Reference CE04061865

Mike & Janny Pateras
1122 West Broward Boulevard

Ms. Bazer announced that this case was originally heard on August 19, 2004 with compliance ordered by October 3, 2004. The property was now complied and fines had accrued in the amount of \$ 5,250.

Mr. Mike Maloney, Community Inspections Officer, stated the entire parking lot had needed paving and the City had made him wait a very long time for the permit. Mr. Maloney had visited the property the previous Wednesday and everything was fine now.

Mr. Mike Pateras, owner, stated that they had applied for a permit to complete repairs and the process had taken longer than expected. Inspector Maloney stated that Mr. Pateras had requested and been granted more time at the Special Master hearing on October 4, 2004. At that hearing, the compliance date had been extended until today, November 15, 2004. Inspector Maloney could not confirm this in the records.

Judge Hull abated the fine and dismissed the case.

Reference CE01010658

Deonauth Bidiyanauth & Leila Nath
1129 Northeast 15th Street

Ms. Bazer announced that this case was originally heard on February 15, 2001 with compliance ordered by February 22, 2001. The property was complied and fines had accrued in the amount of \$ 14,000.

Ms. Susan Batchelder, Community Inspections Supervisor, explained the violations and dates of the case; Inspector Fletcher had signed an Affidavit of Non-compliance on February 27, 2001. The property had been reinspected on October 29, 2001 and the carts were still left in the right-of-way; they were not removed until November 2001 and the fines had then stopped.

Mr. Joseph Casacci, attorney for the owner, explained that the mailing address used by the City for notice had been incorrect and the owner had therefore never received proper notice. Mr. Hill presented a letter and the envelope in which it had been returned to the

City. The owner had been unaware of any violation until fall of 2001; as soon as he became aware of the violation, he had remedied the situation. Mr. Hill and the owner also felt the fine was excessive. Judge Hull informed Mr. Hill that the Special Master who heard the case had determined that notice was proper. Supervisor Batchelder stated there was a signed receipt card dated January 30, before the Special Master hearing.

Mr. Clarence Hill, property manager, stated that the carts were routinely brought in from the right-of-way and certainly did not remain there for the entire fine period. He went by the property every day and would move the carts in if the tenant who usually did this had not. Supervisor Batchelder noted that there were five times the inspector had gone by the property when the carts were left out in the right-of-way; it was an ongoing problem.

Judge Hull reduced the fine to \$ 2,500 and signed the order to impose the fine.

Reference CE04060971

Oakland Square LLC
3058 North Federal Highway

Ms. Bazer announced that this case was originally heard August 19, 2004 with compliance ordered by October 18, 2004. The property was still not complied and fines had accrued in the amount of \$ 5,400.

Mr. Len Ackley, Community Inspections Officer, informed Judge Hull that he had complied Section 9-306 on October 25 and Section 9-307(a) on November 5. Because the property was complied, Inspector Ackley was unsure if the fines were correct. The owner had been present earlier and acknowledged that the property had been in violation.

Judge Hull signed the order to impose the fine.

Reference CE99071602

Edward Bazelon Trust
943 State Road 84

Ms. Bazer announced that this case was originally heard on October 7, 1999 with compliance ordered by October 14, 1999. The property was complied and fines had accrued in the amount of \$ 15,125.

The Assistant City Attorney asked Judge Hull to vacate both orders entered for this case; the first, which found a violation existed, and the second, which imposed the fine without a Massey hearing. The City did not give proper notice.

Judge Hull vacated the orders and dismissed the case.

Reference CE00062097

Aida Investments, Inc.
323 Southwest 6th Street

Ms. Bazer announced that this case was originally heard on May 3, 2001 with compliance ordered by May 17, 2001. The property was complied and fines had accrued in the amount of \$ 8,100.

Judge Hull confirmed the compliance dates and fines with Ms. Bazer.

Mr. Ken Reardon, Building Inspector, stated that the damage had occurred almost one year prior to the property's being cited. The final inspection had occurred on August 7, 2001. The case had been put on the Special Master hearing agenda to request an extension in June of 2001 but the owner had not appeared.

Mr. Jeffrey Perlow, attorney for the owner, explained that his client had acquired the corporate stock for the company in March 1999. Many of the violations occurred before his client owned the property. In 2002, his client began receiving notices of the violations and liens. Mr. Perlow and his client had met with the Assistant City Attorney and thought they had resolved all of the properties' problems. He had subsequently sent correspondence to the City on two occasions but had received no response. In February 2004, he contacted Acting City Manager Alan Silva in an attempt to resolve the matter. His client had received amnesty letters concerning five of the violations. The most significant violation had since been resolved and the fine for Case CE99021538 had already been paid. This meant that only three items remained open.

Mr. Perlow informed Judge Hull that his client had waited so long to make repairs because he was waiting for an insurance claim to be paid. The owner eventually had paid for the repairs out-of-pocket rather than wait any longer.

Judge Hull confirmed the amnesty amount with Mr. Perlow and Inspector Reardon.

Judge Hull reduced the fine to \$ 2,025 and signed the order to impose the fine.

Reference CE99021538

Aida Investments Inc.
323 Southwest 6th Street

Ms. Bazer announced that this case was originally heard on March 18, 1999 with compliance ordered by March 25, 1999. The property was complied and fines had accrued in the amount of \$ 7,600.

Judge Hull confirmed the compliance dates and fines with Ms. Bazer.

Mr. Jeffrey Perlow, attorney for the owner, presented proof that this fine had already been paid.

The City dismissed the case.

Reference CE98110389

Aida Investments, Inc.
317 Southwest 6th Street

Ms. Bazer announced that this case was originally heard on December 3, 1998 with compliance ordered by December 10, 1998. The property was complied and fines had accrued in the amount of \$ 14,750.

Judge Hull confirmed the compliance dates and fines with Ms. Bazer.

Ms. Susan Batchelder, Community Inspections Supervisor, confirmed the violations and compliance dates and noted that Inspector Fletcher had made repeated visits to the property and signed an Affidavit of Non-compliance on January 5, 1999. The property was complied on October 2, 1999.

Mr. Jeffrey Perlow, attorney for the owner, explained that the original violation dates predated his client's ownership of the property. Those original notices all went to the prior owner; his client was unaware of the problem until September 18, 2001.

Mr. Syed Raza, owner, informed Judge Hull that he had informed the tenants at the property that they must keep the dumpster enclosure closed at all times. Judge Hull confirmed the amnesty amounts with Supervisor Batchelder and Ms. Bazer.

Judge Hull reduced the fine to \$ 3,687.50 and signed the order to impose the fine.

Reference CE99110110

Aida Investments Inc.
317 Southwest 6th Street

Ms. Bazer announced that this case was originally heard on December 2, 1999 with compliance ordered by December 9, 1999. The property was complied and fines had accrued in the amount of \$ 3,100.

Judge Hull confirmed the compliance dates and fines with Ms. Bazer.

Susan Batchelder, Community Inspections Supervisor, confirmed violations and compliance dates. Inspector Fletcher had signed the Affidavit of Non-compliance on January 5, 2000 and the property was complied five days later.

Mr. Jaffrey Perlow, attorney for the owner, stated that this case was like the others for his client. Judge Hull confirmed the amnesty amount with Mr. Perlow.

Judge Hull reduced the fine to \$ 775.

Reference CE00070960

Munaz Enterprises Inc.
223 Northwest 6th Street

Ms. Bazer announced that this case was originally heard on August 17, 2000 with compliance ordered by August 31, 2000. The property was still not complied, and fines had accrued in the amount of \$ 455,400.

Mr. Lin Bradley, Community Code Supervisor, stated that the owner's attorney would ask for a continuance.

Ms. Sera Grossfeld, attorney for the owner, asked for a continuance until Inspector Hudak could be present. She and her client did not agree that the property was not yet complied and needed clarification from Mr. Hudak. The City also had a case against the property with the Code Enforcement Board. Mr. Bradley suggested that Judge Hull continue the case to the next Special Master hearing; in the meantime, the property could be reinspected and hopefully complied.

Judge Hull granted an extension to the December Special Master hearing and stopped the fines from running.

Reference CE01102344

Robert Samson
1601 Northwest 6th Avenue

Ms. Bazer announced that this case was originally heard on January 3, 2002 with compliance ordered by February 2, 2002. The property was complied and fines had accrued in the amount of \$ 76,650.

The Assistant City Attorney asked Judge Hull to vacate the previously entered orders; the legal description was incorrect.

Mr. Ian Berkowitz, attorney for the owner, confirmed with Judge Hull that he had conferred with the Assistant City Attorney earlier.

Judge Hull dismissed the case and vacated the orders.

Reference CE00081489

Nader Soliman
3071 Northeast 49th Street

Ms. Bazer announced that this case was originally heard on September 21, 2000 with compliance ordered by September 28, October 5, and November 20, 2000. The property was complied on October 19, 2004 and fines had accrued in the amount of \$ 145,100.

Mr. Lin Bradley, Community Code Supervisor, stated that he had spoken with the owner regarding the fine and the City felt the \$ 145,000 fine amount was correct. He submitted a history of the property to Judge Hull. Ms. Bazer confirmed the dates the property was complied. Supervisor Bradley submitted copies of the Notices of the Special Master hearing to Judge Hull.

Mr. David Coven, attorney for the owner, stated that this was a large rental property that was well maintained. The original violation stemmed from a tenant's complaint about the roof. The owner had removed the derelict vehicles and hired a contractor to perform repairs immediately. The owner, property manager, and Inspector Stockinger had met at the property prior to the September 21, 2000 hearing date; both the owner and the property manager would testify that they were told by Inspector Stockinger that the property was complied and they need not appear at the Special Master hearing on September 21, 2000.

Mr. Coven had a letter from the roofing contractor stating that those repairs were completed by the September 21, 2000 hearing date. There was also confusion regarding the property's address; the correct address was 3061 and Mr. Coven insisted that notices were consistently sent to 3071. He felt there was a miscommunication between the City and the owner regarding compliance dates.

Judge Hull stated that he would continue the case until the next Special Master hearing and asked Mr. Coven to be sure the roofing contractor was present and that he bring a copy of the owner's cancelled check for the roof repairs.

Judge Hull continued the case to the December Special Master hearing.

Reference CE04050211

Ariel Chmielarz
1415 East Las Olas Boulevard

Ms. Bazer announced that this case was originally heard on July 1, 2004 with compliance ordered by September 29, 2004. The property was complied and fines had accrued in the amount of \$ 400.

Mr. Robert Guilford, Community Inspections Officer, stated that the restaurant was cited for not having an occupational license for indoor tables and chairs. He had signed the Affidavit of Non-compliance and fines had run for eight days.

Mr. Ariel Chmielarz, respondent, admitted they did not have the proper license and noted that he had obtained an extension from the original compliance date. Mr. Chmielarz had been confused because there was a case before both the Fire Marshall and Code Enforcement. He had removed the chairs within one day of Mr. Guilford's visit informing him that the extension he received from the Fire Marshall did not apply to his Code Enforcement case. He asked Judge Hull to abate the fine.

Judge Hull abated the fine.

Reference CE04080601

Nancy & Angel Mistro & B. & H.D. Katz
1400 Northeast 54th Street

Ms. Bazer announced that this case was originally heard October 7, 2004 with compliance ordered by October 14, 21, and November 6, 2004. The property was not complied and fines had accrued in the amount of \$17,900. Ms. Bazer explained that only three of the original nine violations were complied.

Ms. Jeannine Markoux, property manager, stated that proper notice of the violations had not been received. She had asked Mr. Stockinger to send her a copy of the violations but she had never received it. They also had not received notice that the September Special Master hearing was rescheduled. She had spoken to Mr. Stockinger last week and stated that he had "insulted me, insulted my workers", and Ms. Markoux had then sent a letter to Supervisor Bradley asking him to provide proof of service for the violations and proof of the rescheduled hearing.

Supervisor Bradley stated that the City contended that there was notice of hearing "even though the first one was not heard, and they were aware there were problems out there." He presented photographs of the violations to Ms. Markoux; Ms. Markoux noted that the photographs were taken in August and most of the violations were already taken care of.

Judge Hull confirmed that notice of the first Special Master Hearing was accepted by Ms. Markoux's client on August 19, 2004; this included a list of the violations. Supervisor Bradley stated that service notifying the owner of the hearing's new date had been returned to Community Inspections the day before the new hearing date.

Judge Hull signed the order to impose the fine.

Reference CE02020446

Martha Menendez
3728 Southwest 12th Place

Ms. Bazer announced that this case was originally heard on March 7, 2002 with compliance ordered by March 14, 2002. The property was complied and fines had accrued in the amount of \$ 84,300.

Mr. Skip Margerum, Community Inspections Officer, stated that two of the violations were complied on April 7, 2003 and the remaining four were complied on May 22, 2003. He pointed out that someone had represented the owner before the City Commission, where a 90% settlement was agreed to but that amount had never been paid.

Ms. Teresa Menendez Smith, daughter of the owner, explained that one of her brothers had been managing the property. The tenant had caused various problems that led to the violations and fines. The family had sued to have the tenant evicted and it had taken a very long time to remove the tenant. After the Commission meeting, Ms. Smith's mother had been advised to get involved in the "First Time Owners" program. After the meeting, she had been accosted by a woman named Ms. Ackerblum, who wanted to buy the house and who subsequently performed repairs and claimed she was going to buy the house and enroll in the First Time Owners program herself.

Ms. Smith had coordinated with Commissioner Moore and with the representative from New Visions Community Redevelopment Corporation and determined that Ms. Ackerblum had obtained a \$60,000 lien on the property. She wanted the City to foreclose on the property and told Ms. Smith she would split the \$ 60,000 with Mrs. Menendez. Ms. Smith had determined that Ms. Ackerblum had put \$ 1,700 into the property.

Inspector Margerum confirmed that Ms. Ackerblum was a local property owner who was trying to buy this property from Ms. Menendez at a reduced rate, hoping that the City would drastically reduce the fines and Ms. Ackerblum could make a profit. Judge Hull examined the paperwork concerning the liens and permits. Ms. Menendez stated that when Ms. Ackerblum found she could not buy the property, she had taken out the lien last December; the lien would expire this December 16. She noted there was never any contract between her mother and the Ackerblums.

Ms. Jacqueline Reed Tufts from New Visions Community Redevelopment Corporation stated she had looked at the property and was interested in rehabilitating the property to sell it to a first time homebuyer. All liens would need to be waived to keep the price of the property within the acceptable range. Inspector Margerum confirmed that all of the Commissioners had agreed to erase the fines if the property were going to a first time homebuyer. Ms. Ackerblum was very aggressive in trying to purchase the property and did not allow her lien her to be erased. Judge Hull suggested that Ms. Smith transfer the Ackerblum's lien to a bond but this would require her mother's posting a cash bond of

\$60,000 that Ms. Menendez could not afford. Judge Hull noted that they should wait a month to take any action, as they did not know what the Ackerblums would do when their lien expired.

Judge Hull continued the case until January 2005.

Reference CE04080891

Henry Pacheco
1418 Northeast 53rd Court

Ms. Bazer announced that this case was originally heard on October 7, 2004 with compliance ordered by October 15, 2004. Section 24-27(b) had complied and fines had accrued in the amount of \$ 775.

Mr. Henry Pacheco, owner, stated that he had never had a problem keeping the carts in those spots in nine years; he had moved the carts the day after Inspector Stockinger had told him they must be moved. He had a contractor to do the paving work but the contractor was backlogged until December; Mr. Pacheco requested an extension.

Judge Hull granted a two-week extension for Section 47-21.8 A and reduced the fine for Section 24-27(b) to \$500.

Reference CE01111465

Multiplicity LLC
1320 Northeast 7th Avenue

Ms. Bazer announced that this case was originally heard on January 3, 2002 with compliance ordered by January 10, 2002. The property was now complied and fines had accrued in the amount of \$ 2,525.

Mr. Lin Bradley, Community Code Supervisor, stated that he had spoken with Commissioner Trantalis, who explained his situation and asked that the case be continued for one month; the Assistant City Attorney had agreed.

Judge Hull granted a 30-day continuance.

Cases Withdrawn

Ms. Bazer announced that the below listed cases had been withdrawn. Additional information regarding respondents, violations, etc. can be found in the agenda, which is incorporated into this record by reference:

CE02041500

CE04060791

Cases with Fines Imposed

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

CE01120351 - \$ 4,575	CE98020059 - \$ 8,250
CE01102489 - \$ 7,150	CE00041885 - \$ 208,850
9302525 - \$ 12,000	9314969 - \$ 80,600
CE04080928 - \$ 150	CE02020324 - \$ 9,350
CE02082187 - \$ 10,300	CE02092366 - \$ 4,700
CE04031042 - \$ 2,850	CE04040455 - \$ 1,350
CE04032122 - \$ 4,400	CE04050128 - \$ 1,525
CE04041437 - \$ 725	CE04070681 - \$ 4,075
CE04071340 - \$ 3,100	CE99070592 - \$ 1,550
CE04040280 - \$ 6,675	CE04041459 - \$ 725
CE00062097 - \$2,025	CE04060971 - \$5,400
CE01010658 - \$2,500	CE98110389 - \$3,687.50
CE99110110 - \$ 775	CE04080601 - \$17,900
CE99110628 - \$2,500	

There being no further business, the hearing was adjourned at 12:30 p.m.

Special Master

ATTEST:

Clerk, Special Master