

SPECIAL MAGISTRATE HEARING
City Commission Meeting Room
Judge Floyd Hull, Presiding
August 4, 2005
9:00 A.M. – 11:10 A.M.

Staff Present:

Farida Mohammed, Clerk
Assistant City Attorney
Dick Eaton, Secretary, Special Magistrate
Leonard Ackley, Community Inspections Officer
Lin Bradley, Community Inspections Supervisor
Peggy Burks, Community Inspections Officer
Andre Cross, Community Inspections Officer
Adam Feldman, Community Inspections Officer
John Gossman, Community Inspections Officer
Robert Guilford, Community Inspections Officer
Lee Kaplan, Community Inspections Officer
Al Lovingshimer, Community Inspections Officer
Skip Margerum, Community Inspections Officer
Cheryl Pingitore, Community Inspections Officer
Dallas Shumaker, Fire Inspector
Bill Snow, Community Inspections Officer
Ursula Thime, Community Inspections Officer
Robert Urow, Community Inspections Officer
Irma Westbrook, Community Inspections Officer

Also Present:

*CE04100818, James Brady, attorney for the owner
CE05010868, Scott Maguire, contractor
*CE04121152, Marion Curington, owner
*CE04121327, Alfredo Guido, owner
*CE04060307, Alan Kean, general contractor
CE04111488, Marie Michel, owner, Marjorie Michel, owner's daughter
*CE04120636, Mary Hyde, owner
CE05050466, Frank Talerico, president of condo association; David Tolces, attorney;
Gladys Aswad, neighbor; Helen Gadalla, neighbor; Henny Orfaly, neighbor; Rose Guttman,
neighbor; Sylvie Sobanet, neighbor; Alice Burrage, neighbor; Karen Orfaly, daughter of
neighbor; Ronald Bibace, neighbor
*CE05030994, Sandra Sterling, owner
CE04051864, Alan Kozich, architectural engineer
*CE02090818, Steven Smith owner's attorney

CE05060448, Scott Wengrow, owner
CE05051456, Thelma Feby, owner

*Massey Hearing

NOTE: All individuals who presented information to the Special Magistrate 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 CE05050466

Ocean Manor Condo Association Sec. 17-10.1: Excessive noise
4040 Galt Ocean Drive

Ms. Mohammed announced that this case was continued from July 7, 2005.

The Assistant City Attorney stated the owner stipulated that the excessive noise levels existed. He presented the packet of information that had been received from the owner.

Mr. Robert Guilford, Community Inspections Officer, detailed his noise evaluation tests and explained that the condo hotel resort was playing outdoor music that created a disturbance in the residential neighborhood. The most recent source test indicated that decibel levels exceeded the permitted level of 6.0 dba.

The Assistant City Attorney said that there were two ways to prove the violation: by decibel level and by complaints from the neighbors. He asked neighbors to step forward. Ms. Rose Guttman, president of the adjacent condo association, said they had never had a problem before with the Ocean Manor. She asked Judge Hull to help them end the problem and noted that the police had been called 38 times in the last 12 months.

Mr. Ronald Bibace, neighbor, stated that he had asked the resort manager to reduce the volume and the manager had told him that they were under the allowable levels and if Mr. Bibace didn't believe it, he should obtain a meter and take measurements himself. Mr. Bibace had obtained a meter and found the levels to exceed the limit.

Ms. Karen Orfaly, daughter of a neighboring resident, explained that this was a quality of life issue for the neighbors. The noise had become intrusive, especially to outdoor activities.

Mr. David Tolces, attorney for the owner, said his client stipulated to the violation and was working to bring the levels down.

Mr. Frank Talerico, president of the Ocean Manor condo association, explained that at the start of the problems, there was a four-piece band playing that could get a bit loud. After speaking to Inspector Guilford, Mr. Talerico had switched to a single steel drum musician. Inspector Guilford had re-tested and found the noise still over the allowable limits. Mr. Talerico then hired a disc jockey to play and changed the location and there had only been one complaint in the four weeks since. Mr. Talerico stated that the neighboring condos had been undergoing construction for 18 months or so and his resort had been subjected to the sounds of jackhammers for several hours per day.

Inspector Guilford pointed out that construction noise was limited to daytime hours. He also noted that the ambient sound alone from the resort was often above allowable levels. Inspector Guilford wondered if it were even possible to have any outdoor music and stay under the limits.

Mr. Tolces said his client couldn't agree to never play music, but would agree to stay within allowable limits in the future. He may hire a sound engineer to design something to mitigate or constrain the sound.

The Assistant City Attorney asked Judge Hull to find that the violation did exist and to require the owner perform some mitigation for the future.

Judge Hull recognized the presence of Commissioner Teel and noted that he could only rule on violations of the established ordinance. He asked commissioner Teel what the likelihood was of the City Commission addressing the sound level of the ordinance. Commissioner Teel stated they were very mindful of noise levels in the City in general and of the relationship between the residential unit and the commercial establishment in this case. She felt any change to the noise ordinance, if the Commission decided to consider it, would take over a year because of the need for studies.

Mr. Talerico said the bands were only scheduled to play between noon and 4 p.m. Music only played in the evenings for special events, and then only until 9 p.m.

Judge Hull asked Mr. Talerico to meet with Ms. Guttman to resolve the issue. Mr. Talerico agreed to work with Inspector Guildford to get the noise within acceptable levels.

The Assistant City Attorney noted there was a pending criminal case regarding noise against the Ocean Manor as well.

Judge Hull continued the case to August 18, 2005.

Reference CE04121327

Ramiro & Alfredo Guido
541 East Melrose Circle

Massey Hearing/Request for Extension

Ms. Mohammed announced that this case was first heard on April 7, 2005 with compliance ordered by May 7, 2005. The property was not complied and fines had accrued in the amount of \$2,200.

Mr. Alfredo Guido, owner, said this was the first notice he had seen. His son had received the letters and never informed him. Mr. Guido said he had recently bought a new pump for the sprinkler system and intended to make the other repairs.

Judge Hull signed the order to impose the fine.

Reference CE05030994

Sandra Sterling
3020 Southwest 5th Street

Massey Hearing/Request for Abatement

Ms. Mohammed announced that this case was first heard on May 19, 2005 with compliance ordered by May 26, 2005 and July 3, 2005. The property was complied and fines had accrued in the amount of \$200.

Ms. Sandra Sterling, owner, said she had put sod down before the deadline but she had not called for reinspection right away. Ms. Sterling had a receipt from the landscape company that the sod was put down on June 10, 2005.

Ms. Peggy Burks, Community Inspections Officer, informed Judge that fines had run from July 4 to July 12, 2005.

Judge Hull abated the fine.

Reference CE04060307

Peter Addison
1609 Northeast 4th Court

Massey Hearing / Request for Abatement

Ms. Mohammed announced that this case was first heard on January 6, 2005 with compliance ordered by February 5, 2005. On February 6, 2005 the date was extended to June 5, 2005. The property was complied and fines had accrued in the amount of \$3,400.

Mr. Alan Kean, general contractor, said he had done all of the preparation for the demolition but FPL had not disconnected the power by the deadline.

Ms. Ursula Thime, Community Inspections Officer, confirmed there was a two-week window when the fines had run due to FPL's lateness. She noted that the property had been cleaned up in the meantime. Mr. Lin Bradley, Community Inspections Supervisor, said he had no objection to abatement of the fine in this case.

Judge Hull abated the fine.

Reference CE04121152

Marian & D.L. Curington
524 Northwest 16th Avenue

Massey Hearing/Request for Abatement

Ms. Mohammed announced that this case was first heard on February 17, 2005 with compliance ordered by March 19, 2005. On April 21, 2005 the date was extended to June 20, 2005. The property was complied and fines had accrued in the amount of \$1,750.

Ms. Marion Curington, owner, said she had done everything she could do to comply the property. She claimed that everything but the roof had been completed by June 1.

Ms. Ursula Thime, Community Inspections Officer, confirmed compliance dates and fines for Judge Hull.

Judge Hull abated the fine.

Reference CE04100818

Todd, Brian & Glen Sagnella
745 Northwest 8th Avenue

Massey Hearing

Ms. Mohammed announced that this case was originally heard on November 18, 2004 with compliance ordered by February 16, 2005. The property was not complied and fines had accrued in the amount of \$16,800. The City was asking Judge Hull to vacate the order entered on April 21, 2005.

Mr. James Brady, attorney for the owner, said he had made a motion some time ago to vacate the order entered on November 18, 2004. Mr. Brady described the original violations and explained that contractors working on the Waterworks 2011 project had caused the damage to the fence and swale. Mr. Sagnella had spoken with the City project coordinator about this when it occurred and thought the matter would be handled by the City. Mr. Sagnella had therefore not appeared at the November hearing.

Mr. Brady explained that he had filed his motion and then shown up at the April hearing, where Ms. Bazer informed him that the case would not be heard that day and so he left. Mr. Brady had later learned that the order to impose the fine was entered on April 21. He

asked that the order entered on April 21 be vacated and that reinspection be held off until the City completed work in the area and made repairs to his client's property.

Mr. Skip Margerum, Community Inspections Officer, agreed with the facts Mr. Brady related and confirmed that a lot of work had been done at the property. He agreed that the construction had placed this burden on the property owner. Inspector Margerum stated he had no objection to a 6-month continuance for the construction in the area to be completed.

Judge Hull vacated the order dated November 2004 and granted a 6-month continuance to correspond with the February 2, 2006 hearing.

Reference CE04120636

Bennie Pope
1609 Northwest 11th Street

Massey Hearing/Request for Extension

Ms. Mohammed announced that this case was first heard on April 7, 2005 with compliance ordered by April 14, 2005. On July 7, 2005 the date was extended to August 4, 2005. The property was not complied and fines had accrued in the amount of \$8,300.

Ms. Cheryl Pingitore, Community Inspections Officer, explained the violations to Judge Hull.

Mr. Mary Hyde, owner, said she needed one more week to get the car registered. She said she had been unable to afford to register the car.

Judge Hull signed the order to impose the fine.

Reference CE02090818

The Estate of Frieda Rashkin
5820 Northeast 22nd Avenue

Massey Hearing

Ms. Mohammed announced that this case was originally heard on November 7, 2002 with compliance ordered by November 14, 2002 and December 7, 2002. On January 5, 2002, the date was extended to February 2, 2003; on February 6, 2003 the date was extended to June 6, 2003. The property was complied and fines had accrued in the amount of \$18,700. The City asked Judge Hull to vacate the order to impose the fines dated September 21, 2003 and sign a new order to impose the fine.

Mr. Steven Smith, estate's attorney, confirmed the fine amounts. He noted that Ms. Rashkin was under guardianship in 2004 and was unsure if service made while she was under guardianship was sufficient.

Mr. Skip Margerum, Community Inspections Officer, stated that the case was started by Inspector Stockinger in 2002. He produced return receipt cards signed by Ms. Rashkin in 2002. Mr. Smith noted that since Ms. Rashkin was under guardianship, service might not have been proper. He asked for the fine to be abated to allow the entirety of Ms. Rashkin's estate to be passed to the charity she designated.

Judge Hull reduced the fine to \$5,000.

Reference CE04051864

Bima II LLC
3033 Northeast 32nd Avenue

Massey Hearing / Request for Extension

Ms. Mohammed announced that this case was first heard on July 15, 2004 with compliance ordered by August 29, 2004. On October 7, 2004 the date was extended to February 3, 2005; on February 3, 2005 the date was extended to May 4, 2005; on May 5, 2005 the date was extended to August 2, 2005. The property was not complied and fines had accrued in the amount of \$1,950.

Mr. Alan Kozich, architectural engineer, explained that they had made some progress in quieting the A/C units at Shooters Restaurant. He requested 60 more days to have the new fans installed.

Mr. Len Ackley, Community Inspections Officer, pointed out that rather than try to fight the noise ordinance, which was one legitimate possibility, they were trying to be a good neighbor and bring the property into compliance. He noted that the delay was caused by waiting for the special fans to be delivered and installed.

Judge Hull granted a 60-day extension.

Reference CE05060448

SMW Properties LLC
2025 South Miami Road

Sec. 28-76(6) a: Connection fee not paid;
Sec. 28-76(6) c: Connection fee not paid;

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on July 27, 2005.

Mr. Robert Guilford, Community Inspections Officer, testified that the fee to connect to the City sewer system had not been paid. He asked the connection coordinator from Waterworks 2011 to explain the events of the case.

Ms. Diana Verdecki, the connection coordinator for Waterworks 2011, stated that the connection fee for 2025 South Miami Road was paid on January 3, 2004, but the \$9,660 fee for 709 Southeast 21st Street was not. April 20, 2004, a new connection deadline for

709 Southeast 21st Street was set for July 20, 2004. Final inspection was passed on June 11, 2004, completing the permitting requirements for both connections. On November 1, 2004, 709 Southeast 21st Street was cited for non-payment of the fee.

Mr. Scott Wengrow, owner, said he was unaware that notices for 2025 South Miami Road were being sent to 709 Southeast 21st Street. The City had erred in issuing only one bill for the two properties. He requested 90 days to pay the \$9,660.

Judge Hull found in favor of the City and ordered compliance within 90 days or a fine of \$100 per day, per violation would be imposed.

Reference CE05010868

Jeanne Leagon
520 Southwest 22nd Terrace

Sec. 47-19.9: Freight containers on property

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on June 23, 2005.

Ms. Peggy Burks, Community Inspections Officer, testified that there was a POD storage device on the property. Inspector Burks presented photos of the property and a copy of the inspection report and recommended ordering compliance within 30 days or a fine of \$25 per day.

Mr. Scott Maguire, contractor, explained that he had submitted a permit application and been told by the City that the process would take three to four weeks. He clarified with Inspector Burkes that the permit would comply the property.

Judge Hull found in favor of the City and ordered compliance within 30 days or a fine of \$25 per day would be imposed.

Reference CE05051456

Eric Miller
2720 Northwest 16th Court

Sec. 47-21.8: Missing ground cover;
Sec. 9-306: Peeling paint/stained surfaces;
Sec. 9-278(e): Windows blocked

Ms. Mohammed announced that service was via the owner's appearance at this hearing.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that there were areas of chipped and peeling paint on the building and there was plywood covering the windows; Section 47-21.8 was complied. Inspector Pingitore presented photos of the property, a copy of the property history and notice of violation.

Ms. Thelma Feby, owner, stated she had owned the home since 1961; Ms. Feby's son, Eric Miller's name was put on the property in 2000 because she was then in danger of losing the house. Mr. Miller now wanted his name off the property and Ms. Feby was in the process of putting her name back on. Since then there had been a fire in the house and the City was helping her to make repairs. She had just found a lender last week to refinance the house in her name. Judge Hull cautioned Ms. Feby to be sure that her attorney was preparing a deed to put the house back to Ms. Feby's name.

Inspector Pingitore said she was unaware the City was assisting Ms. Feby. She recommended ordering compliance with Sections 9-306 and 9-278(e) within 90 days or a fine of \$25 per day, per violation.

Judge Hull found in favor of the City and ordered compliance with Sections 9-306 and 9-278(e) within 90 days or a fine of \$25 per day, per violation would be imposed.

Reference CE04111488

Marie Michel & Louis Miguel
1225 Northwest 11th Court

Sec. 18-27(a): Trash on property;
Sec. 47-21.8: Missing ground cover;
Sec. 9-280(h)(1): Fence in disrepair;
Sec. 9-313: Required display of address

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on June 28, 2005.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that there was trash on the property, there was missing ground cover and the fence was in disrepair; Section 9-313 was complied. Inspector Pingitore presented photos of the property and a copy of the inspection report, notice of violation and a history of the property and recommended ordering compliance with Sections 18-27(a) and 9-280(h)(1) within 7 days or a fine of \$25 per day, per violation and with Section 47-21.8 within 90 days or a fine of \$25 per day.

Ms. Marjorie Michel, owner's daughter, said repairs had begun on the property but the contractor had left and never finished. She presented photos to Judge Hull showing that the fence and trash violations were now complied. Inspector Pingitore said she must confirm the compliance of the fence and the trash.

Judge Hull found in favor of the City and compliance with Sections 18-27(a) and 9-280(h)(1) within 7 days or a fine of \$25 per day, per violation and with Section 47-21.8 within 90 days or a fine of \$25 per day would be imposed.

Reference CE05061808

Robert Meyers
420 Northeast 14th Street

Sec. 1 13.6.6.3.1: Extinguisher too far from exit;
Sec. 10 6.3.1: Fire extinguisher maintenance

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on July 14, 2005.

Mr. Dallas Shumaker, Fire Inspector, testified that the violations still existed as cited. Inspector Shumaker recommended ordering compliance within 30 days or a fine of \$150 per day, per violation.

Judge Hull found in favor of the City and ordered compliance within 30 days or a fine of \$150 per day, per violation would be imposed.

Reference CE05040935

Daphne Lewis
1025 Northwest 7th Avenue

Sec. 47-21.8: Missing ground cover;
Sec. 9-280(f): Improper plumbing;
Sec. 9-280(h)(1): Fence in disrepair;
Sec. 9-306: Peeling paint/stained surfaces

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on June 23, 2005.

Mr. Andre Cross, Community Inspections Officer, testified that there were areas of missing ground cover on the property; the property was occupied without water service, and paint on the building was stained and trim and siding were rotted. Section 9-289(h)(1) was complied. Inspector Cross presented photos of the property and a copy of the inspection report and a history of the property and recommended ordering compliance with Sections 47-21.8 and 9-306 within 30 days or a fine of \$25 per day, per violation and with Section 9-280(f) within 7 days or a fine of \$25 per day.

Judge Hull found in favor of the City and ordered compliance with Sections 47-21.8 and 9-306 within 30 days or a fine of \$25 per day, per violation and with Section 9-280(f) within 7 days or a fine of \$25 per day would be imposed.

Reference CE05050637

Third Dunkin Donuts Realty Inc.
3215 Davie Boulevard

Sec. 18-27(a): Trash on property

Ms. Mohammed announced that certified mail addressed to the registered agent had been accepted on June 28, 2005 and certified mail addressed to the owner and officers of the company had been accepted on July 30, 2005.

Mr. Andre Cross, Community Inspections Officer, testified that the vegetation and hedges on the property were overgrown. Inspector Cross presented photos of the property and a copy of the inspection report and history of the property and recommended ordering compliance within 7 days or a fine of \$50 per day.

Judge Hull found in favor of the City and ordered compliance within 7 days or a fine of \$50 per day would be imposed.

Reference CE05051766

Debra Burke
1332 Northeast 2nd Avenue

Sec. 9-281(b): Rubbish and trash on property

Ms. Mohammed announced that certified mail addressed to the owner had been accepted [no date] and personal service had been made by Inspector Cross on June 25, 2005.

Mr. Andre Cross, Community Inspections Officer, testified that there was rubbish and trash scattered about the property. Inspector Cross presented photos of the property and a copy of the inspection report and history of the property and recommended ordering compliance within 7 days or a fine of \$25 per day.

Judge Hull found in favor of the City and ordered compliance within 7 days or a fine of \$25 per day would be imposed.

Reference CE04052035

Vermilien & Italia Vernelus
1142 Northwest 15th Court

Sec. 9-306: Peeling paint/stained surfaces;
Sec. 9-280(h)(1): Fence in disrepair;
Sec. 47-21.8: Missing ground cover

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on June 28, 2005.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that the garage door was in disrepair; the fence was in disrepair and there were areas of dead and missing ground cover on the property. Inspector Pingitore presented photos of the property and a copy of the inspection report, notice of violation and history of the property and recommended ordering compliance within 30 days or a fine of \$50 per day, per violation.

Judge Hull found in favor of the City and ordered compliance within 30 days or a fine of \$50 per day, per violation would be imposed.

Reference CE05040210

W.B. & Anne Regis
918 Northwest 14th Court

Sec. 9-306: Peeling paint/stained surfaces;
Sec. 18-27(a): Trash on property;
Sec. 9-278(g): Missing/torn screens

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on June 28, 2005.

Ms. Cheryl Pingitore, Community Inspections Supervisor, testified that there were areas of dirty and peeling paint on the building and there were torn screens in the windows; Section 18-27(a) was now complied. Inspector Pingitore presented photos of the building and a copy of the inspection report, the notice of violation and history of the property and recommended ordering compliance with Sections 9-306 and 9-278(g) within 30 days or a fine of \$50 per day, per violation.

Judge Hull found in favor of the City and ordered compliance with Sections 9-306 and 9-278(g) within 30 days or a fine of \$50 per day, per violation would be imposed.

Reference CE05051028

Tracy Thompson & Elizabeth Hamid
1536 Northwest 12th Avenue

Sec. 18-27(a): Trash on property;
Sec. 25-4: Blocking public sidewalk;
Sec. 9-280(g): Electrical components hazard

Ms. Mohammed announced that certified mail addressed to the owner had been accepted on June 28, 2005.

Ms. Cheryl Pingitore, Community Inspections Officer, testified that Christmas lights left on the building created an electrical hazard: Sections 18-27(a) and 25-4 were complied. Inspector Pingitore presented photos of the property and a copy of the inspection report, the notice of violation and history of the property and recommended ordering compliance with Section 9-280(g) within 10 days or a fine of \$25 per day.

Judge Hull found in favor of the City and ordered compliance with Section 9-280(g) within 10 days or a fine of \$25 per day would be imposed.

Cases Complied

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

CE05061290	CE05021726	CE05060360	CE05031751
CE05031782	CE05061765	CE05061816	CE05050283
CE05061434	CE05061735	CE05030151	CE05030594
CE05051642	CE04080209	CE04121216	CE05021725
CE05041383	CE05050769	CE05051686	CE05051782

Cases Pending Service

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

CE04090152	CE05011925	CE05040975	CE05050850
CE05010751	CE05030035	CE05050723	CE05031674
CE05061600	CE04122338	CE05010393	

Cases Rescheduled

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

CE04120335

Approved for Claim of Lien

Ms. Mohammed 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

CE04121314 - \$ 3,425	CE05041181 - \$3,400	CE05051102 - \$2,400
CE04081024 - \$1,850		

There being no further business, the hearing was adjourned at 11:10 a.m.

Special Magistrate

ATTEST:

Clerk, Special Magistrate