

Drew Crawford

From: Carolyn O'Connell [coconnell@mywinterhaven.com]
Sent: Wednesday, March 11, 2009 7:26 AM
To: Tanya Willis; Tonya Long; Allen Berg; Michelle Woods; Michael Hagwood; Erin Tilghman; Kaye Boone
Cc: Drew Crawford; John Murphy
Subject: March 12 Special Magistrate's Hearing

Good Morning Everyone,
Late yesterday, Marty from Doug Lockwood's office called and said Doug would be at a hearing in Ft. Myers on Thursday, March 12. Due to the scheduling conflict, Doug has asked Brian Mathis, a co-worker at Peterson-Myers, to conduct the Special Magistrate Hearing for him March 12. Thank you.

*Carolyn O'Connell
Sr. Staff Assistant
Code Enforcement
863 291.5697*

**CITY OF WINTER HAVEN CODE ENFORCEMENT
SPECIAL MAGISTRATE HEARING**

Minutes

Thursday, March 12, 2009 – 9 a.m.

The regular monthly Code Enforcement Special Magistrate Hearing was held on Thursday, March 12, 2009 and was called to order at 9:00 am. The meeting was held in the John Fuller Auditorium at City Hall, 451 3rd Street NW, Winter Haven, Florida.

Brian Mathis, Esquire, served at the Special Magistrate for this Hearing and led the pledge of allegiance.

Staff present: Tanya Willis, Allen Berg, Michelle Woods, Tonya Long

Also present: Drew Crawford, Esquire (for City Attorney)

Sworn in: Willie J. Rivers, David Munroe, Geronimo Benitez, Emilia Benitez, Julita Joseph Alexander, Geraldine Young, William Wingate, Steven Williams, Roger Jones, Shannon B. Kuehl, Jeremiah D. Smith, Joseph Renfort, Randy Benton, and David Stermer.

Minutes: The minutes of the February 19, 2009 Special Magistrate Hearing were not approved and are pending further review by the Special Magistrate.

I. UNFINISHED BUSINESS:

A. AFFIDAVITS OF NON-COMPLIANCE/FINE CERTIFICATIONS

The following were approved by the Special Magistrate including City Costs:

			<u>City Costs:</u>
1. 8-2070	Willie J. Rivers & Barbara Rivers 1300 9 th Court NE Willie Rivers was present. Officer Long testified that the property is now in compliance. The Special Magistrate explained that Mr. Rivers can file a reduction request to be considered at a later Hearing.	\$ 750	\$142.62
2. 8-2409	Lavarn B. Adams 230 Palmetto Avenue NW	300	131.56

B. SUPPLEMENTAL AFFIDAVITS OF NON-COMPLIANCE/FINE CERTIFICATION

The following were approved by the Special Magistrate including City Costs:

			<u>City costs:</u>
1. 7-1203	Demetric Denmark & Denya Denmark 221 Avenue S NE	\$10,350	N/A

2.	7-2707	Supreme Investment Corporation 1980 Edwin Street NE David Munoe was present. Officer Woods testified that the property is now in compliance. The Special Magistrate explained that Mr. Munroe can file a reduction request to be considered at a later Hearing.	2,650	\$157.30
3.	8-194	American Home Mortgage Servicing (Abreu) 376 Fish Hawk Drive SE	1.900	89.98
4.	8-838	Geronimo Benitez & Emilia Benitez 711 Avenue O SW Geronimo Benitez and Emilia Benitez were present with a translator. Officer Long testified that the property is now in compliance. The Special Magistrate explained that a reduction request can be filed to be considered at a later Hearing.	5,700	143.46
5.	8-1594	Alejandra Rios & Isidro Becerra 240 24 th Street SW	1,550	143.46
6.	8-1727	Julita Joseph Alexander 106 25 th Street SW Julita Joseph Alexander was present. Officer Long testified that the property is now in compliance. The Special Magistrate explained that a reduction request can be filed to be considered at a later Hearing.	950	147.94
7.	8-1927	Abram Young (dec) & Geraldine Young 301 Avenue U NE Geraldine Young was present. Officer Long testified that the property is in compliance and Mrs. Young has filed a reduction request to be considered at the April 16, 2009 Special Magistrate Hearing.	575	100.20

D. AFFIDAVITS OF NON-COMPLIANCE/FINE CERTIFICATION & ABATEMENT COSTS

The following were approved by the Special Magistrate including City Costs:

			<u>City costs:</u>	
1.	8-2197	Alfreda Parchment 206 Quentin Avenue NW Cutting and Mowing to abate	\$ 750.00 59.40	\$225.38
2.	8-2501	Victor & Mary Jean Wallen 2704 Rochelle Dr. NW Cutting and Mowing to abate	525.00 58.80	235.42

E. AFFIDAVITS OF COMPLIANCE

The following were approved by the Special Magistrate:

1.	7-2707	Supreme Investment Corporation	1980 Edwin Street NE
2.	8-194	American Home Mortgage Servicing	376 Fish Hawk Dr. SE

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|-----|--------|-------------------------------------|--------------------------------|
| 3. | 8-838 | Geronimo Benitez & Emilia Benitez | 711 Avenue O SW |
| 4. | 8-1203 | Demetric & Kenya N. Denmark | 211 Avenue S NE |
| 5. | 8-1594 | Alejandra Rios & Isidro Becerra | 240 24 th Street SW |
| 6. | 8-1727 | Julita Joseph Alexander | 106 25 th Street SW |
| 7. | 8-1927 | Abram Young (dec) & Geraldine Young | 301 Avenue U NE |
| 8. | 8-2070 | Willie J. Rivers & Barbara Rivers | 1300 9 th Court NE |
| 9. | 8-2197 | Alfreda Parchment | 206 Palmetto Avenue NW |
| 10. | 8-2309 | Gertie C. Wilson et al | 335 Avenue Q NW |
| 11. | 8-2310 | Gertie C. Wilson et al | 312/314 Avenue Q NW |
| 12. | 8-2409 | Lavarn B. Adams | 230 Palmetto Avenue NW |
| 13. | 8-2501 | Victor & Mary Jean Wallen | 2704 Rochelle Dr. NW |

II. NEW BUSINESS:

A. FIRST OFFENSE CASES

Allen Berg:

1. **8-1091 OLR Partners LLC** **Old Lucerne Park Road NE**
 WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height), WHC 12-1; 3; 86
 Junk/Trash/Debris (debris on property)
 Date of Violation: 05/02/2008
 To be corrected by: 06/03/2008
 Re-inspection: 06/17/2008
 Results: Violation(s) still exists City costs: \$362.84

Hearing Results: No one present. Allen Berg presented. Property last inspected 3/10/2009. Violations not corrected. Berg recommended 10 days or \$50.00 per day fine and city costs of \$362.84. The Special Magistrate found in violation and ordered 10 days to correct or \$50.00 per day fine and city costs of \$362.84 to be paid in 30 days. OFVFI

2. **8-1819 New Plaza LLC** **1050 6th Street NW**
 WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height), WHC 21-248 Sign
 Regulations – Maintenance, removal (business no longer operating)
 Date of Violation: 08/06/2008
 To be corrected by: 12/18/2008
 Re-inspection: 01/20/2009
 Results: Violation(s) still exists City costs: \$184.42

Hearing Results: No one present. Allen Berg presented. Property last inspected 3/9/2009. Violations corrected. Berg recommended an Order Finding Violation – No Fine Imposed and city costs of \$184.42. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$184.42 to be paid in 30 days. OFVNFI

3. **8-2053 James M. Koch** **1210 6th Street SE**
 WHC 12-1; 3; 86 Junk/Trash/Debris (debris on property in some areas)
 Date of Violation: 09/10/2008
 To be corrected by: 10/06/2008
 Re-inspection: 10/07/2008
 Results: Violation(s) still exists City costs: \$202.46
Hearing Results: No one present. Allen Berg presented. Property last inspected 3/9/2009. Violations not corrected. Berg recommended 10 days or \$25.00 per day fine and city costs of \$202.46. The Special Magistrate found in violation and ordered 10 days to correct or \$25.00 per day fine and city costs of \$202.46 to be paid in 30 days. OFVFI
4. **8-2111 Highpointe Center Property Owners Assoc. Inc.**
6370 Cypress Gardens Blvd. SE
 WHC 21-249 Sign Regulations – Permits & Fees (freestanding sign without current permit), WHC 21-244 Sign Regulations – Prohibited Signs (flag type signage on the property)
 Date of Violation: 09/10/2008
 To be corrected by: 11/01/2008
 Re-inspection: 11/03/2008
 Results: Violation(s) still exists City costs: \$218.42
Hearing Results: William Wingate present. Allen Berg presented. Property last inspected 3/6/2009. Violations corrected. Berg recommended an Order Finding Violation – No Fine Imposed and city costs of \$218.42. Mr. Wingate testified that the tenant, Hurricane's Bar and Grill, should have been cited rather than the property owner. Berg testified that they were cited on previous cases and he made an attempt to contact them prior to issuing a notice to the property owner. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$218.42 to be paid in 30 days. OFVFI

Michelle Woods:

5. **8-2657 James Jackson, Jr.** **952 Sunshine Way SW**
 WHC 21-68 Fences/Walls (in disrepair)
 Date of Violation: 11/12/2008
 To be corrected by: 01/16/2009
 Re-inspection: 01/16/2009
 Results: Violation(s) still exists City costs: \$210.88
Hearing Results: No one present. Michelle Woods presented. Property last inspected 3/10/2009. Violations not corrected. Woods recommended 10 days or \$25.00 per day fine and city costs of \$210.88. The Special Magistrate found in violation and ordered 10 days to correct or \$25.00 per day fine and city costs of \$210.88 to be paid in 30 days. OFVFI

6. **8-2786 Robert E. & Mary B. Williams 615 Avenue P SW**
WHC 21-92 Buffering/Screening (open storage), WHC 5-9 Building – No Permit (carport), WHC 9-26, 9-33 Business Tax Receipt (operating a business without a city license, SHC 305.2 Exterior Walls (in disrepair), WHC 21-68(a) Fences/Walls (fence permit), WHC 21-144(b) Parking lots (paved off-street parking), WHC 21-439(b) Site Plan Regulations (site plan approval)
Date of Violation: 12/04/2008
To be corrected by: 01/25/2009
Re-inspection: 01/30/2009
Results: Violation(s) still exists City costs: \$184.42

Hearing Results: Steven Williams present. Michelle Woods presented. Property last inspected 3/10/2009. Violations corrected. Woods recommended an Order Finding Violation – No Fine Imposed and city costs of \$184.42. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$184.42 to be paid in 30 days. OFVNF

7. **8-2838 Robert E. & Mary B. Williams 607 Avenue P SW**
WHC 21-92(a) Buffering/Screening (open storage of misc items), WHC 9-26, 9-33 Business Tax Receipt (operating a business without a city license), WHC 21-68(a) Fences/Walls (fence permit), WHC 21-144(b) Parking lots (paved off-street parking), WHC 21-439(b) Site Plan Regulations (site plan approval)
Date of Violation: 12/04/2008
To be corrected by: 01/25/2009
Re-inspection: 01/30/2009
Results: Violation(s) still exists City costs: \$82.42

Hearing Results: Steven Williams present. Michelle Woods presented. Property last inspected 3/10/2009. Violations corrected. Woods recommended an Order Finding Violation – No Fine Imposed and city costs of \$82.42. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$82.42 to be paid in 30 days. OFVNF

8. **8-2839 Robert E. & Mary B. Williams 1605 5th Street SW**
WHC 21-92(a) Buffering/Screening (open storage of misc items), WHC 9-26, 9-33 Business Tax Receipt (operating a business without a city license), WHC 21-68(a) Fences/Walls (fence permit), WHC 21-144(b) Parking lots (paved off-street parking), WHC 21-439(b) Site Plan Regulations (site plan approval)
Date of Violation: 12/04/2008
To be corrected by: 01/25/2009
Re-inspection: 01/30/2009
Results: Violation(s) still exists City costs: \$ 82.42

Hearing Results: Steven Williams present. Michelle Woods presented. Property last inspected 3/10/2009. Violations corrected. Woods recommended an Order Finding Violation – No Fine Imposed and city costs of \$82.42. The Special Magistrate found that the violations did exist and

were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$82.42 to be paid in 30 days. OFVNFI

9. **8-2886 Roger Jones & Minerva Gallego Jones 718 Avenue L SW**
WHC 21-143; 146 Parking – Residential (parking on front yard)
Date of Violation: 12/29/2008
To be corrected by: 01/18/2009
Re-inspection: 01/29/2009
Results: Violation(s) still exists 1/12/2009 City costs: \$184.42

Hearing Results: Roger Jones and Minerva Gallego Jones present. Michelle Woods presented. Property last inspected 3/10/2009. Violations corrected. Woods recommended an Order Finding Violation – No Fine Imposed and city costs of \$184.42. Mr. Jones testified that they are new owners and were unaware of the code issue. He said there was open communication with Officer Woods during the case, the tenants have left, and they will make sure it doesn't happen again. Mr. Jones requested that city costs be waived. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$184.42 to be paid in 30 days. OFVNFI

10. **9-77 Florida Charter LLC 5th Street SW**
WHC 12-1; 12-3 Grass/Weeds, WHC 12-1; 3; 86 Junk/Trash/Debris
Date of Violation: 01/08/2009
To be corrected by: 01/26/2009
Re-inspection: 01/29/2009
Results: Violation(s) still exists City costs: \$184.42

Hearing Results: No one present. Michelle Woods presented. Property last inspected 3/10/2009. Violations not corrected. Woods recommended 10 days or \$25.00 per day fine and city costs of \$184.42. The Special Magistrate found in violation and ordered 10 days to correct or \$25.00 per day fine and city costs of \$184.42 to be paid in 30 days. OFVFI

Tonya Long:

11. **8-609 Roger Fongar 1922 Avenue E SW**
SHC 305.3 Roofs, SHC 103.2 Unsafe Residential Building
Date of Violation: 03/24/2008
To be corrected by: 07/30/2008
Re-inspection: 07/30/2008
Results: Violation(s) still exists City costs: \$213.10

Hearing Results: No one present. Tonya Long presented. Property last inspected 3/11/2009. Violations not corrected. Long recommended 30 days or \$50.00 per day fine and city costs of \$213.10. The Special Magistrate found in violation and ordered 10 days to correct or \$50.00 per day fine and city costs of \$213.10 to be paid in 30 days. OFVFI

12. **8-2186 Bank of America** **405 Lake Elbert Drive NE**
WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height)
Date of Violation: 09/23/2008
To be corrected by: 01/08/2009
Re-inspection: 01/20/2009
Results: Violation(s) still exists City costs: \$184.42

Hearing Results: No one present. Tonya Long presented. Property last inspected 3/11/2009. Violations corrected. Long recommended an Order Finding Violation – No Fine Imposed and city costs of \$184.42. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$184.42 to be paid in 30 days. OFVNFI

13. **8-2284 David J. Kuehl & Shannon B. Kuehl** **302 Avenue A NE**
WHC 21-102; 103 Accessory Structures (temporary carport with no permit)
Date of Violation: 10/09/2008
To be corrected by: 01/18/2009
Re-inspection: 02/04/2009
Results: Violation(s) still exists City costs: \$252.42

Hearing Results: Shannon B. Kuehl present. Tonya Long presented. Property last inspected 3/11/2009. Violations not corrected. Long recommended 60 days or \$25.00 per day fine and city costs of \$252.42. Mrs. Kuehl testified that her husband has been deployed in the military and she is physically unable to remove the posts herself. The Special Magistrate found in violation and ordered 60 days to correct or \$25.00 per day fine and city costs of \$252.42 to be paid in 30 days. OFVFI

14. **9-46 Marcel Dorlean** **1734 Terry Circle NE**
WHC 14-36; 14-37 Trash Containers (out on non pick up day)
Date of Violation: 01/07/2009
To be corrected by: 01/29/2009
Re-inspection: 02/04/2009
Results: Violation(s) still exists City costs: \$202.46

Hearing Results: No one present. Tonya Long presented. Property last inspected 3/11/2009. Violations not corrected. Long recommended 7 days or \$25.00 per day fine and city costs of \$202.46. The Special Magistrate found in violation and ordered 7 days to correct or \$25.00 per day fine and city costs of \$202.46 to be paid in 30 days. OFVFI

15. **9-179 Mirta Ramdas** **402 Avenue M NE**
SHC 307.4 Care of Premises (misc items/trash strewn throughout yard)
Date of Violation: 01/26/2009
To be corrected by: 02/17/2009
Re-inspection: 02/17/2009
Results: Violation(s) still exists City costs: \$168.46

Hearing Results: No one present. Tonya Long presented. Property last inspected 3/11/2009. Violations corrected. Long recommended an Order Finding Violation – No Fine Imposed and city costs of \$168.46. The Special Magistrate found that the violations did exist and were corrected prior to Hearing; and entered an Order Finding Violation – No Fine Imposed and city costs of \$168.46 to be paid in 30 days. OFVNFI

Michael Hagwood:

16. **8-2633 David Munroe** **409 Avenue T NE**
WHC 5-9 Building – No Permit (installed fence without permit)
Date of Violation: 11/17/2008
To be corrected by: 12/13/2008
Re-inspection: 02/03/2009
Results: Violation(s) still exists City costs: \$168.46

Hearing Results: No one present. Tonya Long presented for Michael Hagwood. Property last inspected 3/10/2009. Violations not corrected. Long recommended 10 days or \$25.00 per day fine and city costs of \$168.46. The Special Magistrate found in violation and ordered 10 days to correct or \$25.00 per day fine and city costs of \$168.46 to be paid in 30 days. OFVFI

17. **8-2671 Rebecca L. & Jeremiah D. Smith** **4615 Palmetto Drive NW**
WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height)
Date of Violation: 11/13/2008
To be corrected by: 01/31/2009
Re-inspection: 02/10/2009
Results: Violaton(s) still exists City costs: \$218.42

Hearing Results: Jeremiah D. Smith present. Tonya Long presented for Michael Hagwood. Property last inspected 3/10/2009. Violations not corrected. Long recommended 10 days or \$25.00 per day fine and city costs of \$218.42. Mr. Smith testified that he turned the house over for foreclosure a year ago and has not been back since. He said he was not aware the property was still in his name. Tanya Willis asked Mr. Smith if he had been receiving his mail at the address on record. He said no. Willis asked if he can get the yard cut. He said yes. Willis withdrew the case based on the circumstances presented.

B. REPEAT OFFENSE CASES

Tonya Long:

1. **9-306 Moya Enterprises LLC** **300 Blk Avenue P NE**
Original case: 8-1476
Hearing date: 09/18/2008
Disposition: Order Finding Violation/No Fine Imposed
Violation: WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height)
Reoccurrence: 02/17/2009 City costs: \$174.62

Hearing Results: No one present. Tonya Long presented. Property last inspected 3/11/2009. Violations not corrected. Long recommended \$50.00 per day until brought into compliance, city costs of \$174.62, and authorization to abate. The Special Magistrate found in violation and imposed a fine of \$50.00 per day until brought into compliance, city costs of \$174.62 to be paid in 30 days, and entered an Order authorizing the City to abate the nuisance. OFVFI

2. **9-314 Joseph Renfort** **1205 5th Street NE**
Original case: 5-2185
Hearing date: 07/20/2006
Disposition: Order Finding Violation /Fine Imposed
Violation: WHC 12-1; 3; 86 Vehicles; Non-Tagged/Inoperable
Reoccurrence: 02/17/2009 City costs: \$163.56

Hearing Results: Joseph Renfort present. Tonya Long presented. Property last inspected 3/11/2009. Violations not corrected. Long recommended \$50.00 per day until brought into compliance and city costs of \$163.56. The Special Magistrate found in violation and imposed a fine of \$50.00 per day until brought into compliance and city costs of \$163.56 to be paid in 30 days. OFVFI

C. REDUCTION REQUESTS:

Michelle Woods:

1. **7-1894 NE Avenue B #221 Landtrust, Amir Khalil, Trustee**
221 Avenue B NE
Hearing date: 10/18/2007
Imposition: Order Finding Violation/Fine Imposed
Violation: WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height) WHC 12-1; 3; 86 Junk/Trash/Debris
In Compliance: 12/23/2008
Number of Days Non-Compliant: 420 @ \$100
Total Lien Amount: \$42,000 City costs: \$565.13

Hearing Results: No one present on behalf of property owner to make request. Denied.

2. **8-1252 US Bank National Association c/o Americas Servicing Comp.**
1712 2nd Street NE
Hearing date: 08/21/2008
Imposition: Order Finding Violation/Fine Imposed
Violation: SHC 307.4 Care of Premises (sofa on side yard), WHC 12-1; 12-3 Grass/Weeds (exceeding 15" in height)
In Compliance: 01/27/2009
Number of Day Non-Compliant: 147 @ \$25
Total Lien Amount: \$3,675 City costs: \$565.13

Hearing Results: Randy Benton (Coldwell Banker) present on behalf of US Bank. Michelle Woods testified that the property is in compliance and recommended a reduction to \$367.50 (10% of total fines) and city costs of \$398.64. The Special Magistrate reduced the fine to city costs of \$398.64 to be paid in 30 days. If not paid in full in 30 days, the fine reverts back to the original amount of \$3,675.00.

3. **8-2568 Terri L. Mincey 1525 Kenwood Avenue**
Hearing date: 01/15/2009
Imposition: Order Finding Violation/Fine Imposed Repeat Offense
Violation: WHC 12-1; 3; 86 Junk/Trash/Debris
In Compliance: 01/13/2009
Number of Days Non-Compliant: 55 @ \$25
Total Lien Amount: \$1,375 City costs: \$210.62

Hearing Results: No one present on behalf of property owner to make request. Denied.

4. **8-2785 David L. Stermer 608 Orrin Avenue SW**
Hearing date: 01/15/2009
Imposition: Order Finding Violation/Fine Imposed Repeat Offender
Violation: WHC 21-1; 3; 86 Junk/Trash/Debris
In Compliance: 01/06/2009
Number of Days Non-Compliant: 31 @ \$50
Total Lien Amount: \$1,550 City Costs: \$211.04

Hearing Results: David Stermer present. Michelle Woods testified that the property is in compliance and recommended a reduction to \$155.00 (10% of total fines) and city costs of \$211.04. The Special Magistrate reduced the fine to \$155.00 and city costs of \$366.04 for a total of \$366.04 to be paid in 60 days. If not paid in full in 60 days, the fine reverts back to the original amount of \$1,550.00.

D. EXTENSION REQUESTS: NONE

E. OTHER BUSINESS: NONE

F. NEXT HEARING DATE: Thursday, April 16, 2009

G. ADJOURNMENT: