

INDIAN SHORES

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19305 Gulf Boulevard, Indian Shores, FL 33785
www.myindianshores.com



SPECIAL MAGISTRATE PUBLIC HEARING MINUTES

JANUARY 9, 2018

The Public Hearing convened at 10:25 a.m. by Special Magistrate, Herbert E. Langford.

Present were: Herbert E. Langford, Special Magistrate; Regina Kardash, Town Attorney; Bonnie Dhonau, Town Administrator; Greg Yantorno, Building Official; Marshall Eiss, Pinellas Suncoast Fire & Rescue District; and Stephanie Waters, Town Clerk. In addition, Attorney Paul DeCailly, DeCailly Law Group, and Respondents Ms. Lynn Rogacki and Ms. Jutta Susor.

Also present: PSFRD Fire Commissioner Larry Schear, Mayor Patrick Soranno, Vice Mayor Diantha Schear and Councilor Mike Hackerson. There were other members of the public present.

1.0 Consideration of condition at 19201 Gulf Boulevard, Indian Shores, FL 33785 in regard to Code Enforcement Case No. 2017-01, violations of Section 38-36, 38-37, 38-38, 18-122 and 18-304 of the Town of Indian Shores Code of Ordinances.

Special Magistrate Herbert E. Langford explained that this was a follow-up hearing to the Code Enforcement Case No. 2017-01

Jutta Susor reported that she had just recently found out that she was part owner of the property.

Town Attorney Regina Kardash presented two Affidavits of Non-Compliance: 1) Pinellas Suncoast Fire and Rescue District addressing the outstanding fire safety codes dated August 10, 2017 and 2) Town of Indian Shores Building Official, Greg Yantorno, addressing unpermitted and unfinished work dated August 9, 2017.

Attorney Kardash reported that the electric had come into compliance as of August 18, 2017.

Patrick C. Soranno
Mayor

Diantha Schear
Vice Mayor

Mike Hackerson
Councilor

Michael (Mike) Petrucci
Councilor

William F. (Bill) Smith
Councilor

Bonnie Dhonau
Town Administrator

Terry E. Hughes
Chief of Police

Susan L. Scrogam
Director of Finance
and Personnel

Freddie G. Lozano
Town Clerk

Gregory Yantorno
Building Official

Regina Kardash, Esq.
Town Attorney

Attorney Paul DeCailly had no objection to the Affidavits entered.

Special Magistrate Langford briefly highlighted that there was a dispute to the number of ordinance violations but as of today, only the fire issues are out of compliance.

Attorney Paul DeCailly and Respondents Lynn Rogacki and Jutta Susor agreed with Lanford's synopsis.

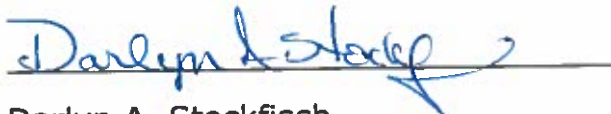
Special Magistrate Lanford stressed that the goal of this hearing is to get compliance from both parties and make sure process and fines are fair.

He reported that we had recent intervening circumstances for compliance due to Hurricane Irma and now the recent passing of Mr. Mike Rogacki. He stated he would take these instances into consideration when making his final determination.

Special Magistrate Herbert E. Lanford got agreement from both sides for a 30-day continuance due to the recent events.

The next hearing is scheduled for February 14, 2018, at 10:00 a.m. (This meeting was subsequently changed to 1:00 p.m. to accommodate the Special Magistrate's schedule.)

The Special Magistrate Public Hearing adjourned at 10:45 a.m.



Darlyn A. Stockfisch
Administrative Specialist

LOCAL GOVERNMENT CODE ENFORCEMENT
TOWN OF INDIAN SHORES, Florida

Case No CE 2017.01

THE TOWN OF INDIAN SHORES,
a Florida municipal corporation,

Petitioner,

v.

LYNN ROGACKI, JUTTA ROSBOUGH SUSOR,
BONGA BONGA, INC., c/o MICHAEL ROGACKI,

Respondents.

AFFIDAVIT OF NON-COMPLIANCE

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, personally appeared Marshall Eiss of the Pinellas Suncoast Fire and Rescue District, the Fire Inspector and Life Safety Technician for the Petitioner, TOWN OF INDIAN SHORES ("Affiant"), who was sworn and says:

1. Affiant is over the age of eighteen.
2. Affiant has personal knowledge of the facts stated herein and is authorized to make this Affidavit on behalf of the Petitioner.
3. Affiant has various duties relative to the operation of Petitioner. These duties include overseeing compliance with the adopted Fire Code (NFP) throughout the Town and the PSFRD's respective jurisdiction, this includes making inspections and reports regarding properties and businesses within the Town. It is the regular practice of Affiant, on behalf of Petitioner, to account for such matters and other acts, events, and conditions or opinions concerning fire safety and code enforcement matters within the Town. Specifically, on behalf of and for Petitioner, Affiant has maintained files, records and information concerning the

Respondents and the status of the property located at 19201 Gulf Blvd., Indian Shores, FL, and otherwise known as Mahuffer's.

4. Respondents were cited with a Notice of Violation for violating Sections 38-36, 38-37, 38-38, 18-122, and 18-304 of the Town of Indian Shores Code of Ordinances, which incorporated violations of the Florida Building Code and NFP (National Fire Prevention Code). At a hearing held on March 1, 2017, and concluded on March 29, 2017, the Town's Special Magistrate entered an Order Finding Violations, Setting Time to Comply or Suffer an Administrative Fine ("Order") finding the Respondents in violation of Sections 38-36, 38-37, 38-38, and 18-122, and ordered a compliance date of July 6, 2017, at 8:00 A.M.

5. Affiant conducted a re-inspection of the property on July 14, 2017, and the Respondent has failed to comply with the following items:

a. Removal or modification of the inside fireplace. Although the outside part of the chimney has been removed, the chimney is still functional as it still goes thru the roof.

b. Removal of ALL extension cords. A permit has been secured from the Town to provide the necessary corrections; however, to Affiant's knowledge the work has not been completed.

c. Cover exposed wires on sign and on junction box above street light in front. A permit has been secured from the Town to provide the necessary corrections; however, to Affiant's knowledge the work has not been completed.

d. Address unprotected wiring throughout bar. A permit has been secured from the Town to provide the necessary corrections; however, to Affiant's knowledge the work has not been completed.

e. Provide emergency lighting throughout bar. A permit has been secured from the Town to provide the necessary corrections; however, to Affiant's knowledge the work has not

been completed.

f. Remove or show record of fireproofing objects hanging from ceiling. No corrective action plan has been submitted at this time.

g. Replace all missing ceiling tiles.

6. Affiant believes that it will take the Respondents 30 days to adequately complete the repairs necessary to come into compliance with the Special Magistrate's Order based on the current status of the property.

7. Affiant believes that the violations pose a significant life safety hazard due to the general fire hazard, and to patrons of the establishment and surrounding properties from electrocution and/or electrical fires as a result of the deficiencies listed in the original inspection and subsequent re-inspection.

8. Affiant has scheduled a re-inspection date of August 13, 2017.

9. Affiant has not been contacted by the Respondents regarding a corrective plan of action for the deficiencies listed in the original inspection or the subsequent re-inspection.

FURTHER AFFIANT SAYETH NAUGHT.

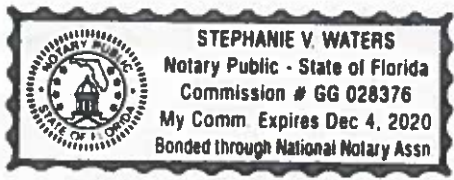
[Handwritten Signature]
Print Name: MARSHALL R. EISS

SWORN TO AND SUBSCRIBED before me by Marshall R. Eiss who is (Notary choose one) personally known to me, or who has produced N/A as identification, this day of August, 2017. 10

[Handwritten Signature]
Notary Public

Stephanie V. Waters
Print Name of Notary Public

My Commission Expires: 12/4/20



LOCAL GOVERNMENT CODE ENFORCEMENT
TOWN OF INDIAN SHORES, Florida

Case No CE 2017.01

THE TOWN OF INDIAN SHORES,
a Florida municipal corporation,

Petitioner,

v.

LYNN ROGACKI, JUTTA ROSBOUGH SUSOR,
BONGA BONGA, INC., c/o MICHAEL ROGACKI,

Respondents.

AFFIDAVIT OF NON-COMPLIANCE

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, the undersigned authority, personally appeared Gregory Yantorno of Universal Engineering Sciences, Inc., the Building Official for the Petitioner, TOWN OF INDIAN SHORES ("Affiant"), who was sworn and says:

1. Affiant is over the age of eighteen.
2. Affiant has personal knowledge of the facts stated herein and is authorized to make this Affidavit on behalf of the Petitioner.
3. Affiant has various duties relative to the operation of Petitioner. These duties include overseeing the Town's Building Department, administering the Town's Building Code and the applicable Florida Building Code, issuing permits, inspecting the progress of work, and enforcing the Town's Building Code and Land Development Code as appropriate. It is the regular practice of Affiant, on behalf of Petitioner, to account for such matters and other acts, events, and conditions or opinions concerning building and code enforcement matters within the Town. Specifically, on behalf of and for Petitioner, Affiant has maintained files, records and

information concerning the Respondents and the status of the property located at 19201 Gulf Blvd., Indian Shores, FL, and otherwise known as Mahuffer's.

4. Respondents were cited with a Notice of Violation for violating Sections 38-36, 38-37, 38-38, 18-122, and 18-304 of the Town of Indian Shores Code of Ordinances, which incorporated violations of the Florida Building Code and NFP (National Fire Prevention Code). At a hearing held on March 1, 2017, and concluded on March 29, 2017, the Town's Special Magistrate entered an Order Finding Violations, Setting Time to Comply or Suffer an Administrative Fine ("Order") finding the Respondents in violation of Sections 38-36, 38-37, 38-38, and 18-122, and ordered a compliance date of July 6, 2017, at 8:00 A.M.

5. As of July 6, 2017, the Respondents had submitted incomplete permit applications to fix the electrical work associated with the violations, and thus none of the violations were timely corrected. The applications were subsequently revised, and the permits to begin the work were picked up from the Building Department on Monday, July 10, 2017, with an expected work commencement date of Wednesday, July 26, 2017.

6. As of August 9, 2017, Respondents have not requested a final inspection.

7. Affiant believes that it will take the Respondents two weeks to adequately complete the repairs necessary to come into compliance with the Town Code, Florida Building Code and other life safety codes based on the current status of the permits and remaining work. The following work needs to be completed in order to be considered compliant:

a. All unprotected wiring must meet the requirements of the 2011 NEC Article 300.4 and all abandoned wiring must be removed.

b. All uncovered receptacles, switches and junction boxes including signage must be brought into compliance with 2011 NEC Article 314.25.

c. Proper emergency lighting must be installed throughout the building per the

2011 NEC Article 700.16.

d. All unpermitted electrical work must be permitted.

e. Wall and ceiling finishes must be brought up to code and maintained per the 2014 Florida Building Code Section 803.

8. Affiant believes that the gravity of this violation is significant due to the threat posed to patrons of the establishment and surrounding properties as a result of substandard electrical wiring and potential for harm from electrocution and/or electrical fires.

9. Affiant recommends a fine be instituted of \$250/day for failure to comply with the Special Magistrates Order requiring compliance by July 6, 2017, and said fine should continue until the Town finds the property to be in compliance.

10. Petitioner has incurred the following costs in this enforcement action:

Publication	\$ 0
Inspection	\$ 0
Special Magistrate time to date	\$ 0
Additional Staff Time	\$ 0
TOTAL:	\$ 0

FURTHER AFFIANT SAYETH NAUGHT

[Signature]
Print Name Gregory Yantorno

SWORN TO AND SUBSCRIBED before me by Gregory Yantorno who is (Notary choose one) personally known to me, or who has produced N/A as identification, this day of August, 2017. 9



Stephanie V. Waters
Notary Public

Stephanie V. Waters
Print Name of Notary Public

My Commission Expires: 12/4/20