

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: March 19, 2008

Division: County Attorney

Bulk Item: Yes No

Staff Contact Person: Cynthia L. Hall

AGENDA ITEM WORDING:

Authorization to institute collection proceedings and/or enter settlement negotiations with George Smith, Jr. and Edna Smith in Code Enforcement Case CE06090065.

ITEM BACKGROUND:

On September 11, 2006, Mr. and Mrs. Smith were cited for violation of Monroe County Code Section 6-4(a)(c), unsafe structure, and Monroe County Code Section 9.5-111(1), alterations to structure done without the benefit of permits and approvals. The case was brought before the Special Magistrate on January 25, 2007, at which time Mr. and Mrs. George Smith were found in violation.. The Special Magistrate set compliance for February 15, 2007, after which time a fine would begin to run in the amount of \$250.00 per day being imposed for the charge of Section 6-4(a)(c), and \$100.00 per day being imposed for the charge of Section 9.5-111(1). As of February 13, 2008, this property has not come into compliance and as of February 22, 2008, total fines owed are \$130,318.50.

PREVIOUS RELEVANT BOCC ACTION: None

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS:

Approval


TOTAL COST: _____

BUDGETED: Yes No

COST TO COUNTY: _____

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty  OMB/Purchasing _____ Risk Management _____

DOCUMENTATION: Included Not Required

DISPOSITION: _____ **AGENDA ITEM #** _____

BEFORE THE CODE ENFORCEMENT SPECIAL MAGISTRATE
LARRY J. SARTIN
MONROE COUNTY, FLORIDA

MONROE COUNTY, FLORIDA

Petitioner,

vs.

CASE NO. CE06090065

GEORGE SMITH, JR. and
EDNA SMITH

Respondent(s).

ORDER IMPOSING PENALTY/LIEN

THIS CAUSE having come on for public hearing before the Special Magistrate on January 25th 2007, at the Marathon Government Regional Center, located at 2798 Overseas Highway, Marathon, Florida, after due notice to the Respondent(s), at which time the Special Magistrate heard testimony under oath, received evidence, and issued his Order finding the Respondent(s) in violation of Monroe County Code Section(s): §6-4(a)(c), §9.5-111(1).

Said Order, and subsequent orders, required the Respondent(s) to correct the violation(s) by February 15th 2007, and further, that failure to correct the violation(s) by the compliance date may result in a fine \$250.00(TWO HUNDRED-FIFTY DOLLARS) per day, being imposed for the charge of §6-4(a)(c), and \$100.00 (ONE HUNDRED DOLLARS) per day, being imposed for the charge of §9.5-111(1), each day thereafter that there is noncompliance. At the meeting of the Special Magistrate held on February 22nd 2007, Inspector Corcoran testified that the following violation(s) had not yet been corrected: §6-4(a)(c) & §9.5-111(1).

ACCORDINGLY, the Special Magistrate finding that the violation(s) had not been corrected, as previously ordered, it is hereby:

ORDERED that the Respondent(s) pay to Monroe County, Florida, a fine in the amount of \$100.00(ONE HUNDRED DOLLARS) per count, per day beginning February 16th 2007, and for each and every day thereafter that the violation(s) exist(s) and/or continue(s) to exist. Pursuant to Florida Statutes Section 162.07, a cost in the amount of \$100.00 (ONE HUNDRED DOLLARS) is hereby levied for the administrative recovery for prosecution and investigation.

THIS ORDER SHALL CONSTITUTE A LIEN AGAINST THE LAND ON WHICH THE VIOLATION(S) EXIST(S) AND UPON ANY OTHER REAL OR PERSONAL PROPERTY OWNED BY THE VIOLATOR(S).

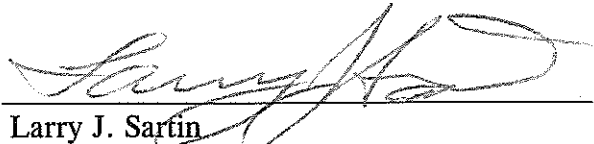
THE VIOLATION(S) EXIST(S) ON THE FOLLOWING DESCRIBED PROPERTY: BK 2, LT 15 AMD PLAT THE LADIES ACRE, LITTLE TORCH KEY, MONROE COUNTY, FLORIDA (RE#00222990-000000);

Pursuant to Section 162.09, Florida Statutes, this lien may be recorded with the Clerk of the Courts for Monroe County, Florida.

That upon complying, the Respondent(s) shall notify the Code Inspector in this case, who shall reinspect the property and notify the Special Magistrate of compliance.

DONE AND ORDERED this 6th day of March, 2007, at the Division of Administrative Hearings, Tallahassee, Florida.

BY



Larry J. Sartin
Code Enforcement Special Magistrate

STATE OF FLORIDA
COUNTY OF LEON

I HEREBY CERTIFY that on this day, before me, on officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared Larry J. Sartin, personally known to me, who executed the foregoing and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 6th day of March, 2007.




Notary Public



Elma Williams
Commission # DD481642
Expires December 2, 2009
Bonded Troy Fair Insurance Inc 800-305-7019

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Order Imposing Penalty/Lien has been furnished by U.S. Mail, to the Respondent(s) at 28231 Dorothy Ave., Little Torch Key, Florida, 33042 posted at the Monroe County Courthouse, and posted on property, this 7th day of March, 2007.



Karen L. Bass,
Code Enforcement Liaison



BEFORE THE CODE ENFORCEMENT SPECIAL MAGISTRATE
LARRY J. SARTIN
MONROE COUNTY, FLORIDA

MONROE COUNTY, FLORIDA,
Petitioner.

CASE NO. CE06090065

vs.

GEORGE SMITH, JR. and EDNA SMITH
Respondent(s).

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

THIS CAUSE having come before the Code Enforcement Special Magistrate for a public hearing on January 25th 2007 ,and the Special Magistrate, having reviewed the evidence, heard testimony under oath and argument of counsel (if any), and being otherwise fully apprised of the premises, makes the following findings of fact, conclusions of law and order as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Respondent(s) is/are the owners of record of property located at BK 2, LT 15, AMD PLAT THE LADIES ACRE, LITTLE TORCH KEY, MONROE COUNTY, FLORIDA (RE# 00222990-000000);
2. That the Respondent(s) was/were duly noticed of this hearing; and
3. That the above-named property is in violation of the Monroe County Code as more particularly described in Exhibit "A", which is attached hereto and incorporated herein.

Therefore it is

ORDERED AND ADJUDGED that:

- A. Respondent(s) is/are in violation of the Monroe County Code(s) and is/are ordered to comply with the provisions of said codes by February 15th 2007. A compliance / review hearing^g will be held on February 22nd 2007.
- B. Upon complying, Respondent(s) shall notify the Code Inspector in this case who shall re-inspect the property and notify the Code Enforcement Department of compliance.
- C. Noncompliance by the above date will result in the imposition of a fine, \$ 250.00 (TWO HUNDRED - FIFTY DOLLARS) per day, with regard to the charge of §6-4(a)(c) and \$100.00 (ONE HUNDRED DOLLARS) per day, with regard to the charge of §9.5-111(1), for each day thereafter that Respondent(s) is/are in violation.
- D. Pursuant to Florida Statutes Section 162.07, a fine in the amount of \$100.00 (ONE HUNDRED DOLLARS) has been levied for the administrative recovery for prosecution and investigation.
- E. In the event of nonpayment of fines/liens imposed, a certified copy of an order imposing a fine may be recorded in the public records and shall thereafter constitute a lien against the land on which the violation or violations exist and upon any other real or personal property owned by the violator(s).
- F. You have the right to appeal this order to the Circuit Court of Monroe County. If you wish to appeal, you must do so no later than thirty (30) days from the date of this Order. Failure to timely file a written Notice of Appeal will waive your right to appeal.

DONE AND ORDERED at the Division of Administrative Hearings, Tallahassee, Leon County, Florida, this 31ST day of January, 2007.

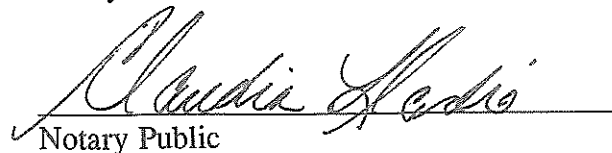


Larry J. Sartin
Code Enforcement Special Magistrate

STATE OF FLORIDA
COUNTY OF LEON

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared LARRY J. SARTIN personally known to me, who executed the foregoing and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 31ST day of January, 2007.



Notary Public

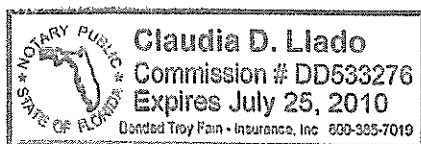


EXHIBIT "A"

VIOLATION(S):

COUNT 1. Pursuant to Monroe County Code § 6-4(a)(c) Unsafe buildings.(a) *Abatement Required:* All unsafe buildings shall be abated using the Standard Unsafe Building Abatement Code, 1997 edition, promulgated by the Southern Building Code Congress International, Inc., subject to all amendments, modifications or deletions hereinafter contained. (c) *Amendment:* As adopted by Monroe County, section 302.1.1(4), Standard Unsafe Building Abatement Code, shall read as follows: "A statement advising that any person having legal interest in the property may be prosecuted before the code enforcement special master, in county court, or in any other manner provided by law for failure to repair, vacate or demolish the offending building in the manner set forth in the notice."

COUNT 2. Pursuant to Monroe County Code §9.5-111(1) - A building permit is required prior to the following: (1)Any work specified in chapter 6.0; an after the fact permit is required for all alterations to this structure.

CORRECTION(S):

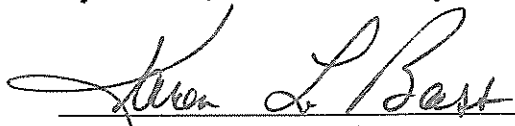
COUNT 1. Contact the Monroe County Building Department and either obtain a building permit to bring the structure into compliance with current building codes, or obtain a demolition permit and remove all offending structures on the property.

COUNT 2. Contact the Monroe County Building Department and either (1) obtain an after the fact permit and all inspections required, or (2) obtain a demolition permit and remove as directed.

CONTACT YOUR CODE INSPECTOR UPON COMPLIANCE

Middle Keys (305)289-2810

I HEREBY CERTIFY that a true and correct copy of the above has been furnished to the Respondent(s) via first-class mail at 28231 Dorothy Avenue, Summerland Key, FL 33042, this 2nd day of February, 2007.


Code Enforcement Liaison
Karen L. Bass

Please make check or money order payable to Monroe County Code Enforcement and mail to 2798 Overseas Highway, Marathon, FL 33050.