



**TOWN OF DAVIE  
RECORD OF  
SPECIAL MAGISTRATE HEARING  
NOVEMBER 5, 2019**



**1. CALL SESSION TO ORDER**

The hearing was called to order at 10:00 A.M. Present were Special Magistrate Theresa Bland Edwards, Code Compliance Supervisor Rick Berni, Code Compliance Inspector II Dana Phillips, Code Compliance Inspector Kim Massey, Code Compliance Inspector Catherine Velez, Code Inspector Stephanie Silber, Code Compliance Inspector Sarah Santisteban and Recording Secretary Grace Farrar

**2. CALL OF THE CASES**

Respondents were present for Case #19-071695, #18-054550, #18-017093, #19-064624, #18-054837, #19-028627, #19-044374, #19-021590, #19-05719, #19-066470

**3. UNCONTESTED CASES**

**4.1 Case #19-027191:** HWW Davie LLC, 5800 Reese Road (continued from September 24, 2019)<sup>3</sup>(off street parking minimum standards, rules and regulations/installation of improvements/sight distance for landscaping adjacent to public rights-of-way and points of access/modification of site plan/specific prohibitions/nuisance/eyesore violation) <sup>ss</sup>

A continuance to the Special Magistrate hearing of January 14, 2020 was requested by the Respondent; no cost recovery fee was assessed.

Special Magistrate Edwards so ordered.

**4.7 Case #19-065958:** Rukhsana Kadri, 11651 SW 26 Court (nuisance/ health/safety/ welfare) <sup>cv</sup>

The violations were cancelled prior to the hearing; no cost recovery fees were assessed.

**4.8 Case #19-066470:** Edgland M. Herrera, 4271-4273 SW 53 Avenue (maintenance standards of exterior premises/minimum standards for exterior of structures: roofs/minimum standards for interior of structures/minimum standards for area, use and location requirements/adoption of Florida building code/general regulations: nuisances/overgrowth/trash waste and garbage/storage of derelict vehicles/property prohibited violation) <sup>ss</sup>

Edgland M. Herrera, 4271-4273 SW 53 Avenue, present earlier in the hearing  
A continuance to the Special Magistrate hearing of December 10, 2019 was requested by the Respondent; no cost recovery fee was assessed.

Special Magistrate Edwards so ordered.

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**4. FORMAL HEARINGS OF CONTESTED MATTERS**

**4.2 Case #19-028627** : Jeffrey and Vickie Faulkner and Wells Fargo Bank N.A., 14150 Carlton Drive (continued from September 24, 2019)<sup>3</sup>(maintenance standards of exterior premises/minimum standards for maintenance of premises (j) Swimming pool maintenance and disposal of pool water violation)<sub>KM</sub>

Anina McNeil, Esq., Law Group on behalf of Wells Fargo Bank

Inspector Massey presented the case and read the violations into the record.

Service was achieved by certified mail to the bank and posting to the property owner. A copy of the affidavit of posting along with the certified mail was submitted as Town's Composite Exhibit 1 without objection. Photographs taken by the inspector on April 24, 2019 and November 4, 2019 were submitted as Town's Composite Exhibit 2 without objection.

Ms. McNeil testified the property owners are in the process of a bankruptcy hearing and therefore the bank cannot abate the nuisance as to the fence repair. A request to continue the case to December 17, 2019 was requested.

Special Magistrate Edwards so ordered.

**4.3 Case #19-050169** : Claudio Hipolito H/E and Dale Finster, 5760 SW 36 Court (continued from September 24, 2019)<sup>1</sup> (Minimum standards for exterior of structures/storage of abandoned property on public or private land violation)<sub>SS</sub>

Inspector Silber obtained an agreed final order with thirty days for violation of town code sections 6-35 (c) and 11-17 along with cost recovery fee of \$250.00. The consent agreement was submitted as Town's Exhibit 1 without objection.

Special Magistrate Edwards so ordered.

**4.4 Case #19-057194** : Eton Countryside Condo Assoc %NCS, 5100 SW 64 Avenue (continued from September 24, 2019)<sup>1</sup> (minimum standards for exterior of structures, exterior walls and roofs/maintenance standards of exterior premises, health, safety and welfare violation)<sub>MH</sub>

Diego Borges, Assurance Property Management

Mr. Borges provided an update on the maintenance being performed on all three (3) buildings that make up Eton Countryside Condominium. The maintenance will be conducted and health safety violations will be addressed first. There is an issue with funds, which will slow down the process. A copy of the invoice from Morandi Engineering and Construction Inc. was submitted as Town's Exhibit 1 without objection.

A continuance to the special magistrate hearing on December 17, 2019 was requested.

Special Magistrate Edwards so ordered.

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**4.5 Case #19-059286:** Davie Newport LLC, 4251 SW 62 Avenue (overgrowth violation/trash waste and garbage) <sup>ss</sup>

Inspector Silber presented the case and read the violation into the record. Service was achieved by certified mail. A copy of the electronic notification was submitted as Town's Composite Exhibit 1 without objection. Photographs taken on August 24, 2019, September 26, 2019 and November 2, 2019 were submitted as Town's Composite Exhibit 2 without objection. An invoice to the property owner was submitted as Town's Exhibit 3 without objection. Broward County Property appraiser printout was submitted as Town's Exhibit 4 without objection. The Broward County Tax Deed was submitted as Town's Exhibit 5 without objection. The Town's public works division abated the nuisance on August 29, 2019 for the bulk trash that was left on the property due to the impending Hurricane Dorian.

The inspector recommended a final order with seven (7) days to comply with violation of town code sections 9-51(b) and 9-2 along with cost recovery fee of \$350.00.

Special Magistrate Edwards so ordered.

**4.6 Case #19-064624:** Timothy J. Wilbur and Cit Bank, 711 Amherst Avenue (overgrowth violation) <sup>RB</sup>

Harry Diamon, Private Contractor and investor

James Beralus, Esq. Robertson Anschutz & Schneid Law office representative for MTGLQ Investors, LP

Supervisor Berni presented the case and read the violation into the record. Service was achieved by posting. A copy of the Affidavit was submitted as Town's Composite Exhibit 1 without objection.

A discussion was held on the condition of the property and the work that has been performed by Mr. Diamon's maintenance personnel. At the time of the hearing the lawn has been cut, the pool has been sanitized and a temporary fence has been installed. Photographs taken on September 18, 2019 were submitted as Town's Exhibit 2 without objection. Photographs taken of the pool were submitted as Town's Exhibit 3 without objection. A composite exhibit page of photographs taken on October 31, 2019 were submitted as Town's Exhibit 4 without objection.

The property owner is in foreclosure and does not reside at the property. The Chapter 13 bankruptcy is pending which is holding up the short sale. The inspector will try to make contact with the bankruptcy trustee for update on the legal process.

The inspector recommended a final order to remain in compliance with violation of town code sections 9-51(b) no cost recovery fee was assessed.

Special Magistrate Edwards so ordered.

**4.9 Case #19-071695:** Lerner 7700 LLC, 7700 NW 36 Street (non permitted uses prohibited/adoption of Florida building code; building permit required/nuisance/eyesore violation) <sup>KB</sup>

Inspector Phillips on behalf of Animal Control Officer Karen Borsoni obtained an agreed final order with(30) thirty days for violation of town code sections 12-32, 5-1 and 12-33(U) along with cost recovery fee of \$250.00. The consent agreement was submitted as Town's Exhibit 1 without objection.

Special Magistrate Edwards so ordered.

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**5. LOCAL BUSINESS TAX RECEIPT**

**5.1 Case #2019-0047 :** Titan Structural Inc. and Partners LP LRFI Interstate Industrial LLC, 3750 Hacienda Blvd #D (continued from September 24, 2019)<sup>1</sup>(delinquency/Inspection by the fire department; approval by director of the development services department or his designee; approval by fire chief violation) <sup>SES</sup>

A continuance to the Special Magistrate hearing of December 17, 2019 was requested by the Respondent; \$50.00 cost recovery fee was assessed.

Special Magistrate Edwards so ordered.

**5.2 Case #2019-0048 :** Warren Contracting & Development Inc. and Partners LP LRFI Interstate Industrial LLC, 3750 Hacienda Blvd #D (continued from September 24, 2019)<sup>1</sup>(delinquency/inspection by the fire department; approval by director of the development services department or his designee; approval by fire chief violation) <sup>SES</sup>

A continuance to the Special Magistrate hearing of December 17, 2019 was requested by the Respondent; \$50.00 cost recovery fee was assessed.

Special Magistrate Edwards so ordered.

**5.3 Case #2019-0059:** Atom Trike LLC and Napoles Investment LLC, 13092 W State Road 84 #109 (inspection by the fire department/delinquency violation) <sup>SES</sup>

The violations were dismissed due to eviction.

**5.4 Case #2019-0060 :** Paparazzi P & E National Inc., 11262 SW 25 Court (delinquency violation) <sup>SES</sup>

The violations were cancelled prior to the hearing; no cost recovery fees were assessed

**5.5 Case #2019-006 1:** Paparazzi Photography and Entertainment Inc., 11262 SW 25 Court (delinquency violation) <sup>SES</sup>

The violations were cancelled prior to the hearing; no cost recovery fees were assessed

**5.6 Case #2019-006 2:** Florida Seminole Coffee Company Inc., 11262 SW 25 Court (delinquency violation) <sup>SES</sup>

The violations were cancelled prior to the hearing; no cost recovery fees were assessed.

**6. NON COMPLIANCE**

**6.1 Case #18-017093:** Timothy J. Wilbur and Cit Bank, 711 Amherst Avenue (maintenance standards of exterior premises/minimum standards for maintenance of premises violation) <sup>RB</sup>

Harry Diamon, Private Contractor and investor

James Beralus, Esq. Robertson Anschutz & Schneid Law office representative for MTGLQ Investors, LP

Supervisor Berni presented the case and read the violation into the record. Service was achieved by posting. A copy of the Affidavit was submitted as Town's Composite Exhibit 1 without objection.

A discussion was held on the condition of the property and the work that has been performed by Mr. Diamon's maintenance personnel. At the time of the hearing the lawn has been cut, the pool has been sanitized and a temporary fence has been installed.

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Photographs taken on September 18, 2019 were submitted as Town's Exhibit 2 without objection. Photographs taken of the pool were submitted as Town's Exhibit 3 without objection. A composite exhibit page of photographs taken on October 31, 2019 were submitted as Town's Exhibit 4 without objection.

A discussion was held on the condition of the pool and the security for the neighborhood.

The property owner is in foreclosure and does not reside at the property. The Chapter 13 bankruptcy is pending which is holding up the short sale. The inspector will try to make contact with the bankruptcy trustee for update on the legal process. Based on the foreclosure and bankruptcy hearings, a continuance to the hearing of November 19, 2019 was requested; no cost recovery fees were assessed.

Special Magistrate Edwards so ordered.

**6.2 Case #18-054550 aka #2014-0918:** Charley W. Bitterman, 5770 SW 38 Court (overgrowth/derelect vehicles prohibited violation) <sup>SS</sup>

Charley W. Bitterman, 5770 SW 38 Court was present

Inspector Silber presented the case and read the violations into the record. Service was achieved by posting. An affidavit of posting was submitted as Town's Exhibit 1 without objection. Photographs taken by the inspector on September 18, 2019 was submitted as Town's Composite Exhibit 2 without objection. Photographs taken by the inspector on September 27, 2019 was submitted as Town's Composite Exhibit 3 without objection. Photographs taken by the inspector on November 2, 2019 was submitted as Town's Composite Exhibit 4 without objection.

Ms. Bitterman provided testimony as it relates to the property and the overgrowth and the vehicles that her son has acquired.

Ms. Bitterman requested more time to bring the property into compliance.

A continuance to the special magistrate hearing on December 17, 2019 was requested; no cost recovery fees were assessed.

Special Magistrate Edwards so ordered.

**6.3 Case #18-054837:** MNS Davie LLC and The Merchants #1 of Davie Inc., 6563 Stirling Road #6 (outdoor activities restricted/storing of abandoned property on public or private lands; prohibited; exception violation) <sup>RB</sup>

Patrick Burns, 6563 Stirling Road on behalf of MNS Davie LLC

Supervisor Berni presented the case and read the violations into the record. Service was achieved by certified mail. A copy of the electronic notification was submitted as Town's Composite 1 without objection. Photographs taken by the inspector were submitted as Town's Composite Exhibit 2 without objection.

Mr. Burns testified he owns the boat and will relocate.

A continuance to the special magistrate hearing on November 19, 2019 was requested; no cost recovery fees were assessed.

Special Magistrate Edwards so ordered.

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**6.4 Case #18-074467:** Joanne Alvarado, 3850 SW 106 Terrace (nuisance/health, safety and welfare) <sup>CV</sup>

Inspector Velez presented the case and read the violations into the record. Service was achieved by certified mail and posting. An affidavit of posting along with electronic notification was submitted as Town's Exhibit 1 without objection. Photographs taken by the inspector on September 20, 2019 was submitted as Town's Composite Exhibit 2 without objection.

A continuance to the special magistrate hearing on November 19, 2019 was requested.

Special Magistrate Edwards so ordered; no cost recovery fees were assessed.

**6.5 Case #19-021590:** Scott G. Ference, 6180 SW 48 Court (Florida building code violation) <sup>RB</sup>

Scott G. Ference, 6180 SW 48 Court

Supervisor Berni presented the case and read the violation into the record. Service was achieved by posting. A copy of the Affidavit was submitted after the hearing as Town's Composite Exhibit 1 without objection.

Mr. Ference testified he has obtained a company to relocate the shed to the rear of the property, but due to financial hardship he needed more time.

A continuance to the special magistrate hearing on January 14, 2020 was requested.

Special Magistrate Edwards so ordered; no cost recovery fees were assessed.

**6.6 Case #19-044374:** 2018-3 IH Borrow LP and IH3 Property GP LLC, 8992 S Lake Park Circle (maintenance standards of exterior premises violation) <sup>CV</sup>

Mary Untch, Property Compliance Advocate

The violation was dismissed without prejudice to the existing final order which will remain in full force and effect. No cost recovery fee was assessed.

Special Magistrate Tell so ordered.

**6.7 Case #19-048436:** Scott Minchener and Joyce Dewitt, 13351 SW 7 Place (storage of abandoned property on public or private land/accumulation of garbage/receptacle requirements violation) <sup>KM</sup>

Inspector Massey presented the case and read the violation into the record. Service was achieved by posting. An Affidavit of posting was submitted as Town's Exhibit 1 without objection. Photographs taken on October 1 and November 4, 2019 were submitted as Town's Composite Exhibit 2 without objection.

The Town's Public Works Division abated the nuisance on November 4, 2019 for the bulk trash that was left on the property. A copy of the invoice from the Public Works Division was submitted as Town's Exhibit 3 without objection.

A lien was recommended for the nuisance abatement in the amount of \$201.74 along with \$200.00 administrative fee. A second lien was recommended for violation of town code sections 11-17 and 9-25(B1) for thirty five (35) days of non-compliance at \$50.00 per day for two (2) violations resulting in a lien in the amount of \$3,500.00 along with \$500.00 cost recovery fee for a total lien in the amount of \$4,000.00.

Special Magistrate Edwards so ordered.

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**7. NEW BUSINESS**

**8. OLD BUSINESS**

**9. CITATION AGENDA**

**9.1 Case #19-065663:** Elizabeth Corey, 8500 SW 26 Street, Citation #266 (bulk trash) Citation #266 was corrected prior to the hearing. The violation was dismissed.

**9.2 Case #19-068447:** Albert Ross Prim, SW 55<sup>th</sup> Terrace right-of-way Citation #998 (Commercial equipment prohibited/Tow truck parking prohibition violation) <sup>ss</sup>  
Inspector Silber presented the case and read the violation into the record. Service was achieved by posting. An Affidavit of posting was submitted as Town's Composite Exhibit 1 without objection. Photograph taken by the inspector was submitted as Town's Composite Exhibit 2 without objection.

A Finding of Fact and Conclusion of Law was entered by Special Magistrate Edwards for violation of town code section 12-33(G)(1).

A lien for Citation #996 in the amount of \$75.00 along with cost recovery fee of \$50.00 for a total lien in the amount of \$125.00 will be assessed against the property.

Special Magistrate Edwards so ordered.

**10. ADJOURNMENT**

There being no further matters to discuss, the hearing was adjourned at 12:15 P.M.