



City of Stuart

MAGISTRATE HEARING DOCKET

**CITY OF STUART, FLORIDA
121 S.W. FLAGLER AVENUE
STUART, FLORIDA 34994**

**DECEMBER 16, 2022 AT 10:00 AM
COMMISSION CHAMBERS**

Agenda items are available on our website at <http://www.cityofstuart.us>
Phone: (772) 288-5306. Fax: (772) 288-5305. E-mail: mkindel@ci.stuart.fl.us

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 772-288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

WHAT IS CIVILITY? Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.

PLEDGE OF ALLEGIANCE

VIOLATION HEARINGS

- 1. Stipulation and Agreed Order Arlee & Doris Coleman** Vito Lorenzo
CE22100003
CASE NO: CE22100003
ADDRESS OF VIOLATION: 1612 SE Palm Beach Rd, Stuart, FL
CODE SECTION: 10-61 (j) (1)
DESCRIPTION OF VIOLATION: Outdoor Storage

- 2. City of Stuart Vs Robert J. Haas Jr.** Deborah Carrasco
CASE NO: CE22080003
ADDRESS OF VIOLATION: 228 SE ILA St.
CODE SECTION: 105.1 Florida Building Code Working without a Permit
DESCRIPTION OF VIOLATION:

3. City of Stuart vs Robert Stancavich

Vito Lorenzo

CASE NO: CE21010007

ADDRESS OF VIOLATION: 1251 Sw Nortons Lane, Stuart FL

CODE SECTION:

DESCRIPTION OF VIOLATION:

ADJOURNMENT

CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE

Case No. CE22100003

CITY OF STUART, FLORIDA,

Petitioner,

v.

Arlee E Coleman & Doris A Coleman
1612 SE Palm Beach RD
Stuart, FL 34994

PCN# 09-38-41-005-003-00040-6

Respondent(s).

STIPULATION AND AGREED ORDER

STIPULATION

The City of Stuart, Florida and the Respondent(s), hereby stipulate and agree to the following:

1. The person(s) signing this Stipulation has/have the authority to enter into the Stipulation and bind the respective parties to the terms contained herein.
2. The violation(s) that are more fully described in the Notice of Violation/Notice of Hearing filed in this case exist at the property described therein, and the legal description of the property is attached on Composite Exhibit "1."
3. The Respondent is granted until **December 26, 2022**, to take the necessary corrective action to bring the property into compliance with the cited sections of the City of Stuart Code of Ordinances, or Florida Building Code, as applicable, and as described in the Notice of Hearing/ Notice of Violation attached hereto as Exhibit "2."
4. If the Respondent does not correct the violations(s) and bring the property into compliance as set forth in section 3, a civil penalty of **\$250.00 per violation, per day** shall be assessed for each day the violation continues after the compliance date. **The assessment of fines and costs may result in a lien being placed on any real or personal property owned by Respondent.**
5. Administrative costs in the amount of **\$300.00 shall be waived by the City** with the filing of this Stipulation. In accordance with Sec.162.09, Florida Statutes, a hearing is not necessary for the issuance of an order imposing the fine, and no additional notification will be sent. Additional costs may be assessed for the later prosecution of this case, if the Respondent fails to comply with this Stipulation.

6. The Respondent acknowledges that the City of Stuart Code Enforcement Magistrate may enter an Order which requires the Respondent to correct the violations and bring the property into compliance, as stated in this Stipulation and Agreed Order.
7. Should the Respondent(s) come into compliance in accordance with this Stipulation and Agreed order, and subsequently violate the same code sections, such reoccurrences shall subject the Respondent(s) to an administrative fine of up to **\$500.00** per day for **each** violation.
8. **The Respondent bears the burden of contacting the City's Code Enforcement Division at 772-600-1254 to arrange for a re-inspection of the property** in order to verify that any violations have been corrected and that the property has been brought into compliance with the applicable sections of the City or Building Code.

CITY OF STUART, FLORIDA
CODE ENFORCEMENT DIVISION

By: [Signature]

Date: 11/21/22

RESPONDENT(S)

By: [Signature]

By: [Signature]

Date: 11/21/2022

AGREED ORDER

THIS MATTER came before the Magistrate on _____, and having been fully advised of the premises;

IT IS HEREBY ORDERED that the above Stipulation is approved and the parties shall abide thereby, and

IT IS FURTHER ORDERED that the Respondent shall fully comply with the terms above or shall be liable for the fine established in the Stipulation and that costs in this case shall be assessed and paid to the City as provided above.

Paul J. Nicoletti, Magistrate

Copy furnished to the parties by: U.S. Mail / Hand Delivery / Fax



**CITY OF STUART
NEIGHBORHOOD SERVICES**
121 SW FLAGLER AVE
STUART, FL 34994-2139

NOTICE OF VIOLATION

Nov 07, 2022

**COLEMAN, ARLEE E
1612 PALM BEACH RD
STUART, FL 34994**

Case #: CE22100003

You are hereby notified that the following violation(s) of the Code of Ordinances and/or the Land Development Regulations of the City of Stuart exists on the property listed:

**ADDRESS: 1612 SE PALM BEACH RD
PARCEL ID #: 0938410050030004060000**

**OBSERVATION DATE: 10/04/22
CORRECTION DATE: 11/17/2022**

VIOLATION(S) 10-61 (j) (1)
AND General storage of material shall be located in an enclosed
building or screened from view
CORRECTIVE Correction: 10-61 (j) (1)
ACTIONS: Remove materials from public view

NOTICE OF HEARING SUMMONS

Failure to correct the violation(s) by the above date will result in a presentation of this matter at a hearing before the Neighborhood Services Magistrate on **12/16/2022 at 10:00AM** in the City of Stuart Commission Chambers located at 121 SW Flagler Avenue, Stuart, Florida. The violation charged is a civil infraction and subjects you to a maximum civil penalty of up to **\$250** per offense, per day, for repeat violations.

The Neighborhood Services Magistrate will receive testimony and evidence at said Hearing and make Findings of Fact, as supported by the testimony and evidence pertaining to matters alleged in the Notice of Violation. You are entitled to present evidence and witnesses at the Hearing.

FAILURE to appear will result in the Magistrate proceeding in your absence. All fines constitute liens against the Real and Personal Property of the Respondent. Please govern yourself accordingly

An administrative fee of \$300.00 will be assessed if you should fail to comply by the correction date above.

Should you require additional information regarding this notice, please contact Neighborhood Services at (772) 288-5325 or (772) 600-1254.


Neighborhood Services Officer
Vito Lorenzo / Deborah Carrasco

7022-1670 0001 3196 0991
Certified Mail #

CITY EXHIBIT composite Exhibit 1







**CITY OF STUART
NEIGHBORHOOD SERVICES**

121 SW FLAGLER AVE
STUART, FL 34994-2139

NOTICE OF VIOLATION

Aug 02, 2022

**HAAS ROBERT J JR
228 SE ILA ST
STUART, FL 34994**

Case #: CE22080003

You are hereby notified that the following violation(s) of the Code of Ordinances and/or the Land Development Regulations of the City of Stuart exists on the property listed:

ADDRESS: 228 SE ILA ST

OBSERVATION DATE: 08/02/22

PARCEL ID #: 0938410010070008020000

CORRECTION DATE: 10/31/2022

VIOLATION(S)

105.1

AND

**CONSTRUCT, ENLARGE, ALTER, REPAIR, MOVE, DEMOLISH OR INSTALL
WITHOUT A PERMIT.**

CORRECTIVE

Correction: 105.1

ACTIONS:

OBTAIN REQUIRED PERMIT.

NOTICE OF HEARING SUMMONS

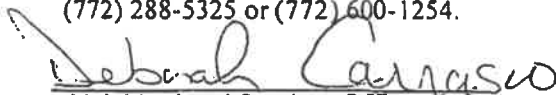
Failure to correct the violation(s) by the above date will result in a presentation of this matter at a hearing before the Neighborhood Services Magistrate on **08/19/2022 at 10:00AM** in the City of Stuart Commission Chambers located at 121 SW Flagler Avenue, Stuart, Florida. The violation charged is a civil infraction and subjects you to a maximum civil penalty of up to \$250 per offense, per day, for repeat violations.

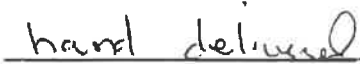
The Neighborhood Services Magistrate will receive testimony and evidence at said Hearing and make Findings of Fact, as supported by the testimony and evidence pertaining to matters alleged in the Notice of Violation. You are entitled to present evidence and witnesses at the Hearing.

FAILURE to appear will result in the Magistrate proceeding in your absence. All fines constitute liens against the Real and Personal Property of the Respondent. Please govern yourself accordingly

An administrative fee of \$300.00 will be assessed if you should fail to comply by the correction date above.

Should you require additional information regarding this notice, please contact Neighborhood Services at (772) 288-5325 or (772) 600-1254.


Neighborhood Services Officer
Vito Lorenzo / Deborah Carrasco


Certified Mail #
Composite
CITY EXHIBIT 



Basic Info

PIN
09-38-41-001-007-00080-2

AIN
25936

Situs Address
228 SE ILA ST STUART FL

Website Updated
8/2/22

General Information

Property Owners
HAAS ROBERT J JR

Parcel ID
09-38-41-001-007-00080-2

Use Code/Property Class
0100 - 0100 Single Family

Mailing Address
228 SE ILA ST
STUART FL 34994

Account Number
25936

Neighborhood
383881 Indian Grvs, PalmettoHbr, Rivr P

Tax District
STUART

Property Address
228 SE ILA ST STUART FL

Legal Acres
0.61

Legal Description
LOTS 8, 9, 10 & 11 BLOCK 7 CASA TERRACE ...

Ag Use Acres
N/A

Current Value

Year	Land Value	Improvement Value	Market Value	Value Not Taxed	Assessed Value	Total County Exemptions	County Taxable Value
2022	\$ 238,000	\$ 240,570	\$ 478,570	\$ 112,878	\$ 365,692	\$ 50,000	\$ 315,692

Market values shown on the website reflect market conditions as of January 1st, the statutory assessment date. We are prohibited by law from relying on sales that occur after the January 1 assessment date. Therefore, market values shown on the website do not reflect today's market conditions, but rather the market conditions last year. In addition, the statutes require the county Property Appraiser to deduct for typical costs of sale (which include expenses such as commissions, title insurance, appraisals, inspection fees, etc.) when arriving at market value for tax purposes. That is why the market value for tax purposes is different from what a property would sell for today.

Current Sale

Sale Date
10/3/19
Sale Price
\$ 375,000

Grantor (Seller)
GORDON REVOCABLE TRUST 09/28/2001
Deed Type
Wd Full Covenant and Warranty Deed

Doc Num
2783345
Book & Page
3092 2312

Legal Description

LOTS 8, 9, 10 & 11 BLOCK 7 CASA TERRACE ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 1 PAGE 35 PUBLIC RECORDS MARTIN COUNTY FLORIDA

The legal description is intended for general information only. The Property Appraiser assumes no responsibility for the uses or interpretations of the legal description.



CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE

Case No. CE22080003

CITY OF STUART, FLORIDA,

Petitioner,

v.

Robert J. Haas Jr
228 SE ILA St.
Stuart, FL 34994

PCN# 0938410010070008020000

Respondent(s).

STIPULATION AND AGREED ORDER

STIPULATION

The City of Stuart, Florida and the Respondent(s), hereby stipulate and agree to the following:

1. The person(s) signing this Stipulation has/have the authority to enter into the Stipulation and bind the respective parties to the terms contained herein.
2. The violation(s) that are more fully described in the Notice of Violation/Notice of Hearing filed in this case exist at the property described therein, and the legal description of the property is attached on Exhibit "A."
3. The Respondent is granted until **October 31, 2022**, to take the necessary corrective action to bring the property into compliance with the cited sections of the City of Stuart Code of Ordinances, or Florida Building Code, as applicable, and as described in the Notice of Hearing/ Notice of Violation. ***The necessary corrective action requires submitting plans and apply for an After The Fact Building Permit by the above date. ***
4. If the Respondent does not correct the violations(s) and bring the property into compliance as set forth in section 3, a civil penalty of **\$250.00 per violation, per day** shall be assessed for each day the violation continues after the compliance date. **The assessment of fines and costs may result in a lien being placed on any real or personal property owned by Respondent.**
5. Administrative costs in the amount of **\$300.00 shall be waived by the City** with the filing of this Stipulation. In accordance with Sec.162.09, Florida Statutes, a hearing is not necessary for the issuance of an order imposing the fine, and no additional notification will be sent. Additional costs may be assessed for the later prosecution of this case, if the Respondent fails to comply with this Stipulation.

6. The Respondent acknowledges that the City of Stuart Code Enforcement Magistrate may enter an Order which requires the Respondent to correct the violations and bring the property into compliance, as stated in this Stipulation and Agreed Order.
7. Should the Respondent(s) come into compliance in accordance with this Stipulation and Agreed order, and subsequently violate the same code sections, such reoccurrences shall subject the Respondent(s) to an administrative fine of up to \$500.00 per day for each violation.
8. The Respondent bears the burden of contacting the City's Code Enforcement Division at 772-600-1254 to arrange for a re-inspection of the property in order to verify that any violations have been corrected and that the property has been brought into compliance with the applicable sections of the City or Building Code.

CITY OF STUART, FLORIDA
CODE ENFORCEMENT DIVISION

By: Deborah Canas

Date: 8/3/2022

RESPONDENT(S)

By: R. J. [Signature]

By: _____

Date: 8/3/2022

AGREED ORDER

THIS MATTER came before the Magistrate on AUGUST 19, 2022 and having been fully advised of the premises.

IT IS HEREBY ORDERED that the above Stipulation is approved, and the parties shall abide thereby, and

IT IS FURTHER ORDERED that the Respondent shall fully comply with the terms above or shall be liable for the fine established in the Stipulation and that costs in this case shall be assessed and paid to the City as provided above.

[Signature]
Paul J. Nicoletti, Magistrate

Copy furnished to the parties by: U.S. Mail / Hand Delivery / Fax



**CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE**

Case No: CE21010007

CITY OF STUART, FLORIDA,
Petitioner,
v.

**LEA STANCAVICH,
ROBERT J. STANCAVICH, and
JOSEPHINE ROSE STANCAVICH
1251 SW NORTONS LANE
STUART, FLORIDA 34994**
Respondent(s).

**ORDER OF FINE CERTIFICATION AND AUTHORITY TO FORECLOSE LIEN
OR OBTAIN MONEY JUDGMENT**

THIS CAUSE came before the Magistrate for hearing on August 19, 2022 for certification of a fine, and upon proper notice given by the City of Stuart, Florida to the Respondent for continuing violation of the following:

- a) Section 10-34, requiring a dumpster on-site for the collection of construction waste. (Magistrate's Note: a dumpster is required with an active Building Permit)
- b) Section 10-61(j)(2), requiring that no accumulation or storage of the following materials shall be located within any required front yard, side yard or carport that is visible from public view: Solid waste, rubbish, white goods (washers, dryers, refrigerators, other appliances), mattresses, household furniture typically not for outdoor use, scrap lumber, metals, concrete pieces and concrete block, glass, tires, machinery, auto parts, construction materials and equipment, paint cans and buckets, dead flora potted or unpotted, play gym equipment, merchandise, and landscape equipment; and
- c) Section 10-69(B)(3), requiring that no dump trucks, motorized cranes, motorized shovels, special mobile equipment, other vehicles designed for the transportation of persons or property to which machinery has been attached, heavy trucks, commercial vessels, commercial vessels on trailers, or aircraft shall be stored on any residential property, and the same shall not be parked on any residential property unless such equipment or vehicle is being actively used on the property for a permitted construction activity, or unless such equipment, vehicle, vessel or

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aircraft is parked or stored in a fully enclosed garage. A garage does not include a carport or canopy. This provision shall not affect bona fide delivery vehicles while being used to make deliveries to a residential property.

The Magistrate, having taken testimony and received documentary evidence makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Magistrate has jurisdiction over the subject matter and the parties.
2. The Respondent is the fee simple owner of that certain tract of real property situate, lying, and being in Martin County, Florida, to wit:

Lots 1 and 2, Norton's Landing, according to the Plat thereof, recorded in Plat Book 11, Page(s) 7, of the Public Records of Martin County, Florida

and, is located at 1251 SW Nortons Lane, Stuart, Florida 34994.

3. As background, this case involves the construction of a single family home on a site which already has on it another single family home, in which some or all of the Respondents reside. On or about February 18, 2021, the magistrate approved a Stipulation and Agreed Order entered into by the Respondents and the City which required the Respondents to comply with above sections of the City Code, on or before July 31, 2021, failing which all Building Permits for the site would expire. The matter came before the Magistrate at a hearing on February 18, 2022, again on March 17, 2022, and again on April 21, 2022, allowing the parties to sort out the contention of the Respondent that a proper City Zoning Variance had been granted in 2015, allowing the Respondents time to separate Lots 1 and 2 of the site (if legally permissible) into

CITY OF STUART, FLORIDA
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two separate buildable single family home site lots. At the April 21, 2022 hearing, the Magistrate took testimony and evidence. Solely for the issue of whether a buildable lot exists, the City Attorney, Michael J. Mortell, testified that to his personal knowledge, the (zoning) Board of Adjustment had considered this matter (as Case # Z15110004) and granted the Respondents' Petition for variance of the setbacks, but not as to a lot-split. A Final Order of Variance Approval was issued nunc pro tunc to December 9, 2015, and recorded at ORB 3301, PG 1051, Public Records of Martin County, Florida on March 23, 2022. There was testimony at the August 19, 2022 hearing that three (3) separate Unity of Title instruments have been recorded against the Subject Property providing that the Martin County Board of County Commissioners (1 Unity of Title) and the Stuart City Commission (2 Unities of Title) approve any release of the Unities of Title. Said Unities of Title, in addition to the current zoning classification, and Future Land Use Plan of the City's Comprehensive Plan, prevent the issuance of a Building Permit for construction of more than one (1) single family residence on the Subject Property.

4. At the April 21, 2022 hearing, the magistrate issued a Final Violation Order, which required the following:

- a) Pursuant to paragraph 5 of the Stipulation and Agreed Order, the Building Permit for the Subject Property is deemed expired on August 1, 2021.
- b) Pursuant to Section 10-1, City Code, adopting Section 105.1, Florida Building Code, there is a fine in the amount of \$100 per day for a first violation of the code for failure to obtain (or maintain) a proper building permit on a construction site. The other three code sections (Section 10-34, 10-61(j)(2) and 10-69(B)(3)) allow for fines up to \$250 per violation per day. The City calculates that a fine in the amount of \$250 per day has

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accrued since August 1, 2021 for a total possible assessed fine of \$150,000. The magistrate hereby assesses a fine against the respondent in the amount of \$25,000.00, which fine shall be paid to the City on or before May 20, 2022.

c) As provided by law, said fine and the administrative costs, constitute a lien against the property of the Respondent, until paid. If the assessed fine and costs are not paid to the City, the City Attorney is authorized to foreclose the lien on the property of the Respondent on or after August 21, 2022, as provided by law.

d) The fine accrual of \$250 per day is suspended until May 20, 2022, allowing the Respondent to bring the Subject Property into compliance with the Amended Stipulation and Agreed Order. If the Respondent brings the property into compliance and obtains an inspection from the City verifying compliance by May 20, 2022, no further fine shall be assessed against the Respondent for this violation. If the Respondent fails to comply by the date established herein, a fine of \$250 per day, will continue to accrue from April 22, 2022, until the property is in compliance with the Stipulation and Agreed Order.

e) This Order does not modify the Amended Stipulation and Agreed Order in any fashion other than as stated in paragraph b) above.

f) The magistrate further awards administrative costs in the amount of \$300 to be paid by the Respondent to the City on or before May 20, 2022.

5. At the August 19, 2022 hearing, Stefano Nicolosi, City Building Official, gave sworn testimony that from the date of his inspection on August 4, 2021 until August 19, 2022, the Subject Property has been in continuous violation as cited in the Notice of Violation issued in this case. Mr. Robert Stancavich gave sworn testimony that recently he has cleaned up the building site, and completed some of the roof work, but has been unable to install windows, or do any other construction since the expiration of the Building Permit, and that he has essentially stopped all construction work on the site. Mr. Stancavich also noted the discovery of the three unities of title on the Subject Property, even though at least one Unity of Title was disclosed in

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the Westcor Land Title Insurance Company's Owner's Policy of Title Insurance OP-25-FL1552-4547120 with effective date of December 11, 2015 (part of Respondent's Composite Exhibit 1 of August 19, 2022). Mr. Mortell, indicated the inaction on the building site, along with piles of debris and construction equipment and materials, has caused an unending spate of complaints from the neighbors regarding the Subject Property. There was a lengthy discussion with the parties to determine methods of possible code compliance, as well as to explore a means of meeting the requirements of the Stuart Comprehensive Plan and the Stuart Zoning Code, in addition to the Florida Building Code. The Respondent indicated that he would confer with the Interim City Development Director concerning possible use of all or part of the existing older residence as an Accessory structure, and to determine the City's position and outcome if the existing structure was demolished upon the completion of construction of the replacement residence. The City Attorney indicated the need for a demolition bond or other surety to assure demolition, in order to go forward. The Respondent was urged to make those determinations no later than the Magistrate Hearing of September 16, 2022.

6. Mr. Mortell asked the magistrate to set the appropriate fines and costs in this matter, based upon the Final Violation Order, indicating that 119 days had passed since the Final Violation Order had been issued.

7. The City moved Composite Exhibits 1 through 7 (a total of 49 pages), and the Respondent moved Composite Exhibit 1 (a total of 20 pages) into evidence, and without objection all exhibits were accepted into evidence. The magistrate also takes magisterial notice of the other official

CITY OF STUART, FLORIDA
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City documents discussed at the hearing including the Final Order of Variance Approval in Case # Z15110004, and Final Violation Order dated April 21, 2022 in this case.

CONCLUSIONS OF LAW

The Findings of Fact support, by a preponderance of the evidence that Respondent has continually violated the code sections listed in paragraph 4 above.

ORDER

Based upon the Findings of Fact and Conclusions of Law, the Magistrate hereby finds that violations as cited in paragraph 4 above, have continually existed on the property for 119 days from the date of last adjudication in this case, and pursuant to City Code, and Section 162.09(3), Florida Statutes,

IT IS ORDERED:

8. Respondents failure to comply with the requirements of Final Violation Order in this case dated April 21, 2022, results in the following fines and costs:

a) The fine of \$25,000.00 for prior violations beginning August 1, 2021 through April 21, 2022 is reaffirmed. The continuing levy of a fine from April 22, 2022 until August 19, 2022, in the amount of \$250.00 per day for a total of an additional \$29,750.00 is hereby affirmed. **This results in a total fine of \$54,750.00, as of August 19, 2022.**

b) The continuing levy of a fine in the amount of \$250.00 per day, for each day of non-compliance beginning August 20, 2022, until the Subject Property is brought into compliance is hereby levied against the Respondents.

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c) The previous reasonable costs of this action in the amount of \$300.00 are affirmed, and the reasonable costs of the hearing of August 19, 2022, in the amount of \$150.00, are hereby assessed by the magistrate against the Respondent. **This results in total assessed costs of \$450.00, as of August 19, 2022.**

9. All fines and costs in this case are due and payable within thirty (30) days of the rendering of this order, and shall thereafter constitute a lien against the property of the Respondent, until paid, as provided by law.

10. Violations may be brought into compliance individually or collectively. Pursuant to Chapter 162, Florida Statutes, no further hearing shall be required for the entry of such fine, and any administrative costs awarded or later awarded in this case.

11. It is the Respondents' obligation to contact the Code Enforcement Officer assigned to this case to request re-inspection to verify code compliance by contacting the City's Code Compliance Office at 772-288-5325 (Direct Line – Officer Vito Lorenzo).

12. Should the Respondent come into compliance in accordance with this Order, and subsequently violate the same code section(s), within a five (5) year period, such reoccurrence shall subject the Respondent to a fine of up to \$500.00 per violation, per day, as a Repeat Violator, beginning of the first day of the violation, in accordance with Chap. 162, Florida Statutes.

13. Pursuant to City Code provisions, the City Attorney is hereby authorized to file a legal action in a court of competent jurisdiction to foreclose on the lien on the Subject Property, and to

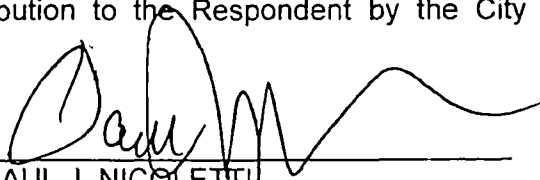
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seek all accruing interest and costs, or to recover a money judgment, for the failure of the Respondent to come into compliance.

14. This case is hereby set for a Status Conference (with all parties required to attend) on September 16, 2022, in the Stuart City Commission Chambers, at 10:00 AM or as soon thereafter as it may be heard.

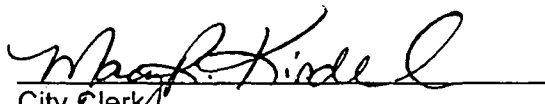
DONE AND ORDERED at Stuart, Florida, on August 19, 2022.

I Certify that a copy of this **Order of Fine Certification and Authority to Foreclose Lien or Obtain Money Judgment**, was sent by electronic transmission to the City Attorney, Michael J. Mortell at mmortell@ci.stuart.fl.us and rcavo@ci.stuart.fl.us, and to the Building Official, Steven Nicolosi at snicolosi@ci.stuart.fl.us, and to Code Enforcement Officer Vito Lorenzo at vlorenzo@ci.stuart.fl.us, for further distribution to the Respondent by the City Attorney, on August 19, 2022.


PAUL J. NICOLETTI
MAGISTRATE

I HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL
ORDER OF THE CODE ENFORCEMENT MAGISTRATE AS
MAINTAINED IN THE OFFICIAL RECORDS OF THE
CITY OF STUART.

WITNESS MY HAND, THIS 22nd DAY OF August, 2022.


City Clerk

CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE

Case No: CE21010007

CITY OF STUART, FLORIDA,
Petitioner,
v.

LEA STANCAVICH,
ROBERT J. STANCAVICH, and
JOSEPHINE ROSE STANCAVICH
1251 SW NORTONS LANE
STUART, FLORIDA 34994

Respondent(s).

PCN# 08-38-41-033-000-00010-6

FINAL VIOLATION ORDER

THIS MATTER came before the Magistrate on a hearing for Final Violation Order on April 21, 2022, and the magistrate having been fully advised of the circumstances, it is hereby determined:

FINDINGS OF FACT

1. The property which is the subject of this case is located at 1251 SW NORTONS LANE STUART, FLORIDA 34994, in Martin County, Florida, and is more particularly described as:

Lots 1 and 2, Norton's Landing, according to the Plat thereof, recorded in Plat Book 11, Page(s) 7, of the Public Records of Martin County, Florida.

2. This case involves the construction of a single family home on a site which already has on it another single family home, in which some or all of the Respondents reside. It is the contention of the Respondent, Robert J. Stancavich, who gave sworn testimony at the hearing of April 21, 2022, that the Subject Property has two (2) legally, buildable lots.

3. On or about February 18, 2021, the magistrate approved a Stipulation and Agreed Order entered into by the Respondents and the City which required the Respondents to comply with following sections of the City Code:

a) Section 10-34, requiring a dumpster on-site for the collection of construction waste.

b) Section 10-61(j)(2), requiring that no accumulation or storage of the following materials shall be located within any required front yard, side yard or carport that is visible from public view: Solid waste, rubbish, white goods (washers, dryers, refrigerators, other

appliances), mattresses, household furniture typically not for outdoor use, scrap lumber, metals, concrete pieces and concrete block, glass, tires, machinery, auto parts, construction materials and equipment, paint cans and buckets, dead flora potted or unpotted, play gym equipment, merchandise, and landscape equipment; and

c) Section 10-69(B)(3), requiring that no dump trucks, motorized cranes, motorized shovels, special mobile equipment, other vehicles designed for the transportation of persons or property to which machinery has been attached, heavy trucks, commercial vessels, commercial vessels on trailers, or aircraft shall be stored on any residential property, and the same shall not be parked on any residential property unless such equipment or vehicle is being actively used on the property for a permitted construction activity, or unless such equipment, vehicle, vessel or aircraft is parked or stored in a fully enclosed garage. A garage does not include a carport or canopy. This provision shall not affect bona fide delivery vehicles while being used to make deliveries to a residential property.

4. Under the terms of the Stipulation and Agreed Order, the Respondents were ordered to comply with the code provisions no later than July 31, 2021, failing which all Building Permits for the site would be deemed expired.

5. This matter came before the Magistrate at a hearing on February 18, 2022 and again on March 17, 2022, at which time the Magistrate took evidence and granted continuances of the proceedings until April 21, 2022, allowing the parties to sort out the contention of the Respondent that a proper City Zoning Variance had been granted in 2015, allowing the Respondents to separate Lots 1 and 2 of the site, into two separate buildable single family home site lots. For the purposes of this issue alone, the City Attorney, Michael J. Mortell, was sworn-in and testified that to his personal knowledge, the (zoning) Board of Adjustment had considered this matter (as Case # Z15110004) and granted the Respondents' Petition, and that the action was never completed by the City until March 22, 2022, at which time there was a new hearing before the Board of Adjustment, and a Final Order of Variance Approval was issued nunc pro tunc to December 9, 2015 and recorded at ORB 3301, PG 1051, Public Records of Martin County, Florida on March 23, 2022. However, it was more recently discovered that there may also be a Unity of Title instrument recorded or unrecorded which requires lots 1 and 2 be maintained as one buildable lot, which also may prevent construction of a second single family house on the site. Mr. Stancavich testified that he was unable to obtain a building lot split and separate Parcel Control Number for the second lot from the Martin County Property Appraiser, although a brief search of the public records by the magistrate does not show a Unity of Title.

6. At the hearing of April 21, 2022, the sworn testimony of Stefano Nicolosi, the City's Building Official, indicated that upon his inspection of the Subject Property on August 4, 2021, and subsequently, the Respondents had not come into compliance with any of the required code sections, and that any and all Building Permits for the site were expired, but that the building was not completed, and the conditions set forth in the Stipulation and Agreed Order, which had been proposed by Mr. Stancavich, in Exhibit C6 (in evidence) was not met. Of

Case No: CE21010007
CITY OF STUART v. STANCAVICH
FINAL VIOLATION ORDER

Page 3 of 4

particular importance is this Exhibit C6 which provided a completion schedule agreed upon by the Respondent, and which was not complete by July 31, 2021, and admitted by the Respondent.

7. Mr. Stancavich gave sworn testimony that he had complied with some of the provisions, and that he found himself in an impossible situation, because of the Covid pandemic, he was unable to obtain all of the impact windows needed to dry-in the building, and that he had other difficulties obtaining building materials, and therefore was unable to comply with the construction schedule shown in Exhibit C6. He also prevaricated when discussing the number of trailers, and construction equipment, and amount of construction materials allowed to accumulate on the site.

4. Based upon the sworn testimony and documentary evidence of the City, which was unrefuted by the Respondent, the Magistrate has jurisdiction of the parties, and the subject matter, and that proper notice of the violation and hearing was provided. Without objection, the City's exhibits, numbered C1 through C15 were entered into evidence.

CONCLUSIONS OF LAW

9. The Findings of Fact support, by a preponderance of the evidence, that Respondent has violated the Stipulation and Agreed Order entered on February 18, 2021 by violating the City code at Section 10-34 by maintaining construction and other debris on the site; and by violating Section 10-61(j)(2) by accumulating and improperly storing building materials on the site; and by violating Section 10-69(B)(3) by failing to remove commercial vehicles from the Subject Property, and by failing to complete the exterior construction of the building by July 31, 2021 as shown in Exhibit C6, and required by the Stipulation and Agreed Order.

FINAL ORDER

Based upon the Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED:

A) Pursuant to paragraph 5 of the Stipulation and Agreed Order, the Building Permit for the Subject Property is deemed expired on August 1, 2021.

B) Pursuant to Section 10-1, City Code, adopting Section 105.1, Florida Building Code, there is a fine in the amount of \$100 per day for a first violation of the code for failure to obtain (or maintain) a proper building permit on a construction site. The other three code sections (Section 10-34, 10-61(j)(2) and 10-69(B)(3) allow for fines up to \$250 per violation per day. The City calculates that a fine in the amount of \$250 per day has accrued since August 1, 2021 for a total possible assessed fine of \$150,000. **The magistrate hereby assesses a fine against the respondent in the amount of \$25,000.00, which fine shall be paid to the City on or before May 20, 2022.** As provided by law, said fine and the administrative costs, constitute a lien against the

Case No: CE21010007
CITY OF STUART v. STANCAVICH
FINAL VIOLATION ORDER

Page 4 of 4

property of the Respondent, until paid. If the assessed fine and costs are not paid to the City, the City Attorney is authorized to foreclose the lien on the property of the Respondent on or after August 21, 2022, as provided by law.

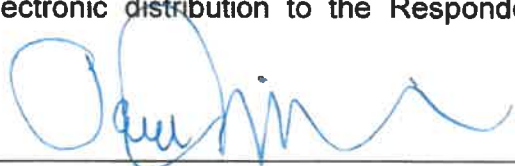
C) The fine accrual of \$250 per day is suspended until May 20, 2022, allowing the Respondent to bring the Subject Property into compliance with the Amended Stipulation and Agreed Order. If the Respondent brings the property into compliance and obtains an inspection from the City verifying compliance by May 20, 2022, no further fine shall be assessed against the Respondent for this violation. If the Respondent fails to comply by the date established herein, a fine of \$250 per day, will continue to accrue from April 22, 2022, until the property is in compliance with the Stipulation and Agreed Order.

D) This Order does not modify the Amended Stipulation and Agreed Order in any fashion other than as stated in paragraph B) above.

E) **The magistrate further awards administrative costs in the amount of \$300 to be paid by the Respondent to the City on or before May 20, 2022.**

DONE AND ORDERED at Stuart, Florida, on April 21, 2022.

A copy of this **Final Violation Order**, was sent by electronic transmission to the City Attorney, Michael J. Mortell at mmortell@ci.stuart.fl.us and rcavo@ci.stuart.fl.us, and to the Building Official, Steven Nicolosi at snicolosi@ci.stuart.fl.us and to Code Inspector, Vito Lorenzo at vlorenzo@ci.stuart.fl.us, for further electronic distribution to the Respondent by the City Attorney, on April 22, 2022.



PAUL J. NICOLETTI
MAGISTRATE

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ORDER OF THE CODE ENFORCEMENT MAGISTRATE AS MAINTAINED IN THE OFFICIAL RECORDS OF THE CITY OF STUART.

Sent via email to:
robertj55@yahoo.com
on 4/22/22.

WITNESS MY HAND, THIS 22 DAY OF APRIL, 2022.


City Clerk

Return to:
Summit Title Services Corp.
400 Village Square Crossing
Suite #3H
Palm Beach Gardens, FL 33410
This instrument prepared by: Kerri Damone
Summit Title Services Corp.
400 Village Square Crossing
Suite #3H
Palm Beach Gardens, FL 33410
as a necessary incident to the fulfillment of conditions
contained in a title insurance commitment issued by it.
Property Appraisers Parcel Identification (Folio) Numbers: 838410330000001060000
File No: 2015-1653

Space Above This Line For Recording Data

THIS WARRANTY DEED

THIS WARRANTY DEED, made the 24th day of November, 2015, by Cynthia L Robbins, Single and Tonya L Signore, Single, herein called the grantor, to Lea Stancavich, and Robert Stancavich husband and wife and Josephine Rose Stancavich, Single, whose post office address is 1251 SW Nortons Lane, Stuart, FL 34994, hereinafter called the Grantee: *(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)*

W I T N E S S E T H: That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in Martin County, State of Florida, viz.:

Lots 1 and 2, Norton's Landing, according to the Plat thereof, recorded in Plat Book 11, Page(s) 7, of the Public Records of Martin County, Florida.

SUBJECT TO easements, restrictions and reservations of record and to taxes for the year 2016 and thereafter.

The property described herein is not the homestead of the grantor and neither the grantor nor the grantor's spouse, nor anyone whose support the grantor is responsible for, resides on or adjacent to the said property.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the grantor hereby covenant with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2015.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Lisa M. Chirico

Witness #1 Signature

Lisa M. Chirico

Witness #1 Printed Name

Dh dce

Witness #2 Signature

Danielle L. Ice

Witness #2 Printed Name

Cynthia L. Robbins

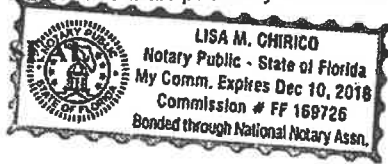
Cynthia L. Robbins

Tonya L. Signore

Tonya L. Signore

STATE OF FLORIDA
COUNTY OF Martin

The foregoing instrument was acknowledged before me this 25th day of November, 2015, by Cynthia L. Robbins and Tonya L. Signore who is/are personally known to me or has/have produced Drivers License as identification.



Lisa M. Chirico

Notary Public

Printed Notary Name

CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE

Case No: CE21010007

CITY OF STUART, FLORIDA,
Petitioner,
v.

LEA STANCAVICH,
ROBERT J. STANCAVICH, and
JOSEPHINE ROSE STANCAVICH
1251 SW NORTONS LANE
STUART, FLORIDA 34994
Respondent(s).

STATUS CONFERENCE ORDER (SEPTEMBER 16, 2022)

THIS CAUSE came before the Magistrate for a status conference from the hearing on August 19, 2022.

1. In the intervening month or so from August 19, 2022 to September 16, 2022, the parties engaged in an email dialogue (copies attached) which indicate the firm desire of the Respondents to maintain the status quo regarding the buildings on-site, and to complete the unfinished building. The City opines that the status quo cannot be accomplished without a proper application by the Respondents, and approvals from the City (which likely will require a favorable outcome at one or more public hearings).
2. In essence, the "ball is in the Respondent's court." Fines from the ORDER OF FINE CERTIFICATION AND AUTHORITY TO FORECLOSE LIEN OR OBTAIN MONEY JUDGMENT of August

19, 2022 continue to run. The only way for the Respondents to relieve themselves of these fines is to:

- a. Come into compliance with the Order of August 19, 2022; or
 - b. Make proper zoning applications with the City Development Department, seeking relief which can be granted by the Board of Adjustment or the City Commission; and
 - c. Following a. or b. above, seek a fine reduction or abatement.
3. The Respondents indicate a willingness to work with the City. However, in the past those endeavors seem to be lacking, or incomplete, or not effective. The Respondents are urged to persevere in the short run, to comply or make proper zoning applications, and complete the construction with appropriate building permits (which have now expired) and won't be renewed unless and until the zoning issues are resolved.
4. This Order does not modify or alter the Order of Fine Certification and Authority to Foreclose Lien or Obtain Money Judgment of August 19, 2022, in any manner or fashion.

ORDER

Based upon the findings of status of the case, from the date of last adjudication in this case, and pursuant to City Code, and Section 162.09(3), Florida Statutes,

IT IS ORDERED:

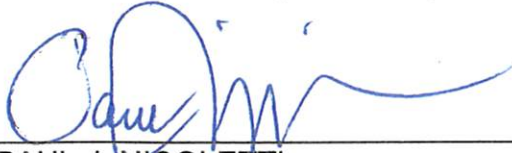
Another status conference shall be held before the Magistrate, on Friday, December 16, 2022, in the City Commission Chambers.

CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE
Case No: CE21010007
CITY OF STUART v. STANCAVICH
STATUS CONFERENCE ORDER

Respondents failure to comply with the requirements of Final Violation Order in this case dated April 21, 2022, results in the following fines and costs:

DONE AND ORDERED at Stuart, Florida, on August 19, 2022.

I Certify that a copy of this Status Conference Order (September 16, 2022), was hand delivered to the City Attorney, Michael J. Mortell and to the Building Official, Steven Nicolosi at 121 SW Flagler Avenue, Stuart, FL 33401, and to Code Enforcement Officer Vito Lorenzo at vlorenzo@ci.stuart.fl.us, for further distribution to the Respondent by the City Attorney, on September 16, 2022.



PAUL J. NICOLETTI
MAGISTRATE

From: Mortell, Michael
Sent: Friday, September 16, 2022 10:47 AM
To: Paul Nicoletti
Subject: Fwd: 1251 Nortons Lane & Magistrate Hearing

Attached below is a copy of the email chain that you requested during the magistrate hearing.

Begin forwarded message:

From: "Mortell, Michael" <mmortell@ci.stuart.fl.us>
Date: September 15, 2022 at 8:13:35 AM EDT
To: Robert JS <robertjs5@yahoo.com>
Subject: 1251 Nortons Lane & Magistrate Hearing

Your email was sent to Erin but you do not have any active Application. If you are asking the City for advise as to what is the most appropriate path to resolution, I would suggest that you either raze the structure that is current not complete, or in the alternative obtain a bond for destruction of the structure that is currently deemed the primary structure. Then prior to CO of the new house, the old house would be removed and landscaping installed.

If you are thinking of something other than compliance with the City Code, it is your responsibility to submit a completed application to the City and at that time the development department can react to your request based upon the code in effect at the time. Currently, the code prohibits the two homes on the property. Neither can be deemed an accessory unit and having both violates the concept of Single Family Residential.

I am not trying to be difficult. I am concerned that you are under the impression that sending the email below resolves this problem and it does not. My email is just to let you know that the Development Department is responsible for assisting residents and helping them comply with and follow the codes. The Development Department does not try to circumvent the code. Your email seemed to indicate that you wanted to treat one of the structures as an "accessory dwelling unit". I think there are a lot of barriers that would prevent your proposal. The following is just my first impression and is not a conclusive list of the barriers. Below I have drawn a blue area that would meet the code for a location of an accessory dwelling unit for the house marked as 1. I have drawn a red area that would serve as the area for an accessory dwelling unit for the house marked 2. Assuming you could pick up one of the houses and actually move it, neither of the areas has a sufficient set back space for an accessory unit. In addition, one residence has to be designated as the Primary. A few comments I thought of include section 6.09.02(C)(1) which states that the accessory structure shall only be permitted in the side and rear yards. Also, Section 6.09.02(c)3 states that the footprint of the accessory structure can not be larger than 50% of the foot print of the primary. I also

believe there is an issue with Ceiling height. In addition, both structures shall have the same or similar design.

You will also need to perform drainage calculations which would be impossible to meet because it looks like you violate the code related to permeable land as well.



From: Robert JS <robertjs5@yahoo.com>

Sent: Tuesday, September 13, 2022 7:51 AM

To: Mortell, Michael <mmortell@ci.stuart.fl.us>; Nicolosi, Stefano <snicolosi@ci.stuart.fl.us>; Lorenzo, Vito <vlorenzo@ci.stuart.fl.us>; Cavo, RYanne <rcavo@ci.stuart.fl.us>; Xenoh Jet <xenoh.jet@gmail.com>

Subject: 1251 Nortons Lane & Magistrate Hearing

This message has originated from an [EXTERNAL EMAIL ADDRESS]. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email. If it shows as being from someone within the City, please contact the City's Technology Services personnel.

Good Morning Everyone,

Much has changed since the last Magistrate hearing last month primarily with the passing of my Dad unexpectedly. It has really impacted our family very much. I would like to set a plan in stone this month maybe even before the hearing this Friday the 16th.

I will not be separating the properties and they will stay married forever. Unfortunately I was not able to contact Aron the planner that replaced Stephen Mayer like I wanted to do. Ryanne if you could be so kind as to forward this to Aron it would be greatly appreciated.

My plan is to figure out if I can get a variance of some sort or maybe not even a variance but a architect plan change to make it a primary house and a secondary house. The larger house could be the main house. The larger house from the street is in direct view and that can be considered the front of the main house. The smaller house if need be can also be attached if it has to be connected to get this to work but I would rather not do that since it will take even more time.

From the very beginning this house was for my mom if something were to happen to my dad. Well something did happen and now my mom is staying at a friends house until this house is completed asap. This is something that really can't wait for a variance or towns members approval. The neighbors will only benefit from this house being next to them. The only problem neighbor I have is Barbara Norton Taylor but she isn't even a problem anymore. In fact I don't even know if she comes out of her house anymore since I had her arrested thank the Lord.

That problem of her really took a toll on me. She put me in the place of guilty until proven innocent. She outright lied to the town, police and community about me. If it were not for the Stuart Police and my Youtube videos I would probably still be in trouble. I have photos of every angle before and after this project even started. I do not want to fight the town and I do not want to fight anyone. Writing this email to you today has brought tears to my eyes.

Please lets all work together if we can to get everything in motion so I can finish this for my mom. I have the money and the materials to finish this project and if I can finish it in 90 days I will. I will do whatever it takes to make it happen. Vito the lawn people are coming tomorrow I believe to cut the grass. Nothing has changed from the pictures you took 30 days ago. I don't know if you even need to come back out this week but if you do please give me a call and I can meet you here.

I am hoping the town can work with me to get the fine removed down to zero.

I built this as my dream house in my dream spot in my dream town. It took over three years before 2015 to find the property. This is where I want my kids to live and my kid's kids to live. This town really is a secret paradise that not many know about. Hopefully we can keep the traffic down and it can continue to be yours and mine little paradise in heaven.

Thanks everyone for your help and consideration.

Best Regards,

R.

CITY OF STUART, FLORIDA
CODE ENFORCEMENT MAGISTRATE

Case No. CE21010007

CITY OF STUART, FLORIDA,
Petitioner,
v.

PCN: 083841033000000106

Lea and Robert Stancavich
Josephine R. Stancavich
1251 SW Nortons Lane
Stuart, FL 34994

Respondent(s).

STIPULATION AND AGREED ORDER

STIPULATION

The City of Stuart, Florida and the Respondent(s), hereby stipulate and agree to the following:

1. The person(s) signing this Stipulation have the authority to enter into the Stipulation and bind the respective parties to the terms contained herein.
2. The violations that are more fully described in the Notice of Violation/Notice of Hearing filed in this case do exist at the property described therein. A true and accurate copy of the Notice is attached hereto as ***Exhibit "A."***
3. The legal description of the real property is attached hereto as ***Exhibit "B."***
4. The Respondents are granted until **July 31, 2021**, to take the necessary corrective actions to bring the property into compliance with the cited sections of the City of Stuart Code of Ordinances, Florida Building Code, as applicable, as fully described in the Notice of Hearing/Notice of Violation and the Work Schedule attached hereto as ***Exhibit "C."***
5. If the Respondents do not correct the violations(s) and bring the property into compliance as set forth in Section 4 above, **the permit will be expired. A new permit will have to be applied for based upon current building codes. Fines and costs may result in a lien being placed on any real or personal property owned by Respondents.**
6. Administrative costs in the amount of **\$300.00 shall be waived by the City with the filing of this Stipulation.** In accordance with Sec.162.09, Florida Statutes, a hearing is not necessary for the issuance of an order imposing the fine, and no additional

notification will be sent. Additional costs may be assessed for the later prosecution of this case, if the Respondents fail to comply with this Stipulation.

7. The Respondents approve this Stipulation, and request the Magistrate enter the Agreed Order which requires the Respondents to correct the violations and bring the property into compliance, or be liable for the fines and additional costs described above.
8. **The Respondents bear the burden of contacting the City's Code Enforcement Division at 772-600-1254 to arrange for a re-inspection of the property** in order to verify that any violations have been corrected and that the property has been brought into compliance with the applicable sections of the City or Building Code.

CITY OF STUART, FLORIDA
CODE ENFORCEMENT DIVISION

By: Vito Longo

Date: 2/17/2021

RESPONDENT(S)

By: Robert Stancavich

By: [Signature]

Date: 2/17/21

AGREED ORDER

THIS MATTER came before the Magistrate on FEBRUARY 18, 2021, and having been fully advised of the premises;

IT IS HEREBY ORDERED that the above Stipulation is approved and the parties shall abide thereby, and

IT IS FURTHER ORDERED that the Respondents shall fully comply with the terms above or shall be liable for the fine established in the Stipulation and that costs in this case shall be assessed and paid to the City as provided above.

[Signature]
Paul J. Nicoletti
Magistrate

Copy furnished to the parties by: U.S. Mail / Hand Delivery / Fax



CITY OF STUART
CODE ENFORCEMENT
830 SE MARTIN LUTHER KING, JR. BLVD
STUART, FL 34994-2139

NOTICE OF VIOLATION

Feb 02, 2021

STANCAVICH LEA
1251 SW NORTONS LN
STUART, FL 34994

Case #: CE21010007

You are hereby notified that the following violation(s) of the Code of Ordinances and/or the Land Development Regulations of the City of Stuart exists on the property listed:

ADDRESS: 1251 SW NORTONS LN
PARCEL ID #: 0838410330000001060000

OBSERVATION DATE: 01/05/21
CORRECTION DATE: 02/12/2021

VIOLATION(S)
AND
CORRECTIVE
ACTIONS:

10-61 (j) (2)
No accumulation or storage shall be located within any required front yard, side yard or carport that is visible from public view
10-34
The contractor and owner have not provided a dumpster to keep the work site clean
10-69(B)(3)
Commercial Vehicles parking prohibited on residential property
Correction: 10-61 (j) (2)
Remove outdoor storage
10-34
Clean site and provide dumpster for future debris
10-69(B)(3)
Remove commercial vehicles

NOTICE OF HEARING SUMMONS

Failure to correct the violation(s) by the above date will result in a presentation of this matter at a hearing before the Code Enforcement Magistrate on **02/18/2021 at 10:00AM** in the City of Stuart Commission Chambers located at 121 SW Flagler Avenue, Stuart, Florida. The violation charged is a civil infraction and subjects you to a maximum civil penalty of up to \$250 per offense, per day, for repeat violations.

The Code Enforcement Magistrate will receive testimony and evidence at said Hearing and make Findings of Fact, as supported by the testimony and evidence pertaining to matters alleged in the Notice of Violation. You are entitled to present evidence and witnesses at the Hearing.

FAILURE to appear will result in the Magistrate proceeding in your absence. All fines constitute liens against the Real and Personal Property of the Respondent. Please govern yourself accordingly

An administrative fee of \$300.00 will be assessed if you should fail to comply by the correction date above.

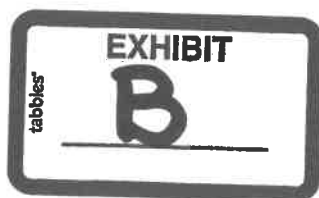
Should you require additional information regarding this notice, please contact the Code Enforcement Division at (772) 288-5325 or (772) 600-1254.


Code Enforcement Officer
Chalimar Gregory / Vito Lorenzo / Deborah Carrasco

2019 2970 0001 7698 2590
Certified Mail #



Lots 1 and 2, Norton's Landing, according to the Plat thereof, recorded in Plat Book 11, Page(s) 7, of the Public Records of Martin County, Florida.



Work Schedule For 1251 SW Norton's Lane, #16120107

2/17/2021

Work Performed	Approximate Date Completed
Fill The Second Floor Cells	Schedule Within 14 Days From Now
Install Second Floor Roof Trusses	After Cells Poured
Roof Sheathing and Tie Down Inspection	After Trusses Up & Sheathing In Place
Roof	After Passing Inspection
Windows & Doors	April - May 2021
Shell Completed	June - July 2021 Outside Completed





CITY EXHIBIT D

**CITY OF STUART
OFFICE OF THE CITY ATTORNEY**



MEMORANDUM 2022

STAFF REPORT REGARDING 1251 NORTON's WAY

SUMMARY: This staff report is generated as an addendum to the August 2022 Magistrate Hearing to supplement the Agenda Item and provide a detailed history of the events.

HISTORY

In October, 2015, Mr. Stancavich applied for a variance to the City of Stuart Board of adjustment asking for a reduction of certain setbacks required by City Code. If the setback reductions were granted, Mr. Stancavich claimed that he would have enough land to subdivide it into two legal parcels. However, the house he wanted to build on the vacant lot was over 3,000 square feet and he needed a variance based upon its design. Mr. Stancavich was not requesting a variance reducing or changing the minimum lot size or granting a lot split and assigning a new parcel ID for a non-conforming lot. The application specifically stated that it was a request for *a front setback reduction to 15 feet for an existing residence and an inland buffer requirement of 8 feet with an average of 15 where a minimum of 50 is required.* According to the agenda item, if these variances were granted, it would *allow him to split his land into two lots and construct a new single-family home on the second lot.* The Board of Adjustment did not address the legal size or requirements of the lots. The board of adjustment hearing was limited to the buffer and setback reduction requests. The report stated that the variance was required *"to allow for an existing single-story on the proposed Lot 1 after a **legally dimensioned lot split**, ..."*

The Justification Letter attached to Variance Application stated that the owner would seek the subdivision of the parcels at a later date. The City of Stuart does not subdivide parcels. The subdivision or assignment of a new parcel ID is performed by the Martin County Property Appraiser.

The application was submitted in October as a prospective purchaser, but the hearing took place on December 9, 2015. Mr. Stancavich closed on the property on November 24, 2015 and was the owner at the time of the hearing. It is unknown what disclosures were made between the seller of the property and the potential buyer at that time of sale but the transaction closed as a single parcel. It is also unknown if Mr. Stancavich obtained Title Insurance or performed a Title Search of the property prior to purchase or before applying to the Board of Adjustment for the variance. If Title insurance was issued or a title search was performed, Mr. Stancavich was aware of three separate deed restrictions recorded on the property preventing its subdivision. When the Closing did occur (prior to the Board of Adjustment

Hearing), the property was transferred by Warranty Deed. A Warranty Deed is a transfer free from encumbrances other than those specifically disclosed. The variance granting the setbacks has been recorded and Mr. Stancavich is entitled to rely on those setbacks.

The Board of Adjustment granted the variance request. The original Order approving the variance requests included a condition added by the Board of Adjustment which required Mr. Stancovich to complete the construction no later than January 2017. The procedure when a board adds additional terms at the hearing is to include an acceptance line for the applicant to sign prior to the execution of the Order. The order was provided to Mr. Stancavich for his signature following the hearing but was not returned to the City and therefore not rendered or recorded. It appears that the City staff failed to track or diary the order.

In December 2016, an agent of Mr. Stancavich contacted Stephen Mayer in the Development Department via email regarding the matter and for reasons unknown, Stephen Mayer agreed to modify the Order without another board meeting. The new order only required Mr. Stancavich to obtain a permit for construction before December 9, 2016, or the Order was void. It should be noted that during the entire year following the Board of Adjustment hearing, Mr. Stancavich never approached the City about the subdivision of the property. Upon receipt of the email from Mr. Mayer at the City, Mr. Stancavich pulled a permit as an owner builder to build a home on his original parcel located at 1251 Norton's Way before December 9, 2016. However, again Mr. Stancavich did not sign the Variance Order and return it and as a result, it was again neglected and remained unrecorded.

When the matter came to the attention of the City Attorney in March 2022, the first response was that the staff did not have the legal authority to modify the order. However, after consulting with counsel for Mr. Stancavich as well as research, the City attorney recommended that the City honor the representation by Mr. Meyer because had it been recorded back in 2016, it would not be 6 years old. In addition, Mr. Stancavich had begun construction based upon the site plan included in the order and the structure was located in the buffer where the variance had been granted. As a result, the modified Order requested by Mr. Stancavich was entered and rendered by the City Clerk. The modified Order granted the setback and buffer changes requested by Mr. Stancavich and remains in full force and effect because it did not expire.

In February 2021, Mr. Stancavich entered a Stipulation and Order regarding multiple code matters. The Stipulated Order agreed that the windows would be complete, the roof would be complete and inspected and the entire outside of the house would be complete prior to July 2021. In February 2022, the property was violated for failure to comply with the stipulated order. In the March 2022 hearing, the City learned that Mr. Stancavich had never subdivided the parcels to create a legal parcel for the second home to be constructed. Pursuant to the City Comprehensive Plan, a permit can not be issued for two houses on one lot unless the second house meets the criteria of an accessory dwelling unit. The permit issued to Mr. Stancavich expired and the second house remains in disrepair and unfinished after being under construction for almost 7 years.

In April 2022, the Magistrate entered a final order adjudicating a fine of \$25,000.00 dollars which was a reduction of more than \$100,000.00 of the accrued fines. In addition, the Order ratified the \$250.00 per day fine but suspended same until May 20, 2022, allowing the respondent to bring the subject property into compliance. The Order further states that in the event the Respondent fails to comply by May 20, 2022, a fine of \$250.00 per day will continue to accrue from April 22, 2022, until the property is in compliance.

At the time this report was drafted, the Respondent had removed a trailer from being stored on the property which was part of the original proceeding. However, there is no open permit on the property. Electricity was temporarily granted as part of the permit, but it remains on even though the permit is long since void. In addition, the Respondent is using the structure without a certificate of occupancy by storing his office equipment inside. There is no roof on the structure and not all of the windows have been installed. This can create a dangerous condition during hurricane season. Until such time as the Owner subdivides the lots, the structure under construction is illegal and non-conforming. The City is honoring the variances granted in 2015 but they were conditioned on representations by Mr. Stancavich which have not been fulfilled.

TIMELINE

October 2015: Application to Board of Adjustment for variance granting setback variances.

December 2015: Board of Adjustment grants variance with requirement construction of new structure that would impact the original buffer zone be constructed by January 2017 or Variance Order is void. For reasons unknown, Mr. Stancavich never signed the acceptance line on the Order nor returned it and therefore it was not rendered or recorded.

December 2016: Agent of Stancavich emails Mr. Meyer objecting to language requiring completion by the end of December 2016 and the email discussed the variance order with the deadline which demonstrates that Mr. Stancavich and his consultant were in possession of the order and aware of the condition. For reasons unknown the land planner modified the order and changed the conditional language to state that Mr. Stancavich needed to pull a permit by December 9, 2016, instead of completing the entire construction project or the Variance would be void. Mr. Stancavich immediately pulled a permit but again did not sign the order and as a result it was not rendered or recorded.

2017-2020 – Mr. Stancavich – acting as an owner builder very slowly worked toward constructing the house. The City did not notice that the Board of Adjustment Order had not been recorded because the permit for construction had already been issued and the buffer inspections were completed initially. In addition, the variance order does not have any impact on the matters pending before the code enforcement magistrate. It is essentially a distraction created to defer responsibility.

February 2021: On February 18, 2021, the Magistrate entered a Stipulation signed by Mr. Stancavich which included several deadlines for completion of certain work.

February 2022: Mr. Stancavich was noticed for hearing for Violation of the Stipulated Order.

March 2022: Mr. Stancavich raised the issue of the variance and claimed that it provided relief that was not being considered. Because the city did not have the order, the matter was continued until April.

April 2022: A final order on the code enforcement violation was rendered by the magistrate. The evidence presented included a calculation that a fine in excess of \$150,000 dollars had accrued based upon the conditions in the stipulated order and that the property remained in disrepair without a permit or any construction activity taking place. In addition, evidence was presented that Mr. Stancavich was

using the new structure without a certificate of occupancy; that the electricity remained on in the new structure; that he was storing business files, furniture and equipment in the structure; and that the roof, windows and exterior of the structure were not finished per the Order from a year prior. The magistrate entered a Final Order in the amount of \$25,000. In addition, the Order ratified the \$250.00 per day fine but suspended same until May 20, 2022, allowing the respondent to bring the subject property into compliance. The Order further states that in the event the Respondent fails to comply by May 20, 2022, a fine of \$250.00 per day will continue to accrue from April 22, 2022, until the property is in compliance.

August 2022: The City is seeking to adjudicate the balance of any fines that have accrued since the April hearing. It has been approximately 120 days. The specific number will be determined at the hearing. Based upon the Final Order, the City is seeking another Judgment be recorded in the amount of \$250.00 per day for 120 days for a total of \$30,000.00. The is also seeking a finding from the magistrate for the following violations:

1. Non-conforming structure on property without an active building permit. \$100.00 per day fine.
2. Electricity on in structure/ using structure without a certificate of occupancy. \$100.00 per day.
3. Furniture, equipment and miscellaneous being stored inside the structure/ additional use without a certificate of occupancy. \$100.00 per day fine.
4. Utility trailers and a tractor stored on site – must be on hardened surface. Seeking 30 days to rectify.
5. Compliance with Stipulation and Final Order entered on April 22, 2022.
 - a. No Roof Sheathing or tie down inspection performed. \$100.00 per day fine.
 - b. Windows and doors must be installed by July, 2021. \$100.00 per day.
 - c. Outside of home and shell must be complete by July, 2021. \$100.00 per day.

The City is seeking six (6) separate fines in the amount of \$100.00 per day. This will allow Mr. Stancavich to reduce the outstanding fine for each segment completed rather than having one amount contingent upon completion of everything. If he disconnects the electricity, that fine will terminate. If he removes the furniture and equipment that fine will terminate. If he obtains a permit, that fine will cease.

The Respondent will have the ability to call for inspections and remove each fine as soon as the work is complete for that particular item. For example, if he pulled a permit next week, then fine 1, 2, and 3 would stop that day. Once he called for an inspection on the roof sheathing, that fine would terminate.

UPDATED: DECEMBER 15, 2022

On August 22, 2022, the City Magistrate adjudicated an additional fine in the amount of \$29,750.00 for the penalties that accrued from April 22, 2022 until August 19, 2022. On August 19, the Magistrate also assessed costs in the amount of \$450.00 through August 19, 2022. In addition, the Magistrate affirmed that he fine in the amount of \$250.00 per day should continue until the property owner brings the property into compliance.

The Magistrate also scheduled a status conference for September 16, 2022. On September 16, the magistrate noted that the Owner had elected to seek Board of Adjustment relief or in the alternative submit alternative plans and obtain a building permit (and begin construction) for one single family home on the single parcel.

Following the Code Enforcement Hearing on September 16, 2022, the Respondent sent emails to the City depicting flooding after a heavy rain that may or may not be related to the removal of a swale on his property. The drainage easement was not modified by the City and no permit was issued for its modification.

December 13, 2022 After the Notice for Hearing was delivered for the December 16, 2022 Code Enforcement Hearing, the Respondent sent an email with a draft application for a building permit with other documents including a letter from an engineer that said it had been hired to “provide assistance updating of an existing permit”. The City responded to the Owner and explained that he must obtain a permit by submitting a complete application with all of the necessary supporting documents as well as the standard application fee. It should be noted that the City is not even charging the penalty cost for an after the fact permit that would normally be charged. As of 2:30 p.m. on December 15, 2022, the application for a permit has not been submitted to the City and the Code hearing is set for December 16, 2022. A review of the history in this case shows that the exact same thing happens two or three days before every code enforcement proceeding and then the owner acts like he was confused and claims that he will resolve the issue immediately but then takes no action until the next notice is received. The fine at a rate of \$250.00 per day from August 22, 2022 until December 16, 2022 is 116 days or \$29,000.00. The Total fine up until August 22, 2022 is \$54,750.00. If the \$29,000 is added by the magistrate, the total fine will become \$83,750 but the Judgments are being recorded separately to make it easier to calculate interest and track specific compliance.