



AGENDA
CODE ENFORCEMENT & APPEALS BOARD HEARING
SEPTEMBER 3, 2020
5:30 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034

The Regular Code Enforcement & Appeals Board Hearing will be held as a VIRTUAL MEETING with board members and City staff participating through video conferencing. This virtual meeting will be broadcasted live for members of the public to view on the City of Fernandina Beach website (www.fbfl.us) and Channel 264 (Comcast only).

1. CALL TO ORDER / ROLL CALL / DETERMINATION OF A QUORUM

2. APPROVAL OF MINUTES

2.1 The minutes for July 2, 2020, are presented for approval.

3. OLD BUSINESS

4. NEW BUSINESS

4.1 **JASMIN PLACE, LLC, 17 JASMINE PLACE, CASE 2020-0327.** Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 26-101 (h) - Resort Rental Dwelling Permits - Enforcement; penalties. *Requesting Board determination of the case.*

5. BOARD BUSINESS

6. ADJOURNMENT

Quasi-Judicial – Denotes that the item must be conducted as a Quasi -Judicial hearing in accordance with City Commission established procedure and Florida Statutes.

This will be conducted as a virtual meeting with restricted physical access. Written comments emailed to the Code Enforcement Director (mforstrom@fbfl.city) must be sent no later than 1 PM on September 3, 2020 and will be read aloud during the meeting. These comments shall have a maximum time allowance of 3 minutes or 400 words. Public comment may also be provided virtually through use of the Zoom Meeting link below, the phone number provided below, or in person at City Hall with strict restrictions to protect health and safety. Individuals wishing to provide live comments during the meeting must dial-in or connect via the Zoom Meeting link or phone number below no later than 5:20 PM on September 3, 2020 and will be called upon by their individual registered Zoom Meeting ID Account or by the last-4 digits of their respective phone number. When called upon, please provide your name and home address prior to issuance of public comment. Please limit comment to 3 minutes.

Zoom Meeting Link:

<https://zoom.us/j/95775511878?pwd=czQwWlpJa1QxWlZFSFkyTGFDMDFDZz09>

Password: CEAB0903

(Users must have a functional microphone): **957 7551 1878** with Password: **CEAB0903**

Or

Zoom Phone Dial-In for Public Comment: + **1 646 558 8656** Meeting ID: **957 7551 1878**

Password: **07323255**

If you must attend in person at City Hall (204 Ash Street), please arrive at City Hall no later than 5:20 PM to be counted and to complete a speaker form. You will be admitted into City Hall when it is your turn to make your public comments and must exit City Hall after your comments are made.

It is required that you wear a face mask when entering City Hall for your protection and the protection of others.

All members of the public are invited to be present and be heard. Non -English speaking individuals may request a language or sign interpreter at least ten (10) working days prior to this meeting. Persons with disabilities requiring accommodations in order to participate should contact the City Clerk at (904) 310 - 3115 or TTY/TDD 711 (for the hearing or speech impaired).

For information regarding this matter, please contact the Code Enforcement Department at (904) 310-3440. If any person decides to appeal any decision made by the Code Enforcement & Appeals Board with respect to any matter considered at such meeting he/she will 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 made.



Code Enforcement & Appeals Board Minutes

Regular Hearing

July 2, 2020

Due to the ongoing COVID-19 pandemic, the Code Enforcement & Appeals Board Meeting was held as a combination VIRTUAL and LIVE MEETING with some board members and City staff participating through video conferencing. This virtual meeting was broadcast live for members of the public to view on the City of Fernandina Beach website (www.fbfl.us) and Channel 264 (Comcast only).

1. Call to Order/Roll Call/Determination of Quorum- The meeting was called to order at 5:33 pm.

Board Members Present:

Chair Adam Kaufman

Vice Chair Nicole Kresse

Henry Byrd

Buddy Boyd (via Zoom)

Cindy Crow (via Zoom)

Gail Shults

Board Members Absent:

Marlene Chapman

Others Present:

Tammi E. Bach, City Attorney

Harriet Davis, Administrative Coordinator

Michelle Forstrom, Code Enforcement Director (via Zoom)

Katie Newton, Legal Assistant

George Wells, Code Enforcement Officer

Applicants for alternate board member:

Andy Fotiades

Leroy Thompson

2. Approval of Minutes- According to the agenda support documents, the minutes for the March 5, 2020 regular hearing were presented for approval. **A motion was made by Member Byrd, seconded by Member Shults to approve the minutes. Vote upon passage of the motion was taken by voice vote being all ayes, carried.**

City Attorney Tammi Bach explained quasi-judicial procedures. Chair Kaufman asked for any ex parte communication regarding cases on the agenda. There was none.

3. Old Business

There was no old business before the Board.

4. New Business

4.1 505 17TH ST. SOUTHLAND TRUST-ASILA HOLDINGS LLC TRUSTEE, 505 S. 17TH ST., CASE 2020-0127.

Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-116-Duty to Maintain Property,

42-117-Exterior Structure (Maintenance), 42-119-Rubbish & Garbage. *Requesting Board determination of the case.*

Chair Kaufman read the case. Officer Wells presented the case for the City and submitted evidence into the record. He stated this case has been active since 2017, but due to several ownership changes a new case was started in March 2020. As of today, the owner has corrected 42-116 (Duty to Maintain Property) and 42-119 (Rubbish and Garbage Accumulation). The property is still in violation of 42-117 (Exterior Structure) for roof damage. Officer Wells noted a tarp is covering the roof. He conducted the first inspection on March 25th. A NOV/NOH letter was mailed on March 26th, giving the owners 30 days to come into compliance; however, the letter was returned from the post office. A second NOV/NOH letter was mailed on May 13th giving the owners until June 14th to come into compliance. This letter had proper service. Officer Wells conducted a second NOV/NOH inspection on June 15th and found the structure was still in violation of 42-117. The owner had previously indicated to Officer Wells that she wanted to appear at this board meeting via Zoom (she was not present at this meeting in person or via Zoom).

Staff recommends a motion to find the property in violation of 42-117, giving the respondent thirty (30) additional days to come into compliance by August 3rd. The city recommends a motion the property owner pay all admin fees and a fine of \$100 per day beginning on August 4th until the property comes into compliance, with a lien to be filed on September 4th.

Officer Wells noted there are no roof permits for this property. A board member asked about the permitting process. Officer Wells stated permits can take up to 30 days, depending on the type of permit. The board members and Ms. Bach discussed graduated fines due to current circumstances with COVID-19. Ms. Bach confirmed the board can issue fines in this matter if they so choose. She also noted the City was previously asked to foreclose on the property; however, when the lien was filed the property was already ordered to be sold. This sale occurred in September 2019.

Ms. Bach asked Officer Wells to expand on what type of permits would be required to bring the property into compliance. This depends on the roof damage and if there is any structural damage. The board and Mr. Wells discussed allowing the owner extra time to apply for the appropriate permits since there could be a potential delay. Ms. Bach stated the owner would need to hire a contractor to pull the permit since an owner-builder permit would not be allowed. Officer Wells stated the owner indicated she has spoken with a roofing contractor regarding the property. Since there is considerable damage to the roof, the application could require additional review by the Building Department. A board member inquired if the property would assess fines during the permitting process and while the roof is being replaced. A board member inquired if force majeure (such as a hurricane event) would stop the clock on the case. Ms. Bach stated the case could be brought back to the board if that happens. The board members discussed how much time to allow the owner to bring the property into compliance since the permitting process could impact the timeline. A board member feels the board should not only focus on the roof because the owner may decide to demolish the house in its entirety.

A motion was made by Vice Chair Kresse, seconded by Member Shults, to find the property in violation of 42-117 Exterior Structure (Maintenance). Vote upon passage of the motion was taken by voice vote being all ayes, carried.

A motion was made by Vice Chair Kresse, seconded by Member Shults, to find the property in violation of 42-117 Exterior Structure (Maintenance), to assess administrative fees, and if not in compliance by September 8, 2020, to assess fines of \$50 per day beginning September 8, 2020. If not in compliance by October 8, 2020, daily fines will increase to \$100 per day. Vote upon passage of the motion was taken by voice vote being all ayes, carried.

4.2 JESSUP PROPERTIES/JIM JESSUP, 409 FIR ST., CASE 2019-0439. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-116-Duty to Maintain Property. *Requesting Board determination of the case.*

Chair Kaufman read the case. Officer Wells presented the case for the City and submitted evidence into the record. He conducted a proactive sweep on October 1st of last year and noted the property had excessive overgrowth. He conducted a second inspection on October 14th. The property was still in violation of 42-116. A NOV/NOH letter was mailed on February 6th giving the owner 10 days to come into compliance. Officer Wells noted this case was originally scheduled to appear before the board at their April meeting (this meeting was cancelled due to COVID-19). A second NOV/NOH letter was mailed to the owner on June 2nd and Officer Wells conducted an inspection on June 15th. The property was still not in compliance.

Staff recommends a motion to find the property in violation of 42-116, giving the respondent ten (10) additional days to come into compliance by July 13th. The city recommends a motion the property owner pay all admin fees and a fine of \$50 per day beginning on July 14th until the property comes into compliance, with a lien to be filed on August 14th.

Officer Wells stated the property is vacant and the owner is the former owner of the Thompson House, 11 S. 7th Street, which also had a previous code case. Vice Chair Kresse would like to recommend a motion but suggested starting the clock to accommodate for the upcoming July 4th holiday weekend. A board member inquired if the City could proceed cutting the grass and file a subsequent lien. Ms. Forstrom reminded the board this property is extremely overgrown and has become a health and safety issue (rodents). Chair Kaufman inquired if Ms. Forstrom would support the City cutting the grass. She stated this property needs to be taken care of, but the City cannot continue to maintain it.

A motion was made by Vice Chair Kresse, seconded by Member Byrd, to find the property in violation of 42-116 Duty to Maintain Property. Vote upon passage of the motion was taken by voice vote being all ayes, carried.

The board and staff discussed if the City's maintenance personnel would cut the lot or would they hire a landscape contractor. Ms. Forstrom stated she will need to discuss this with the City's Maintenance Director Rex Lester. Either way, the City will charge the owner for labor and machinery costs. A board member stated since there has been no communication from the owner, there is no reason to grant them more time to bring the property into compliance. Officer Wells reiterated there has been no communication with the owner. Ms. Forstrom reminded the board that if the property comes into compliance but then becomes a repeat offender, it will come back before the board. The board can assess daily fines at that time as well. Ms. Bach and the board discussed what amount the fine should be and the timing of subsequent fines and fees.

A motion was made by Member Boyd, seconded by Vice Chair Kresse, to assess administrative fees and to assess fines of \$250 per day beginning July 17, 2020 until the property is in compliance or cleaned by the City. Any and all cleaning costs will be assessed to the property owner in addition to the fines. Fines will continue thereafter at a rate of \$50 per day until all fines and administrative fees are paid. Vote upon passage of the motion was taken by voice vote being all ayes, carried.

5. Board Business

5.1 Applications for alternate members - Andy M. Fotiades & Leroy Thompson

A motion was made by Vice Chair Kresse, seconded by Member Boyd, to recommend the City Commission accept the applications. Vote upon passage of the motion was taken by voice vote being all ayes, carried.

Ms. Bach and the board members discussed the possibility of future virtual meetings due to ongoing concerns with COVID-19. Ms. Bach stated this will depend on the Governor's Executive Order concerning local government public meetings. If this order is extended, the board would be allowed to hold more meetings utilizing the virtual option.

6. Adjournment

There being no further business to come before the Code Enforcement and Appeals Board, the meeting was adjourned at 6:40 p.m.

Harriet Davis, Recording Secretary

Adam Kaufman, Chair

STAFF REPORT
Case 2020-0327
City of Fernandina Beach Code Enforcement & Appeals Board
September 3, 2020

Violation Information

Owner	John R. Smith, Managing Member of Jasmine Place, LLC 853 Atlantic View Drive Fernandina Beach, Florida 32034
Violation	City of Fernandina Beach – Code of Ordinances, Section 26-101 (h) – Resort Rental Dwelling Permits - Enforcement; penalties
Location:	17 Jasmine Place, Fernandina Beach, Florida 32034

Summary and Background Information

May 14, 2020 – A Notice of Violation/Citation was sent to Mr. John Smith for illegally renting out 17 Jasmine Place, short term without a Resort Rental Dwelling Permit from the City of Fernandina Beach, and in a zone that does not permit such activity.

May 26, 2020 – We received an appeal request letter from the property owner requesting an appeal hearing along with a \$75.00 check.

June 16, 2020 – We all attended the Special Magistrate hearing for the citation appeal. Evidence was provided by City staff, and the Respondent.

June 17, 2020 – Special Magistrate, Honorable Harrison W. Poole, ordered and adjudged that the appeal of the Notice of Violation/Citation was denied; and that the Appellant was assessed a fine of \$1,000.00, together with all administrative cost and attorney's fee associated with this Code Enforcement case, said fine and costs being payable no later than thirty (30) days after the rendition of the order.

July 18, 2020 – No payment received.

August 20, 2020 – Sent Notice of Violation/Notice of Hearing to Mr. John Smith for non-payment, giving him additional time to pay in full by August 25, 2020.

August 26, 2020 - No payment received. We received the certified mail green card back signed by John Smith.

Conclusion:

There has been no contact made from the Respondent to the Code Enforcement office.

Recommendation:

The City recommends finding the respondent in violation of Section 26-101 (h) of the City of Fernandina Beach Code of Ordinances, assess daily fines from July 18, 2020 of \$100.00 per day until \$1,000.00 fine, administrative fees from the Special Magistrate's order, plus new administrative fees and daily fines for THIS case are paid in full. A lien to be recorded on October 5, 2020, thirty-two (32) days from today, if not in compliance.

Submitted by:

A handwritten signature in blue ink, appearing to read "M. Forstrom", with a stylized flourish at the end.

Michelle D. Forstrom
Code Enforcement Director



CITY OF FERNANDINA BEACH

Code Enforcement Department

Michelle D. Forstrom

Code Enforcement Director

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

August 20, 2020

Case Number: CODE-2020-0327

Cert. #: 7020 0090 0001 9419 5212

IN THE MATTER OF:

John Smith
Jasmin Place, LLC
853 Atlantic View Dr.
Fernandina Beach, FL 32034

PREMISES: 17 JASMINE PL FERNANDINA BEACH, FL 32034

The brief legal description of the real property upon which this violation occurred is: LOT 9 IN OR 2193/1337 JASMINE PLACE PB 5/43

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

26-101(h)	Resort Rental Dwelling Permits - Enforcement; penalties	
	Pay Citation Fine and Administrative and Attorney's Fees in Full	By 8/25/2020

(These can be found on the City's website: www.fbfl.us/code).

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: September 3, 2020

TIME: 5:30 PM

LOCATION: City Commission Chambers, 204 Ash St

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances/Land Development Code.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited to the recovery of fees, fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED \$250.00 per day, per violation), and in some cases demolition.

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

A handwritten signature in blue ink, appearing to read "M Forstrom", with a stylized, flowing script.

Michelle Forstrom

Code Enforcement Director

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL®



7020 0090 0001 9419 5212
7020 0090 0001 9419 5212

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

Code Enforcement

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$ **3.55**
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$ **2.85**
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

17 Jasmine Pl

Postage \$ **.50**
Total Postage and Fees \$ **6.90**

Sent To: **JOHN SMITH**
Street: **JASMIN PLACE, LLC**
City, St: **853 ATLANTIC VIEW DRIVE**
PS Fo: **FERNANDINA BEACH, FL 32034**

Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**JOHN SMITH
JASMIN PLACE, LLC
853 ATLANTIC VIEW DRIVE
FERNANDINA BEACH, FL 32034**



9590 9402 5816 0034 1945 42

2. Article Number (Transfer from service label)

7020 0090 0001 9419 5212

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Mail Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY															
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature x RW CII COVID ☒ Agent ☐ Addressee															
1. Article Addressed to: JOHN SMITH JASMIN PLACE, LLC 853 ATLANTIC VIEW DRIVE FERNANDINA BEACH, FL 32034		B. Received by (Printed Name) J. Smith	C. Date of Delivery 8/22/20														
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No															
2. Article Number (Transfer from service label) 7020 0090 0001 9419 5212		3. Service Type <table border="0"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☒ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☐ Certified Mail Restricted Delivery</td> <td>☐ Return Receipt for Merchandise</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> <tr> <td>☐ Mail Restricted Delivery</td> <td></td> </tr> </table>		☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☒ Certified Mail®	☐ Registered Mail Restricted Delivery	☐ Certified Mail Restricted Delivery	☐ Return Receipt for Merchandise	☐ Collect on Delivery	☐ Signature Confirmation™	☐ Collect on Delivery Restricted Delivery	☐ Signature Confirmation Restricted Delivery	☐ Mail Restricted Delivery	
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9590 9402 5816 0034 1945 42

ALERT: DUE TO LIMITED TRANSPORTATION AVAILABILITY AS A RESULT OF NATIONWIDE CO...**USPS Tracking®****FAQs >****Track Another Package +****Tracking Number:** 70200090000194195212

Remove X

Your item was delivered to the front desk, reception area, or mail room at 11:17 am on August 22, 2020 in FERNANDINA BEACH, FL 32034.

 **Delivered**

August 22, 2020 at 11:17 am
Delivered, Front Desk/Reception/Mail Room
FERNANDINA BEACH, FL 32034

Get Updates ∨

Feedback

Text & Email Updates

Tracking History**August 22, 2020, 11:17 am**

Delivered, Front Desk/Reception/Mail Room
FERNANDINA BEACH, FL 32034

Your item was delivered to the front desk, reception area, or mail room at 11:17 am on August 22, 2020 in FERNANDINA BEACH, FL 32034.

August 21, 2020, 10:05 pm

Departed USPS Regional Origin Facility
JACKSONVILLE FL DISTRIBUTION CENTER

August 20, 2020, 7:39 pm

Arrived at USPS Regional Origin Facility
JACKSONVILLE FL DISTRIBUTION CENTER

August 20, 2020, 5:14 pm

Departed Post Office
FERNANDINA BEACH, FL 32034

August 20, 2020, 1:22 pm

USPS picked up item
FERNANDINA BEACH, FL 32034

Product Information

**See Less**

Feedback

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs



CITY OF FERNANDINA BEACH

Code Enforcement Department

Michelle D. Forstrom

Code Enforcement Director

NOTICE OF VIOLATION / CITATION

May 14, 2020

Case Number: 2019-0258

Cert. #: 7018 1830 0001 9844 1577

IN THE MATTER OF:

ATTN: John R. Smith, Managing Member
Jasmin Place, LLC
853 Atlantic View Drive
Fernandina Beach, FL 32034

RECEIVED

MAY 26 2020

**CODE ENFORCEMENT
FERNANDINA BEACH, FLORIDA**

PREMISES: 17 Jasmine Place, Fernandina Beach, FL 32034

The brief legal description of the real property upon which this violation occurred is: **LOT 9 IN OR 2193/1337 JASMINE PLACE PB 5/43, Fernandina Beach, FL 32034.**

The Code Enforcement Department of the City of Fernandina Beach has previously notified you of alleged violations of the City of Fernandina Beach Code of Ordinances and Land Development Code. The Code Enforcement Department contends that the following violation(s) exist: **Sections 26-101 Resort Rental Dwelling Permits, Permit required**, of the Fernandina Beach Code of Ordinances; and **Chapter 2.03.00 LAND USES PERMITTED IN EACH ZONING DISTRICT, (2.03.02 Table of Land Uses)** of the Fernandina Beach Land Development Code. These can be found on the City's website: www.fbfl.us/code. This letter specifically addresses short term rental without a Resort Rental Dwelling Permit in a zoning district that is not R3, and therefore not allowed and continuing to advertise and rent this property for under thirty (30) days at a time.

Therefore, you are hereby directed to remedy and discontinue short term rental activity and advertising immediately and permanently and to pay the **fine of \$1,000.00** for not having a valid permit, by May 26, 2020, twelve (12) days from the date of this notice. Failure to pay the applicable \$1,000 fine or to request an appeal hearing in writing by May 26, 2020 and appear at the hearing to appeal this citation shall be deemed a waiver of your right to contest the citation and a judgment may be entered against you. You may file a written request for a hearing before the special magistrate to appeal the decision of the Code Enforcement officer. Your written request shall be submitted to the Code Enforcement Department no later than 12 calendar days (by May 26, 2020) after issuance of the citation and shall be accompanied by a \$75 dollar appeal fee. If you request a hearing and are found to be in violation of the city code, you may be assessed administrative costs, in addition to any fine that may be imposed.

If you have any questions, please feel free to contact me.

Michelle D. Forstrom
Code Enforcement Director

RECEIVED

MAY 26 2020

**CODE ENFORCEMENT
FERNANDINA BEACH, FLORIDA**

May 26, 2020

IN THE MATTER OF:

Case Number: 2019-0258

Attn: Code Enforcement Department
Michelle D. Forstrom

Premises: 17 Jasmine Place, Fernandina Beach, FL 32034

We are requesting an appeal hearing to appeal this citation. Included is a \$75.00 check for the appeal fee.

John R. Smith

A handwritten signature in dark ink, appearing to read "John R. Smith", is written below the printed name.



**AMENDED AGENDA
CITY OF FERNANDINA BEACH
SPECIAL MAGISTRATE HEARING
JUNE 16, 2020
10:00 AM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

1. CALL TO ORDER

2. CASES TO BE HEARD

- 2.1 APPEAL - JOHN R. SMITH, MANAGING MEMBER, JASMIN PLACE, LLC, 17 JASMINE PLACE, CASE 2019-0258.** Appeal of Citation for violation of the City of Fernandina Beach Code of Ordinances Section 26-101, Resort Rental Dwelling Permits, Permit required, and of the Land Development Code, 2.03.00 Land Uses Permitted in Each Zoning District (2.03.02 Table of Land Uses).

3. ADJOURNMENT

Quasi-Judicial – Denotes that the item must be conducted as a Quasi -Judicial hearing in accordance with City Commission established procedure and Florida Statutes.

If any person decides to appeal any decision made by the Special Magistrate with respect to any matter considered at such meeting he/she will 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 made.

Persons with disabilities requiring accommodations in order to participate in this program or activity should contact (904) 310-3115, TDD/TTY 711, at least 24 hours in advance to request such accommodations.

For information regarding this matter, please contact the Legal Department (904) 310-3275.

JASMIN PLACE, LLC,
Appellant

CITY OF FERNANDINA BEACH
SPECIAL MAGISTRATE HEARING
JUNE 16, 2020

v.

CODE ENFORCEMENT
DEPARTMENT, CITY
OF FERNANDINA BEACH,
FLORIDA,
Appellee

CASE NO. 2019-0258

FINAL ADMINISTRATIVE ORDER

This matter having come before the undersigned upon a timely Notice of Appeal filed by Appellant, at a duly-noticed hearing, and upon considering the testimony and evidence received, and hearing the arguments of the parties, and otherwise being fully advised in the premises, the undersigned Special Magistrate finds as follows:

FINDINGS OF FACT

1. The Appellant is a Florida Limited Liability Company that owns the real property located at 17 Jasmine Place, Fernandina Beach, Florida 32034 ("Subject Property"). Mr. John Smith is the Manager of the company.
2. The Subject Property is located within the jurisdictional limits of the City of Fernandina Beach, Florida, and was, at all times relevant to the instant proceeding, zoned in a Mixed Use (MU-1) district.
3. The Appellant, at all times relevant to the instant proceeding, did not have a Resort Rental Dwelling Permit for the Subject Property.
4. The Appellant was advised by the Code Enforcement Director, Michelle Forstrom, on October 2, 2019, that short-term rentals were not permitted in the Subject Property. This followed at least two complaints received by the Code Enforcement Department regarding short-term rentals being conducting at the Subject Property.
5. On May 7, 2020, Code Enforcement received a call that Mrs. Smith was at the Subject Property cleaning. The caller suspected that Mrs. Smith was preparing the Subject Property for a short term rental. Director Forstrom visited the Subject Property and spoke with Mrs. Smith,

who denied that the Subject Property would be rented that weekend. Director Forstrom reiterated to Mrs. Smith that short term rentals were not permitted in the Subject Property.

6. On May 8 and 9, 2020, members of the Fernandina Beach Police Department responded to complaints from neighbors that the Subject Property was being used as a short term rental. On May 9, 2020, Officer Lee of the Fernandina Beach Police Department made contact with one of the occupants, Joel Trice. Mr. Trice informed Officer Lee that he and his wife had rented the Subject Property for that weekend (Friday through Sunday) and that they had paid a rental fee to the owner.

7. On May 12, 2020, Director Forstrom contacted Mr. Trice via telephone and confirmed that Mr. and Mrs. Trice had rented the Subject Property the preceding weekend and that they had paid a rental fee to the owner.

8. On May 14, 2020, the Appellant was issued a Notice of Violation/Citation assessing a fine of \$1,000.00 for violations of Section 26-101, Code of Ordinances, City of Fernandina beach, Florida, and Section 2.03.02, Land Development Code, City of Fernandina Beach, Florida.

9. The Appellant timely submitted a Notice of Appeal on May 26, 2020 and paid the applicable \$75.00 appeal fee.

10. During the hearing, Mr. Smith confirmed that Appellant had rented the Subject Property the weekend of May 7, 2020, but denied that the Appellant charged or received a rental fee from the occupants. Mr. Smith testified that since learning that short term rentals were not permitted in the Subject Property, his practice had been to allow the employees of his various companies to use the Subject Property as a vacation property at no charge.

11. Although the testimony was conflicting on whether the occupants of the Subject Property (the Trices) during the weekend beginning on May 7, 2020 paid a rental fee to the Appellant, the undersigned finds that Code Enforcement has proven, by the greater weight of the evidence, that the Subject Property was rented by the Appellant, and a rental fee was charged and received thereby, for the nights of May 7 and 8, 2020. In arriving at this conclusion, the undersigned has considered the following: a) the fact that the subject property had been utilized on numerous occasions in the past as a short term rental and advertised as being available for rent even after the Appellant was informed short term rentals were not authorized; b) the testimony of

Officer Lee and Director Forstrom who both testified that the occupant, Joel Trice, informed them that he and his wife had paid a fee to rent the Subject Property for the weekend; c) that Mrs. Smith cleaned and prepared the Subject Property immediately prior to the arrival of the Trices and affirmatively represented to Director Forstrom that the Subject Property would not be rented at all that weekend; and d) the testimony of Mr. Smith confirming that the unit had been rented that weekend but that a fee was not charged. Notably, there was no explanation offered why the Appellant had not charged a rental fee to the Trices and Mr. Smith confirmed that the Trices were not employees of any of his companies.

12. There was ample testimony that character of the neighborhood had improved dramatically since the Appellant acquired its units at Jasmine Place and that the occupants of their units have been respectful and good neighbors. There was also ample evidence that the Appellant has taken steps in furtherance of having the zoning designation of the Subject Property changed into a designation allowing Resort Rentals, but these efforts have been stymied by a moratorium on zoning change applications and other external forces. Unfortunately, these facts have no bearing on whether a violation occurred on the weekend of May 7, 2020.

CONCLUSIONS OF LAW

13. Section 26-101, Code of Ordinances, City of Fernandina beach, Florida, provides that,

It shall be unlawful for the owner of any dwelling unit in the city to permit the occupancy of any dwelling unit for resort rental dwelling purposes, unless such occupancy has been authorized by the issuance of a resort rental dwelling permit (RRDP) as provided herein. "resort rental dwelling" or "resort rental residential" shall be as defined in sections 1.07.00 and 4.02.05 of the city's land development code and which are limited to occupancy periods per rental of less than 30 days.

And that a first violation, "of the RRDP requirements (not having a valid permit) of this section within any 12-month period shall be punishable by a citation and fine of \$1,000.00."

14. "Resort rental residential" is defined as

[S]tructures containing accommodations made available to persons for temporary occupancy. Each unit of housing is a dwelling unit, whether denominated by an apartment, condominium unit, cooperative unit, time-share unit, single-family unit, or otherwise. Motels, hotels, and bed and breakfasts are excluded from this

definition.

Section 1.07.00, Land Development Code, City of Fernandina Beach, Florida

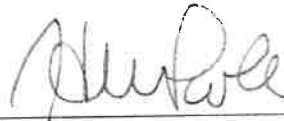
15. Section 2.03.02, Land Development Code, City of Fernandina Beach, Florida, provides that Resort Rentals are only permitted in properties with an R-3 zoning designation.¹

16. The greater weight of the evidence shows that the Subject Property was utilized as a Resort rental residential in violation of the Land Development Code and without the requisite RRDP.

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED**:

- a. The appeal of the Notice of Violation/Citation is **DENIED**; and,
- b. The Appellant is hereby assessed a fine of \$1,000.00, together with all administrative costs and attorney's fees associated with Code Enforcement Case No. 2019-0258, said fine and costs being payable no later than thirty (30) days after the rendition of this order..

DONE AND ORDERED in Fernandina Beach, Nassau County, Florida, this 17th day of June, 2020.



Harrison W. Poole
Special Magistrate

NOTICE OF RIGHT TO APPEAL

Pursuant to Section 2-402, Code of Ordinances, City of Fernandina Beach, Florida, any aggrieved party, including the city, may appeal a final administrative order of the special magistrate to the circuit court. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record before the special magistrate. An appeal shall be filed within 30 days from the date of the rendition of the special magistrate's order to be appealed.

¹The Land Development Code provides for an exception to this requirement for properties with R-1 and R-2 zoning designations that had an active resort rental permit prior to October 3, 2000 to continue as a legal non-conforming status as long as the resort rental permit has not been expired for greater than 180 days. Because the Subject Property has a MU-1 zoning designation, that exception is inapplicable in the instant proceeding.



CITY OF FERNANDINA BEACH

Michelle Forstrom

Code Enforcement Department

Code Enforcement Director

ADMINISTRATIVE FEES INCURRED FROM

17 Jasmine Place

As of 8/26/2020

CODE CASE #2019-0258

STAFF PERSONNEL OR ITEMS

	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	<u>TOTAL</u>
Michelle Forstrom, Code Enforcement Director	14.5	\$25.24	\$365.98
George Wells, Code Enforcement Officer	3	\$21.63	\$64.89
Katie Newton, Legal Assistant	1	\$23.40	\$23.40
Tammi Bach, City Attorney	2	\$68.64	\$137.28
Caroline Best, City Clerk/Recording Secretary	1	\$45.09	\$45.09
Harriet Davis, Administrative Coordinator	2	\$19.29	\$38.58
Harrison W. Poole, Special Magistrate			\$825.00
Certified letters mailed	3	\$6.90	\$20.70
First Class letters mailed	2	\$0.50	\$1.00

\$1,521.92

Appeal fee credit

(\$75)

TOTAL ADMINISTRATIVE FEES DUE

\$1,446.92

TOTAL VIOLATION FINE

\$1,000.00

GRAND TOTAL DUE

\$2,446.92

****TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY****



CITY OF FERNANDINA BEACH

Michelle Forstrom

Code Enforcement Department

Code Enforcement Director

ADMINISTRATIVE FEES INCURRED FROM

17 Jasmine Place

As of 8/27/2020

CODE CASE #2020-0327

STAFF PERSONNEL OR ITEMS

Michelle Forstrom, Code Enforcement Director

Katie Newton, Legal Assistant

Harriet Davis, Administrative Coordinator

Certified letters mailed

First Class letters mailed

Record Findings of Facts

# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	<u>TOTAL</u>
2	\$25.24	\$50.48
1	\$23.40	\$23.40
2	\$19.29	\$38.58
1	\$6.90	\$6.90
1	\$0.50	\$0.50
1	\$23.50	\$23.50

TOTAL ADMINISTRATIVE FEES DUE

\$143.36

****TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY****

The City of Fernandina Beach, Florida, conducted a Special Magistrate Hearing on Tuesday, June 16, 2020 at 10:00 am. Present in City Chambers were Mr. Harrison Poole, Esquire, presiding, City Attorney Tammi Bach, City Clerk Caroline Best, Code Enforcement Department Director Michelle Forstrom and Administrative Coordinator Harriet Davis. Due to the ongoing COVID-19 pandemic, occupancy in Chambers was limited.

1. CALL TO ORDER: Mr. Poole called the meeting to order and explained the Special Magistrate Hearing process to the appellants and members of the public in attendance. City Clerk Best administered the oath at this time.

2.1 CASES TO BE HEARD: **APPEAL - JOHN R. SMITH, MANAGING MEMBER, JASMIN PLACE, LLC, 17 JASMINE PLACE, CASE 2019-0258.** Appeal of Citation for violation of the City of Fernandina Beach Code of Ordinances Section 26-101, Resort Rental Dwelling Permits, Permit required, and of the Land Development Code, 2.03.00 Land Uses Permitted in Each Zoning District (2.03.02 Table of Land Uses).

City Attorney Bach called the City's first witness; Code Enforcement and Appeals Director Michelle Forstrom who reviewed the Code Enforcement case file evidence which explained the appellant was short term renting the property located at 17 Jasmine Place in violation of Code of Ordinances Section 26-101, Resort Rental Dwelling Permits, Permit required, and of the Land Development Code, 2.03.00 Land Uses Permitted in Each Zoning District.

City Attorney Bach called the City's second witness: Fernandina Beach Police Department (FBPD) Officer Henry Lee who stated he's been a FBPD Officer for twenty-six years and is familiar with the City's resort rental code. On May 8, 2020 officers responded to a complaint that 17 Jasmine Place was being rented short term. Officer Lee made contact with the occupant, Mr. Joel Trice, who stated he was renting the property for three days.

City Attorney Bach called the City's third witness: Ms. Pat Henderson, 13 Jasmine Place, who over the course of ten - twelve months noticed a large volume of what appeared to be transient vehicles coming and going from 17 Jasmine Place. Ms. Henderson provided photographs of the vehicles and reported the activity to Code Enforcement Department Director Ms. Forstrom.

City Attorney Bach called the City's last witness, Mr. Brian Weber, former resident of 3 Jasmine Place, stated that in the February, March, 2019 time frame he reported what appeared to be resort rental activity at 17 Jasmine Place to the Code Enforcement Department.

City Attorney Bach moved the Code Enforcement Department staff report, Police Department report, and citation to be entered as evidence, without objection. Mr. Poole entered same into record as City's Composite Exhibit 1. City Attorney Bach rested the City's case at this time.

Appellant Mr. John Smith stated 17 Jasmine Place was rented short term for a period however, these activities ceased when Code Enforcement Director Ms. Forstrom advised the activity was against the City's Code of Ordinances. Mr. Smith further stated he employs fifty people in Cincinnati, Kentucky and Florida who often visit but do not pay a rental fee. Mr. Smith is actively pursuing a zoning change with the City's Planning and Conservation Department.

Mr. Smith called his only witness, Ms. Emerson Smith (daughter) who confirmed her father's statements related to City having a moratorium on accepting zoning change applications when they first approached

the City for a zoning change. Without objection, Mr. Smith moved, and the same was entered, into evidence, Appellant's Composite Exhibit "1". Mr. Smith rested his case at this time.

After hearing closing arguments from the City and Appellant, Mr. Poole stated he will take this matter under advisement, review the evidence and testimony, and issue an order within a reasonable time. Said order will be provided to the City Clerk who shall disseminate it to the Legal Department, Code Enforcement Department, and Appellant upon receipt.

3. ADJOURNMENT: There being no further business to come before the Special Magistrate Hearing, the meeting was adjourned at 10:41pm.

ATTEST:



Caroline Best
City Clerk



Harrison W. Poole
Special Magistrate