

TOWN OF HAVERHILL
MINUTES
SPECIAL MAGISTRATE
HEARING
FEBRUARY 1, 2023

Present: Special Magistrate William P. Doney, Code Enforcement Officer Joseph Petrick, Town Attorney John Foster, Town Attorney Dominic DeCesares, and Deputy Town Clerk Jean Wible.

I. CALL TO ORDER:

The meeting was called to order at 9:05 A.M. by Special Magistrate William P. Doney.

II. APPROVAL OF MINUTES:

Special Magistrate William Doney approved the minutes of December 7, 2022

III. SWEARING IN OF WITNESSES:

Special Magistrate, William P. Doney, administered Oath to Code Enforcement Officer Joseph Petrick, Respondent Jose Lamazares, Witnesses Eulaydes Perry, Deborah Stewart, Dennis Noonan, Carolann Noonan, Adam Rigoli, Sherry Bachrach, Daniela Rodriguez, Dayan Castaneda, Dayana Olivera, Alexander Ramirez, Linda Ruzeski and Edward Ruzeski.

CODE ENFORCEMENT HEARINGS:

Special Magistrate Doney announced that Case Numbers 22-00023 and 22-00030 have complied so the hearing moved on to the next case.

CASE NO. 22-00023: COMPLIED BEFORE HEARING

GABRIELA BENCOSME
917 BRIARWOOD DRIVE
HAVERHILL, FL 33415
PCN: 22-42-43-36-21-000-0060
LEGAL DESCRIPTION: BRIARWOOD
NORTH LT 6

NATURE OF VIOLATION: Chapter 58 Article IX Division 14 Section 58-584. Maintenance and appearance standards for all real property.

CASE NO. 22-00030: COMPLIED BEFORE HEARING

ARDUINO B. PIERRE
820 WOODLAND AVENUE
HAVERHILL, FL 33415
PCN: 22-42-43-35-24-001-0120
LEGAL DESCRIPTION: WOODLAND
TERRACE NO 2 LT 12 BLK 1

NATURE OF VIOLATION: Chapter 38 Section 38-9(b)(2). Parking of vehicles and boats in residential districts.

CASE NO. 22-00037:

JOSE A. LAMAZARES
4885 LUWAL DRIVE
HAVERHILL, FL 33415
PCN: 22-42-43-36-00-000-3260
LEGAL DESCRIPTION: 36-43-42, E 190 FT OF S ½ OF SW ¼ OF NW ¼ OF NW ¼

NATURE OF VIOLATION: Chapter 18 Article II Section 18-29. Prohibited Acts.

Special Magistrate Doney asked if Council was present for the Respondent. Gabrielle D’Agostino introduced herself as his attorney.

Town Attorney Dominic DeCesare asked if Special Magistrate Doney would like to disclose that this was a Quasi-Judicial hearing and rules of evidence do not apply. Special Magistrate Doney stated that was correct per Florida Statute.

Code Enforcement Officer (CEO) Petrick testified that he first received complaints of loud music, microphone noise, etc. in late October and early November 2022 coming from 4885 Luwal Drive. CEO Petrick stated that according to the complainants, this has been an ongoing problem for some time. CEO Petrick presented his case to Special Magistrate Doney.

A Courtesy Notice was issued to the Respondent. The notice advised Respondent of ongoing complaints of noise violations from loud music at his property and requested that Respondent cease loud music and other excessive noise upon receipt of the Courtesy Notice. Despite the issuance of the Courtesy Notice, in December 2022, the Town continued to receive complaints of excessive noise coming from Respondent's property. Affidavits of Complaint from neighboring property owners were submitted to the Town providing specific dates and times of excessive noise. On December 27, 2022, CEO Petrick issued a Notice of Violation and Hearing to the Respondent. The Notice of Violation and Hearing was posted at Respondent's property on December 27, 2022, and Respondent was again, directed to cease producing sound (music) that disturbs the peace, quiet and comfort of the community upon receipt of the Notice.

Several neighbors of the Respondent provided testimony, including video and audio recordings of music and karaoke singing, that demonstrated that Respondent had played or produced music at an excessive or unusually high-volume level disturbing the peace, quiet and comfort of the neighborhood. These events took place on December 31, 2022, and extended into the early morning hours of January 1, 2023. In addition, several neighbors testified that Respondent played music at excessive or unusually high volumes on January 22, 2023, and detonated fireworks from his property on January 22, 2023. The witnesses described the music on December 31, 2022, January 1, 2023, and January 22, 2023, as very loud and overwhelming. They testified that the music was audible inside their homes even with doors and impact windows closed and the air conditioning unit operating. Several of the witnesses testified that the bass from the music caused their walls and windows to vibrate.

Respondent's Attorney Gabrielle D'Agostino cross examined Code Enforcement Officer Petrick.

Respondent's Attorney Gabrielle D'Agostino asked CEO Petrick the process of an application of waiver. Town Attorney Foster interjected and stated that by Ordinance, Section 18-32 any waiver that was submitted to the Town must be filed with the Town Administrator 30 days in advance of the event and only the Town Administrator would make the decision to grant a waiver or not, and/or impose conditions. Town Attorney Foster stated that respectfully, CEO Petrick was not authorized by Ordinance to speak on the subject of waivers. Discussion ensued.

The following residents testified to their experience:

Adam Rigoli of 777 Briarwood Drive.

Carolann and Denis Noonan of 4831 Dorchester Mews.

Eulaynes Perry of 787 Briarwood Drive.

Deborah Stewart of 800 Briarwood Drive.

Sherry Bachrach, mother-in-law of Adam Rigoli who often visits Mr. Rigoli and his family.

Edward and Linda Ruzeski of 4945 Luwal Drive testified on behalf of the Respondent.

Alexander Ramirez, a Private Investigator with RNS Investigative Group testified he was hired by the Respondent to do an investigation of the general immediate area of 4885 Luwal Drive on December 31, 2022, from 9:00 p.m. until 1:00 a.m. on January 1, 2023, to gauge if he could hear music from inside his vehicle. Mr. Ramirez testified that he used a phone application called Decibel X. Discussion ensued.

Town Attorney Foster cross examined Mr. Ramirez. Discussion ensued.

Respondent's Attorney Gabrielle D'Agostino cross examined Mr. Ramirez. Discussion ensued.

Dayan Castaneda, a seasonal part time employee with Phantom Fireworks testified that on January 22, 2023, he operated the fireworks from 6:24 p.m. until 6:33 p.m. for the gender reveal

party. Mr. Castaneda demonstrated the operation of setting off the fireworks he used at the Respondent's gender reveal party. Discussion ensued.

Town Attorney Foster cross examined the Respondent, Mr. Lamazares.

Town Attorney DeCesares asked Mr. Castaneda how certain he was of the time of 6:24 p.m. until 6:33 p.m. in which the fireworks were set off. Mr. Castaneda testified it was on the Respondent's security cameras.

Special Magistrate Doney asked Mr. Castaneda what the level of noise was of the fireworks when being set off. Mr. Castaneda testified that it was gunpowder so it would be loud, but he had no idea what the noise level was.

Respondent presented his case testifying via interpreter Daniela Rodriguez, that the music on December 31, 2022, wasn't coming from his property but instead was coming from 767 Briarwood Drive, property owner Marian Perez, et. al. The Respondent also testified that on January 22, 2023, he had a family gathering for Ms. Rodriguez's (interpreter) gender reveal to include fireworks but the music was turned down before 11:00pm. Discussion ensued.

Town Attorney Foster cross examined the Respondent.

The Respondents wife, Dayanna Olivera testified that on December 31, 2022, the Respondent was ill and went to bed early and all guests left their home by 10:00pm. Discussion ensued.

Town Attorney Foster had no questions for Ms. Dayanna Olivera.

Town Attorney Foster presented his closing statement.

Respondent's Attorney, Gabrielle D'Agostino presented her closing statement.

Special Magistrate Doney announced that he would reserve on today's ruling as he had a lot of information to review.

CASE NO. 22-00031:

PEDRO M. BENEDICO

IVONNE CORDOVES

4950 LUWAL DRIVE

HAVERHILL, FL 33415

PCN: 22-42-43-36-00-000-3064

LEGAL DESCRIPTION: 36-43-42, E 95 FT OF W 310 FT OF N ½ OF NW ¼ OF SW OF NW (LESS N 10 FT)

NATURE OF VIOLATION: Chapter 38 Section 38-9. Parking of vehicles and boats in residential districts. Chapter 58 Division 14 Article IX Section 58-584(4). Maintenance and appearance standards for real property.

The Respondent, Pedro M. Benedico did not appear at the hearing.

Code Enforcement Officer Petrick testified that the Respondent is storing at least three (3) different commercial vehicles (dump trucks and front loaders) at any given time in the driveway, in the side yard, in the backyard, and sometimes they appear in the right of way in front of the house and appear to be over the weight limit per Chapter 38-9 specifications. As the vehicles come and go from the property, they have caused excessive damage to the sides and front yard. CEO Petrick presented pictures of the damage to the grass which violates code section 58-584(4).

Special Magistrate Doney will admit the Town's Code Enforcement file to make it part of the record.

Special Magistrate Doney asked what the Town's recommendation was. CEO Petrick stated the Town was asking for the cost related to the prosecution of this case of \$124.90 payable within thirty (30) days, thirty (30) days for compliance or \$100.00 per day fine. Compliance would be to install sod in the section of lawn that is now dirt, remove all overweight vehicles from the property, and store the other vehicles per Ordinance specifications.

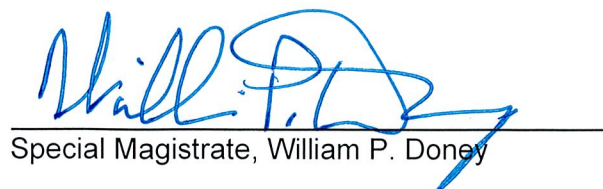
Special Magistrate Doney stated that for Case #22-00031, he found the violation of Section 38-89 and Section 58-584(4) of the Town's code was continuing and the Respondent was given until March 3, 2023, to comply, and thereafter, a fine not to exceed \$100.00 per day may be imposed. Cost in the amount of \$124.90 was assessed. A Fine Assessment Hearing, if necessary, would be held on April 11, 2023, at 9:00 a.m.

ADJOURNMENT

The hearing was adjourned at 1:40 P.M.

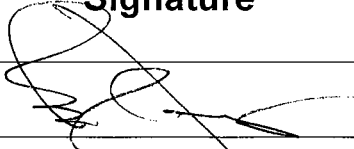

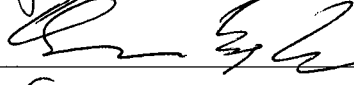

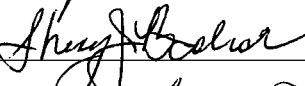
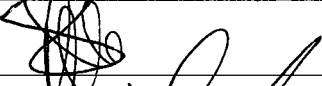


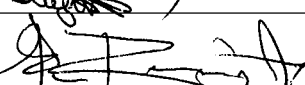
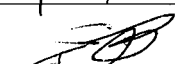
Minutes prepared by Deputy Town Clerk Wible and adopted by Special Magistrate Doney on March 1, 2023.


Jean F. Wible, Deputy Town Clerk


Special Magistrate, William P. Doney

SIGN IN SHEET

TOWN OF HAVERHILL SPECIAL MAGISTRATE HEARING Wednesday, February 1, 2023

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