

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: 2020.1258

Petitioner,

vs.

JEFFERY P. HELMS and
MICHELLE D. HELMS,
546 Johns Pass Ave.
Madeira Beach, FL 33708,

Respondents.

_____ /

FINDINGS OF FACT AND CONCLUSION OF LAW

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on March 22, 2021, after due notice to the Respondent, and the Special Magistrate having heard testimony under oath, received evidence, and otherwise being fully advised in the premises, hereby finds as follows:

Findings of Fact:

1. The City was represented by the City Attorney, Thomas Trask, Esq., and Building Code Compliance Official, Holden Pinkard, City Planner and Flood Plain Manager, Linda Portal, and Building Official, Frank DeSantis, provided testimony evidencing that code violations occurred.

2. Alyssa Milby, Esq., appeared on behalf of the Respondents.

3. A resident, Chuck Dillon, provided public comment.

4. The property in question is located at 546 Johns Pass Ave., Madeira Beach, Florida 33708 ("Property"). The legal description for the Property is as follows:

CRYSTAL ISLAND 2ND ADD LOT 8

5. Proper notice was served upon the Respondents via certified mail, regular mail, posting or hand delivery in accordance with Chapters 162 and 166, Florida Statutes.

6. The Respondents were notified that Respondents were in violation of the following sections of the Code of Ordinances of the City of Madeira Beach to wit¹:

¹ The City did not go forward with the violation of Sec. 94-83.

Sec. 14-30.- Administration of the Florida Building Code.

(a) Scope. The city hereby adopts and incorporates by reference herein the Florida Building Code promulgated by the Florida Building Commission pursuant to Chapter 553, Part IV, Florida Statutes, as amended from time to time. The provisions of this section shall govern the administration and enforcement of the Florida Building Code within the municipal limits of the city.

Sec. 94-80.- Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this chapter or the Florida Building Code is presumed to be a violation until such time as that documentation is provided and any determined violation is corrected.

Sec. 94-81.- Authority.

For development that is not within the scope of the Florida Building Code but that is regulated by this chapter and that is determined to be a violation, the floodplain administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

Sec. 110-719.- Fencing.

All swimming pools shall be enclosed with a screen enclosure or a fence or wall having a minimum height of four feet and in compliance with the provisions of article VI, division 3 of this chapter. The fence, wall or door to the screen enclosure shall be equipped with a self-closing and self-latching gate which operates from the interior of the swimming pool area only.

7. The violations set forth above existed as of the date of the Notice of Violation herein and at all times subsequent thereto up to the date of the Hearing.

8. A reasonable period of time for correcting the above violation and bringing the Property into compliance is thirty (30) days from the Hearing.

BASED UPON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. The Respondents, and the Property at the above mentioned location, are found to be in violation of Sections 14-30, 94-80, 94-81, and 110-719 of the Code of Ordinances of the City of Madeira Beach.

2. The Respondents shall correct the above stated violations on or before April 21, 2021, by taking the remedial action as set forth in the Notice of Violation, and at the Hearing, and outlined in the letter from Ms. Portal to the Respondents dated November 16, 2020.

3. The Special Magistrate does hereby retain jurisdiction over this matter to enter such other and further orders as may be just and proper.

DONE AND ORDERED this 30th day of March, 2021.



Bart R. Valdes
Special Magistrate

A true and correct copy of this Findings of Fact and Special Magistrate Order was delivered by certified mail and regular mail to: **Jeffery and Michelle Helms, 546 Johns Pass Ave., Madeira Beach, FL 33708**; by electronic mail to **Thomas Trask, Esq. (tom@cityattorneys.legal)**; **Alyssa Milby, Esq. (amilby@deeblawgroup.com)**; and by U.S. Mail and e-mail transmission to the **City of Madeira Beach, Clara VanBlargan, 300 Municipal Dr., Madeira Beach, Florida 33708**, on this 30th day of March, 2021.



Bart R. Valdes

APPEALS

An aggrieved party, including the local governing body, may appeal a final administrative order of a Special Magistrate to the circuit court. Such an appeal shall not be a hearing de nova but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed. Ss. 162-11.
