



Fort Myers Beach Special Magistrate Hearing

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Agenda

Tuesday, April 1, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

A. DOAH Special Magistrate Hearings - March 4, 2025

III. COMPLIANCE CASES (STATUS UPDATE)

IV. CODE VIOLATION CASES

A. 1249 Estero Blvd (aka The Whale), 1249 Estero Adventure LLC

DOAH Case #: [24-004842](#)

FMB Case #: 20240919

Property Owner: 1249 Estero Adventures LLC

Property Address: 1249 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

B. 131/133 Estero Blvd., Island Shores Club

FMB Case Number: 20250056

Property Owner: Kaminskiy at 131 Estero LLC (Island Shores Club)

Property Address: 131/133 Estero Blvd

Violation: Property Maintenance

V. CERTIFICATION OF LIEN(S) (NON-COMPLIANCE)

VI. COMPLIANCE CASES (STATUS UPDATE)

VII. LIEN FORECLOSURE CASES

VIII. BUILDING OFFICIAL APPEALS

A. 131/133 Estero Blvd. Island Shores Club

FMB Building Official Appeal Case No. 2025-01 (Unsafe Building)

Appellant/Property Owner: Kaminsky at 131 Estero LLC (Island Shores Club)

Property Address: 131/133 Estero Blvd., Fort Myers Beach

IX. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE SPECIAL MAGISTRATE IN ANY MATTER CONSIDERED AT THIS HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.



Fort Myers Beach Special Magistrate Hearing

Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931

Minutes

Tuesday, March 4, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

DOAH Judge John Van Laningham, Town Clerk Amy Baker, Town Clerk Administrative Coordinator Lizzette Roman, Town Attorney Nancy Stuparich, Floodplain Manager Carl Thomas, and Operations & Compliance Manager Thomas Yozzo.

II. APPROVAL OF MINUTES

- A. DOAH Special Magistrate Hearings - January 7, 2025
Judge Van Laningham approved the minutes.

III. CODE VIOLATION CASES

- A. 8285 Estero Blvd., Kledzik Cary & Laura
DOAH Case #: 25-000385
FMB Case #: 20241106
Property Owner: Cary and Laura Kledzik
Property Address: 8285 Estero Blvd
Violation: Non-Compliant Structure (Storage Container)
A copy of the affidavit of compliance and a motion to dismiss was in the packet. Judge Van Laningham granted the motion to dismiss.

IV. NON-COMPLIANT CASES

CERTIFICATION OF LIEN(S) (NON-COMPLIANCE)

- A. 1821 Estero Blvd., 1821 Estero Blvd Corp / Steve Larson dba Sun and Fun Rentals
DOAH Case #: 24-004834
FMB Case #: 20240914
Property Owner: 1821 Estero Blvd Corp / Steve Larson dba Sun and Fun

Rentals**Property Address: 1821 Estero Blvd****Status: Non-compliant (as of date of agenda distribution)**

A copy of the affidavit of compliance and a motion to dismiss was in the packet. Judge Van Laningham granted the motion to dismiss.

OTHER

- B. 2815 Estero Blvd., Himmelstein Associates LLC

DOAH Case #: [24-004838](#)**FMB Case #:** 20240994**Property Owner: Himmelstein Associates LLC****Property Address: 2815 Estero Blvd****Violation: Non-compliant (as of the date of agenda distribution)**

Jeff Walker stated his permit was being reviewed and he was working closely with the town to get everything approved as soon as possible. Manager Yozzo requested that the case be continued to April 1, 2025. Judge Van Laningham continued the case.

- C. 1035 Estero Boulevard, KLC Surf LLC / La Ola

DOAH Case #: 24-004407**FMB Case #:** 20240915**Property Owner: KLC Surf LLC / La Ola****Property Address: 1035 Estero Blvd****Status Update: Non-compliant (Appeal filed in Circuit Court)**

Manager Yozzo requested that the case be continued to April 1, 2025, due to the respondent's appeal.

Attorney Amy Thibaut noted that the respondent had taken steps to obtain building plans and was working with the tenant on a long-term solution. She offered to present renderings for the record. Judge Van Laningham continued the case to April 1, 2025.

V. COMPLIANCE CASES (STATUS UPDATE)

- A. 4900 Estero Blvd., Island Towers Condo Association

A copy of the affidavit of compliance and a motion to dismiss was in the packet. Judge Van Laningham granted the motion to dismiss.

- B. 2450 Estero Blvd., 2450 Estero Blvd LLC

A copy of the affidavit of compliance and a motion to dismiss was in the packet. Judge Van Laningham granted the motion to dismiss.

- C. 406 Estero Blvd., Windward Passage Resort Condo

A copy of the affidavit of compliance and a motion to dismiss was in the packet. Judge Van Laningham granted the motion to dismiss.

D. 81 Miramar St., Smith Patricia O Tr for Patricia O Smith

A copy of the affidavit of compliance and a motion to dismiss was in the packet. Judge Van Laningham granted the motion to dismiss.

VI. LIEN FORECLOSURE CASES

No cases.

VII. APPEALS

No appeals.

VIII. ADJOURNMENT

Judge Van Laningham adjourned the hearing.

Meeting adjourned at 9:20 AM

Property Address and Owner:

Hearing Date: April 1, 2025

DOAH Case #: [24-004842](#)
FMB Case #: 20240919
Property Owner: 1249 Estero Adventures LLC
Property Address: 1249 Estero Blvd
Violation: Non-Compliant Structure (Storage Container)

Subject:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances.

Code Section:

Sec. 6-501., Sec. 6-525.

Reference Number:

Strap Number:

194624W40060H0300

Officer:

Thomas Yozzo

Narrative:

[DOAH Case 24-004842](#)

Attachments:

1. Hearing Exhibit A: Amended Notice of Hearing 4.01.25 20240919
2. Hearing Exhibit A.1: Affidavit of Notice and Posting 20240919
3. Hearing Exhibit B -- FEMA and Related Ordinances 20240919
4. Hearing Exhibit C - Notice of Violation and Affidavit of Posting 20240919
5. Hearing Exhibit D - Status of Compliance 20240919
6. Hearing Exhibit E - Violated Regulations 20240919

Town Recommendations:

Town Approvals:

Thomas Yozzo, Compliance & Securities Manager

Date: March 20, 2025

Traci Kohler, Assistant to the Town manager

Date: March 20, 2025

Frankie Kropacek, Operations & Compliance Director

Date: March 20, 2025

nancy stuparich, Town Attorney

Date: March 21, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: March 21, 2025

Date: March 21, 2025

STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. 24-004842
FMB Case No. 20240919

Petitioner,

vs.

1249 Estero Adventures, LLC

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, March 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, April 1st, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 26th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager

Hearing Exhibit A

Notice of Hearing Affidavit of Posting



Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

12/23/2024

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH, FL 33931,
Respondent.

Case Number:	20240919
Certified Mail:	9589071052700636641766
Regular Mail	

SITE ADDRESS: 1249 ESTERO BLVD
PARCEL STRAP NO: 194624W40060H0300

NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you (a copy of which is enclosed herewith), exists on the above-described property. A hearing before the Town's Code Enforcement Special Magistrate concerning the violation(s) has, therefore, been scheduled for **at 9:00 A.M. on 01/07/2025** in the Council Chambers at Town Hall, located at 2731 Oak St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<http://www.fortmyersbeachfl.gov/209/Meetings-Agendas>

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take any other action(s) that may affect your rights. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be performed to determine compliance.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2525 ESTERO BLVD. FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE BY A COURT REPORTER UPON WHICH THE APPEAL IS TO BE BASED.



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931

Respondent,

FMB Case Number:	20240919
Certified Mail:	
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Site Address: 1249 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 194624W40060H0300

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared D. Batt, who is the Code Compliance Coordinator for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20240946 for the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet) for the property 1249 Estero Blvd, Fort Myers Beach, FL 33931 attached

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



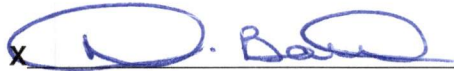
1. I personally mailed by certified mail a copy of the Notice of Hearing scheduled 01/07/2025 to the following:
 - a. 1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931
Certified Mail No. 99589071052700636647355
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 1249 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 26th day of December 2024. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 26th day of December 2024 are attached.
4. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 24th day of September, 2024. A copy of the posted webpage is attached as Evidence



Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.



Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 16th day of January, 2025, by D. Batt. She ☒ is personally known to me or ☐ has produced _____ as identification.



ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

[Notary Seal]



Notary Public, State of Florida

Print Name: Ashley Shepard

My Commission Expires: April 14, 2026

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 0636 6417 66

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Fort Myers Beach, FL 33931

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☐ Adult Signature Restricted Delivery \$0.00

Postage \$3.71

Total Postage and Fees \$12.66

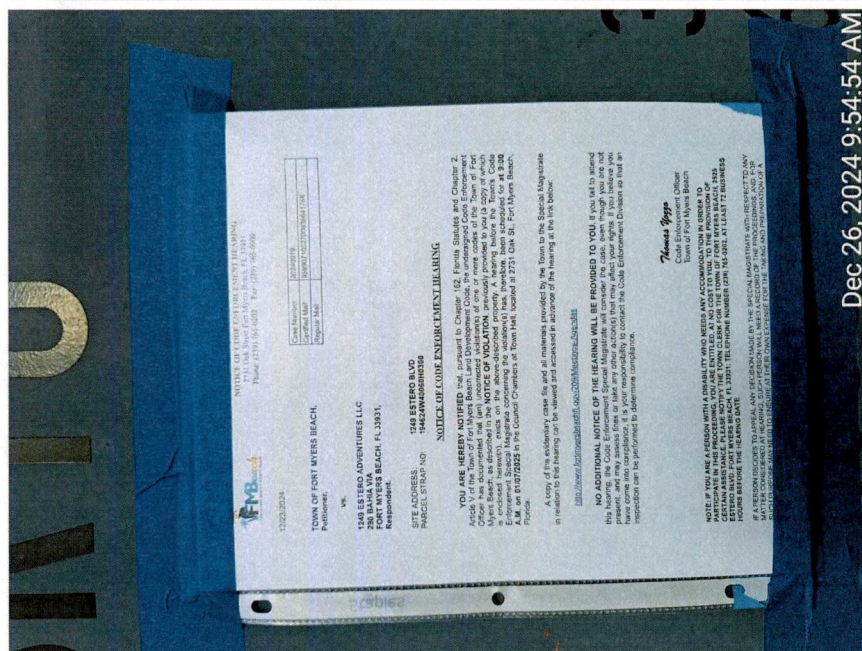
1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931

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03

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20240919
12/26/2024
1249 Estero Blvd

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions





Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT HEARING
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

12/23/2024

Case Number:	20240919
Certified Mail:	9589071052700636641766
Regular Mail	

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH, FL 33931,
Respondent.

SITE ADDRESS: 1249 ESTERO BLVD
PARCEL STRAP NO: 194624W40060H0300

NOTICE OF CODE ENFORCEMENT HEARING

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Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

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Dec 26 2024 8:40:03 AM

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Main content:

All Public Notices will be taken off the website after 90 days. See below for a current list.

TOWN CLERK

NOTICE OF VIOLATION

NOTICE OF HEARING

NOTICE TO VACATE AND DEMOLITION NOTICE

OTHER NOTICES

FMB PERMITS

CDBG-DR

Notice of Hearings

- 1249 Estero Blvd case #20240919 12/23/2024
- 1035 Estero Blvd case #20240915 12/23/2024
- 406 Estero Blvd case #20240921 12/23/2024
- 4900 Estero Blvd case #20240960 12/23/2024
- 2815 Estero Blvd case #20240994 12/23/2024
- 2450 Estero Blvd case #20240946 12/23/2024
- 1821 Estero Blvd case #20240914 12/23/2024
- 81 Miramar St. case #20240912 12/23/2024
- 2450 Estero Blvd case #20240946 (rescheduled) 12/30/2024
- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)

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Left sidebar: Public Information, Public Notices

Main content:

CDBG-DR

- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240680 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025 (CANCELED)
- 80 Avenue E case #CE140394 01/10/2025
- 7864 Buccaneer Dr. case #20240786 01/27/2025
- 190 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240680 01/27/2025
- 8285 Estero Blvd case #20241106 01/31/2025
- 406 Estero Blvd case #20240921 Amended 02/03/2025
- 4900 Estero Blvd case #20240960 Amended 02/03/2025
- 1249 Estero Blvd case #20240919 Amended 02/03/2025
- 2450 Estero Blvd case #20240946 Amended 02/03/2025
- 8285 Estero Blvd case #20241106 Amended 02/03/2025

Address bar: https://www.fortmyersbeachfl.gov/DocumentCenter/View/23487/NOH-80-Avenue-E-12925

Taskbar: Type here to search, 2:42 PM 2/6/2025

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. 24-004842

FMB Case No. 20240919

Petitioner,

vs.

1249 ESTERO ADVENTURES LLC,

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, March 4, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 31st day of January 2025.



Amy Baker, Town Clerk



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931

Respondent,

FMB Case Number:	20240919
Certified Mail:	
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Site Address: 1249 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 194624W40060H0300

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Code Compliance Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20240919 for the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet) at the property 1249 Estero Blvd, Fort Myers Beach, FL 33931.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



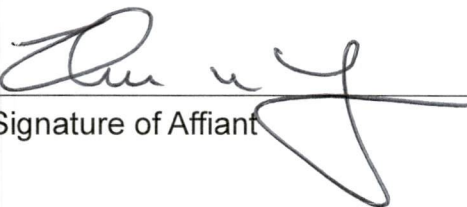
1. I personally mailed by certified mail a copy of the Notice of Hearing scheduled 03/04/2025 to the following:
 - a. 1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931
Certified Mail No. 9589071052700636641193
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 1249 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 7th day of February 2025. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 7th day of February 2025 are attached.
4. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 24th day of September, 2024. A copy of the posted webpage is attached as Evidence



Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 18th day of February, 2025, by Thomas Yozzo. She ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Danielle Batt
My Commission Expires: July 14 2026

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

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Amended NOH
20240919
1249 Estero Blvd

1249 Estero Adventures LLC	
290 Bahia Via	
Fort Myes Beach, FL 33931	

PS Form 3800, January 2023 PSN 7530-02-000-9000 See Reverse for Instructions



Feb 7, 2025 8:24:59 AM



Feb 7, 2025 8:24:56 AM



Feb 7, 2025 8:24:39 AM

Page 26 of 331



Feb 7, 2025 8:49:27 AM

fortmyersbeachfl.gov/1294/Public-Notices

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ABOUT FMB DOING TOWN BUSINESS THINGS TO DO HOW DO I?

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See below for a current list.

TOWN CLERK
NOTICE OF VIOLATION
NOTICE OF HEARING
NOTICE TO VACATE AND DEMOLITION NOTICE
OTHER NOTICES
FMB PERMITS
CDBG-DR

Notice of Hearings

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ABOUT FMB DOING TOWN BUSINESS THINGS TO DO HOW DO I?

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- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240680 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025 (CANCELED)
- 80 Avenue E case #CE140394 01/10/2025
- 7864 Buccaneer Dr. case #20240786 01/27/2025
- 190 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240680 01/27/2025
- 8285 Estero Blvd case #20241106 01/31/2025
- 406 Estero Blvd case #20240921 Amended 02/03/2025
- 4900 Estero Blvd case #20240960 Amended 02/03/2025
- 1249 Estero Blvd case #20240919 Amended 02/03/2025
- 2450 Estero Blvd case #20240946 Amended 02/03/2025
- 8285 Estero Blvd case #20241106 Amended 02/03/2025

https://www.fortmyersbeachfl.gov/DocumentCenter/View/23487/NOH-80-Avenue-E-12925



Property Data

STRAP: 19-46-24-W4-0060H.0300 Folio ID: 10228167

[Hurricanes Helene/Milton Tax Roll Value Letter](#)

[Hurricane Ian Tax Roll Value Letter](#)

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Owner Of Record - Sole Owner [\[Change Mailing Address\]](#)

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH FL 33931

Site Address

Site Address maintained by [E911 Program Addressing](#)

1249 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!

VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32 + PT LT
29 OR2414/2433

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 6 and 70 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms 0
1st Year Building on Tax Roll [!](#) N/A
Historic Designation No

Township	Range	Section	Block	Lot
46	24E	19	0060H	0300
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.45235	-81.95242		

[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure



◀ Photo Date July of 2024 ▶ ☐ View other photos

Last Inspection Date: 02/01/2024

Property Values / Exemptions / TRIM Notices

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No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2024 / Additional Info	2024 (Final Value)	1,331,590	1,331,590	1,331,590	1,331,590	0	0	1,331,590
2023 / Additional Info	2023 (Final Value)	1,331,600	1,331,590	1,331,600	1,331,600	0	0	1,331,600
2022 / Additional Info	2022 (Final Value)	1,230,781	856,323	1,230,781	1,028,468	0	0	1,028,468
2021 / Additional Info	2021 (Final Value)	1,224,509	806,782	1,224,509	934,971	0	0	934,971
2020 / Additional Info	2020 (Final Value)	849,974	568,291	849,974	849,974	0	0	849,974
2019 / Additional Info	2019 (Final Value)	792,509	504,016	792,509	792,509	0	0	792,509
2018 / Additional Info	2018 (Final Value)	904,677	650,091	904,677	799,864	0	0	799,864
2017 / Additional Info	2017 (Final Value)	891,118	650,091	891,118	727,149	0	0	727,149
2016	2016 (Final Value)	884,009	650,091	884,009	649,993	0	0	649,993
2015	2015 (Final Value)	590,903	464,351	590,903	590,903	0	0	590,903

2014	2014 (Final Value)	590,919	464,351	590,919	590,919	0	0	590,919
2013	2013 (Final Value)	590,936	464,351	590,936	590,936	0	0	590,936
2012	2012 (Final Value)	589,248	464,351	589,248	589,248	0	0	589,248
2011	2011 (Final Value)	589,264	464,351	589,264	589,264	0	0	589,264
2010	2010 (Final Value)	1,065,260	928,702	1,065,260	1,065,260	0	0	1,065,260
	2009 (Final Value)	1,157,030	1,021,570	1,157,030	1,157,030	0	0	1,157,030
	2008 (Final Value)	1,342,790	1,216,490	1,342,790	1,342,790	0	0	1,342,790
	2007 (Final Value)	1,342,810	1,216,490	0	1,342,810	0	0	1,342,810
	2006 (Final Value)	1,323,730	1,216,490	0	1,323,730	0	0	1,323,730
	2005 (Final Value)	1,224,920	1,117,650	0	1,224,920	0	0	1,224,920
	2004 (Final Value)	598,820	516,230	0	598,820	0	0	598,820
	2003 (Final Value)	598,950	516,340	0	598,950	0	0	598,950
	2002 (Final Value)	382,150	299,520	0	382,150	0	0	382,150
	2001 (Final Value)	391,220	299,660	0	391,220	0	0	391,220
	2000 (Final Value)	234,300	158,740	0	234,300	0	0	234,300
	1999 (Final Value)	216,680	140,920	0	216,680	0	0	216,680
	1998 (Final Value)	215,730	139,770	0	215,730	0	0	215,730
	1997 (Final Value)	209,960	133,500	0	209,960	0	0	209,960
	1996 (Final Value)	265,790	189,150	0	265,790	0	0	265,790
	1995 (Final Value)	266,100	189,290	0	266,100	0	0	266,100
	1994 (Final Value)	222,670	145,670	0	222,670	0	0	222,670
	1993 (Final Value)	222,990	145,810	0	222,990	0	0	222,990
	1992 (Final Value)	223,300	145,940	0	223,300	0	0	223,300

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\)\(a\)](#)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current as of 12/10/2024)

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Land
Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1000	Commercial, Vacant	17544.00	Square Feet



Property Details (2024 Tax Roll)



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Land
Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1000	Commercial, Vacant	17544.00	Square Feet

Taxing Authorities

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TOWN OF FM BCH / FM BCH DOWNTOWN REDEV / 277

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837
FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
GREEN CORRIDOR PACE / 363	Special District	
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions ⓘ

Generated on 12/11/2024 11:20 AM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
3,000,000.00	06/15/2022	2022000200796	03		I
100.00	11/12/2012	2012000251419	11		I
1,800,000.00	11/12/2012	2012000251418	30		I
260,000.00	04/01/2009	2009000089700	30	There are 4 additional parcel(s) with this document (may have been split after the transaction date)... 19-46-24-W4-0060H.0260 19-46-24-W4-0060H.026A 19-46-24-W4-0060H.0270 19-46-24-W4-0060H.0280	I
440,000.00	07/01/1993	2414/2433	01		I

379,000.00 04/01/1993

[2379/1262](#)

[06](#)

I

[View Recorded Plat at LeeClerk.org](#)

Use the above link to do a search on the Lee County Clerk of Courts website, using **6** and **70** for the book and page numbers and **Plats Book** for the book type.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building / Construction Permit Data

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Permit Number	Permit Type	Date
233812	Mobile Home	06/01/2023
232195	Mobile Home	05/18/2023
233025	Electric	04/07/2023
PLB17-0057	Plumbing	04/17/2017
FIR16-0058	Gas	01/11/2017
FIR16-0048	Fire	08/26/2016
ROF16-0093	Roof	08/26/2016
ELE16-0230	Electric	08/24/2016
PLB16-0128	Plumbing	08/24/2016
PLB16-0119	Plumbing	08/22/2016
FIR15-0045	Fire	08/12/2016
COM15-0262	Building Miscellaneous	07/20/2016
COM15-0387	Building Miscellaneous	12/18/2015
FIR14-0074	Fire	11/05/2014
FIR13-0016	Fire	05/23/2013
COM11-0151	Building Remodel / Repair	01/01/2011
PLB10-0052	Plumbing	08/30/2010
COM09-0114	Building Remodel / Repair	04/30/2010
COM2007-03013	Commercial	10/31/2007
ROF2006-05560	Roof	08/16/2006
ROF2005-06019	Roof	07/15/2005
FNC2004-00175	Fence	02/13/2004
610204	Commercial	10/07/1986
504544	Commercial	04/11/1985
500929	Commercial	01/25/1985
411494	Commercial	12/11/1984
73919	Commercial	10/31/1980

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History

Generated on 12/11/2024 11:20 AM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
19-46-24-06-0000H.0300	N/A	Reserved for Renumber ONLY	01/12/1995
19-46-24-W4-0060H.0290	10228166	Combined (With another parcel-Delete Occurs)	05/23/1997

Solid Waste (Garbage) Roll Data

Generated on 12/11/2024 11:20 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	C - Commercial Category	D	3523	395.22
Collection Days				

Garbage	Recycling	Horticulture
Thursday	Thursday	Thursday

Flood and Storm Information

Generated on 12/11/2024 11:20 AM

	Flood Insurance	Find my flood zone		
Community	Panel	Version	Date	Evacuation Zone
071C	0554	G	11/17/2022	A

Generated on 12/11/2024 11:20 AM

Prepared by and return to:

Stephen McGuire

McGuire Law, P.A.

12670 New Brittany Blvd, Suite 101

Fort Myers, FL 33907

(239) 939-2222

File Number: 2022-2010

Will Call No.:

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 15th day of June, 2022 between Estero Blvd. LLC, a Florida Limited Liability Company whose post office address is 1263 Isabel Dr., Sanibel, FL 33957, grantor, and 1249 Estero Adventures, LLC, a Florida Limited Liability Company whose post office address is 290 Bahia Via, Fort Myers Beach, FL 33931, grantee:

(Whenever 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, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida to-wit:

A parcel being in Lots 30, 31 and 32, Block "H", VENETIAN GARDENS SUBDIVISION, as recorded in Plat Book 6, Page 70, Lee County, Florida, more particularly described as follows:

From the Northwest corner of said Lot 32, run South 0 degrees 17'35" West, along the Easterly right-of-way of Primo Drive, 28.07 feet to the Point of Beginning of lands herein described; from said point of beginning continue South 0 degrees 17'35" West, along said Easterly right of way of Primo Drive 106.93 feet to a point on the Northerly right-of-way of Palermo Circle; thence along said Northerly right-of-way of Palermo Circle in an Easterly direction to the Southwesterly corner of Lot 29, Block H, said VENETIAN GARDENS SUBDIVISION, thence North 39 degrees 44'07" West, 117.54 feet to a point on the line which is parallel to Primo Drive; thence South 0 degrees 17'35" West, 17.74 feet; thence South 88 degrees 29'35" West, 68.02 feet to the Point of Beginning.

And

Part of Lots 29, 30 and 31, Block H, VENETIAN GARDENS SUBDIVISION, according to the map or plat thereof on file and recorded in the office of the Clerk of the Circuit Court in Plat Book 6, Page 70, more fully described as follows:

Beginning at the Southeast corner of Lot 29, thence Northwesterly to a point 20 feet from the Northeast corner of Lot 29 and on North line of said lot; thence Southwesterly on said line 50 feet to a point which is 10 feet West of the Northeast Corner of Lot 31; thence Southeasterly to Southeast corner of Lot 30, thence Northeasterly and along said lot line to Point of Beginning.

LESS AND EXCEPT the parcel of land described in that certain deed recorded in Official Record Book 4831, Page 1147, Public Records of Lee County, Florida.

Parcel Identification Number: 19-46-24-W4-0060H.0300

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

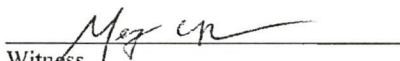
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants 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; that the grantor hereby fully warrants 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 12/31/2021.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

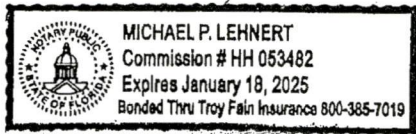

Witness
Printed Name: Michael Lehnert


Witness
Printed Name: Mary C Palmer

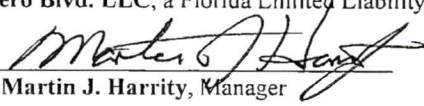
State of Florida
County of Lee

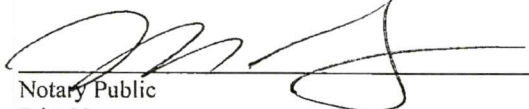
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 5 day of June, 2022 by Martin J. Harrity, Manager of Estero Blvd. LLC who ☒ is personally known or ☐ has produced a driver's license as identification.

[Seal]



Estero Blvd. LLC, a Florida Limited Liability Company

By: 
Martin J. Harrity, Manager


Notary Public
Print Name: _____
My Commission Expires: _____



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
1249 ESTERO ADVENTURES, LLC

Filing Information

Document Number L22000265446
FEI/EIN Number N/A
Date Filed 06/13/2022
State FL
Status ACTIVE

Principal Address

290 BAHIA VIA
FORT MYERS BEACH, FL 33931

Mailing Address

290 BAHIA VIA
FORT MYERS BEACH, FL 33931

Registered Agent Name & Address

MICHAEL R. MILLER
290 BAHIA VIA
FORT MYERS BEACH, FL 33931

Authorized Person(s) Detail

Name & Address

Title MGR

MICHAEL R. MILLER
290 BAHIA VIA
FORT MYERS BEACH, FL 33931

Annual Reports

Report Year	Filed Date
2023	04/26/2023
2024	02/27/2024

Document Images

[02/27/2024 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[04/26/2023 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[06/13/2022 -- Florida Limited Liability](#)

[View image in PDF format](#)

Florida Department of State, Division of Corporations

Hearing Exhibit B

FEMA and Related Ordinances



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov.18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,



Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

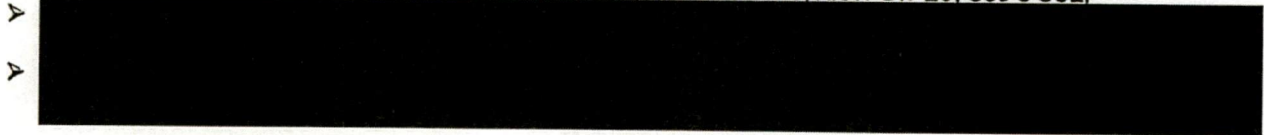
After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.

- Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- Failure in permitting system, which allowed the use of "temporary" non-compliant structures (Including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.



1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance)	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

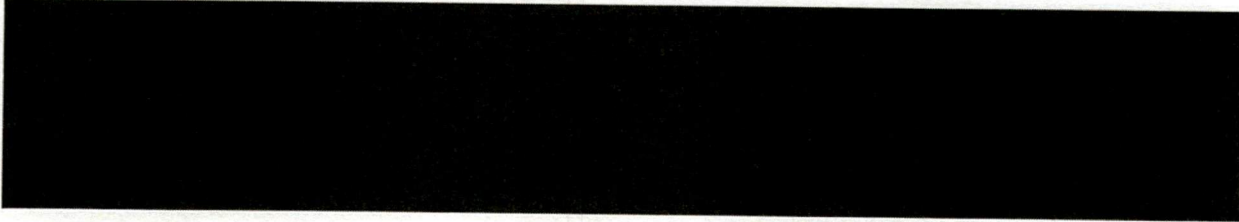
The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.





4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



FEMA

National Flood Insurance Program

Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

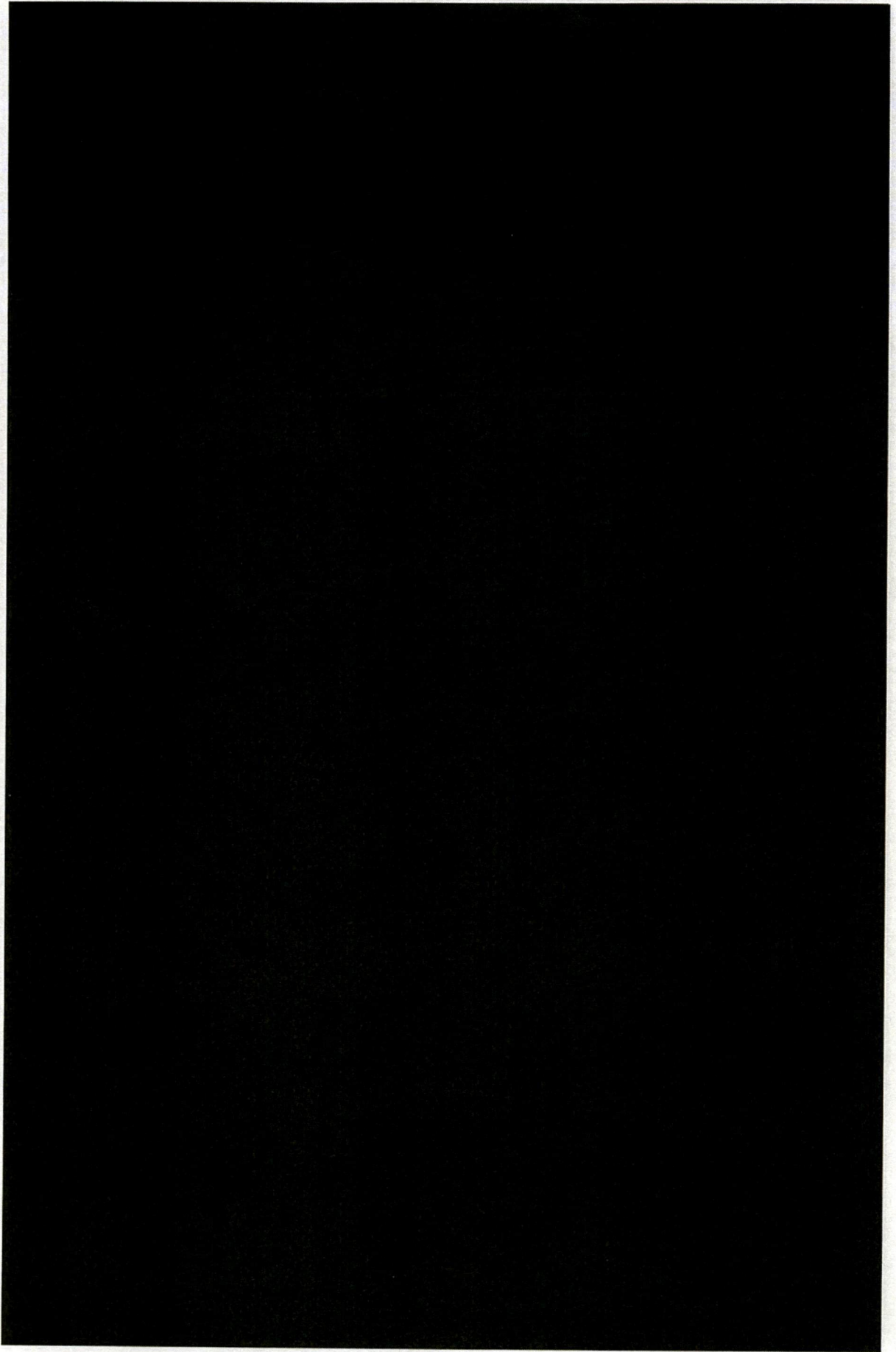
In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

100-1-100

100-1-100





VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

**RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report**

Dear Mr. Samaan,

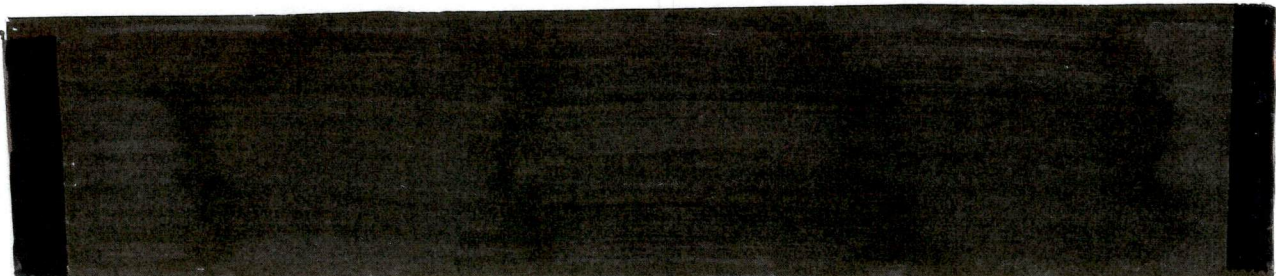
The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.



https://drive.google.com/file/d/1vCBHenwpTdKXBtx877OiR1nmTin2M8k9/view?usp=sharing_cil&ts=67237f46



Businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

FORT MYERS BEACH ESTERO ISLAND

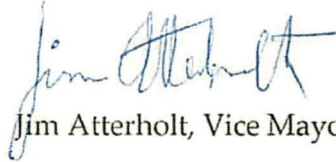
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,



Dan Allers, Mayor



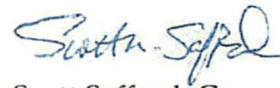
Jim Atterholt, Vice Mayor



John R. King, Councilor



Karen Woodson, Councilor



Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director

U. S. Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, GA 30341



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. **FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.**

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management

RESOLUTION NUMBER 24-182

**A RESOLUTION OF THE TOWN OF FORT MYERS
BEACH, FLORIDA, DIRECTING THE TOWN MANAGER
TO IMPLEMENT ALL REQUIREMENTS SET FORTH IN A
LETTER DATED JULY 19, 2024, FROM THE FEDERAL
EMERGENCY MANAGEMENT AGENCY (“FEMA”); AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, FEMA has been working in conjunction with the Town for the last two (2) years on recovery efforts from Hurricane Ian, and has, on July 19, 2024, sent the Town a letter outlining requirements for the Town to maintain its class rating in the National Flood Insurance Program; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town and promotes its health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The Town Manager is directed and authorized to take any and all actions to implement the requirements contained in the letter from FEMA dated July 19, 2024, a copy of which is attached as Exhibit “A”.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon motion by Mayor Allers and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
Karen Woodson, Council Member	Aye
Scott Safford, Council Member	Aye
John R. King, Council Member	Aye

APPROVED AND ADOPTED this 9th day of September 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Sep 19, 2024 16:13 EDT)
Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Nancy Stuparich
Nancy Stuparich (Sep 19, 2024 17:12 EDT)
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 11th day of September 2024.

RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter by the town council, any governmental, residential (manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential dwelling) or moveable commercial use shall be removed from the site 1) no later than 30 (days) after issuance of a certificate of occupancy or certificate of use associated with an approved permit; 2) at the time of the expiration of the ETPP as provided herein or as provided in a resolution; or 3) at the time of expiration of any local or state declaration of emergency or law, whichever is earlier. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for “noncompliance with applicable federal law/regulation, state law and town code”; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration (“FEMA”) that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as “[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]”, which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to “[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area”; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a “structure” for floodplain management purposes pursuant to 44 CFR Part 59.1 includes “any walled and roofed building, manufactured home or travel trailer without wheels,” and

WHEREAS, the definition of a “manufactured home” for floodplain management purposes pursuant to 44 CFR 59.1 is “a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing “Whereas” clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for “noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area” are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.

The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

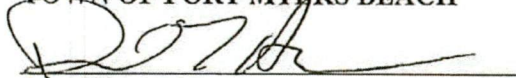
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
Karen Woodson, Council Member	Aye
John R. King, Council Member	Absent
Scott Safford, Council Member	Aye

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

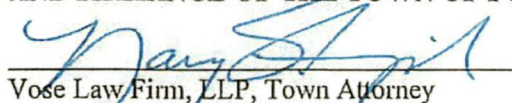
TOWN OF FORT MYERS BEACH


Dan Allers, Mayor

ATTEST:


Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



December 19, 2024

1249 ESTERO ADVENTURES LLC
c/o MICHAEL R. MILLER
290 BAHIA VIA
FORT MYERS BEACH FL 33931
Gregvonkrumreig@gmail.com

RE: REVOCATION AND RESCINDING TEMPORARY USE PERMIT NO. 232195
Property Address: 1249 Estero Blvd, Fort Myers Beach Florida

VIA: Certified Mail and posting at 1249 Estero Blvd, Fort Myers Beach, Florida

Dear Mr. Miller:

This letter is Formal Notice that Temporary Use Permit No. 232195 is revoked and rescinded as of the 16th day of December 2024 as directed by Resolution 24-296, which was approved and adopted by the Town of Fort Myers Beach Town Council on December 16, 2024. The Fort Myers Beach Town Council has also previously directed that no extensions or additional temporary permits will be issued in order to comply with the minimum floodplain standards as identified in Page 2 of the U.S. Department of Homeland Security, Federal Emergency Management Agency Town of Fort Myers Beach Post-Disaster Compliance Status Update Report dated July 19, 2024. ("FEMA Report"). A copy of Resolution 24-296 and FEMA's most recent letter of November 21, 2024 to the Town are included for your information, and as directed to accompany this Formal Notice by the Town Council.

This Formal Notice may be appealed if issued in error pursuant to Section 34-86 of the Town of Fort Myers Beach Code of Ordinances and as stated in Section 4 of Ordinance 24-04 or by any other lawful means. To the extent that this letter is provided to you at the direction of the Town Council, this letter constitutes final agency action. If you have questions regarding the revocation and rescission of this permit, please contact Frank Kropacek at 239-765-0202.

Sincerely,

Andrew Hyatt, Town Manager

Cc: Tom Yozzo, Code Compliance Manager
Frank Kropacek, Operations & Compliance Director
Enclosures – FEMA November 21, 2024 Letter
Resolution 24-296

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 0636 6419 64

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City, State, ZIP+4® 290 BAHIA VIA

FORT MYERS BEACH, FL 33931

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\$ 9.64

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



Permit #: 232195

Permit Date: 03/06/23

Permit Type:

Permit Type: Temporary Use

Sub Type: Property Registration-Vehicle/RV/Vendors

Type of Construction:

Type of Occupancy / Use: Commercial

Contractor Business

Name/Applicant:

Contact Name: Mike Miller

Contractor/Applicant Email:

Contractor/Applicant Phone #: 239-851-2274

Property Owner's Email: Gregvonkrumreig@gmail.com

Current Use:

Proposed Use:

Scope of Work: Beached Whale -Food truck 16', with smoker, restaurant trailer, storage trailer, mobile bar

Project Cost: 0

Square Feet: 0

Issued Date: 05/18/2023

Expiration Date: 09/23/2025

Finaled Date:

Closed Date:

Repair Damage Due To:

Storm Damage:

Status: ISSUED

Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
194624W40060H0300	1249 ESTERO BLVD	VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32 + PT LT 29 OR2414/2433	1249 ESTERO ADVENTURES LLC		DOWNTOWN

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
03/07/2023	Fire - 902 Final Fire - Contact FMB Fire to schedule	Fees still need paid			Christopher Cox	Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
		Conditions for trailers 1. Trailers shall be removable and have emergency plan when a storm is in place. 2. Electrical should be designed and installed to minimize effects on elements of the electrical system not damaged by flood water. 3. Plumbing must resist flood forces and prevent flood water entry and accumulation. Must also be designed to resist flood forces.		
03/06/2023	Review Flood	Sec. 6-519. - Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas must: (1) Be on the site for fewer than 180 consecutive days; or (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.	Kendra Rosa	REVIEWED W/CONDITIONS
03/06/2023	Review FMB Application		Kendra Rosa	DONE
03/06/2023	FMB Fire Dept		Jennifer Campbell	RESUBMITTAL REQUIRED
03/06/2023	Review Zoning	A SEPARATE PERMIT FOR THE STAGE IS REQUIRED.	Kendra Rosa	REVIEWED W/CONDITIONS
03/08/2023	Rejection Letter Sent	1st Fire Review	Shanette Thomas	DONE
03/21/2023	FMB Fire Dept		Jennifer Campbell	REVIEWED FOR COMPLIANCE

Attached Letters

Date	Letter	Description
08/01/2023	Temporary Permit	
05/18/2023	Building Permit	

Uploaded Files

Date	File Name
03/29/2023	14879995-Job Site - Fire Review - Permit 232195.pdf
03/22/2023	14809862-Whale Temp use Permit.jpg
03/20/2023	14782026-Site Map for The Whale (002).jpg
03/20/2023	14782024-Temporary Use Application (002).jpg
03/20/2023	14781785-Dudleys DBPR.pdf
03/08/2023	14599497-232195 1249 Estero Blvd 1st Fire Review rejection letter.pdf
03/06/2023	14578636-MH_RV_TEMP USE PERMIT_rev 12202022 ker.pdf



VIA CERTIFIED U.S. Mail and ELECTRONIC MAIL

December 5, 2024

Ms. Jacky Bell, Mitigation Division Director
Federal Emergency Management Agency (FEMA)
Region 4
3005 Chamble Tucker Road
Atlanta, Georgia

Subject: Fort Myers Beach – Response to FEMA Letter Dated November 21, 2024

Dear Ms. Bell,

In response to your letter dated November 21, 2024, in which FEMA has placed the Town of Fort Myers Beach on probation with the National Flood Insurance Program, the letter specifically states that your teams have identified additional work that needs to occur for Action Items #2, #3 and #5. In response, the Town would like to provide the following feedback and pose several questions as well to seek additional clarification.

Response to Action #2: For Action #2, the Town developed the Fort Myers Beach Hurricane Ian Claims vs Permits Issued Crosswalk to compare Hurricane Ian claims data versus what permits were issued as a result of Hurricane Ian. The crosswalk will be used as a tool to quickly identify those homes that sustained damage and to what level it was sustained. It includes information related to which homes received SD letters, permits that were issued and whether the home is in a current mitigation project. The comprehensive crosswalk tracks all necessary permit information which will help to identify gaps and inconsistencies in the process. The document will provide a foundation for all permit work moving forward. **During the Town's development meetings with FEMA, all parties acknowledged that the crosswalk is currently incomplete and remains a work in progress. The Town committed to prioritizing its completion as soon as possible, and FEMA representatives confirmed that this approach is acceptable to meet the requirements of the corrective action plan.**

Action Item #2 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?
- What specific paperwork permitting is still required that has not been submitted previously submitted to FEMA in the letter dated 11/21/2024?
- Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

Response to Action #3: Similar to response above to Action #2, the Town intends to leverage the Fort Myers Beach Hurricane Ian Claims vs Permits Issued Crosswalk. The comprehensive crosswalk tracks all necessary permit information. It also tracks those properties that received SD letters, which properties are included in current mitigation projects and identifies those properties with colors that show the level of damages sustained during Ian to assist with rapid identification. This tool will help to identify gaps and inconsistencies in the process. **During the Town's development meetings with FEMA, all parties acknowledged that the crosswalk is currently incomplete and remains a work in progress. The Town committed to prioritizing its completion as soon as possible, and FEMA representatives confirmed that this approach is acceptable to meet the requirements of the corrective action plan.**

In both cases for Action Item #2 and Action #3, if a case of non-compliance is identified or if a property owner fails to comply or ignores a SD determination, a code case will be opened, and the code due process will begin through to magistrate if needed. The Building Official will also conduct an assessment if this was regarding a safety issue.

Action Item #3 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?
- What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?
- The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town's current code process sufficient to meet action item #3?
- If not, what specific changes would be necessary to comply with action item #3 in the letter dated 11/21/2024?

Response to Action #5: The Town recognizes that having containers, trailers and other non-compliant structures in the FEMA designated floodplain is out of compliance with NFIP

regulations. The Town intends to utilize its code enforcement process for non-compliant structures in the floodplain. During the Town's development meetings with FEMA, the Town committed to prioritizing the removal of non-compliant containers, trailers, and other structures located within the FEMA-designated floodplain, as these are out of compliance with NFIP regulations. The Town intends to address these non-compliant structures through the code enforcement process with a hearing before a special magistrate. FEMA representatives confirmed that this approach is acceptable to meet the requirements of the corrective action plan.

Action Item #5 Questions

- Do temporary housing trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Will unsafe homes and businesses need to be required to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Will non-compliant substantially damaged homes or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling in the letter dated 11/21/2024?

Thank you for your consideration of our feedback and I look forward to receiving clarification on our outstanding questions.

Respectfully,



Andrew Hyatt, Town Manager
Town of Fort Myers Beach

CC: Senator Rick Scott
Congressman Byron Donalds
Jason Hunter, Region Floodplain Management & Insurance Branch Chief, FEMA
Jillian Kraynak, Florida NFIP State Coordinator, FEMA
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Director of Operations & Compliance



FEMA

February 6, 2025

Andy Hyatt, Town Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Fort Myers Beach - Response to FEMA Letter Dated Dec. 5, 2024.

Dear Mr. Hyatt:

This is in response to your letter dated December 5, 2024, in which you asked for FEMA to provide feedback and clarification on the decision to place the Town of Fort Myers Beach on probation with the National Flood Insurance Program. You asked about additional work and documentation needed to complete requirements for Action Items 2, 3 and 5.

These action items were outlined in the July 19, 2024, letter notifying the Town that outstanding deficiencies and violations in the floodplain management program related to Hurricane Ian **must be remedied by Nov. 18, 2024**. Otherwise, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) required FEMA to place the Town on probation. That letter also stated that if probation was to go into effect the Town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

Action Item 2

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

We concur that the method developed by The Town, "Ian Claims vs Permits Issued Crosswalk" was deemed acceptable by a FEMA representative, however completing deliverables by Nov. 18 was imperative to avoid probation as referenced in the July 19 letter.

Action Item 2 required The Town to complete a re-assessment of SFHA developments from Hurricane Ian damages. The results from this assessment should have been included in final deliverables for the November 18 deadline, reflecting any newly identified non-compliant structures the Town would address through code enforcement. To meet the requirement for Action Item 2 the Town must:

- 1) Complete the assessments all structures and or developments in SFHA that sustained damages from Hurricane Ian against all available data.
- 2) Address all new findings with Action Item 3.

Action Item 3

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

- The Town failed to complete the re-assessment of SFHA as required by Action Item 2 of the July 19th letter.
- The Town failed to properly address Action Item 3 demonstrating how The Town planned to leverage its code enforcement procedures for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.
- The Town did not produce documentation demonstrating proposed or completed code enforcement actions for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.

Action Item 5

Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

Following Hurricane Ian, the Town improperly issued permits for the temporary placement of non-compliant structures in the Special Flood Hazard Area, including the VE (coastal SFHA) without meeting proper requirements.

As noted in the July 19 letter, the Town was required to:

- Remove and confirm the non-issuance of permits for non-compliant development in SFHA by Nov. 18.
- Remove, or at minimum provide a plan for removal, non-compliant structures (containers) located in the SFHA by Nov. 18.

As of November 18, deadline non complaint structures remained.

Regarding the questions from Town's December 5 letter about requirement to complete Action Item 5, the Town is expected, to assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area as part of action item 2 and address any outstanding issues with the Town's normal code enforcement process.

To satisfy requirements for Action Item 5 the Town must address the remaining noncompliant structures including any shipping or storage containers, trailers or structures which received temporary permits in the VE and Coastal A Zones.

If you have any questions or need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch Chief, at jason.hunter@fema.dhs.gov or 404-909-6125.

Sincerely,

Jacky S. Bell
Director, Mitigation Division

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief

Jillian Kraynak, Florida NFIP State Coordinator



VIA CERTIFIED U.S. Mail and ELECTRONIC MAIL

February 18, 2025

Ms. Jacky Bell, Mitigation, Division Director
Federal Emergency Management Agency (FEMA)
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia

Subject: Fort Myers Beach – Response to FEMA Letter Dated February 6, 2025

Dear Ms. Bell,

The Town of Fort Myers Beach (the Town) believes it has fully complied with the requirements of the National Flood Insurance Program and has been wrongfully placed on probation following the destruction of Hurricane Ian. As such we are seeking additional clarification in response to your letter dated February 6, 2025, in which FEMA provided feedback regarding work and documentation for Action Items 2, 3 and 5. Again, we kindly ask for additional clarification on the action-specific questions we posed.

Action Item #2:

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

FEMA Response:

We concur that the method developed by The Town, “Ian Claims vs Permits Issued Crosswalk” was deemed acceptable by a FEMA representative, however completing deliverables by Nov. 18 was imperative to avoid probation as referenced in the July 19 letter.

Action Item 2 required The Town to complete a re-assessment of SFHA developments from Hurricane Ian damages. The results from this assessment should have been included in final deliverables for the November 18 deadline, reflecting any newly identified non-compliant

structures the Town would address through code enforcement. To meet the requirement for Action Item 2 the Town must:

- 1) Complete the assessments on all structures and or developments in SFHA that sustained damages from Hurricane Ian against all available data.
- 2) Address all new findings with Action Item 3.

Follow-up Action Item #2 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?
- What specific permitting paperwork is still required that has not been submitted previously submitted to FEMA in the letter dated 11/21/2024?
- Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

Action Item#3:

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

FEMA Response:

The Town failed to complete the re-assessment of SFHA as required by Action Item 2 of the July 19th letter.

- The Town failed to properly address Action Item 3 demonstrating how The Town planned to leverage its code enforcement procedures for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.
- The Town did not produce documentation demonstrating proposed or completed code enforcement actions for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.

Follow-up Action Item #3 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?
- What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?
- The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town’s current code process sufficient to meet action item #3?

- If not, what specific changes would be necessary to comply with action item #3 in the letter dated 11/21/2024?

Action Item #5:

Remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

FEMA Response:

Following Hurricane Ian, the Town improperly issued permits for the temporary placement of non-compliant structures in the Special Flood Hazard Area, including the VE (coastal SFHA) without meeting proper requirements.

As noted in the July 19 letter, the Town was required to:

- Remove and confirm the non-issuance of permits for non-compliant development in SFHA by Nov. 18.
- Remove, or at minimum provide a plan for removal, non-compliant structures (containers) located in the SFHA by Nov. 18.

As of November 18, deadline non complaint structures remained.

Regarding the questions from the Town's December 5 letter about the requirement to complete Action Item 5, the Town is expected, to assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area as part of action item 2 and address any outstanding issues with the Town's normal code enforcement process.

To satisfy requirements for Action Item 5 the Town must address the remaining noncompliant structures including any shipping or storage containers, trailers or structures which received temporary permits in the VE and Coastal A Zones.

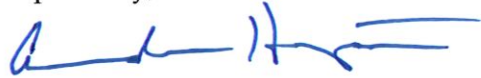
Follow-up Action Item #5 Questions

- Do temporary housing trailers [such as recreational vehicles, park trailers, or other similar] need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024 [if these are licensed as vehicles and can be moved in the event of an approaching storm?]
- Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Will unsafe homes, [structures,] and businesses need to be required to be [demolished or] removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

- Will non-compliant substantially damaged homes, [structures,] or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling [requiring demolition?]

Thank you for your assistance, and I look forward to receiving clarification on our outstanding questions.

Respectfully,



Andrew Hyatt, Town Manager
Town of Fort Myers Beach

CC: Senator Rick Scott
Senator Ashley Moody
Congressman Byron Donalds
Kevin Guthrie, Director FDEM
Mayor Dan Allers
Jason Hunter, Region Floodplain Management & Insurance Branch Chief, FEMA
Jillian Kraynak, Florida NFIP State Coordinator, FEMA
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Director of Operations & Compliance



FEMA

February 28, 2025

Andy Hyatt, Town Manager
Town of Fort Myers Beach 2731
Oak Street
Fort Myers Beach, FL 33931

Re: Fort Myers Beach - Response to FEMA Letter Dated February 6, 2025

Dear Mr. Hyatt:

We received your letter on February 18, 2025, requesting additional clarification on the decision to place the Town of Fort Myers Beach on probation with the National Flood Insurance Program. You asked about additional work and documentation needed to complete requirements for Action Items 2, 3 and 5.

These action items were outlined in the July 19, 2024, letter notifying the Town that outstanding deficiencies and violations in the floodplain management program related to Hurricane Ian **must be remedied by Nov. 18, 2024**. Otherwise, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) required FEMA to place the Town on probation. That letter also stated that if probation was to go into effect the Town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

We have responded to each of your questions below.

Action Item 2

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

Follow-up Action Item #2 Questions

Question 1: What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?

FEMA Response: Of the 1,665 addresses listed in the crosswalk data submitted by the Town, 1,583 had no permit or any other information listed. FEMA is unable to determine what, if any, actions have taken place with these properties. FEMA cannot consider the assessment of all floodplain development to be complete without updated status information on these properties. Status updates could include, but are not limited to, Permit issued/pending, Notice of Violation Issued/Pending, Notification Letter sent, awaiting response, Administrative Hearing pending, etc. The status will be determined by what phase of the Town's enforcement process the property is currently in.

Question 2: What specific permitting paperwork is still required that has not been submitted previously submitted to EMA in the letter dated 11/21/2024?

FEMA Response: The Town will need to submit updated spreadsheets that clearly indicate the status of these properties and what, if any, actions have been taken.

Question 3: Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

FEMA Response: FEMA is not requiring data on any properties besides those already identified.

Action Item 3

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

Follow-up Action Item #3 Questions

Question 1. What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?

FEMA Response: FEMA cannot determine if the Town is leveraging its code enforcement process without the missing information mentioned above. Submission of the data spelled out in response to Action Item 1 will allow FEMA to confirm the Town is pursuing its code enforcement process appropriately.

Question 2: What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?

FEMA Response: The documentation spelled out above, indicating status of the properties in question will satisfy FEMA's requirement and assure the Agency that the Town is appropriately enforcing its ordinance.

Question 3: The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town's current code process sufficient to meet action item #3?

FEMA Response: If the process outlined above conforms to the Town's ordinance and any relevant State or Federal regulation then it will be deemed sufficient so long as the Town can demonstrate that it is be enforced consistently throughout the Town on all properties deemed out of compliance. Submission of the status updates requested above will demonstrate the consistent enforcement of this process.

Action Item 5

Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

Follow-up Action Item #5 Questions

Question 1: Do temporary housing trailers [such as recreational vehicles, park trailers, or other similar] need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: Temporary housing for disaster survivors that has been permitted by the Town of Fort Myers Beach is acceptable.

Question 2: Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024 [if these are licensed as vehicles and can be moved in the event of an approaching storm?]

FEMA Response: Food trucks are vehicles and should be regulated in the SFHA similar to any licensed and road-ready vehicle in the Town's jurisdiction. Trailers that have been placed on a foundation or modified to include any structural attachments are to be elevated and anchored to meet the Town's Floodplain Management Regulations. Connex boxes, storage containers or any other similar units should not be placed in the SFHA without being elevated and properly anchored to meet the Town's Floodplain Management Regulations.

Question 3: Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: Storage containers are not to be placed in the Special Flood Hazard Area (V zone, Coastal A, or A zone) without meeting the Town's Floodplain Management Regulations. All non-compliant structures are to be removed. Connex boxes, storage containers or any other similar units should not be placed in the SFHA without being elevated and properly anchored to meet the Town's Floodplain Management Regulations.

Question 4: Will unsafe homes, [structures,] and businesses need to be required to be [demolished or] removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: The Town would need to continue to leverage their code enforcement process to ensure non-compliant structures are brought into compliance. They should be reviewed on a case-by-case basis and would need to be monitored and be brought into compliance to the maximum extent possible.

Question 5: Will non-compliant substantially damaged homes, [structures,] or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling [requiring demolition?]

FEMA Response: The Town would need to continue to leverage their code enforcement process to ensure non-compliant structures are brought into compliance. They should be reviewed on a case-by-case basis and would need to be monitored and be brought into compliance to the maximum extent possible.

FEMA remains committed to assisting the Town of Fort Myers Beach as it navigates the probation process. As in the past, staff remain available to work, in person, with the Town to assist in resolving these compliance issues.

If you have any questions or would like to arrange in-person technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch Chief, at jason.hunter@fema.dhs.gov or 404-909-6125.

Sincerely,

Jacky S. Bell
Director, Mitigation Division

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief

Jillian Kraynak, Florida NFIP State Coordinator

Hearing Exhibit C

Notice of Violation and Affidavit of Posting



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931

Phone: (239) 765-0202 Fax: (239) 765-0909

09/24/2024

Case Number:	20240919
Certified Mail:	9589071052700636647355
Regular Mail	

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 1249 ESTERO BLVD
PARCEL STRAP NO: 194624W40060H0300

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on **09/19/2024** by Town of Fort Myers Beach Code Enforcement Officer **Thomas Yozzo** indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet)

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code .

You are hereby directed to bring these violations into compliance within 30 days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for

a hearing and seek a finding of a violation by the Special Magistrate even if you have corrected the violation prior to the time set for the hearing.

You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues to exist past the date set for compliance by the Special Magistrate. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation has been corrected prior to the hearing.

Please contact the Town of Fort Myers Beach Code Enforcement Division at 239-765-0202 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

Thomas Yozzo
Code Enforcement Officer
Town of Fort Myers Beach



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931

Respondent,

FMB Case Number:	20240919
Certified Mail:	
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Site Address: 1249 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 194624W40060H0300

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared D. Batt, who is the Code Compliance Coordinator for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20240946 for the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet) for the property 1249 Estero Blvd, - Fort Myers Beach, FL 33931 attached

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



1. I personally mailed by certified mail a copy of the Notice of Violation to the following:

- a. 1249 Estero Adventures LLC
290 Bahia Via
Fort Myers Beach, FL 33931
Certified Mail No. 99589071052700636647355
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

- 2. I posted a copy of the Notice at 1249 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 2nd day of October 2024. A true, accurate and unaltered copy of the photographs are attached.
- 3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 2nd day of October 2024 are attached.
- 4. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 24th day of September, 2024. A copy of the posted webpage is attached as Evidence



Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x [Signature]
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 16th day of January, 2025, by D. Batt. She ☒ is personally known to me or ☐ has produced _____ as identification.



ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

[Notary Seal]

[Signature]
Notary Public, State of Florida
Print Name: Ashley Shepard
My Commission Expires: April 14, 2026

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 0636 6473 55

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☐ Adult Signature Required

☐ Adult Signature Restricted Delivery

Postage

Total Postage and Fees

Gr

\$

C

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9001 See Reverse for Instructions

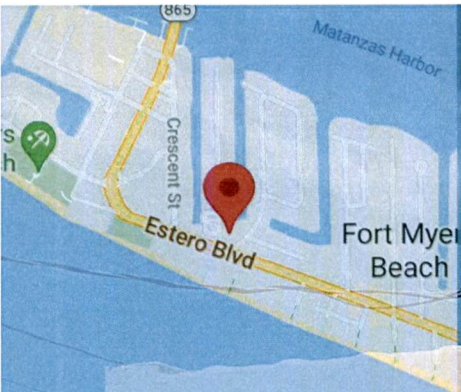
Town of Fort Myers Beach

06182 2024

Postmark
Here

20240919
1249 ESTER

Oct 2, 2024 12:34:56 PM
Fort Myers Beach



Google



[illegible]



Town of Fort Myers Beach
CODE COMPLIANCE
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

09/24/2024

Case Number:	20240919
Certified Mail:	9589071052700638647355
Regular Mail:	

1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 1249 ESTERO BLVD
PARCEL STRAP NO: 194624W40060H0300

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 09/19/2024 by Town of Fort Myers Beach Code Enforcement Officer Thomas Yozzo indicates that the following items are in violation:

For the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet)

These items are a violation of the following Town Codes:

ASCE 24-14 A copy is available at https://www.fema.gov/sites/default/files/2020-07/asce24-14_highlights_jan2015.pdf

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

Sec. 6-525. - General requirements for other development. All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

(1)Be located and constructed to minimize flood damage;(2)Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;(3)Be constructed of flood damage-resistant materials; and(4)Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

COMPLIANCE:

The following action is needed to bring the violation(s) into compliance. 1) Remove Structure(s) and/or Shipping Containers from property. 2) Provide proof of compliance with the requirements of Chapter 6, Article IV Division Section 6-501 and 5-525 of the Land Development Code.

You are hereby directed to bring these violations into compliance within 30 days.

ONCE THIS VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE VIOLATION(S) HAS (HAVE) BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED COMPLIANCE DATE.

If you fail to correct the violation(s) by the date specified above, or if the violation(s) is (are) brought into compliance and reoccur(s), the case may be scheduled for hearing before the Town of Fort Myers Beach Special Magistrate. The Code Enforcement Division may, in their discretion, schedule the case for

Oct 2, 2024 11:37:38 AM

Hearing Exhibit D

Status of Compliance



12/10/2024

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

1249 ESTERO ADVENTURES LLC

Respondent.

Site Address: 1249 ESTERO BLVD
Parcel Strap No.: 194624W40060H0300

Case Number: 20240919

Certified Mail:

Regular Mail:

AFFIDAVIT OF NON-COMPLIANCE

STATE OF FLORIDA)

COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Officer Thomas Yozzo, Code Enforcement Officer for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. I, Thomas Yozzo, am a person authorized by law to inspect violations of the Town of Fort Myers Beach Code contained herein and the statements set forth herein are based upon personal knowledge.

2. On 09/19/2024, 1249 ESTERO ADVENTURES LLC (property owner) was observed in violation of FEMA ASCE 24-14 and 6-501 & 6-525 of the Town of Fort Myers Beach Code of Ordinances, for the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet), at the property located at 1249 ESTERO BLVD, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 10/02/2024, and sent certified mail to the address of record, 290 BAHIA VIA, FORT MYERS BEACH, FL 33931, posted to the violation property located at 1249 ESTERO BLVD, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.

4. 1249 ESTERO ADVENTURES LLC was/were given 30 days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 11/02/2024.

5. I performed an inspection of the Subject Property on 12/10/2024, and the Subject Property remains in violation with the Town of Fort Myers Beach Ordinance. There does not appear to be any progress made towards compliance at 1249 ESTERO BLVD, Fort Myers Beach, FL 33931.

6. I have attached Exhibit A, which are photographs of the Subject Property, which I personally took, and which fairly represent the violation on the Subject Property I personally observed on 12/10/2024. These photographs have not been altered in any way.

7. I have personal knowledge of all these facts, and each is true to the best of my knowledge and belief.

8. The Town of Fort Myers Beach hereby has requested a hearing before the Special Magistrate that and an order be issued affording the appropriate relief, including an order to correct the above listed violation(s) and/or the imposition of an administrative fine not to exceed \$250.00 for each day each violation continues past the date for compliance or \$500.00 for each day each violation was repeated, and for such other and further relief as is consistent with the powers of the Special Magistrate.

FURTHER AFFIANT SAYETH NAUGHT.



Signature of Affiant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence
OR ☐ online notarization, this 10th day of December, 2024, by
Thomas Yozzo, ☒ who is personally known to me OR ☐ who has produced
_____ as identification.

(SEAL)





Notary Public Signature

My Commission Expires: July 14, 2026





01/16/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

1249 ESTERO ADVENTURES LLC

Respondent.

Site Address: 1249 ESTERO BLVD
Parcel Strap No.: 194624W40060H0300

Case Number: 20240919

Certified Mail:

Regular Mail:

AFFIDAVIT OF NON-COMPLIANCE

STATE OF FLORIDA)

COUNTY OF LEE)

BEFORE ME, the undersigned authority, personally appeared Officer Thomas Yozzo, Code Enforcement Officer for the Town of Fort Myers Beach, FL, who after being duly sworn, deposes and says:

1. I, Thomas Yozzo, am a person authorized by law to inspect violations of the Town of Fort Myers Beach Code contained herein and the statements set forth herein are based upon personal knowledge.

2. On 09/19/2024, 1249 ESTERO ADVENTURES LLC (property owner) was observed in violation of ASCE 24-14, 6-501 and 6-525 of the Town of Fort Myers Beach Code of Ordinances, for the keeping and/or maintaining of non-compliant structure(s) and/or shipping containers on property, which are not built to current flood design codes in the Special Hazard Areas as defined in Section 6-494 of the FMB Code of Ordinances. (Coastal A Zone for this property requires 13 feet), at the property located at 1249 ESTERO BLVD, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 09/24/2024, and sent certified mail to the address of record, 290 BAHIA VIA, FORT MYERS BEACH, FL 33931, posted to the violation property located at 1249 ESTERO BLVD, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.

4. 1249 ESTERO ADVENTURES LLC was/were given 30 days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 10/25/2024.

5. I performed an inspection of the Subject Property on 01/15/2025, and the Subject Property remains in violation with the Town of Fort Myers Beach Ordinance. There does not appear to be any progress made towards compliance at 1249 ESTERO BLVD, Fort Myers Beach, FL 33931.

6. I have attached Exhibit A, which are photographs of the Subject Property, which I personally took, and which fairly represent the violation on the Subject Property I personally observed on 01/15/2025. These photographs have not been altered in any way.

7. I have personal knowledge of all these facts, and each is true to the best of my knowledge and belief.

8. The Town of Fort Myers Beach hereby has requested a hearing before the Special Magistrate that and an order be issued affording the appropriate relief, including an order to correct the above listed violation(s) and/or the imposition of an administrative fine not to exceed \$250.00 for each day each violation continues past the date for compliance or \$500.00 for each day each violation was repeated, and for such other and further relief as is consistent with the powers of the Special Magistrate.

FURTHER AFFIANT SAYETH NAUGHT.



Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of X physical presence OR _____ online notarization, this 16th day of January, 2025 by Thomas Yozzo, Y who is personally known to me OR _____ who has produced _____ as identification.



ASHLEY SHEPARD
Commission # HH 253125
Expires April 14, 2026

(SEAL)



Notary Public Signature

My Commission Expires: April 14, 2026



Jan 15, 2025 8:22:27 AM





Jan 15, 2025 8:22:48 AM



Hearing Exhibit E

Violated Regulations

Sec. 6-501. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to section 6-443, buildings, structures and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood-resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings must comply with the requirements of division 10, subdivision VII.

(Ord. No. 16-02, § 2, 8-8-2016)

Sec. 6-525. - General requirements for other development.

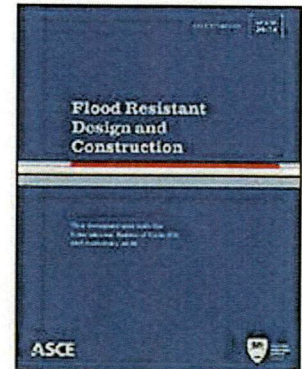
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (3) Be constructed of flood damage-resistant materials; and
- (4) Have mechanical, plumbing and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

(Ord. No. 16-02, § 2, 8-8-2016)

HIGHLIGHTS OF ASCE 24-14 *Flood Resistant Design and Construction*

Published by the American Society of Civil Engineers (ASCE), *Flood Resistant Design and Construction*, ASCE 24, is a referenced standard in the *International Codes*[®] (I-Codes[®]). ASCE 24 states the minimum requirements and expected performance for the siting and design and construction of buildings and structures in flood hazard areas that are subject to building code requirements. Types of buildings and structures are described in ASCE 24-14, Table 1-1 (see page 5 of these Highlights), and include commercial, residential, industrial, educational, healthcare, critical facilities, and other occupancy types. Buildings and structures designed according to ASCE 24 are better able to resist flood loads and flood damage.



FEMA deems ASCE 24 to meet or exceed the minimum National Flood Insurance Program (NFIP) requirements for buildings and structures. ASCE 24 includes additional specificity, some additional requirements, and some limitations that are not in NFIP regulations.

Buildings and structures within the scope of the IBC and proposed to be located in any flood hazard area must be designed in accordance with ASCE 24. The 2015 I-Codes reference ASCE 24-14, while the 2006 through 2012 I-Codes reference ASCE 24-05. The *International Residential Code*[®] requires dwellings in floodways to be designed in accordance with ASCE 24, and the 2015 edition of the IRC allows use of ASCE 24 for dwellings in any flood hazard area (the 2012 and 2009 editions allow use of ASCE 24 in Coastal High Hazard Areas).

Highlights of ASCE 24-14 that complement the NFIP minimum requirements are described below.

A summary of significant technical revisions from ASCE 24-05 to ASCE 24-14 is reproduced on page 6 of these Highlights.

Building Performance

- Flood loads and other loads and load combinations are specified in ASCE 7-10, *Minimum Design Loads for Buildings and Other Structures*. Performance of foundations exposed to flooding is specified in ASCE 24. Soil characteristics and underlying strata, including soil consolidation, expansion or movement, erosion and scour, liquefaction and subsidence must be considered, as applicable.
- Flood Design Classes replace Occupancy/Risk Categories for the purpose of establishing elevations of lowest floors, flood-resistant materials, equipment and floodproofing. The 2015 *International Building Code* requires designers to identify the Flood Design Class assigned in accordance with ASCE 24-14.
- Elevation and Freeboard (additional height above the NFIP's base flood elevation) are specified as a function of the Flood Design Class and the nature of the flood hazard areas (see table on page 4 of these Highlights). Essential facilities (Flood Design Class 4) must be elevated or protected to the BFE + 2 ft or 500-year flood elevation, whichever is higher.
- Elevation requirements in Zone V and Coastal A Zones are independent of orientation of the lowest horizontal structural member (relative to direction of wave approach) as a factor in determining the required freeboard (ASCE 24-05 made elevation a function of orientation of the lowest horizontal structural member relative to the direction of wave approach).

ASCE 24 uses 'design flood' and 'design flood elevation' to acknowledge that some communities adopt flood hazard maps that depict flood hazard areas in addition to Special Flood Hazard Areas shown on FEMA's Flood Insurance Rate Maps (FIRM).

The design flood elevation (DFE) equals the base flood elevation (BFE) in communities that regulate based on FIRMs. The DFE is always equal to or higher than the BFE.

- Fill is required to be stable under conditions of flooding, including rapid rise and rapid drawdown, prolonged inundation, and erosion and scour. Compaction of structural fill is specified unless otherwise required by the building code or in a geotechnical or engineering report. Fill side slopes must be no steeper than 1:1.5.
- Two methods are specified to meet the requirements for flood openings in walls of enclosures below elevated buildings, to allow for the automatic entry and exit of floodwater: nonengineered openings that do not require certification (1 sq in per sq ft of enclosed area) and engineered openings that must be certified by a registered design professional. The performance of engineered openings must account for the presence of louvers, blades, screens, grilles, faceplates, or other covers and devices and must ensure that the difference between the exterior and interior floodwater levels does not exceed 1 foot. Installation of all flood openings must be in at least two walls and must be no more than 1 foot above the higher of the interior grade or floor and the finished exterior grade immediately under each opening.
- All breakaway walls in all flood hazard areas must have flood openings (ASCE 24-05 did not require flood openings in Zone V breakaway walls).
- Provisions are included for attached and detached decks and porches, and for garages, carports, and accessory storage structures.
- Provisions are listed for concrete slabs-on-grade, depending on the purpose and location of the slabs.
- Stairways and ramps must be designed and constructed to resist flood loads and to minimize transfer of flood loads to foundations, or to break away without causing damage to the main structure, or to be retractable/able to be raised.
- Where stairways are located inside areas enclosed with breakaway walls, exterior doors are required at the main building entry at the top of the stairs, to minimize entry of wind-driven rain and wave splash after breakaway walls have failed.
- In Coastal High Hazard Areas (Zone V) and Coastal A Zones:
 - Coastal A Zones are treated like Coastal High Hazard Areas if FEMA has delineated a Limit of Moderate Wave Action, or if the community has designated a Coastal A Zone.
 - Buildings must be supported on piles, drilled shafts, caissons, or other deep foundations (including columns, and shear walls) and foundation depth must take into account erosion and local scour.
 - Stem walls supporting floors and backfilled with soil or gravel are allowed in Coastal A Zones if designs provide for the effects of local scour and erosion.
 - Requirements are included for shallow foundations in circumstances where soil conditions prevent deep foundations.
 - Provisions are provided for pile foundations, attachment to piles, and different types of piles (wood, steel H, concrete-filled steel pipe, prestressed concrete, precast concrete, cast-in-place concrete).
 - Provisions are provided for pile design (capacity, capacity of supporting soils, minimum penetration, spacing, connections, splicing, and mixed and multiple types of piles).
 - Provisions are provided for footings, mats, rafts, slabs-on-grade, pile caps, grade beams, bracing, and shear walls.
 - Walls designed to break away must not produce debris that is capable of damaging structures.
 - Erosion control structures (bulkheads, seawalls, revetments) must not be attached to buildings or direct floodwater into or increase flood forces or erosion impacts on structures.
 - Pools must be elevated, or designed to breakaway without producing damaging debris, or designed to remain in the ground without obstructing flow that causes damage. Pools must be structurally independent of buildings and structures unless pools are located in or on elevated floors or roofs that are above the design flood elevation.

- Dry floodproofed nonresidential buildings and non-residential portions of mixed-use buildings:
 - The terms “mixed use” and “residential portions of mixed use” now are defined in Commentary.
 - Dry floodproofing measures are not permitted in Coastal High Hazard Areas, Coastal A Zones, High Risk Flood Hazard Areas, where flood velocities exceed 5 ft/sec, and where conformance with certain human intervention limits cannot be achieved.
 - At least one exit door or emergency escape/rescue opening must be provided above the elevation specified for dry floodproofing.
 - If dry floodproofing measures specified require human intervention to activate or implement, there must be a minimum warning time of 12 hours unless a community warning system provides a warning time sufficient to accomplish certain activities. If removable shields are approved as part of design, flood emergency plans must address specified elements and actions and must be posted in at least two conspicuous locations.

Flood Damage-Resistant Materials

- Flood damage-resistant materials must be used below specified elevations (see table on page 4).
- Metal connectors and fasteners exposed to salt water, salt spray or other corrosive agents must be stainless steel or equivalent corrosion resistant material, or hot-dipped galvanized after fabrication.
- Where preservative treated wood is required, treatment must be in accordance with AWP requirements.

Attendant Utilities and Equipment

- Attendant utilities and equipment must be at or above specified elevations (see table on page 4), or must be specifically designed, constructed, and installed to prevent floodwaters from entering or accumulating within components.
- Fuel supply lines must be equipped with float operated automatic shut-off valves.
- Where required to meet life safety provisions of the code, certain exterior electrical components may be installed below the design flood elevation, provided they are installed on a non-breakaway structural element on the landward or downstream side of structures.
- Tanks that are below the design flood elevation and that are attached to or beneath buildings must be installed and anchored to resist at least 1.5 times the potential buoyant and other flood forces assumed to act on empty tanks.
- Elevator cabs that descend below the design flood elevation must be equipped with controls that prevent the cab from descending into floodwaters. Elevator shafts must be designed to resist flood loads, but are not required to have flood openings or breakaway walls.

Siting Considerations

- New buildings must not be built (1) seaward of the reach of mean high tide, or (2) in areas subject to flash flooding (floodwaters rise to 3 feet or more above banks in less than 2 hours). Unless protected, new buildings must not be built (1) in erosion-prone areas (determined by analysis); or (2) in mudslide areas (determined by analysis); or (3) in certain portions of alluvial fan areas; or (4) in high velocity flow areas (faster than 10 ft/sec); or (5) in ice jam and debris areas.
- Buildings in proximity to flood protective works (dams, levees, floodwalls, diversions, channels, flood control structures) must not have adverse effects on, or conflict with, maintenance and repairs of those protective works.

Prepared by FEMA Building Science Branch. Content from ASCE 24-14 used with permission from ASCE. Purchase ASCE 24 at www.asce.org.

See next page for description of Flood Design Classes →

		Flood Design Class 1	Flood Design Class 2	Flood Design Class 3	Flood Design Class 4
Minimum Elevation* of Lowest Floor (Zone A: ASCE 24-14 Table 2-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Bottom of Lowest Horizontal Structural Member (Zone V: ASCE 24-14 Table 4-1)	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation Below Which Flood-Damage-Resistant Materials Shall be Used (Table ASCE 24-14 5-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation** of Utilities and Equipment (ASCE 24-14 Table 7-1)	Zone A not identified as Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	DFE	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
Minimum Elevation of Dry Floodproofing of non-residential structures and non-residential portions of mixed-use buildings (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
	Coastal High Hazard Areas (Zone V) and Coastal A Zone	Not permitted	Not permitted	Not permitted	Not permitted
Minimum Elevation of Wet Floodproofing*** (ASCE 24-14 Table 6-1)	Zone A not identified as Coastal A Zone; Coastal A Zone; Coastal High Hazard Areas (Zone V)	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +1 ft or DFE, whichever is higher	BFE +2 ft or DFE, or 500-year flood elevation, whichever is higher
* Flood Design Class 1 structures shall be allowed below the minimum elevation if the structure meets the wet floodproofing requirements of ASCE 24-14 Section 6.3. ** Unless otherwise permitted by ASCE 24-14 Chapter 7 *** Only if permitted by ASCE 24-14 Section 6.3.1					

ASCE 24-14 Table 1-1 Flood Design Class of Buildings and Structures	
Use or Occupancy of Buildings and Structures	Flood Design Class
Buildings and structures that normally are unoccupied and pose minimal risk to the public or minimal disruption to the community should they be damaged or fail due to flooding. Flood Design Class 1 includes (1) temporary structures that are in place for less than 180 days, (2) accessory storage buildings and minor storage facilities (does not include commercial storage facilities), (3) small structures used for parking of vehicles, and (4) certain agricultural structures. [Note (a)]	1
Buildings and structures that pose a moderate risk to the public or moderate disruption to the community should they be damaged or fail due to flooding, except those listed as Flood Design Classes 1, 3, and 4. Flood Design Class 2 includes the vast majority of buildings and structures that are not specifically assigned another Flood Design Class, including most residential, commercial, and industrial buildings.	2
Buildings and structures that pose a high risk to the public or significant disruption to the community should they be damaged, be unable to perform their intended functions after flooding, or fail due to flooding. Flood Design Class 3 includes (1) buildings and structures in which a large number of persons may assemble in one place, such as theaters, lecture halls, concert halls, and religious institutions with large areas used for worship; (2) museums; (3) community centers and other recreational facilities; (4) athletic facilities with seating for spectators; (5) elementary schools, secondary schools, and buildings with college or adult education classrooms; (6) jails, correctional facilities, and detention facilities; (7) healthcare facilities not having surgery or emergency treatment capabilities; (8) care facilities where residents have limited mobility or ability, including nursing homes but not including care facilities for five or fewer persons; (9) preschool and child care facilities not located in one- and two-family dwellings; (10) buildings and structures associated with power generating stations, water and sewage treatment plants, telecommunication facilities, and other utilities which, if their operations were interrupted by a flood, would cause significant disruption in day-to-day life or significant economic losses in a community; and (11) buildings and other structures not included in Flood Design Class 4 (including but not limited to facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, hazardous waste, or explosives) containing toxic or explosive substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	3
Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the community at large in the event of failure, disruption of function, or damage by flooding. Flood Design Class 4 includes (1) hospitals and health care facilities having surgery or emergency treatment facilities; (2) fire, rescue, ambulance, and police stations and emergency vehicle garages; (3) designated emergency shelters; (4) designated emergency preparedness, communication, and operation centers and other facilities required for emergency response; (5) power generating stations and other public utility facilities required in emergencies; (6) critical aviation facilities such as control towers, air traffic control centers, and hangars for aircraft used in emergency response; (7) ancillary structures such as communication towers, electrical substations, fuel or water storage tanks, or other structures necessary to allow continued functioning of a Flood Design Class 4 facility during and after an emergency; and (8) buildings and other structures (including, but not limited to, facilities that manufacture, process, handle, store, use, or dispose of such substances as hazardous fuels, hazardous chemicals, or hazardous waste) containing sufficient quantities of highly toxic substances where the quantity of the material exceeds a threshold quantity established by the authority having jurisdiction and is sufficient to pose a threat to the public if released. [Note (b)]	4
[Note (a)] Certain agricultural structures may be exempt from some of the provisions of this standard; see ASCE 24-14 Section C1.4.3. [Note (b)] Buildings and other structures containing toxic, highly toxic, or explosive substances shall be eligible for assignment to a lower Flood Design Class if it can be demonstrated to the satisfaction of the authority having jurisdiction by a hazard assessment as described in ASCE 7-10 Section 1.5.3 of <i>Minimum Design Loads for Buildings and Other Structures</i> that a release of the substances is commensurate with the risk associated with that Flood Design Class.	

Significant Technical Revisions

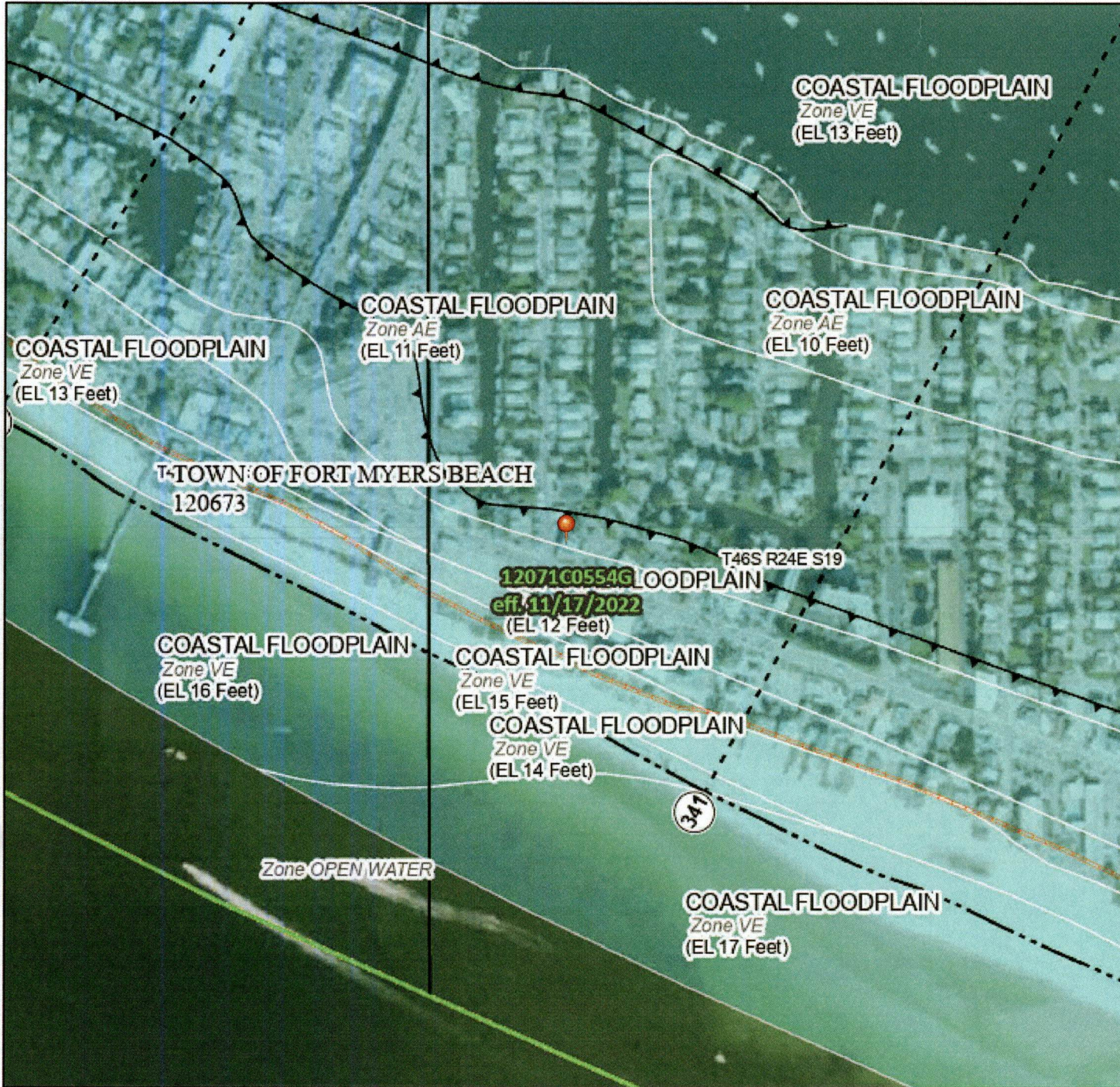
ASCE 24-14 lists a number of significant technical revisions from the 2005 edition:

1. Defines *Flood Design Class* rather than use Risk/Occupancy Classification assigned under ASCE 7 and requires each building or structure governed by the standard to be assigned to Flood Design Class 1, 2, 3, or 4. Uses the assigned Flood Design Class to apply elevation requirements specified in Chapters 2, 4, 5, 6 and 7. Flood Design Class 4 buildings and facilities are equivalent to Occupancy Category/Risk Category IV buildings, which ASCE 7-10 identifies as essential facilities.
2. Adds definitions for *Mixed Use* and *Residential Portions of Mixed Use* in commentary to clarify limitations on use of dry floodproofing measures.
3. Changes the Coastal A Zone determination requirement from the designer's responsibility to one depending on either: 1) delineation of a Limit of Moderate Wave Action (LiMWA) on a Flood Insurance Rate Map, or 2) designation by the Authority Having Jurisdiction.
4. Separates specifications for flood openings from the installation requirements. Requires the presence of louvers, blades, screens, faceplates, or other covers and devices to be accounted for in determining net open area for non-engineered openings and in determining the performance of engineered openings. Revises coefficient of discharge table for engineered flood openings. Adds commentary regarding selection of coefficient of discharge and for grouping or stacking of flood openings.
5. For Flood Design Class 4 buildings, requires the minimum lowest floor elevation (or floodproofing level of protection) to be the higher of: the Base Flood Elevation plus freeboard specified in Chapters 2, 4 and 6, the Design Flood Elevation, or the 500-year flood elevation. The 500-year flood elevation requirement is new.
6. Clarifies text pertaining to alluvial fan high risk flood hazard areas.
7. In coastal high hazard areas (V Zone) and Coastal A Zones (if delineated):
 - a. Makes explicit that designs must account for local scour and erosion
 - b. Provides for shallow foundations in Coastal A Zones under certain circumstances
 - c. Requires flood openings in breakaway walls
 - d. Eliminates orientation of the lowest horizontal structural member as a factor to determine elevation for lowest floors, equipment, and flood damage-resistant materials
 - e. Requires exterior doors at the top of stairways that are located inside enclosed areas with breakaway walls
 - f. Consolidates requirements for all nonstructural concrete slabs
 - g. Allows substantial improvement of existing buildings seaward of the reach of mean high tide in V zones (makes ASCE 24 consistent with NFIP) and Coastal A Zones.
8. Updates flood damage-resistant material requirements.
9. Clarifies emergency escape and rescue opening requirements for dry floodproofed buildings.
10. Clarifies requirements for garages, carports, and accessory storage structures. Adds new section for multistory parking structures.
11. Consolidates requirements for tanks and more clearly distinguishes between requirements based on flood hazard area.

National Flood Hazard Layer FIRMette



81°57'28"W 26°27'24"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

81°56'50"W 26°26'52"N

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
		Area of Undetermined Flood Hazard Zone
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
MAP PANELS		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature
		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 2/6/2025 at 8:52 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Property Address and Owner:

Hearing Date: April 1, 2025

FMB Case Number: 20250056
Property Owner: Kaminskiy at 131 Estero LLC (Island Shores Club)
Property Address: 131/133 Estero Blvd
Violation: Property Maintenance

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

LINK TO DOAH PORTAL

Attachments:

1. Hearing Exhibit A - Notice of Hearing Affidavit of Posting 20250056
2. Hearing Exhibit A Part 2 - Amended Notice of Hearing
3. Hearing Exhibit B.1 - Notice of Violation 20250056
4. Hearing Exhibit B.2 - FEMA and Related Ordinances
5. Hearing Exhibit C - Status of Compliance 20250056
6. Hearing Exhibit D - Violated Regulations 20250056

Town Recommendations:

Town Approvals:

_____ Thomas Yozzo, Compliance & Securities Manager	Date: March 11, 2025
_____ Traci Kohler, Assistant to the Town manager	Date: March 20, 2025
_____ Frankie Kropacek, Operations & Compliance Director	Date: March 20, 2025
_____ nancy stuparich, Town Attorney	Date: March 21, 2025
_____ Lizzette Roman, Town Clerk Administrative Coordinator	Date: March 21, 2025
_____ Amy Baker, Town Clerk	Date: March 21, 2025

Hearing Exhibit A

Notice of Hearing Affidavit of Posting

STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS

**TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,**

FMB Case No. 20250056

Petitioner,

vs.

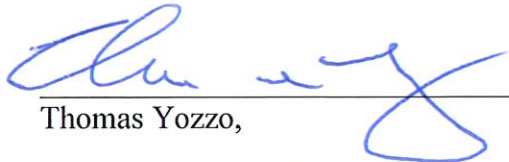
KAMINSKIY AT 131 ESTERO LLC

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, March 4, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 19th day of February 2025.



Thomas Yozzo,

Security and Code Compliance Manager



Town of Fort Myers Beach
**NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING**
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

January 17, 2025

**TOWN OF FORT MYERS BEACH,
Petitioner,**

Case Number:	20250056
Certified Mail:	9589071052700636643548
Regular Mail:	

vs.

Registered Agent: Kaminskiy, Sergei
131 Estero Blvd
Fort Myers Beach, FL 33931

Registered Agent for:
KAMINSKIY AT 131 ESTERO LLC

**SITE ADDRESS: 131/133 ESTERO BLVD
PARCEL STRAP NO: 244623W10080D0370**

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, on 01/15/2025, This Officer identified 6-1, 308.1 for the accumulation of metal drum, scrap lumber, derelict air conditioner parts and other miscellaneous items throughout the property. 6-2, 302.4: for the overgrowth of weeds and plants in excess of 12 inches. 6-2, 302.8: for the parking and/or storing of a inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on it's side off trailer on the Southeast corner of the property (See attached photos which will be Exhibit B in Special Magistrate Packet). was identified as a violation of the Town's Codes:

LDC Sec. 6-1. - Adoption of International Property Maintenance Code.; 308.1 Accumulation of rubbish or garbage. - Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Sec. 6-2. - Amendments. (Motor Vehicles) - (x)Section 302.8 Motor Vehicles, is hereby amended to read as follows:

Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassemble, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Sec. 6-2. - Amendments. (Weeds) - (w) Section 302.4 Weeds, is hereby amended to read as follows: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens and native beach vegetation such as sea oats. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation and having been given a reasonable time to cut and destroy the weeds, any duly authorized employee of the Town or contractor hired by the Town shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. All costs incurred by the Town to cut and destroy the weeds shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or agent fails and refuses to pay or reimburse the Town for its costs, the Town may foreclose said lien in accordance with the law applicable

to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

02/04/2025

at 09:00 A.M. in the Council Chambers at Town Hall, located at 2731 Oak Street Fort Myers Beach, FL 33931.

NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. This is the only Notice of this hearing that you will receive. Please govern yourself accordingly.

Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers Beach Land Development Code Section 2-427(b) a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2731 OAK STREET FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Kaminskiy At 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

Respondent,

FMB Case Number:	20250056
Certified Mail:	
Regular Mail:	
DOAH Case Number:	

Site Address: 131/133 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No.244623W10080D0370

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Code Compliance Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250056 for 6-1, 308.1 for the accumulation of metal drum, scrap lumber, derelict air conditioner parts and other miscellaneous items throughout the property. 6-2 ,302.4: for the overgrowth of weeds and plants in excess of 12 inches. 6-2, 302.8: for the parking and/or storing of a inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



not float, damaged and/or missing metal railings and on it's side off trailer on the Southeast corner of the property (See attached photos which will be Exhibit B in Special Magistrate Packet). at the property of 131/133 Estero Blvd, Fort Myers Beach, FL 33931.

1. I personally mailed by certified mail a copy of the Notice of Hearing scheduled 03/04/2025 to the following:
 - a. Kaminskiy At 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128
Certified Mail No. 9589071052700636643500
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 131/133 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 19th day of February 2025. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 19th day of February 2025 are attached.
4. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 19th day of February 2025. A copy of the posted webpage is attached as Evidence



Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

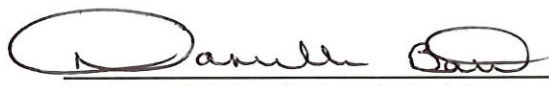
x. 
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 19th day of February, 2025, by Thomas Yozzo. She ☒ is personally known to me or ☐ has produced as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Danielle Batt
My Commission Expires: July 14 2026

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 0636 6435 00

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

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

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)

\$

☐ Return Receipt (electronic)

\$

☐ Certified Mail Restricted Delivery

\$

☐ Adult Signature Required

\$

☐ Adult Signature Restricted Delivery

\$

Postage

\$

Total Postage and Fees

\$

Sent To

Kaminskiy at 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

Sent by:

Postmark
Here

20240653

20250056

NOT Annulled

PS Form 3800, January 2023 PSN 7530-02-000-9037 See Reverse for Instructions



Feb 19, 2025 3:36:33 PM

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. _____

FMB Case No. 20250056

Petitioner,

vs.

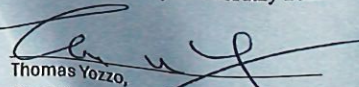
KAMINSKIY AT 131 ESTERO LLC

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, March 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, March 4, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 19th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. _____

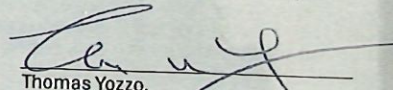
FMB Case No. 20250056

vs.
KAMINSKIY AT 131 ESTERO LLC
Respondent,

AMENDED NOTICE OF HEARING

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Signed this 19th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager





Bowditch
Point Park

Pink Shell Beach
Resort & Marina

Casa Playa Beach Resort

Feb 19, 2025 3:50:47 PM
Fort Myers Beach

Feb 19, 2025 3:50:38 PM
Fort Myers Beach

Bowditch
Point Park

Pink Shell Beach
Resort & Marina

Google Casa Playa Beach Resort

STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. _____

FMB Case No. 20240653

vs.
Petitioner,

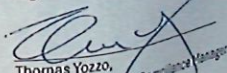
KAMINSKIY AT 131 ESTERO LLC

Respondent,

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Signed this 19th day of February 2025


Thomas Yozzo,
Security and Code Compliance Manager

STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. _____

FMB Case No. 20250046

vs.
Petitioner,

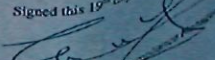
KAMINSKIY AT 131 ESTERO LLC

Respondent,

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Signed this 19th day of February 2025


Thomas Yozzo,
Security and Code Compliance Manager

fortmyersbeachfl.gov/1294/Public-Notices

CIVICPLUS
Municipal Websites Central

HOME PAGE DASHBOARD MODULES LIVE EDIT IS OFF

ABOUT FMB DOING TOWN BUSINESS THINGS TO DO HOW DO I?

Careers
Fact or Fiction
Holidays
Public Information
Public Notices

Notice of Hearings

- 1249 Estero Blvd case #20240919 12/23/2024
- 1035 Estero Blvd case #20240915 12/23/2024
- 406 Estero Blvd case #20240921 12/23/2024
- 4900 Estero Blvd case #20240960 12/23/2024
- 2815 Estero Blvd case #20240994 12/23/2024
- 2450 Estero Blvd case #20240946 12/23/2024
- 1821 Estero Blvd case #20240914 12/23/2024
- 811 Miramar St. case #20240912 12/23/2024
- 2450 Estero Blvd case #20240946 (rescheduled) 12/30/2024
- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240450 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240660 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025 (CANCELED)
- 80 Avenue E case #CE140394 01/10/2025
- 7864 Buccaneer Dr. case #20240786 01/27/2025
- 100 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240660 01/27/2025
- 8285 Estero Blvd case #20241106 01/31/2025
- 406 Estero Blvd case #20240921 Amended 02/03/2025
- 4900 Estero Blvd case #20240960 Amended 02/03/2025
- 1249 Estero Blvd case #20240919 Amended 02/03/2025
- 2450 Estero Blvd case #20240946 Amended 02/03/2025
- 8285 Estero Blvd case #20241106 Amended 02/03/2025
- 131/133 Estero Blvd case #20240653 02/10/2025
- 131/133 Estero Blvd case #20250056 02/10/2025

fortmyersbeachfl.gov/1294/Public-Notices

CIVICPLUS
Municipal Websites Central

HOME PAGE DASHBOARD MODULES LIVE EDIT IS OFF

ABOUT FMB DOING TOWN BUSINESS THINGS TO DO HOW DO I?

- 100 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240660 01/27/2025
- 8285 Estero Blvd case #20241106 01/31/2025
- 406 Estero Blvd case #20240921 Amended 02/03/2025
- 4900 Estero Blvd case #20240960 Amended 02/03/2025
- 1249 Estero Blvd case #20240919 Amended 02/03/2025
- 2450 Estero Blvd case #20240946 Amended 02/03/2025
- 8285 Estero Blvd case #20241106 Amended 02/03/2025
- 131/133 Estero Blvd case #20240653 02/10/2025
- 131/133 Estero Blvd case #20250056 02/10/2025
- 207 Oakwood Ln case #20241151 02/19/2025
- 131/133 Estero Blvd case #20240653 (amended) 02/19/2025
- 131/133 Estero Blvd case #20250056 (amended) 02/19/2025

NOTICE TO VACATE AND DEMOLITION NOTICE

OTHER NOTICES

FMB PERMITS

CDBG-DR



Property Data

STRAP: 24-46-23-W1-0080D.0370 Folio ID: 10127007

Hurricanes Helene/Milton Tax Roll Value Letter Hurricane Ian Tax Roll Value Letter

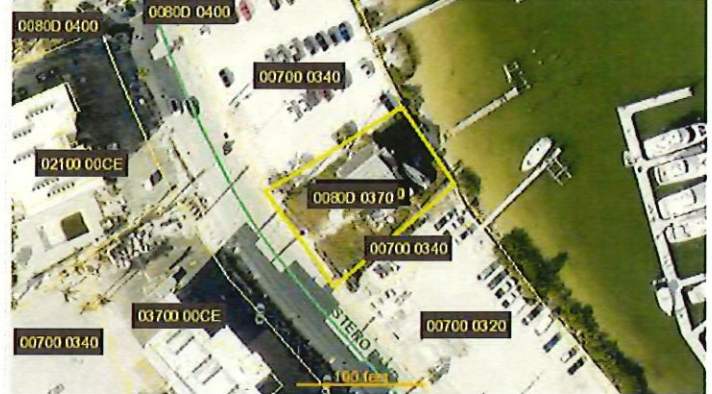
Generated on 1/30/2025 11:43 AM

Owner Of Record - Sole Owner

KAMINSKIY AT 131 ESTERO LLC [\[Change Mailing Address\]](#)
12463 RANCHO BERNARDO RD
#237
SAN DIEGO CA 92128



[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)



[\[Pictometry Aerial Viewer \]](#)

Site Address

Site Address maintained by [E911 Program Addressing](#)

131/133 ESTERO BLVD
FORT MYERS BEACH FL 33931

ALTERNATE ADDRESS INFORMATION:

133 ESTERO BLVD

Property Description

Do not use for legal documents!

ISLAND SHORES CLUB SEC BLK D PB 9 PG 41 LOT 37

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 9 and 41 for the book and page numbers.



Attributes and Location Details

Total Bedrooms / Bathrooms 9 / 6.0
Gross Living Area 3,128
1st Year Building on Tax Roll 1972
Historic Designation No

Township 46 Range 23E Section 24 Block 0080D Lot 0370
Municipality Latitude Longitude
Town of Fort Myers Beach 26.46202 -81.96553

Image of Structure



◀ Photo Date February of 2024 ▶ ☐ View other photos

Last Inspection Date: 02/01/2024

[View Parcel on Google Maps](#)

Property Values / Exemptions / TRIM Notices

Generated on 1/30/2025 11:43 AM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2024 / Additional Info	2024 (Final Value)	2,164,949	2,164,939	2,164,949	0	0	0	1,902,792
2023 / Additional Info	2023 (Final Value)	2,184,476	2,184,466	2,184,476	0	0	0	1,729,811
2022 / Additional Info	2022 (Final Value)	1,572,555	1,569,300	1,572,555	0	0	0	1,572,555
2021 / Additional Info	2021 (Final Value)	1,201,010	966,518	1,201,010	0	50,000	0	414,840
2020 / Additional Info	2020 (Final Value)	1,185,575	966,518	1,185,575	0	50,000	0	401,370
2019 / Additional Info	2019 (Final Value)	986,443	773,214	986,443	0	50,000	0	391,094
2018 / Additional Info	2018 (Final Value)	992,117	773,214	992,117	0	50,000	0	387,664

2017 / Additional Info	2017 (Final Value)	989,189	518,351	989,189	0	50,000	0	373,269
2016	2016 (Final Value)	911,810	518,351	911,810	0	50,000	0	356,891
2015	2015 (Corrected Value)	875,405	560,547	875,405	395,737	0	0	345,737
2014	2014 (Final Value)	761,405	518,351	761,405	0	50,000	0	335,474
2013	2013 (Final Value)	637,893	373,400	637,893	0	50,000	0	323,538
2012	2012 (Final Value)	875,995	743,475	875,995	0	50,000	0	311,765
2011	2011 (Final Value)	1,000,153	743,475	1,000,153	0	50,000	0	352,433
2010	2010 (Final Value)	1,101,593	842,605	1,101,593	0	50,000	0	337,581
	2009 (Final Value)	1,113,480	856,990	1,113,480	0	50,000	0	346,120
	2008 (Final Value)	1,266,120	991,300	1,266,120	0	50,000	0	311,410
	2007 (Final Value)	1,013,290	1,013,290	0	0	0	0	265,620
	2006 (Final Value)	1,006,660	1,006,660	0	0	0	0	259,140
	2005 (Final Value)	702,390	702,390	0	0	0	0	242,640
	2004 (Final Value)	659,940	470,000	0	0	25,000	0	446,140
	2003 (Final Value)	661,500	470,000	0	0	25,000	0	321,870
	2002 (Final Value)	432,710	240,000	0	0	25,000	0	313,740
	2001 (Final Value)	394,410	240,000	0	0	25,000	0	308,400
	2000 (Final Value)	378,760	230,000	0	0	25,000	0	298,690
	1999 (Final Value)	350,570	200,000	0	0	25,000	0	270,410
	1998 (Final Value)	379,820	200,000	0	0	25,000	0	265,760
	1997 (Final Value)	331,990	150,000	0	0	25,000	0	260,900
	1996 (Final Value)	292,200	151,920	0	0	25,000	0	252,570
	1995 (Final Value)	283,850	151,920	0	0	25,000	0	245,800
	1994 (Final Value)	263,680	132,080	0	0	25,000	0	238,680
	1993 (Final Value)	266,050	132,240	0	0	25,000	0	241,050
	1992 (Final Value)	369,340	102,400	0	0	25,000	0	344,340

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\) \(a\)](#)).

The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.

(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Property Details (Current as of 1/29/2025) ?

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Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
821	Multi-Family, Less than 10 Units, Bay (Sound, Harbor, Pass)	1.00	Lot

Land Features

Description	Year Added	Units
PIER - RESIDENTIAL	1986	345
SEAWALL - CONCRETE	1972	68

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
114 - Family Conversion	1 - SINGLE FAMILY RESIDENTIAL	2.0	3
Bedrooms	Bathrooms	Year Built	Effective Year Built
9	6.0	1972	1984

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
APT - APARTMENT	Y	744
BAS - BASE	Y	744
FOP - FINISHED OPEN PORCH	N	72
FUS - FINISHED UPPER STORY	Y	1,640
LCP - LOWER CARPORT / OPEN PORCH	N	1,872
STP - STOOP	N	32
STP - STOOP	N	15
STP - STOOP	N	192
STP - STOOP	N	236

Building Features

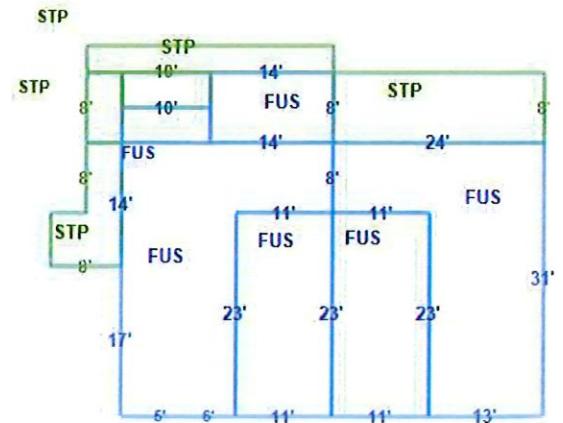
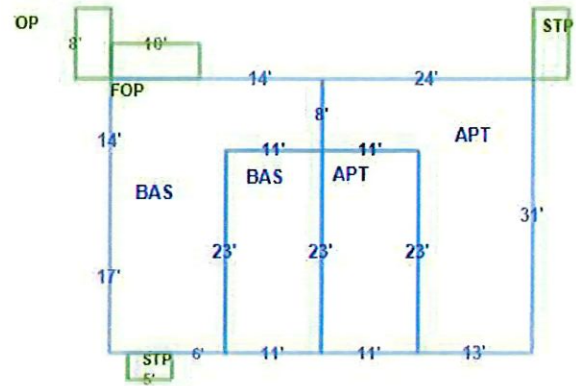
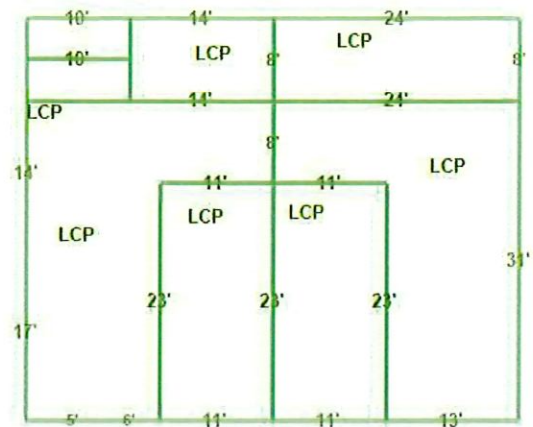
Description	Year Added	Units
XTRA/ADDITIONAL A/C UNITS	1972	3

Building Front Photo



Photo Date: February of 2024

Building Footprint





Property Details (2024 Tax Roll)



Generated on 1/30/2025 11:43 AM

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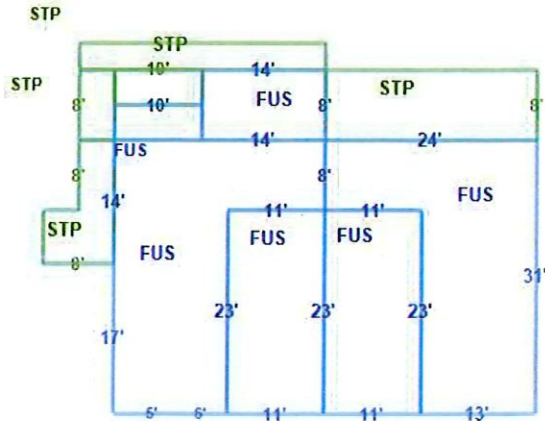
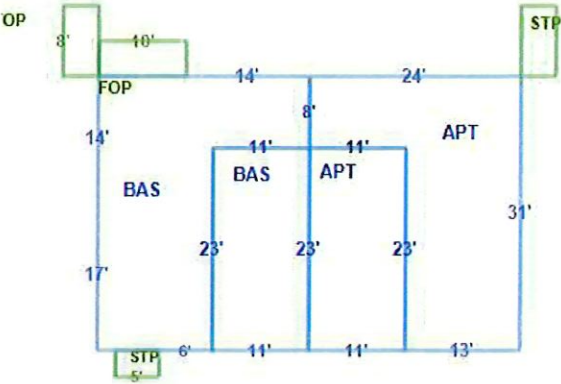
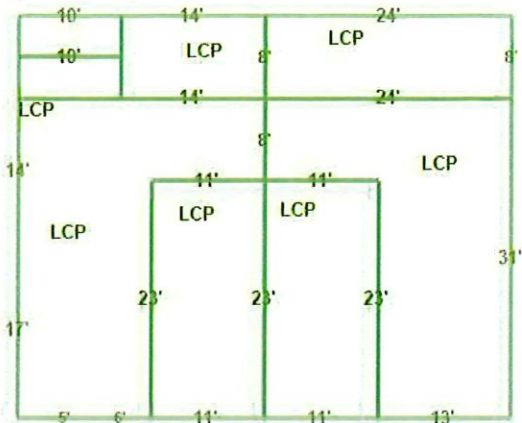
Description	Year Added	Units
XTRA/ADDITIONAL A/C UNITS	1972	3

Building Front Photo



Photo Date: February of 2024

Building Footprint



Taxing Authorities

Generated on 1/30/2025 11:43 AM

TOWN OF FT MYERS BEACH / 032

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837
FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
GREEN CORRIDOR PACE / 363	Special District	
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions

Generated on 1/30/2025 11:43 AM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
2,650,000.00	09/28/2021	2021000319193	01		I
390,000.00	04/01/1989	2061/292	06		I
105,000.00	04/01/1979	1341/1856	06		I

[View Recorded Plat at LeeClerk.org](https://www.leeclerk.org)

Use the above link to do a search on the Lee County Clerk of Courts website, using **9** and **41** for the book and page numbers and **Plats** Book for the book type.

Building / Construction Permit Data

Generated on 1/30/2025 11:43 AM

Permit Number	Permit Type	Date
DSH13-0034	Boathouse, Dock & Shoreline	04/08/2013
199204721	Residential	05/28/1992
199102569	Residential	03/18/1991
707928	Boathouse, Dock & Shoreline	06/15/1987
610191	Boathouse, Dock & Shoreline	10/07/1986
514421	Boathouse, Dock & Shoreline	12/06/1985
411311	Residential	12/07/1984
410761	Residential	11/29/1984

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building / Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History

Generated on 1/30/2025 11:43 AM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
24-46-23-08-0000D.0370	N/A	Reserved for Renumber ONLY	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 1/30/2025 11:43 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	M - Multi-Family Category		3	48.18
	Collection Days			
Garbage	Recycling			Horticulture
Thursday	Thursday			Thursday

Flood and Storm Information

Generated on 1/30/2025 11:43 AM

Community	Flood Insurance Panel	Find my flood zone Version	Date	Evacuation Zone
071C	0554	G	11/17/2022	A

Generated on 1/30/2025 11:43 AM

Prepared by and return to:

Samuel J Hagan, IV
Cheffer & Hagan, P.A.
2120 McGregor Blvd.
Fort Myers, FL 33901
239-334-1381
File Number: 4146.1890200

Parcel Identification No. 24-46-23-W1-0080D.0370

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 28th day of September, 2021 between Peter Lisich and Susan Lisich, husband and wife, whose post office address is 8980 Crown Bridge Way, Fort Myers, FL 33908 of the County of Lee, State of Florida, grantor*, and Kaminskiy at 131 Estero LLC, a Florida limited liability company, whose post office address is 12463 Rancho Bernardo Road #237, San Diego, CA 92128 of the County of San Diego, State of California, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

Lot 37, Block D, ISLAND SHORES CLUB, according to plat thereof as recorded in Plat Book 9, Page 41, of the Public Records of Lee County, Florida.

Subject to taxes for 2021 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: Samuel J. Hagan, IV

Witness Name: Kristin Gentry

Peter Lisich (Seal)

Witness Name: Samuel J. Hagan, IV

Witness Name: Kristin Gentry

Susan Lisich (Seal)

State of Florida
County of Lee

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29 day of September, 2021 by Peter Lisich and Susan Lisich, who ☐ are personally known or ☒ have produced a driver's license as identification.

[Notary Seal]



Lorri Kristene Guffey
Notary Public

Printed Name: Lorri Kristene Guffey

My Commission Expires: 7/6/2022



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
KAMINSKIY AT 131 ESTERO LLC

Filing Information

Document Number	L21000384527
FEI/EIN Number	87-2851110
Date Filed	08/27/2021
Effective Date	08/25/2021
State	FL
Status	ACTIVE
Last Event	REINSTATEMENT
Event Date Filed	08/11/2023

Principal Address

131 ESTERO BLVD
FT MYERS, FL 33931

Mailing Address

12463 RANCHO BERNARDO ROAD #237
SAN DIEGO, CA 92128

Registered Agent Name & Address

KAMINSKIY, SERGEI
131 ESTERO BLVD
FT MYERS BEACH, FL 33931

Name Changed: 08/11/2023

Authorized Person(s) Detail

Name & Address

Title MGR

KAMINSKIY, SERGEI
131 ESTERO BLVD
FT MYERS BEACH, FL 33931

Title MGR

KAMINSKIY, ELENA
131 ESTERO BLVD
FT MYERS BEACH, FL 33931

Annual Reports

Report Year	Filed Date
2022	08/11/2023
2023	08/11/2023
2024	05/21/2024

Document Images

05/21/2024 -- ANNUAL REPORT	View image in PDF format
08/11/2023 -- REINSTATEMENT	View image in PDF format
08/27/2021 -- Florida Limited Liability	View image in PDF format

STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS

**TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,**

FMB Case No's. 20250056 / 20240653

Petitioner,

vs.

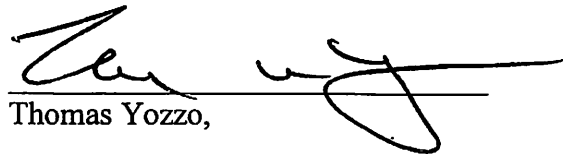
KAMINSKIY AT 131 ESTERO LLC

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, April 1st, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 24th day of February 2025.



Thomas Yozzo,

Security and Code Compliance Manager



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Kaminskiy At 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

Respondent,

FMB Case Number:	20240653 20250056
Certified Mail:	
Regular Mail:	
DOAH Case Number:	

Site Address:131/133 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No.244623W10080D0370

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared D. Batt, who is the Code Compliance Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20240653 for the keeping and/or maintaining of a structure and property in disrepair in example but not limited to missing and/or damaged siding, leaning structure, broken and/or missing windows, etc. and case #20250056 Chapter 6-1, 308.1 for the accumulation of metal drum, scrap lumber, derelict air conditioner parts and other miscellaneous items throughout the property. 6-2 ,302.4: for the overgrowth of weeds and plants

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



in excess of 12 inches. 6-2, 302.8: for the parking and/or storing of an inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on its side off trailer on the Southeast corner of the property at the property of 131/133 Estero Blvd, Fort Myers Beach, FL 33931.

1. I personally mailed by certified mail a copy of the Notice of Hearing scheduled for 04/01/2025 to the following:
 - a. Kaminskiy At 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128
Certified Mail No. 9589071052700636642978
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 131/133 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 25th day of February 2025. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 25th day of February 2025 are attached.
4. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 25th day of February 2025. A copy of the posted webpage is attached as Evidence

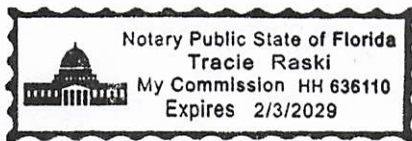


Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

Signature of Affiant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 25th day of February, 2025, by D. Batt. She ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

Notary Public, State of Florida

Print Name: Tracie Raski

My Commission Expires: 2/3/2029

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

7589 0710 5270 0636 6429 78

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

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

Certified Mail Fee

\$

Extra Services & Fees (check box and fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark
Here

Postage

\$

Total Postage and Fees

\$

Amended Net 4/1
20240653
20252054
131/133 Estero

Kaminskiy at 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

PS Form 3800, January 2023 with 1-2024 rate change See Reverse for Instructions





STATE OF FLORIDA
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A Florida Municipal Corporation,

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Petitioner,

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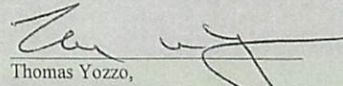
KAMINSKIY AT 131 ESTERO LLC

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Signed this 24th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager

Special Magistrate even if you
specifying the date, time and location of the hearing if
Florida Statutes, Chapter 162 and Town of Fort Myers
b), a fine of up to \$250.00 per day for the first violation or
posed for each day the violation continues to exist past
gistrate. If the Special Magistrate finds that a violation is
to \$5,000.00 per violation may be imposed. The Special
ation of the case against you and you may be required to
corrected prior to the hearing.

The action is needed to bring the violation(s) into compliance with the requirements
containers from property. 2) Provide proof of compliance with the requirements
and/or showing IV Division section 6-531 and 6-532 of the Land Development Code.
You are by directed to bring these violations into compliance within 30 days.
ONCE THE VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE
ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT

of Fort Myers Beach
CODE COMPLIANCE
10000 Gulf Street Fort Myers Beach, FL 33931
(239) 765-0202 Fax: (239) 765-0909

Case Number:	20250144
Certified Mail:	9589071051700832
Regular Mail:	

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
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AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am
Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort
Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931
regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, April 1st,
2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 24th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager

NOTICE OF VIOLATION

an inspection of the above-referenced property, the Enforcement Officer T. Hoffman indicates that the property

less (Bahia Bowl) without first obtaining required permits

ing Town Codes:

owner's authorized agent thereafter "applicant" is not in
the scope of this article, including buildings, structures, vehicles
which is wholly within or partially within any flood hazard area, subject
building, and the building official, if applicable, review the plans and
permit or approval will be required until compliance with the provisions
and regulations has been satisfied.

COMPLIANCE:

bring the violation(s) into compliance. Contact the Enforcement Officer at 239-

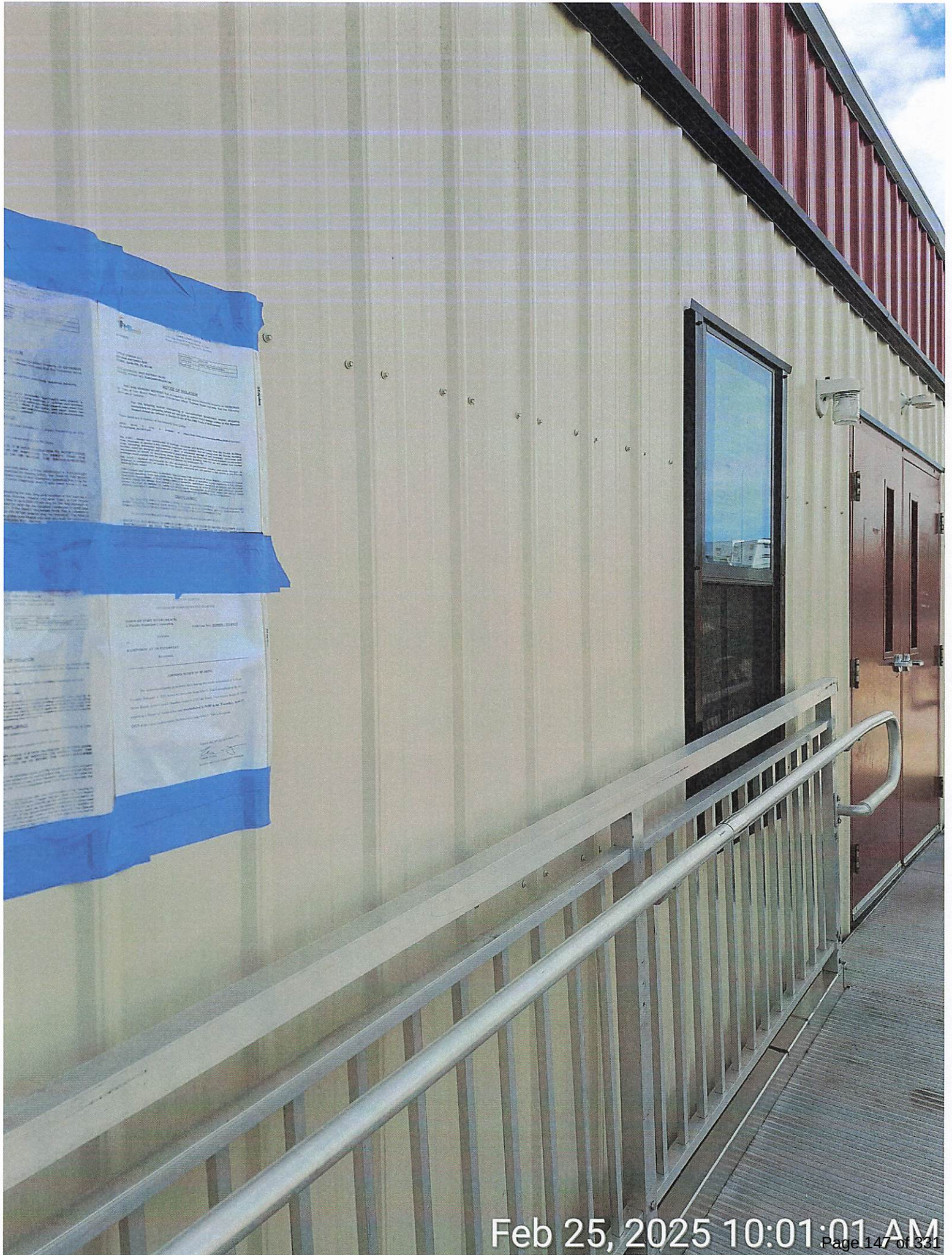
these violations into compliance within 14 Days.

ONCE IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE
ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE
VIOLATION(S) HAS BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED

on the date specified above, or if the violation(s) is/are brought
to the attention of the Enforcement Division may, in their discretion, schedule the case for
a hearing by the Special Magistrate even if you have corrected the
violation(s).

Notice of Hearing specifying the date, time and location of the hearing if
provided under Florida Statutes, Chapter 162 and Town of Fort Myers
Section 2-427(b), a fine of up to \$250.00 per day for the first violation or
a fine of up to \$5,000.00 per violation may be imposed for each day the violation continues to exist past
the Special Magistrate. If the Special Magistrate finds that a violation is
continued, a fine of up to \$5,000.00 per violation may be imposed. The Special
Magistrate's decision of the case against you and you may be required to
corrected prior to the hearing.

Staples



Feb 25, 2025 10:01:01 AM

Public Notices | Town of Fort Myers

fortmyersbeachfl.gov/1294/Public-Notices#liveEditTab_versionsList

CIVICPLUS Municipal Websites Central

HOME PAGE DASHBOARD MODULES LIVE EDIT IS ON

SAVE SAVE AS COPY CANCEL ACTIONS

Public Notices

All Public Notices will be taken off the website after 90 days. See below for a current list.

TOWN CLERK

NOTICE OF VIOLATION

NOTICE OF HEARING

NOTICE TO VACATE AND DEMOLITION NOTICE

OTHER NOTICES

FMB PERMITS

CDBG-DR

Notice of Hearings

- 1249 Estero Blvd case #20240919 12/23/2024
- 1035 Estero Blvd case #20240915 12/23/2024
- 406 Estero Blvd case #20240921 12/23/2024
- 4900 Estero Blvd case #20240960 12/23/2024
- 2815 Estero Blvd case #20240994 12/23/2024
- 2450 Estero Blvd case #20240946 12/23/2024
- 1821 Estero Blvd case #20240914 12/23/2024
- 81 Miramar St case #20240912 12/23/2024
- 2450 Estero Blvd case #20240946 (rescheduled) 12/30/2024
- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240680 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025 (CANCELED)
- 80 Avenue F case #CE140394 01/10/2025
- 7864 Buccaneer Dr case #20240786 01/27/2025
- 190 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240680 01/27/2025

Public Information

[DRAFT] Town Hall Bulletin

Public Notices

[DRAFT] Public Information

Add Page

Public Information

- 7864 Buccaneer Dr case #20240786 01/27/2025
- 190 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240680 01/27/2025
- 8285 Estero Blvd case #20241106 01/31/2025
- 406 Estero Blvd case #20240921 Amended 02/03/2025
- 4900 Estero Blvd case #20240960 Amended 02/03/2025
- 1249 Estero Blvd case #20240919 Amended 02/03/2025
- 2450 Estero Blvd case #20240946 Amended 02/03/2025
- 8285 Estero Blvd case #20241106 Amended 02/03/2025
- 131/133 Estero Blvd case #20240653 02/10/2025
- 131/133 Estero Blvd case #20250056 02/10/2025
- 207 Driftwood Ln case #20241151 02/19/2025
- 131/133 Estero Blvd case #20240653 (amended) 02/19/2025
- 131/133 Estero Blvd case #20250056 (amended) 02/19/2025
- 131/133 Estero Blvd case #20240653 (amended) 02/25/2025
- 131/133 Estero Blvd case #20250056 (amended) 02/25/2025

Mayor & Council Special Event Permit Bay Oaks Park Careers Mound House Matanzas Pass Mooring Field Utilities PERMITTING (also Building Services, zoning, code)

Hearing Exhibit B

Notice of Violation



Town of Fort Myers Beach
**NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING**
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

January 17, 2025

**TOWN OF FORT MYERS BEACH,
Petitioner,**

vs.

**KAMINSKIY AT 131 ESTERO LLC
12463 RANCHO BERNARDO RD #237
SAN DIEGO, CA 92128
Respondent.**

Case Number:	20250056
Certified Mail:	9589071052700636643555
Regular Mail:	

**SITE ADDRESS: 131/133 ESTERO BLVD
PARCEL STRAP NO: 244623W10080D0370**

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, on 01/15/2025, This Officer identified 6-1, 308.1 for the accumulation of metal drum, scrap lumber, derelict air conditioner parts and other miscellaneous items throughout the property. 6-2, 302.4: for the overgrowth of weeds and plants in excess of 12 inches. 6-2, 302.8: for the parking and/or storing of a inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on it's side off trailer on the Southeast corner of the property (See attached photos which will be Exhibit B in Special Magistrate Packet). was identified as a violation of the Town's Codes:

LDC Sec. 6-1. - Adoption of International Property Maintenance Code.; 308.1 Accumulation of rubbish or garbage. - Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Sec. 6-2. - Amendments. (Motor Vehicles) - (x)Section 302.8 Motor Vehicles, is hereby amended to read as follows:

Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassemble, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Sec. 6-2. - Amendments. (Weeds) - (w) Section 302.4 Weeds, is hereby amended to read as follows: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens and native beach vegetation such as sea oats. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation and having been given a reasonable time to cut and destroy the weeds, any duly authorized employee of the Town or contractor hired by the Town shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. All costs incurred by the Town to cut and destroy the weeds shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or agent fails and refuses to pay or reimburse the Town for its costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

The Violation(s) can be brought into compliance by 6-1 (308.1): Clean and clear property of all garbage and rubbish. 6-2 (302.4): Mow and/or cut the plant life and weeds to the allowable or below 12 inches in height. 6-2 (302.8): repair and register inoperable boat located on Southeast corner of property and/or remove from property. .

You are hereby directed to bring these violations into compliance within 15 days of receipt of this notice.

If this violation is not brought into compliance within the amount of time stated above, pursuant to this Notice of Hearing, this matter will be heard before the Town's Code Enforcement Special Magistrate on: 02/04/2025

at 09:00 A.M. in the Council Chambers at Town Hall, located at 2731 Oak Street Fort Myers Beach, FL 33931.

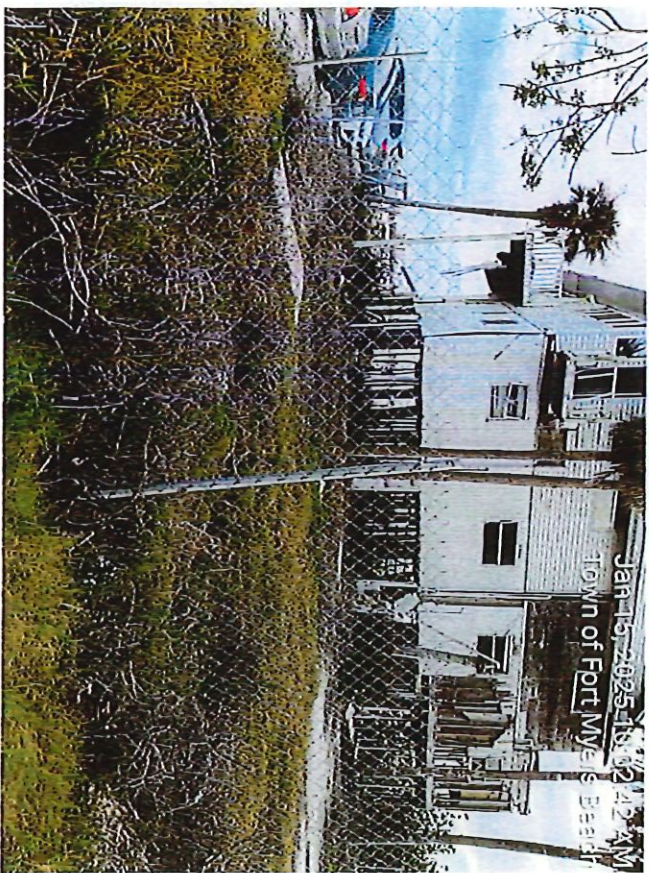
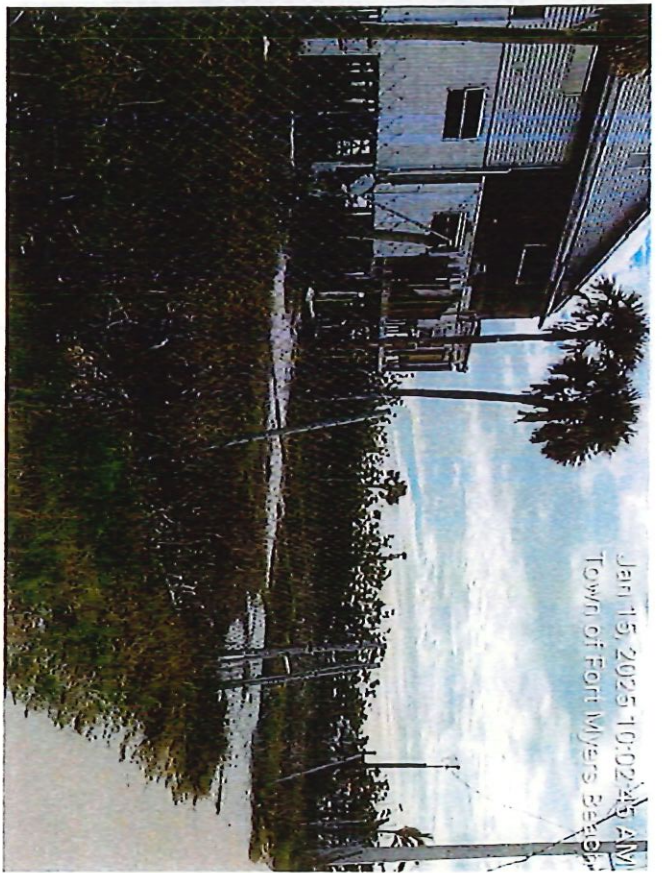
NO ADDITIONAL NOTICE OF THE HEARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the Code Enforcement Special Magistrate will consider the case, even though you are not present, and may assess fines or take other actions that will affect your rights. This is the only Notice of this hearing that you will receive. Please govern yourself accordingly.

Please be aware that under Florida Statutes Chapter 162 and Town of Fort Myers Beach Land Development Code Section 2-427(b) a fine of up to \$250.00 per day for the first violation or \$500.00 per day for a repeat violation may be imposed for each day the violation continues or is repeated. If the Special Magistrate finds that a violation is irreparable or irreversible in nature, a fine of up to \$5,000.00 per violation may be imposed. The Special Magistrate may also assess the costs of prosecution of the case against you and you may be required to pay those fees, even if the violation(s) has been corrected or abated prior to the hearing.

Thomas Yozzo

Code Enforcement Officer
Town of Fort Myers Beach

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE MAY NEED TO ENSURE AT THEIR OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH, 2731 OAK STREET FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202 EXT 1400, WITHIN 2 WORKING DAYS PRIOR TO THE MEETING DATE.





Jan 15, 2025 10:04:32 AM
Town of Fort Myers Beach



Jan 15, 2025 10:04:11 AM
Town of Fort Myers Beach



Jan 15, 2025 10:06:08 AM
Town of Fort Myers Beach





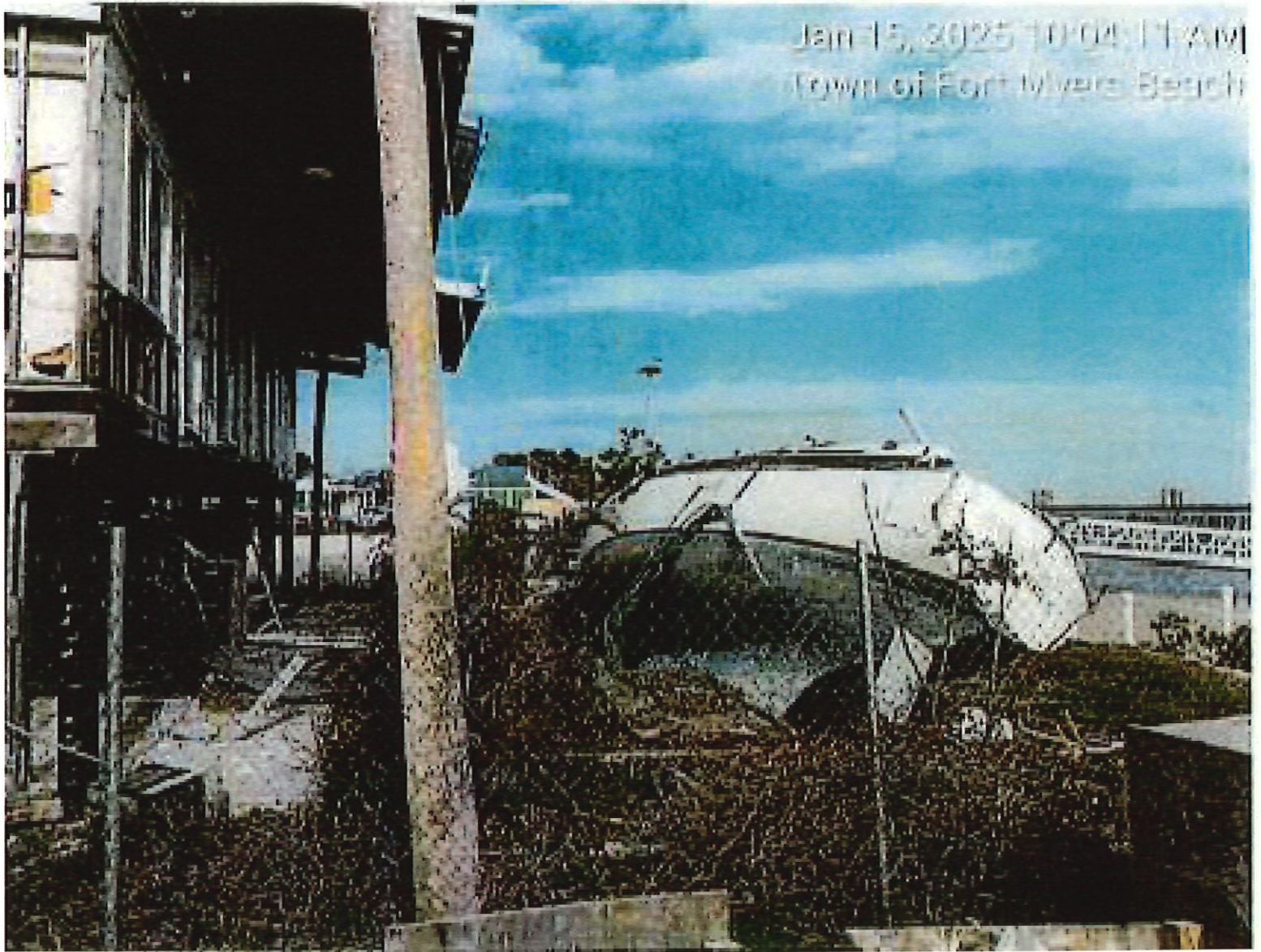




Jan 15, 2025 10:04:32 AM
Town of Fort Myers Beach



Jan 15, 2025 10:04:11 AM
Town of Fort Myers Beach



Jan 15, 2025 10:06:03 AM
Town of Fort Myers Beach





TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Kaminskiy at 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

Respondent,

FMB Case Number:	20250056
Certified Mail:	9589071052700636643555 9589071052700636643548
Regular Mail:	N/A
DOAH Case Number:	N/A

Site Address: 131/133 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 24-46-23-W1-0080D.0370

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Code Compliance and Security Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250056 This Officer identified 6-1, 308.1 for the accumulation of metal drum, scrap lumber, derelict air conditioner parts and other miscellaneous items throughout the property. 6-2 ,302.4: for the overgrowth of weeds and plants in excess of 12 inches. 6-2, 302.8: for the parking and/or storing of a inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



it is not watertight and will not float, damaged and/or missing metal railings and on its side off trailer on the Southeast corner of the property (See attached photos which will be Hearing Exhibit A in Special Magistrate Packet) for the property 131/133 Estero Blvd, Fort Myers Beach, FL 33931 attached

I personally mailed by certified mail a copy of the Notice of Violation to the following:

- a. Kaminskiy at 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128
Certified Mail No. 9589071052700636643555
(Listed Property Owner)
- b. Kaminskiy, Sergei
131 Estero Blvd
Fort Myers, FL 33931
Certified Mail No. 9589071052700636643548
(Listed Registered Agent)

Copies of the certified mailing receipts are attached as evidence.

1. I posted a copy of the Notice at 8285 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 17th day of January 2025. A true, accurate and unaltered copy of the photographs are attached.
2. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 17th day of January 2025 are attached.
3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 24th day of September, 2024. A copy of the posted webpage is attached as Evidence

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

Page 2 | 3



Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

x 
Signature of Affiant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 21st day of January, 2025, by Thomas Yozzo. He ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]


Notary Public, State of Florida
Print Name: Danielle Batt
My Commission Expires: July 14th 2026

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 0636 6435 55

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

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

Certified Mail Fee

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Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)

☐ Return Receipt (electronic)

☐ Certified Mail Restricted Delivery

☐ Adult Signature Required

☐ Adult Signature Restricted Delivery

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Kaminskiy at 131 Estero LLC
 12463 Rancho Bernard Rd #237
 San Diego, CA 92128

PS Form 3800, January 2023 PSN 7530-01-000-9001 See Reverse for Instructions

Sent by:

2025-0054
 131/133 Estero Blvd

Town of Fort Myers Beach
 JAN 17 2025

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

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

Certified Mail Fee

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Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)

☐ Return Receipt (electronic)

☐ Certified Mail Restricted Delivery

☐ Adult Signature Required

☐ Adult Signature Restricted Delivery

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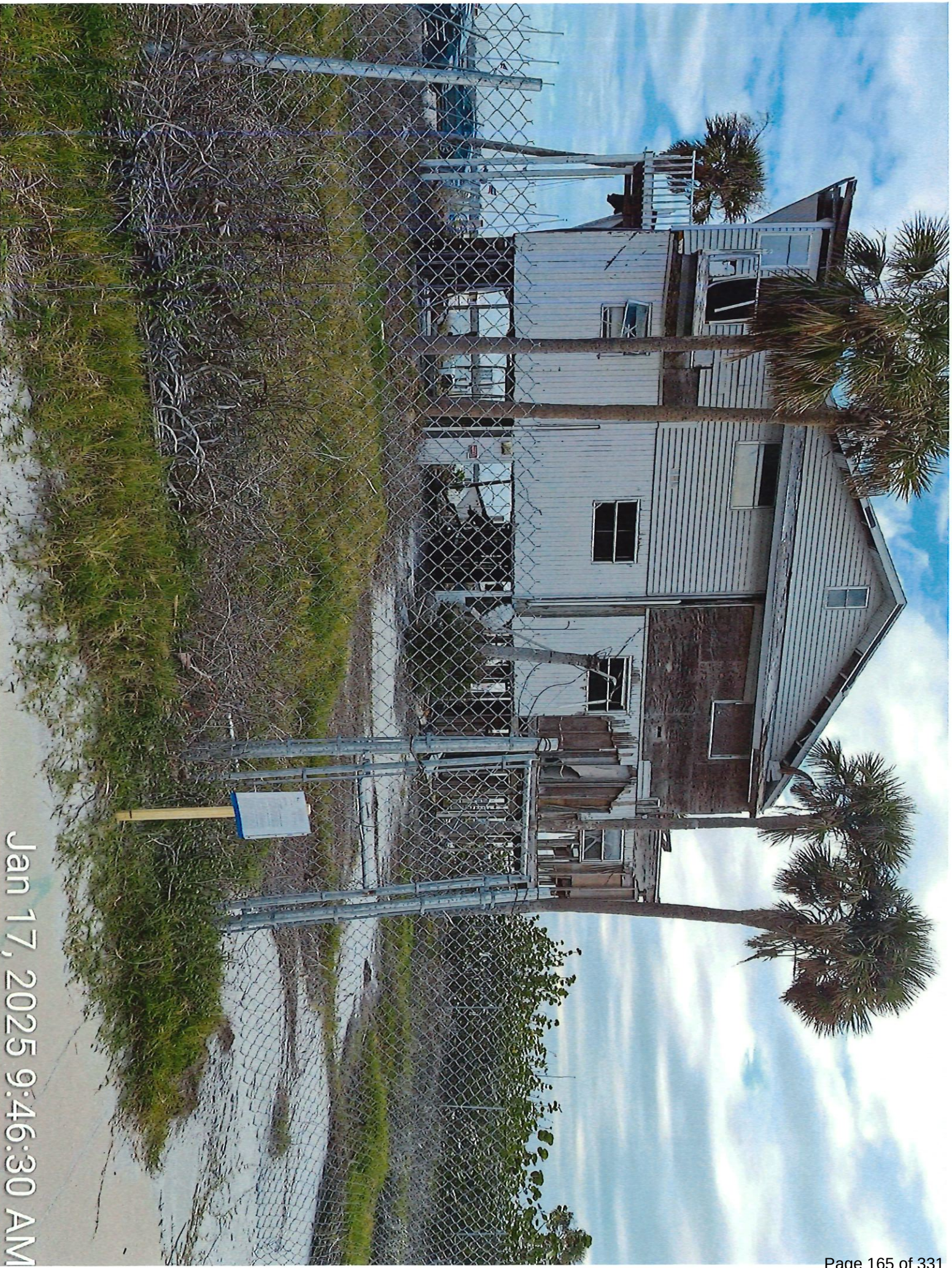
Registered Agent: Kaminskiy, Sergei
 131 Estero Blvd
 Fort Myers Beach, FL 33931

PS Form 3800, January 2023 PSN 7530-01-000-9001 See Reverse for Instructions

Sent by:

2025-0054
 131/133 Estero Blvd

Town of Fort Myers Beach
 JAN 17 2025



Jan 17, 2025 9:46:30 AM



Jan 17, 2025 9:46:17 AM



Jan 17, 2025 9:46:30 AM



Jan 17, 2025 9:46:17 AM



Town of Fort Myers Beach
NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING
 2711 OAK STREET Fort Myers Beach, FL 33931
 Phone: (239) 765-6202 Fax: (239) 765-6709

January 17, 2025

TOWN OF FORT MYERS BEACH
 Petitioner:

Case Number	20250059
Certified Mail	951007100270062640548
Register Mail	

vs.
KAMINSKY AT 131 ESTERO BLVD
 131 ESTERO BLVD
 SAN DIEGO, CA 92116
 Respondent:

SITE ADDRESS: 131/131 ESTERO BLVD
PARCEL STRAP NO: 244623W140600370

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, on 01/15/2025, This Officer identified 6-1, 303.1 for the accumulation of metal drum, scrap lumber, used air conditioner parts and other miscellaneous items throughout the property. 6-2, 302.4 for the overgrowth of weeds and plants in excess of 12 inches. 6-2, 302.8 for the parking and/or storage of an inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on its side off trailer on the Southeast corner of the property (See attached photos which will be Exhibit B in Special Magistrate Packet), was identified as a violation of the Town's Codes:

LDC Sec. 6-1. - Adoption of International Property Maintenance Code; 303.1 Accumulation of rubbish or garbage. - Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Sec. 6-2. - Amendments, (Motor Vehicles) - (i) Section 302.8 Motor Vehicles, is hereby amended to read as follows:

Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

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Town of Fort Myers Beach
NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING
 2711 OAK STREET Fort Myers Beach, FL 33931
 Phone: (239) 765-6202 Fax: (239) 765-6709

January 17, 2025

TOWN OF FORT MYERS BEACH
 Petitioner:

Case Number	20250059
Certified Mail	951007100270062640548
Register Mail	

vs.
Registered Agent: Kaminsky, Sergei
 131 Estero Blvd
 Fort Myers Beach, FL 33931

Registered Agent for
KAMINSKY AT 131 ESTERO LLO

SITE ADDRESS: 131/131 ESTERO BLVD
PARCEL STRAP NO: 244623W140600370

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FLOURDE CHRISTOPHER K
 21631 WIDGEON TER
 FORT MYERS BEACH, FL 33931

SITE ADDRESS: 21631 WIDGEON TER
PARCEL STRAP NO: 334624W2006650

NO
YOU ARE HEREBY NOTIFIED that, on 01/15/2025, This Officer identified 6-1, 303.1 for the accumulation of metal drum, scrap lumber, used air conditioner parts and other miscellaneous items throughout the property. 6-2, 302.4 for the overgrowth of weeds and plants in excess of 12 inches. 6-2, 302.8 for the parking and/or storage of an inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on its side off trailer on the Southeast corner of the property (See attached photos which will be Exhibit B in Special Magistrate Packet), was identified as a violation of the Town's Codes:

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Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Sec. 6-2. - Amendments, (Weeds) - (v) Section 302.4 Weeds, is hereby amended to read as follows: All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens and native beach vegetation such as sea oats. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation and having been given a reasonable time to cut and destroy the weeds, any duly authorized employee of the Town or contractor hired by the Town shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. All costs incurred by the Town to cut and destroy the weeds shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or agent fails and refuses to pay or reimburse the Town for its costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosures of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

The following action is a need permit is required and including but not limited to the following:

You are hereby directed to be

ONCE THIS VIOLATION(S) IS (ARE) ENFORCEMENT, SO THAT IT VIOLATION(S) HAS (HAVE) IT COMPLIANCE DATE.

if you fail to correct the violation compliance and record(s). Beach Special Magistrate. The following action is a need permit is required and including but not limited to the following:

You will be provided with a one is scheduled. Please be a Beach Land Development Code \$500.00 per day for a repeat violation and seek a finding of violation prior to the time set for

1/14/25 8:12 AM <https://www.townofmyersbeach.org/portal>

irreparable or irreversible in Magistrate may also assess a pay those fees, even if the vi

Please contact the Tow if you have any questions co

https://www.townofmyersbeach.org/portal

Town of Fort Myers Beach
NOTICE OF VIOLATION AND
NOTICE OF CODE ENFORCEMENT HEARING
2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 765-0202 Fax: (239) 765-0909

Case Number:	20250056
Certified Mail:	9568071052700836643555
Regular Mail:	

January 17, 2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

KAMINSKIY AT 131 ESTERO LLC
12463 RANCHO BERNARDO RD #237
SAN DIEGO, CA 92126
Respondent.

SITE ADDRESS: 131/133 ESTERO BLVD
PARCEL STRAP NO: 244523W1008000370

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

YOU ARE HEREBY NOTIFIED that, on 01/15/2025, This Officer identified 6-1, 308.1 for the accumulation of metal drum, scrap lumber, dorelect air conditioner parts and other miscellaneous items throughout the property, 6-2, 302.4; for the overgrowth of weeds and plants in excess of 12 inches, 6-2, 302.8; for the parking and/or storing of a inoperative white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on its side off trailer on the Southeast corner of the property. (See attached photos which will be Exhibit B in Special Magistrate Packet), was identified as a violation of the Town's Codes:

LDC Sec. 6-1. - Adoption of International Property Maintenance Code.; 308.1 Accumulation of rubbish or garbage. - Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Sec. 6-2. - Amendments, (Motor Vehicles) - (x)Section 302.8 Motor Vehicles, is hereby amended to read as follows:
Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Sec. 6-2. - Amendments, (Weeds) - (w) Section 302.4 Weeds, is hereby amended to read as follows:
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35.
Inc
7ive
1702
rain
ates
1349

Jan 17, 2025 9:07:03 AM

**REPORT A
CONCERN**

Public Notices

All Public Notices will be taken off the website after 90 days.

See below for a current list.

TOWN CLERK

Town Clerk

- [FEMA Town Hall Reconstruction Final Public Notice](#)
- [Authorization for Disaster Debris Management Sites \(DDMS\) - Debby](#)
- [Notice of Public Hearing - Ordinance 24-27, Seagate](#)
- [Notice of Intent to Recommend to Award ITB-24-08-EN](#)
- [AMENDED Notice of Bid Opening ITB-25-01-PR 12.17.24 4:15PM](#)

- ITB-25-01-PR Bay Oaks Recreational Campus
Redevelopment Project Cancellation Rejection Letter

NOTICE OF VIOLATION

Notice of Violations

- 2450 Estero Blvd case #20240946 10/22/2024
- 2500 Estero Blvd case #20240947 10/22/2024
- 2584 Estero Blvd case#20240948 10/22/2024
- 2945 Estero Blvd case #20240949 10/22/2024
- Directly East from 7650 Estero Blvd case #20241035
10/22/2024
- 42 Avenue E case #20241036 10/22/2024
- 3001 Estero Blvd case #20240952 10/23/2024
- 4402 Estero Blvd case #20240953 10/23/2024
- 4452 Estero Blvd case #20240954 10/23/2024
- 4650 Estero Blvd case #20240958 10/23/2024
- 4690/4700 Estero Blvd case #20240959 10/23/2024
- 4900 Estero Blvd case #20240960 10/24/2024
- 4952 Estero Blvd case #20240961 10/24/2024
- 5102 Ester Blvd case #20240962 10/24/2024
- 6240 Estero Blvd case #20240963 10/24/2024
- 6400 Estero Blvd case #20240964 10/24/2024
- 6500/6502 Estero Blvd case #20240965 10/24/2024
- 414/416 Crescent St case #20241040 10/30/2024
- 7783 Estero Blvd case #20241059 10/30/2024
- 3030 Shell Mound Blvd case #20241066 10/30/2024
- 110-138 Connecticut St case #20241086 11/13/2024
- 131 Lenell Rd case #20241087 11/13/2024
- 300 Lazy Way case #20241088 11/13/2024
- 2654 Estero Blvd case #20241089 11/13/2024
- 2812 Estero Blvd case #20241090 11/13/2024
- 2922 Estero Blvd case #20241091 11/13/2024
- 4267 Bay Beach Ln case #20241092 11/13/2024
- 4501-4509 Bay Beach Ln case #20241093 11/13/2024
- 5711 Lauder St case #20241094 11/13/2024

- 5790 Estero Blvd case #20241095 11/13/2024
- 6614 Estero Blvd case #20241097 11/19/2024
- 6642 Estero Blvd case #20241098 11/19/2024
- 6666 Estero Blvd case #20241099 11/19/2024
- 7150 Estero Blvd case #20241100 11/19/2024
- 7225 Estero Blvd case #20241101 11/19/2024
- 7295 Estero Blvd case #20241102 11/19/2024
- 7317 Estero Blvd case #20241108 11/19/2024
- 7404 Estero Blvd case #20241103 11/19/2024
- 7928 Estero Blvd case #20241105 11/19/2024
- 7652 Estero Blvd case #20241104 11/19/2024
- 8285 Estero Blvd case #20241106 11/19/2024
- 8352 Estero Blvd case #20241107 11/19/2024
- 5380 Estero Blvd case #20241032 11/22/2024
- 5660 Williams Dr. case #20241153 12/04/2024
- 5720 Estero Blvd case #20241174 12/05/2024
- 5700 Estero Blvd case #20241175 (Registered Agent)
12/05/2024
- 5700 Estero Blvd case #20241175 (owner) 12/05/2024
- 292 Fairweather Ln case #20241173 12/05/2024
- 292 Fairweather Ln case #20241167 12/05/2024
- 265 Tropical Shores Way case #20240997 12/05/2024
- 5670 Estero Blvd case #20241000 12/10/2024
- 5120 Williams Dr. case #20240972 12/10/2024
- 5110 Williams Dr. case #20240973 12/10/2024
- 2661/2681 Estero Blvd case #20241008 12/10/2024
- 1480 I Street case #20241009 12/10/2024
- 5530 Palmetto St case #20241183 12/10/2024
- 207 Driftwood Ln case #20241151 12/10/2024
- 70 Mango St case #20241193 12/11/2024
- 175/177 Tropical Shores Way case #20241197 12/12/2024
- 210 Estrellita Dr case #20241212 12/17/2024
- 110-138 Connecticut St case #20241198 12/17/2024
- 115 Gulf Island Dr. case #20241217 12/18/2024
- 71 Avenue C case #20241215 12/18/2024
- 5395/5397 Palmetto St case #20241085 12/19/2024

- 107 Gulfview Ave case #20241221 12/20/2024
- 329 Madison Ct case #20241223 01/06/2025
- 4854 Estero Blvd case #20250015 01/07/2025
- 4852 Estero Blvd case #20250012 01/07/2025
- 329 Madison Ct case #20241223 01/07/2025
- 253/255 Delmar Ave case #20250028 01/13/2025
- 177 Mandalay Rd case #20241146 01/13/2025
- 125 Mandalay Rd case #20240864 01/13/2025
- 144 Gulf Island Dr. case #20240862 01/13/2025
- 3720 Estero Blvd case #20250034 01/13/2025
- 248 Key West Ct. case #20250046 01/14/2025
- 113-119 Fairweather Ln case #20250031 01/14/2025
- 131/133 Estero Blvd case #20250056 01/17/2025
- 116 Miramar St case #20250053 01/20/2025
- 127/129 Fairweather Ln case #20250047 01/20/2025
- 300 Lazy Way case #20250054 01/21/2025
- 1250 Estero Blvd case #20250066 01/21/2025

NOITCE OF HEARING

Notice of Hearings

- 1249 Estero Blvd case #20240919 12/23/2024
- 1035 Estero Blvd case #20240915 12/23/2024
- 406 Estero Blvd case #20240921 12/23/2024
- 4900 Estero Blvd case #20240960 12/23/2024
- 2815 Estero Blvd case #20240994 12/23/2024
- 2450 Estero Blvd case #20240946 12/23/2024
- 1821 Estero Blvd case #20240914 12/23/2024
- 81 Miramar St. case #20240912 12/23/2024
- 2450 Estero Blvd case #20240946 (rescheduled) 12/30/2024
- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240680 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025
(CANCELED)

- 80 Avenue E case #CE140394 01/10/2025

NOTICE TO VACATE AND DEMOLITION NOTICE

Notice to Vacate and Demolition Notice

- 217 Fairweather Ln case #20240937 10/01/2024
- 120 Miramar St case #20240938 10/01/2024
- 3121 Shell Mound Blvd case #20240939 10/01/2024
- 5218 Williams Dr. case #20240708 10/01/2024
- 5740 Lauder St case #20240940 10/01/2024
- 1920 Bayview Dr. case #20240283 10/01/2024
- 6890 Estero Blvd case #20240384 10/01/2024
- 100 Mid Island Dr. case #20241065 10/29/2024
- 136/138 Madison Ct case #20241064 10/29/2024
- 160 Mango St case #20241063 10/29/2024
- 145 Chapel St case #20240295 10/29/2024
- 106 Lovers Ln case #20240300 10/29/2024
- 170 Mid Island Dr. case #20241062 10/29/2024
- 191 Primo Dr. case #20241061 10/29/2024
- 209 Mango St case #20241060 10/29/2024
- 464 Washington Ct case #20240326 10/29/2024
- 226 Fairweather Ln case #20241058 10/29/2024
- 226 Donora Blvd case #20240327 10/29/2024
- 185 Old San Carlos Blvd case #20240537 11/12/2024

OTHER NOTICES

Other

- FEMA Town Hall Reconstruction Final Public Notice
- Stop Work Order 3115 Estero Blvd case #20240993
10/17/2024

FMB PERMITS

FMB Permits

- [8030988 FMB Mechanical Beach Cleaning 2023 \(002\)](#)
- [8035584-LE Lee CO AW Red tide 3.3.23](#)

CDBG-DR

COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY

- [Combined Notice](#)
[\(FONSINOI/RROFFinal/Floodplain/Wetlands/Notice\) Lee County](#)
[CDBG-DR](#)

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ABOUT FMB

DOING TOWN BUSINESS

THINGS TO DO

HOW DO I?

Website Sign In

- o [207 Driftwood Ln case #20241151](#) 12/10/2024
- o [70 Manjaro St case #20241193](#) 12/11/2024
- o [175/177 Tropical Shores Way case #20241197](#) 12/12/2024
- o [210 Estrellita Dr case #20241212](#) 12/17/2024
- o [110-138 Connecticut St case #20241198](#) 12/17/2024
- o [115 Gulf Island Dr case #20241217](#) 12/18/2024
- o [71 Avenue C case #20241215](#) 12/18/2024
- o [5395/5397 Palmetto St case #20241085](#) 12/19/2024
- o [107 Gulfview Ave case #20241221](#) 12/20/2024
- o [329 Madison Ct case #20241223](#) 01/06/2025
- o [4854 Estero Blvd case #20250015](#) 01/07/2025
- o [4852 Estero Blvd case #20250012](#) 01/07/2025
- o [329 Madison Ct case #20241223](#) 01/07/2025
- o [253/255 Delmar Ave case #20250028](#) 01/13/2025
- o [177 Mandalay Rd case #20241146](#) 01/13/2025
- o [125 Mandalay Rd case #20240864](#) 01/13/2025
- o [144 Gulf Island Dr case #20240862](#) 01/13/2025
- o [3720 Estero Blvd case #20250034](#) 01/13/2025
- o [248 Key West Ct case #20250046](#) 01/14/2025
- o [113-119 Fairweather Ln case #20250031](#) 01/14/2025
- o [131/133 Estero Blvd case #20250056](#) 01/17/2025
- o [116 Miramar St case #20250053](#) 01/20/2025
- o [127/129 Fairweather Ln case #20250047](#) 01/20/2025
- o [300 Lazy Way case #20250054](#) 01/21/2025
- o [1250 Estero Blvd case #20250066](#) 01/21/2025

NOTICE OF HEARING

NOTICE TO VACATE AND DEMOLITION NOTICE

OTHER NOTICES

FMB PERMITS

CDBG-DR



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Website Sign In



ABOUT FMB

DOING TOWN BUSINESS

THINGS TO DO

HOW DO I?

- 237 Whitcomb Ln case #20241151 12/10/2024
- 73 Mango St case #20241153 12/11/2024
- 125/177 Tropical Shores Way case #20241191 12/12/2024
- 216 Eschella Dr case #20241212 12/17/2024
- 116-128 Connecticut St case #20241135 12/17/2024
- 115 Gulf Island Dr case #20241211 12/18/2024
- 71 Avenue C case #20241215 12/18/2024
- 575/5307 Palmyra St case #20241055 12/19/2024
- 107 Gulfview Ave case #20241221 12/20/2024
- 329 Madison Ct case #20241223 01/06/2025
- 4054 Estero Blvd case #20250015 01/07/2025
- 4057 Estero Blvd case #20250012 01/07/2025
- 329 Madison Ct case #20241223 01/07/2025
- 253/255 Delmar Ave case #20250023 01/13/2025
- 177 Mandalay Dr case #20241106 01/13/2025
- 125 Mandalay Dr case #20240004 01/13/2025
- 144 Gulf Island Dr case #20240002 01/13/2025
- 3235 Estero Blvd case #20250034 01/13/2025
- 260 Key West Ct case #20250006 01/14/2025
- 113-118 Palmyra Ave case #20250031 01/14/2025
- 131/133 Estero Blvd case #20250054 01/17/2025
- 116 Miramar St case #20250053 01/20/2025
- 127/120 Palmyra Ave case #20250057 01/20/2025
- 300 Lory Way case #20250054 01/21/2025
- 1256 Estero Blvd case #20250002 01/21/2025

NOTICE OF HEARING

NOTICE TO VACATE AND DEMOLITION NOTICE

OTHER NOTICES

FMB PERMITS

CDBG-DR



Mayor & Council

Special Event

Revolve Park

Corps

Mound House

Motowne Place

Utilities

PERMITTING / FMB

Hearing Exhibit B

FEMA and Related Ordinances



FEMA

July 19, 2024

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Andy Hyatt
Town Manager, Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

I'd like to thank you and your staff for the long hours and hard work during the last two months to help correct the Town of Fort Myers Beach's compliance issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure Fort Myers Beach and their residents are more resilient and prepared for future storms.

Our team has completed its review of the town's compliance with the minimum floodplain management standards and everything that has been done to correct any deficiencies and violations.

We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's class rating at this time.

Although FEMA will not retrograde the Town of Fort Myers Beach's class rating at this time, if the violations are not corrected or remedied by Nov. 18, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) require us to place the town on probation. This letter starts the official notification process. In addition, the town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

This letter and its attachments include FEMA's findings and our proposed next steps for the Town of Fort Myers Beach to remedy outstanding deficiencies and violations. These deficiencies and violations are described in the attached documents, specifically refer to the Status Report. To avoid probation in 121 days, the Town of Fort Myers Beach must correct deficiencies and remedy all identified violations to the maximum extent possible by Nov. 18.

You have my commitment of support as you work through these issues with your team.

A careful review of the data you provided since April shows that the implementation of the floodplain management program has several deficiencies that remain out of compliance. During the 60-day review period, the Town of Fort Myers Beach submitted additional permitting information for 105 structures in the floodplain.

Here is a summary of some of the items that the Town of Fort Myers Beach needs to remedy:

- Lack of permits for development in the Special Flood Hazard Area.
- Lack of maintaining permit records for development, new construction, or substantial improvements.
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations.

FEMA staff reviewed each of the submitted permit packages and learned:

- 31% of the permit packages were complete.
- 20% need additional information.
- 2% needed a Community Assistance Visit follow up.
- 15% were ongoing in a Code Enforcement Case.
- 32% will be followed up on during a Future Compliance Engagement.

FEMA also found:

- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

To avoid probation, the Town of Fort Myers Beach must complete the following items by close of business on Nov.18. We encourage regular communication to share updates on your progress.

The town must remedy the following identified deficiencies:

1. Within 60 days of the date of this correspondence, September 16, 2024, develop and submit a plan that includes timelines and actions to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations:
 - a. From FEMA's April 8, 2024 letter:
 - i. Provide a status update for structures deemed Substantially Damaged on the list provided by the Town of Fort Myers Beach in accordance with the April 11, 2024, letter sent to the FEMA Region 4 Administrator.
 - ii. Provide evidence to support compliance action taken for the structures identified as having damage and FEMA identified as Future Compliance Engagement, Community Assistance Visit follow up, and additional information needed.

- b. In addition to the above, provide an assessment of all floodplain development impacts from Hurricane Ian to structures in the Special Flood Hazard Area and provide a plan for remedying any identified violations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant. When a violation is confirmed, remedy to maximum extent possible. This includes:
 - a. In Item 2 above, structures identified during the evaluation as a Code Enforcement Case
 - b. Structures identified when assessing the Special Flood Hazard Area for all Hurricane Ian impacts to structures.
4. Put a process in place to ensure substantial damage compliance for future events.

You have my commitment to continue to support you and your team as you take the necessary compliance measures to avoid probation and possible suspension from the National Flood Insurance Program.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,



Robert D. Samaan
Regional Administrator

Attachments:

- Community Status Report
- Criteria for Avoiding Probation

cc: Kristin Schumacher, Floodplain Administrator
Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator
Office of Sen. Marco Rubio
Office of Sen. Rick Scott
Office of Rep. Byron Donalds
Office of Rep. Greg Steube



FEMA

Town of Fort Myers Beach Post-Disaster Compliance Status Update Report

FEMA remains committed to helping communities take appropriate remediation actions to remain in good standing with the National Flood Insurance Program (NFIP) and participate in the Community Rating System (CRS).

The Town of Fort Myers Beach was granted 60 days (June 10, 2024), to submit to FEMA any new information related to the deficiencies and substantive violations detailed in FEMA's April 8, 2024 Findings Report. The April 8, 2024 Findings Report supported an initial decision by FEMA to retrograde the Town of Fort Myers Beach to a CRS class 10 community. In the Findings Report, FEMA also found program deficiencies and violations within the Town of Fort Myers Beach, which will serve as a basis for the current enforcement action and needed remediation.

During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

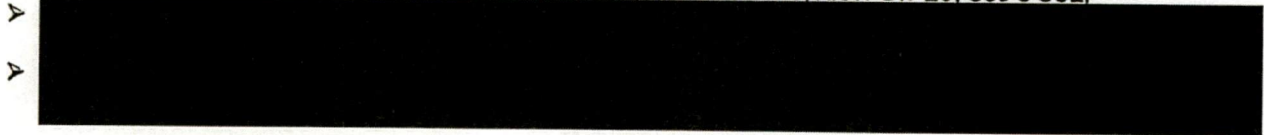
After careful review of Town of Fort Myers Beach's submittal, FEMA finds that program deficiencies and substantive violations remain. Unfortunately, due to the deficiencies, the Town of Fort Myers Beach is being notified that they have until November 18, 2024 to address these deficiencies, or the Town will be placed on probation from the NFIP:

LIST OF PROGRAM DEFICIENCIES

Program Deficiencies are a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of floodplain management regulations of the standards in 44 CFR 60.3; 60.4; 60.6; and NFIP Community Compliance Program Guidance, P-1022 (July 2016) in section 3.2.

- Failure of the community's "commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action reasonably necessary to carry out the objectives of the program;" 44 CFR 59.22(8) and LDC CH 6, Art IV, Div 1, Sec 6-403(8).
- Failure to require permits for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); FBC R101.2.1; FBC EB701.3; FBC 105.1; LDC CH 6, Art IV, Div 3, Sec 6-427; and LDC CH 6, Art IV, Div 6, Sec 6-461.
- Failure to maintain permit records for development, new construction, or substantial improvements in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); and 44 CFR 60.3(e)(2)(ii).
- Failure to make substantial improvement (SI) and substantial damage (SD) ("SI/SD") determinations and calculations for all proposed construction and development in the SFHA. 44 CFR 60.3(b)(1); 44 CFR 60.3(c)(1); 44 CFR 60.3(e)(1); LDC CH 6, Art IV, Div 3, Sec 6.428(1); and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in section 5.2.

- Failure to maintain SI/SD determination records for all proposed construction and development in the SFHA. 44 CFR 59.22(a)(9)(iii); 44 CFR 60.3(b)(5)(iii); 44 CFR 60.3(e)(2)(ii); and SI/SD Desk Reference in sections 4.2 and 7.7.
- Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- Failure to establish SI/SD procedures for administering and documenting determinations of SI/SD. LDC CH6, Art IV, Div 3, Sec 6.428(1) and FEMA Substantial Improvement / Substantial Damage Desk Reference, P-758 (May 2010) ("SI/SD Desk Reference") in sections 4.1, 4.3, & 7.1.
- Failure in permitting system, which allowed the use of "temporary" non-compliant structures (Including shipping container and trailers/food trucks). LDC CH 6, Art IV, Div, 4, Sec 6.443 (3)&(4), LDC CH 6, Art IV, Div 6, and LDC CH 6, Art IV, Div 6, Sec 6.462, Sec 6.463, and LDC CH 6, Art IV Div 10, Sec 6-501.



1. Program deficiencies

Serious program deficiencies in a community's administrative and enforcement process and procedures are those that have resulted or could result in substantive violations that increase potential flood damages or stages in the community. The following deficiencies represent gaps in the Town's administrative process that restrict the ability to meet the minimum standards for participation.

Permitting of non-compliant structures/shipping containers/

Inconsistent Market Value	Missing Repair Permits (Known Damage (IA/Insurance)	Missing Detailed Cost Info	Low & Inadequate Labor Costs	Permits Issued Without Total Repair Costs	Failed To Capture Complete Scope of Work	After the Fact Permits	After the Fact Notice of Violation
1	51	76	8	62	65	16	25

2. List of properties determined to be substantially damaged:

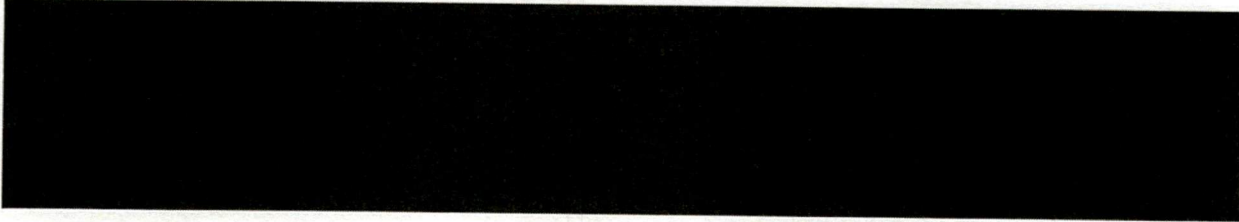
The Town of Fort Myers Beach has submitted to FEMA a list of properties that Town of Fort Myers Beach deemed substantially damaged since the disaster; there were 356 structures listed. What actions has the Town taken or plan to take to follow-up on those structures? Please provide FEMA with a status of each structure to indicate how substantial damage is being addressed.

3. Non-compliant development

- a. Non-compliant structures (containers) and temporary structures have been placed in the Coastal High Hazard Area (VE zone and coastal A zone). Please provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance; and confirmation that the town has stopped issuing permits for this type of non-compliant development.

b.





4. Data Dictionary (revised) – “Status” Column Meanings:

Additional Information Needed – Permit package needs additional information to be considered complete.

CAV Follow-Up – Not a Hurricane Ian issue but found a need for additional information during the next compliance follow-up with the community.

Code Enforcement Case – Community is currently processing as a code enforcement case and FEMA will accept and review case updates, follow-up permit information, and/or enforcement actions occurring prior to June 10, 2024. Actions occurring beyond that time will require future compliance engagement.

Complete – FEMA needs no further information regarding the specific address.

Future Compliance Engagement – Ian related activity. FEMA will follow-up on this site during the next compliance follow-up with the community.

5. Documentation on the Finding Report and Site list:

Attached to this document is a list of structures within the SFHA with violations, including the type of violation, status, and needed documentation.

Final Status (as of June 28, 2024)	Count
Additional Information Needed	21
CAV Follow-Up	2
Code Enforcement Case	16
Complete	32
Future Compliance Engagement	34
Grand Total	105



FEMA

National Flood Insurance Program

Privacy Act Notice

RE: Town of Fort Myers Beach, FL, National Flood Insurance Program Data from the Federal Emergency Management Agency (FEMA)

The Town of Fort Myers Beach, FL is receiving data from the Federal Emergency Management Agency's that is maintained in support of the National Flood Insurance Program (NFIP). Specifically, the Town of Fort Myers Beach, FL is receiving property addresses identified by FEMA as possible violations to the local floodplain management laws and regulations. The community shall use the data to verify, monitor, and resolve the possible violation. As an NFIP participating community, this information will assist the community to ensure compliance with the NFIP and maintain the availability of flood insurance. FEMA will send the information to you securely via email on a password-protected spreadsheet or pdf.

FEMA discloses this to you pursuant to the "routine use" provision of the Privacy Act of 1974, 5 U.S.C. § 552a(b)(3), specifically under Routine Uses G, I, M, N, O, R and T of the System of Records Notice (SORN), DHS/FEMA-003 - National Flood Insurance Program Files 79 FR 28747 (May 19, 2014). The SORN may be electronically viewed at <https://www.gpo.gov/fdsys/pkg/FR-2014-05-19/html/2014-11386.htm>.

The Town of Fort Myers Beach, FL does not have permission to release the provided information to third parties, including third party contractors and will only use the data for the stated purpose. Unauthorized disclosure of FEMA data will result in an immediate denial of access to the FEMA data. Pursuant to the Privacy Act, 5 U.S.C. § 552a(e)(10), please destroy or return said personally identifiable information (PII) to FEMA once you no longer have use for it. PII is information that can be used to identify, by itself, or in combination, individuals by direct or indirect means.

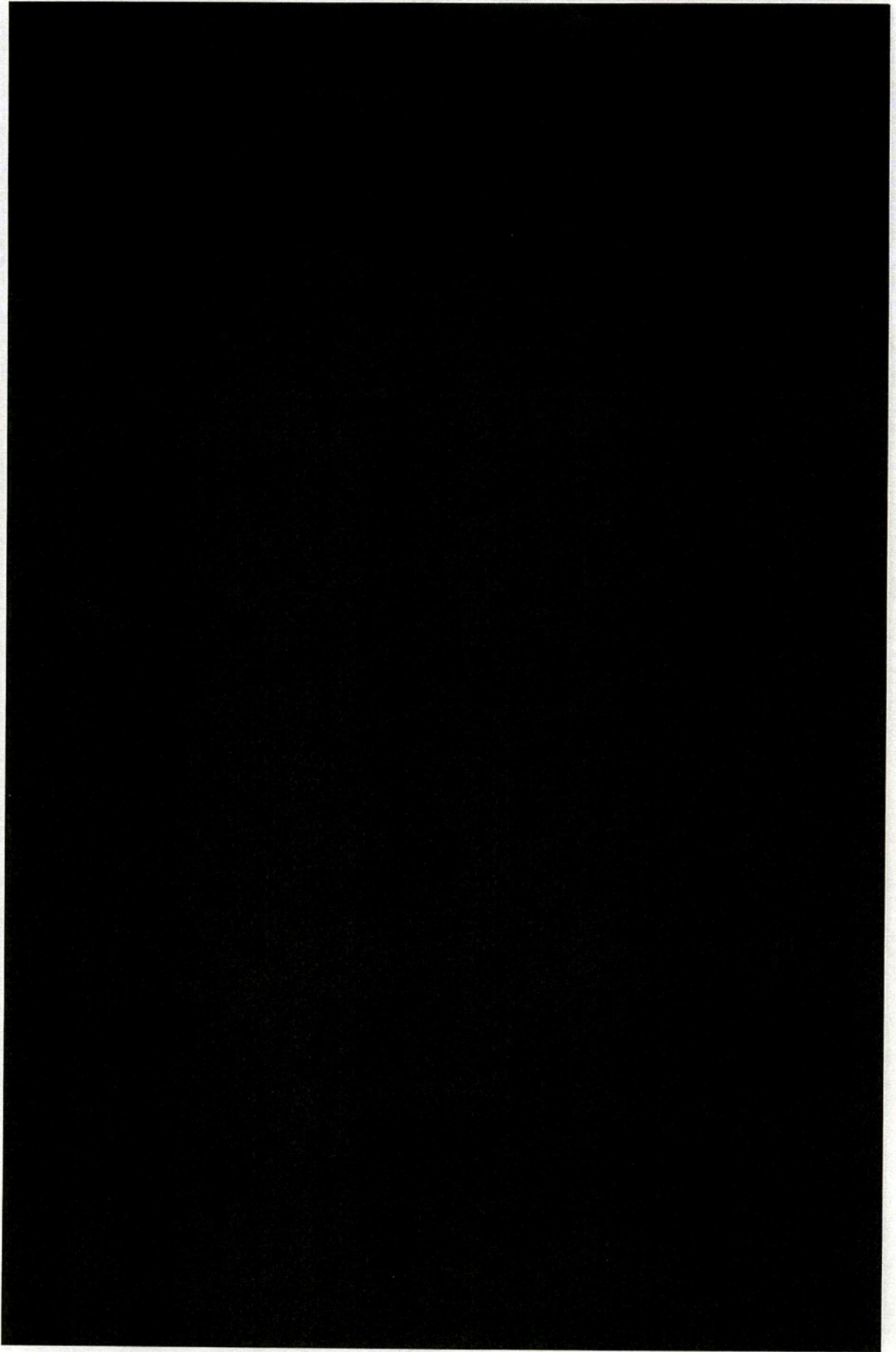
In the event of a privacy incident resulting from this sharing of FEMA PII, Town of Fort Myers Beach, FL shall immediately, but in no event later than twenty-four (24) hours from suspicion, discovery or notification of the suspected or confirmed privacy incident, notify the FEMA Privacy Officer at (202) 212-5100 or FEMA-Privacy@fema.dhs.gov. FEMA will investigate the incident pursuant to DHS standard procedures and will consult the Town of Fort Myers Beach, FL to diagnose, mitigate and manage the privacy incident. The Town of Fort Myers Beach, FL will be responsible for carrying out all necessary measures to remedy the effects of the privacy incident.

By accepting the FEMA data, the Town of Fort Myers Beach, FL agrees that it shall bear all costs, losses and damages to the extent resulting from the City's breach of FEMA data. The Town of Fort Myers Beach, FL further agrees to release, defend, indemnify, and hold FEMA harmless for claims, losses, penalties and damages, and reasonable attorneys' fees and costs to the extent arising out of the Town of Fort Myers Beach, FL or its contractor's, negligence, unauthorized use or disclosure of FEMA PII and/or the Town of Fort Myers Beach, FL, or its contractor's, breach of its obligations under this sharing.

By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

100-1-100

100-1-100





VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL

November 1, 2024

Federal Emergency Management Agency (FEMA)
U.S Department of Homeland Security
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia 30341

Attn: Robert D. Samaan
Regional Administrator
FEMA Region IV

**RE: Removal of Shipping Containers and Temporary Structures
Town of Fort Myers Beach Post-Disaster Compliance Report**

Dear Mr. Samaan,

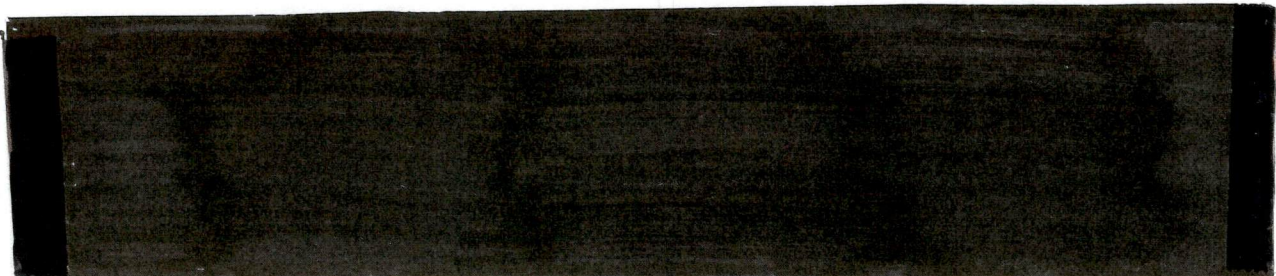
The Town Council of the Town of Fort Myers Beach requested that we send this letter to you regarding the non-compliant structures (containers and temporary structures) in the Coastal High Hazard Area (VE zone and coastal A zone) referenced on page 2 of the Town of Fort Myers Beach Post-Disaster Compliance Status Update Report, dated July 19, 2024 ("Compliance Report"). The Compliance Report requires that the Town "provide a plan to remove the structures or bring the non-compliant structures or non-compliant additions into compliance" by November 18, 2024. The Town has been and continues to work diligently toward satisfying this requirement.

The most recent storms, Hurricanes Helene and Milton, have facilitated the removal of many of these containers and temporary structures. In fact, the recent removal of shipping containers and temporary structures as the impacts of these hurricanes threatened the Town, provided information regarding the ability to quickly disassemble

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

and move shipping containers and temporary structures that was previously not available. For this reason, the Town Council gave direction to provide this information to you by letter.



https://drive.google.com/file/d/1vCBHenwpTdKXBtx877OiR1nmTin2M8k9/view?usp=sharing_cil&ts=67237f46



Businesses that temporarily operate out of shipping containers or other temporary structure, are important to the Fort Myers Beach community's recovery efforts immediately after these storms and since Hurricane Ian by providing a means to fulfill a basic human need: food.

Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist Development Board. These tourist dollars significantly assisted the Town with its recovery efforts post-Hurricane Ian and the delivery of municipal services to its residents.

In addition to tourists, the Town's economy is also highly dependent on its seasonal residents, who visit the Town from the fall through the end of spring each calendar year. Food service and other local businesses rely on the Town's seasonal residents as well as tourists to maintain operation during the winter season.

In view of the significant hardship on the operations of these businesses and the overall adverse economic impact on the Town, the Town is requesting your consideration to allow shipping containers and temporary structures, which are able to demonstrate that they can disassemble in a short period of time as evidenced in the La Ola Surfside Restaurant's video, to remain in place until June 1, 2025. An extension to June 1, 2025, would allow these local businesses to operate without interruption until the beginning of the next hurricane season.

FORT MYERS BEACH ESTERO ISLAND

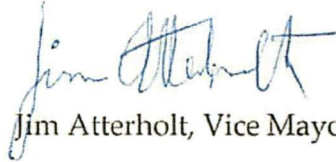
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

We appreciate your consideration of this request and look forward to discussing a limited extension of the November 18, 2024 deadline only for the removal of shipping containers and temporary structures, which can demonstrate the ability to quickly evacuate when a Hurricane Watch or Warning is issued to June 1, 2025. While this request is considered, the Town intends to continue its efforts achieve compliance with the November 18, 2024 deadline and removal of non-compliant shipping containers and temporary structures, such as La Ola Surfside Restaurant. Please do not hesitate to contact Frankie Kropacek, Operations & Compliance Director by phone at 239-955-3612 or by e-mail at fkropacek@fmbgov.com with any questions you may have. The Town looks forward to receiving a response to you regarding this request.

Sincerely,



Dan Allers, Mayor



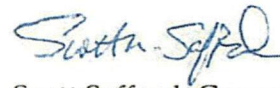
Jim Atterholt, Vice Mayor



John R. King, Councilor



Karen Woodson, Councilor



Scott Safford, Councilor

Cc: Andrew Hyatt, Town Manager
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Operations & Compliance Director



FEMA

November 12, 2024

The Honorable Dan Allers
Mayor, Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Removal of Shipping Containers and Temporary Structures Town of Fort Myers Beach Post
Disaster Compliance Report

Dear Mayor Allers:

I received the letter from the Fort Myers Beach Town Council requesting an extension for the removal of non-compliant shipping containers and temporary structures located in the Special Flood Hazard Area and Coastal High Hazard Area.

While I understand and appreciate the importance of these structures to the Town's economy and recovery, the Code of Federal Regulations that governs the National Flood Insurance Program defines the development in question as structures – not recreational vehicles. Because of this, the fact that the structures can be removed pre-event is not relevant as those conditions apply to recreational vehicles only. There are no regulations for temporary structures and occupancy which means all development in the Special Flood Hazard Area must meet the NFIP minimum standards and local floodplain management regulations. **FEMA is not able to issue exemptions to the NFIP minimum standards nor extend the existence of non-compliant development.**

The purpose of these regulations is to protect lives and property in the Special Flood Hazard Area. These non-compliant structures are in the most 'at risk' flood area, VE zone, also known as the Coastal High Hazard Area, which received a 14-foot storm surge during Hurricane Ian. Allowing these structures to remain in place presents a hazard to residents and businesses in the event of another storm as demonstrated by Hurricanes Helene and Milton. For these reasons I am unable to grant the Town's request to allow the structures in question to remain in place beyond the current deadline.

You have my commitment to continue to support you and your team as you manage Hurricane Ian recovery and as you work to take the necessary compliance measures to avoid probation and possible suspension from the NFIP. If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch chief, at Jason.hunter@fema.dhs.gov or 770-220-5471.

Sincerely,

Jacky S. Bell
Mitigation Division Director

cc: Kevin Guthrie, Executive Director, Florida Division of Emergency Management

RESOLUTION NUMBER 24-182

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA, DIRECTING THE TOWN MANAGER TO IMPLEMENT ALL REQUIREMENTS SET FORTH IN A LETTER DATED JULY 19, 2024, FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA"); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, FEMA has been working in conjunction with the Town for the last two (2) years on recovery efforts from Hurricane Ian, and has, on July 19, 2024, sent the Town a letter outlining requirements for the Town to maintain its class rating in the National Flood Insurance Program; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town and promotes its health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing Whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The Town Manager is directed and authorized to take any and all actions to implement the requirements contained in the letter from FEMA dated July 19, 2024, a copy of which is attached as Exhibit "A".

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon motion by Mayor Allers and seconded by Council Member Woodson, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
Karen Woodson, Council Member	Aye
Scott Safford, Council Member	Aye
John R. King, Council Member	Aye

APPROVED AND ADOPTED this 9th day of September 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Sep 19, 2024 16:13 EDT)
Dan Allers, Mayor

ATTEST:

Amy Baker
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

Nancy Stuparich
Nancy Stuparich (Sep 19, 2024 17:12 EDT)
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 11th day of September 2024.

RESOLUTION NUMBER 24-296

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA ADOPTING A RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS AS PROVIDED AND AUTHORIZED IN SECTION 2 OF ORDINANCE 24-4 OF THE TOWN OF FORT MYERS BEACH, WHICH CLARIFIED ORDINANCE 23-05 RELATED TO TEMPORARY PLACEMENT PERMITS, IN FURTHERANCE AND IN SATISFACTION OF DIRECTION CONTAINED IN A LETTER DATED NOVEMBER 21, 2024 FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") MANDATING REMOVAL OF NONCOMPLIANT STRUCTURES THAT WERE INCORRECTLY PERMITTED IN THE SPECIAL FLOOD HAZARD AREA, IN ORDER TO COMPLY WITH MINIMUM FLOODPLAIN STANDARDS AND THE REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, Hurricane Ian made landfall north of the Town causing historical property damage and loss of life; and

WHEREAS, the Town Council recognized that recovery from a devastating natural disaster such as Hurricane Ian, created an immediate need for temporary housing, governmental services, and commercial uses for the Town's residents and adopted Ordinance 23-05 on May 15, 2023 to provide a temporary relief and the placement of certain structures in the Special Flood Hazard Area; and

WHEREAS, on May 6, 2024 the Town Council adopted Ordinance 24-04 amending and restating Ordinance 23-05 to clarify its intent at the time of adoption and to continue to provide temporary assistance to residents and to aid in the Town's redevelopment efforts by the emergency temporary placement of structures governmental, residential (manufactured homes, mobile homes, motor homes, recreational vehicles, or other temporary residential dwellings) or moveable commercial use; and

WHEREAS, both ordinances provided that permits issued under either Ordinance would be issued in increments of 6 months and would not exceed 18 months without demonstration of a hardship to the Town Manager; and

WHEREAS, Section 2 of Ordinance 24-04 further clarified that the Town Council intended permitted uses to be temporary in nature, and thereby subject to revocation and rescission at a future date under certain circumstances. More specifically, Paragraph 2 of Ordinance 24-04 identified several circumstances in which these temporary permitted uses required removal:

Unless otherwise provided in this Ordinance or in a Resolution that is adopted hereinafter by the town council, any governmental, residential (manufactured home, mobile home, motor home, recreational vehicle, or other temporary residential dwelling) or moveable commercial use shall be removed from the site 1) no later than 30 (days) after issuance of a certificate of occupancy or certificate of use associated with an approved permit; 2) at the time of the expiration of the ETPP as provided herein or as provided in a resolution; or 3) at the time of expiration of any local or state declaration of emergency or law, whichever is earlier. (Emphasis added).

WHEREAS, Section 2 of Ordinance 24-04(xi) also provided that the issued permit could be revoked for “noncompliance with applicable federal law/regulation, state law and town code”; and

WHEREAS, the number of outstanding temporary permits approved by the Town has decreased as a result of additional hurricanes impacting the Town subsequent to Hurricane Ian, the permitted rebuilding of destroyed properties; and the voluntary removal of the temporary permitted uses; and

WHEREAS, on July 19, 2024 and September 3, 2024, the Town was notified by the Federal Emergency Management Administration (“FEMA”) that the Town would be placed on permanent probation from participation in the National Flood Insurance Program if it allowed structures needed for these temporary uses to continue subsequent to November 18, 2024 in the Special Flood Hazard Area; and

WHEREAS, Section 6-494 of the Town of Fort Myers Beach Land Development Code defines the Special Flood Hazard Area as “[a]n area in the floodplain subject to a one- percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section 202.]”, which in effect encompasses the entirety of the Town; and

WHEREAS, despite efforts by the Town Council to extend the November 18, 2024 FEMA deadline, the Town was notified by letter on November 21, 2024, that the Town was placed on probation with the National Flood Insurance Program effective November 18, 2024 in part due to its failure to “[r]emove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area”; and

WHEREAS, in order to comply with minimum floodplain standards and the requirements of the National Flood Insurance Program, the Town must now revoke and rescind emergency temporary placement permits which allow noncompliant structures in the Special Flood Hazard Area; and

WHEREAS, the definition of a “structure” for floodplain management purposes pursuant to 44 CFR Part 59.1 includes “any walled and roofed building, manufactured home or travel trailer without wheels,” and

WHEREAS, the definition of a “manufactured home” for floodplain management purposes pursuant to 44 CFR 59.1 is “a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”; and

WHEREAS, adoption of this Resolution is in the best interest of the residents of the Town as a step towards removal of its probationary status in the National Flood Insurance Program and compliance with its floodplain regulations.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The foregoing “Whereas” clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and are made a specific part of this Resolution.

Section 2. All emergency temporary placement permits for “noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area” are hereby revoked and rescinded.

Section 3. The Town Manager is directed and authorized to immediately take the following actions to implement this Resolution:

1. Provide formal Notice to holders of any emergency temporary placement permit by certified mail, posting on the property and any other known method for notification that:
 - a) the permit is revoked and rescinded as of December 16, 2024; and
 - b) the permit holder may appeal this revocation action pursuant to Section 34-86 of the Code of Ordinances as stated in Section 4 of Ordinance 24-04, or by any other lawful means; and
 - c) the contact information for a member of the Town staff, who can answer questions and provide more information.

The Notice shall also include a copy of this Resolution and FEMA's letter of November 21, 2204

2. Initiate or continue any needed code enforcement action against permit holders who fail to immediately begin removal of noncompliant structures.

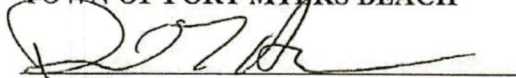
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

THE FOREGOING RESOLUTION was adopted by the Town Council upon motion by Mayor Allers and seconded by Vice Mayor Atterholt, and upon being put to a vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
Karen Woodson, Council Member	Aye
John R. King, Council Member	Absent
Scott Safford, Council Member	Aye

APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

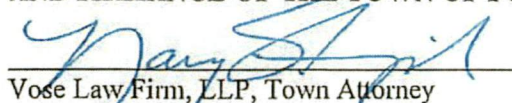
TOWN OF FORT MYERS BEACH


Dan Allers, Mayor

ATTEST:


Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 16th day of December 2024.



FEMA

November 21, 2024

Andy Hyatt, Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: National Flood Insurance Program Participation

Dear Mr. Hyatt:

Once again, I'd like to thank you and your staff for the long hours and hard work during the last several months to correct the Town of Fort Myers Beach's issues regarding the National Flood Insurance Program (NFIP). Our teams have made great progress in helping ensure the city and their residents are more resilient and prepared for future storms.

On July 19, 2024, the Town received a letter from this office indicating the potential of being placed in probationary status with the NFIP if certain conditions were not met. These conditions consisted of five action items to be completed by November 18, 2024.

These action items were:

1. Develop and submit a plan that includes actions and timelines to address all identified program deficiencies and violations to the maximum extent possible.
2. Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.
3. Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.
4. Put a process in place to ensure substantial damage compliance for future events.
5. Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We appreciate that the Town of Fort Myers Beach accomplished the first and fourth action items by submitting a plan to address deficiencies and establishing a process to ensure substantial damage compliance for future events.

However, our teams have identified additional work that needs to occur for items 2, 3 and 5.

The crosswalk assessment tool created has not been completed by town officials which prevents both items 2 and 3 from being completed. For the 5th item, the town also did not remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November 18, 2024.**

During this probationary period, flood insurance coverage will remain available within the Town of Fort Myers Beach; however, a \$50 surcharge will be added to the premium of each new and renewed flood insurance policy sold within the community. Probation will remain in effect until all remaining program deficiencies and violations have been corrected to the maximum extent possible. Effective April 1, 2025, the town will be retrograded to a Class 10 in the Community Ratings System and policy premium discounts will not be applied to new or renewing policies. The Town is not eligible to reapply to the Community Rating System for a higher-class rating until the Town's probationary period is concluded, the Town is in full compliance with the minimum requirements of the National Flood Insurance Program, and at least two years has passed since the Town was placed in probationary status.

I am committed and I've instructed my staff that we will continue to provide technical assistance to Fort Myers Beach to meet the required program standards and potentially end probation as soon as practicable.

If you have any questions or at any time need technical assistance to address these issues, please contact FEMA Region 4 Office, Jacky Bell, Mitigation Division Director, at jacky.bell@fema.dhs.gov or 404-273-4710.

Sincerely,



Robert D. Samaan
Regional Administrator

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief
Jillian Kraynak, Florida NFIP State Coordinator



December 19, 2024

1249 ESTERO ADVENTURES LLC
c/o MICHAEL R. MILLER
290 BAHIA VIA
FORT MYERS BEACH FL 33931
Gregvonkrumreig@gmail.com

RE: REVOCATION AND RESCINDING TEMPORARY USE PERMIT NO. 232195
Property Address: 1249 Estero Blvd, Fort Myers Beach Florida

VIA: Certified Mail and posting at 1249 Estero Blvd, Fort Myers Beach, Florida

Dear Mr. Miller:

This letter is Formal Notice that Temporary Use Permit No. 232195 is revoked and rescinded as of the 16th day of December 2024 as directed by Resolution 24-296, which was approved and adopted by the Town of Fort Myers Beach Town Council on December 16, 2024. The Fort Myers Beach Town Council has also previously directed that no extensions or additional temporary permits will be issued in order to comply with the minimum floodplain standards as identified in Page 2 of the U.S. Department of Homeland Security, Federal Emergency Management Agency Town of Fort Myers Beach Post-Disaster Compliance Status Update Report dated July 19, 2024. ("FEMA Report"). A copy of Resolution 24-296 and FEMA's most recent letter of November 21, 2024 to the Town are included for your information, and as directed to accompany this Formal Notice by the Town Council.

This Formal Notice may be appealed if issued in error pursuant to Section 34-86 of the Town of Fort Myers Beach Code of Ordinances and as stated in Section 4 of Ordinance 24-04 or by any other lawful means. To the extent that this letter is provided to you at the direction of the Town Council, this letter constitutes final agency action. If you have questions regarding the revocation and rescission of this permit, please contact Frank Kropacek at 239-765-0202.

Sincerely,

Andrew Hyatt, Town Manager

Cc: Tom Yozzo, Code Compliance Manager
Frank Kropacek, Operations & Compliance Director
Enclosures – FEMA November 21, 2024 Letter
Resolution 24-296

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

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| ☐ Adult Signature Required | \$ | |
| ☐ Adult Signature Restricted Delivery | \$ | |

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MICHAEL R. MILLER
1249 ESTERO ADVENTURES LLC
290 BAHIA VIA
FORT MYERS BEACH, FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



Permit #: 232195

Permit Date: 03/06/23

Permit Type:

Permit Type: Temporary Use

Sub Type: Property Registration-Vehicle/RV/Vendors

Type of Construction:

Type of Occupancy / Use: Commercial

Contractor Business

Name/Applicant:

Contact Name: Mike Miller

Contractor/Applicant Email:

Contractor/Applicant Phone #: 239-851-2274

Property Owner's Email: Gregvonkrumreig@gmail.com

Current Use:

Proposed Use:

Scope of Work: Beached Whale -Food truck 16', with smoker, restaurant trailer, storage trailer, mobile bar

Project Cost: 0

Square Feet: 0

Issued Date: 05/18/2023

Expiration Date: 09/23/2025

Final Date:

Closed Date:

Repair Damage Due To:

Storm Damage:

Status: ISSUED

Assigned To:

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
194624W40060H0300	1249 ESTERO BLVD	VENETIAN GARDENS BLK H PB 6 PG 70 LOTS 30 31+32 + PT LT 29 OR2414/2433	1249 ESTERO ADVENTURES LLC		DOWNTOWN

Inspections

Date	Inspection Type	Description	Scheduled Date	Completed Date	Inspector	Status
03/07/2023	Fire - 902 Final Fire - Contact FMB Fire to schedule	Fees still need paid			Christopher Cox	Open

Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
		Conditions for trailers 1. Trailers shall be removable and have emergency plan when a storm is in place. 2. Electrical should be designed and installed to minimize effects on elements of the electrical system not damaged by flood water. 3. Plumbing must resist flood forces and prevent flood water entry and accumulation. Must also be designed to resist flood forces.		
03/06/2023	Review Flood	Sec. 6-519. - Temporary placement. Recreational vehicles and park trailers placed temporarily in flood hazard areas must: (1) Be on the site for fewer than 180 consecutive days; or (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.	Kendra Rosa	REVIEWED W/CONDITIONS
03/06/2023	Review FMB Application		Kendra Rosa	DONE
03/06/2023	FMB Fire Dept		Jennifer Campbell	RESUBMITTAL REQUIRED
03/06/2023	Review Zoning	A SEPARATE PERMIT FOR THE STAGE IS REQUIRED.	Kendra Rosa	REVIEWED W/CONDITIONS
03/08/2023	Rejection Letter Sent	1st Fire Review	Shanette Thomas	DONE
03/21/2023	FMB Fire Dept		Jennifer Campbell	REVIEWED FOR COMPLIANCE

Attached Letters

Date	Letter	Description
08/01/2023	Temporary Permit	
05/18/2023	Building Permit	

Uploaded Files

Date	File Name
03/29/2023	14879995-Job Site - Fire Review - Permit 232195.pdf
03/22/2023	14809862-Whale Temp use Permit.jpg
03/20/2023	14782026-Site Map for The Whale (002).jpg
03/20/2023	14782024-Temporary Use Application (002).jpg
03/20/2023	14781785-Dudleys DBPR.pdf
03/08/2023	14599497-232195 1249 Estero Blvd 1st Fire Review rejection letter.pdf
03/06/2023	14578636-MH_RV_TEMP USE PERMIT_rev 12202022 ker.pdf



VIA CERTIFIED U.S. Mail and ELECTRONIC MAIL

December 5, 2024

Ms. Jacky Bell, Mitigation Division Director
Federal Emergency Management Agency (FEMA)
Region 4
3005 Chamble Tucker Road
Atlanta, Georgia

Subject: Fort Myers Beach – Response to FEMA Letter Dated November 21, 2024

Dear Ms. Bell,

In response to your letter dated November 21, 2024, in which FEMA has placed the Town of Fort Myers Beach on probation with the National Flood Insurance Program, the letter specifically states that your teams have identified additional work that needs to occur for Action Items #2, #3 and #5. In response, the Town would like to provide the following feedback and pose several questions as well to seek additional clarification.

Response to Action #2: For Action #2, the Town developed the Fort Myers Beach Hurricane Ian Claims vs Permits Issued Crosswalk to compare Hurricane Ian claims data versus what permits were issued as a result of Hurricane Ian. The crosswalk will be used as a tool to quickly identify those homes that sustained damage and to what level it was sustained. It includes information related to which homes received SD letters, permits that were issued and whether the home is in a current mitigation project. The comprehensive crosswalk tracks all necessary permit information which will help to identify gaps and inconsistencies in the process. The document will provide a foundation for all permit work moving forward. **During the Town's development meetings with FEMA, all parties acknowledged that the crosswalk is currently incomplete and remains a work in progress. The Town committed to prioritizing its completion as soon as possible, and FEMA representatives confirmed that this approach is acceptable to meet the requirements of the corrective action plan.**

Action Item #2 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?
- What specific paperwork permitting is still required that has not been submitted previously submitted to FEMA in the letter dated 11/21/2024?
- Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

Response to Action #3: Similar to response above to Action #2, the Town intends to leverage the Fort Myers Beach Hurricane Ian Claims vs Permits Issued Crosswalk. The comprehensive crosswalk tracks all necessary permit information. It also tracks those properties that received SD letters, which properties are included in current mitigation projects and identifies those properties with colors that show the level of damages sustained during Ian to assist with rapid identification. This tool will help to identify gaps and inconsistencies in the process. **During the Town's development meetings with FEMA, all parties acknowledged that the crosswalk is currently incomplete and remains a work in progress. The Town committed to prioritizing its completion as soon as possible, and FEMA representatives confirmed that this approach is acceptable to meet the requirements of the corrective action plan.**

In both cases for Action Item #2 and Action #3, if a case of non-compliance is identified or if a property owner fails to comply or ignores a SD determination, a code case will be opened, and the code due process will begin through to magistrate if needed. The Building Official will also conduct an assessment if this was regarding a safety issue.

Action Item #3 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?
- What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?
- The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town's current code process sufficient to meet action item #3?
- If not, what specific changes would be necessary to comply with action item #3 in the letter dated 11/21/2024?

Response to Action #5: The Town recognizes that having containers, trailers and other non-compliant structures in the FEMA designated floodplain is out of compliance with NFIP

regulations. The Town intends to utilize its code enforcement process for non-compliant structures in the floodplain. During the Town's development meetings with FEMA, the Town committed to prioritizing the removal of non-compliant containers, trailers, and other structures located within the FEMA-designated floodplain, as these are out of compliance with NFIP regulations. The Town intends to address these non-compliant structures through the code enforcement process with a hearing before a special magistrate. FEMA representatives confirmed that this approach is acceptable to meet the requirements of the corrective action plan.

Action Item #5 Questions

- Do temporary housing trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Will unsafe homes and businesses need to be required to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Will non-compliant substantially damaged homes or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling in the letter dated 11/21/2024?

Thank you for your consideration of our feedback and I look forward to receiving clarification on our outstanding questions.

Respectfully,



Andrew Hyatt, Town Manager
Town of Fort Myers Beach

CC: Senator Rick Scott
Congressman Byron Donalds
Jason Hunter, Region Floodplain Management & Insurance Branch Chief, FEMA
Jillian Kraynak, Florida NFIP State Coordinator, FEMA
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Director of Operations & Compliance



FEMA

February 6, 2025

Andy Hyatt, Town Manager
Town of Fort Myers Beach
2731 Oak Street
Fort Myers Beach, FL 33931

Re: Fort Myers Beach - Response to FEMA Letter Dated Dec. 5, 2024.

Dear Mr. Hyatt:

This is in response to your letter dated December 5, 2024, in which you asked for FEMA to provide feedback and clarification on the decision to place the Town of Fort Myers Beach on probation with the National Flood Insurance Program. You asked about additional work and documentation needed to complete requirements for Action Items 2, 3 and 5.

These action items were outlined in the July 19, 2024, letter notifying the Town that outstanding deficiencies and violations in the floodplain management program related to Hurricane Ian **must be remedied by Nov. 18, 2024**. Otherwise, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) required FEMA to place the Town on probation. That letter also stated that if probation was to go into effect the Town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

Action Item 2

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

We concur that the method developed by The Town, "Ian Claims vs Permits Issued Crosswalk" was deemed acceptable by a FEMA representative, however completing deliverables by Nov. 18 was imperative to avoid probation as referenced in the July 19 letter.

Action Item 2 required The Town to complete a re-assessment of SFHA developments from Hurricane Ian damages. The results from this assessment should have been included in final deliverables for the November 18 deadline, reflecting any newly identified non-compliant structures the Town would address through code enforcement. To meet the requirement for Action Item 2 the Town must:

- 1) Complete the assessments all structures and or developments in SFHA that sustained damages from Hurricane Ian against all available data.
- 2) Address all new findings with Action Item 3.

Action Item 3

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

- The Town failed to complete the re-assessment of SFHA as required by Action Item 2 of the July 19th letter.
- The Town failed to properly address Action Item 3 demonstrating how The Town planned to leverage its code enforcement procedures for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.
- The Town did not produce documentation demonstrating proposed or completed code enforcement actions for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.

Action Item 5

Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

Following Hurricane Ian, the Town improperly issued permits for the temporary placement of non-compliant structures in the Special Flood Hazard Area, including the VE (coastal SFHA) without meeting proper requirements.

As noted in the July 19 letter, the Town was required to:

- Remove and confirm the non-issuance of permits for non-compliant development in SFHA by Nov. 18.
- Remove, or at minimum provide a plan for removal, non-compliant structures (containers) located in the SFHA by Nov. 18.

As of November 18, deadline non complaint structures remained.

Regarding the questions from Town's December 5 letter about requirement to complete Action Item 5, the Town is expected, to assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area as part of action item 2 and address any outstanding issues with the Town's normal code enforcement process.

To satisfy requirements for Action Item 5 the Town must address the remaining noncompliant structures including any shipping or storage containers, trailers or structures which received temporary permits in the VE and Coastal A Zones.

If you have any questions or need technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch Chief, at jason.hunter@fema.dhs.gov or 404-909-6125.

Sincerely,

Jacky S. Bell
Director, Mitigation Division

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief

Jillian Kraynak, Florida NFIP State Coordinator



VIA CERTIFIED U.S. Mail and ELECTRONIC MAIL

February 18, 2025

Ms. Jacky Bell, Mitigation, Division Director
Federal Emergency Management Agency (FEMA)
Region 4
3005 Chamblee Tucker Road
Atlanta, Georgia

Subject: Fort Myers Beach – Response to FEMA Letter Dated February 6, 2025

Dear Ms. Bell,

The Town of Fort Myers Beach (the Town) believes it has fully complied with the requirements of the National Flood Insurance Program and has been wrongfully placed on probation following the destruction of Hurricane Ian. As such we are seeking additional clarification in response to your letter dated February 6, 2025, in which FEMA provided feedback regarding work and documentation for Action Items 2, 3 and 5. Again, we kindly ask for additional clarification on the action-specific questions we posed.

Action Item #2:

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

FEMA Response:

We concur that the method developed by The Town, “Ian Claims vs Permits Issued Crosswalk” was deemed acceptable by a FEMA representative, however completing deliverables by Nov. 18 was imperative to avoid probation as referenced in the July 19 letter.

Action Item 2 required The Town to complete a re-assessment of SFHA developments from Hurricane Ian damages. The results from this assessment should have been included in final deliverables for the November 18 deadline, reflecting any newly identified non-compliant

structures the Town would address through code enforcement. To meet the requirement for Action Item 2 the Town must:

- 1) Complete the assessments on all structures and or developments in SFHA that sustained damages from Hurricane Ian against all available data.
- 2) Address all new findings with Action Item 3.

Follow-up Action Item #2 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?
- What specific permitting paperwork is still required that has not been submitted previously submitted to FEMA in the letter dated 11/21/2024?
- Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

Action Item#3:

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

FEMA Response:

The Town failed to complete the re-assessment of SFHA as required by Action Item 2 of the July 19th letter.

- The Town failed to properly address Action Item 3 demonstrating how The Town planned to leverage its code enforcement procedures for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.
- The Town did not produce documentation demonstrating proposed or completed code enforcement actions for all new findings because the re-assessment of SFHA (Action Item 2) was not completed.

Follow-up Action Item #3 Questions

- What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?
- What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?
- The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town's current code process sufficient to meet action item #3?

- If not, what specific changes would be necessary to comply with action item #3 in the letter dated 11/21/2024?

Action Item #5:

Remove non-compliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

FEMA Response:

Following Hurricane Ian, the Town improperly issued permits for the temporary placement of non-compliant structures in the Special Flood Hazard Area, including the VE (coastal SFHA) without meeting proper requirements.

As noted in the July 19 letter, the Town was required to:

- Remove and confirm the non-issuance of permits for non-compliant development in SFHA by Nov. 18.
- Remove, or at minimum provide a plan for removal, non-compliant structures (containers) located in the SFHA by Nov. 18.

As of November 18, deadline non complaint structures remained.

Regarding the questions from the Town's December 5 letter about the requirement to complete Action Item 5, the Town is expected, to assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area as part of action item 2 and address any outstanding issues with the Town's normal code enforcement process.

To satisfy requirements for Action Item 5 the Town must address the remaining noncompliant structures including any shipping or storage containers, trailers or structures which received temporary permits in the VE and Coastal A Zones.

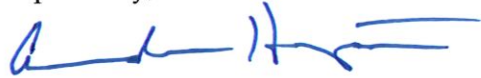
Follow-up Action Item #5 Questions

- Do temporary housing trailers [such as recreational vehicles, park trailers, or other similar] need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024 [if these are licensed as vehicles and can be moved in the event of an approaching storm?]
- Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?
- Will unsafe homes, [structures,] and businesses need to be required to be [demolished or] removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

- Will non-compliant substantially damaged homes, [structures,] or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling [requiring demolition?]

Thank you for your assistance, and I look forward to receiving clarification on our outstanding questions.

Respectfully,



Andrew Hyatt, Town Manager
Town of Fort Myers Beach

CC: Senator Rick Scott
Senator Ashley Moody
Congressman Byron Donalds
Kevin Guthrie, Director FDEM
Mayor Dan Allers
Jason Hunter, Region Floodplain Management & Insurance Branch Chief, FEMA
Jillian Kraynak, Florida NFIP State Coordinator, FEMA
Becky Vose, Town Attorney
Nancy Stuparich, Town Attorney
Amy Baker, Town Clerk
Frankie Kropacek, Director of Operations & Compliance



FEMA

February 28, 2025

Andy Hyatt, Town Manager
Town of Fort Myers Beach 2731
Oak Street
Fort Myers Beach, FL 33931

Re: Fort Myers Beach - Response to FEMA Letter Dated February 6, 2025

Dear Mr. Hyatt:

We received your letter on February 18, 2025, requesting additional clarification on the decision to place the Town of Fort Myers Beach on probation with the National Flood Insurance Program. You asked about additional work and documentation needed to complete requirements for Action Items 2, 3 and 5.

These action items were outlined in the July 19, 2024, letter notifying the Town that outstanding deficiencies and violations in the floodplain management program related to Hurricane Ian **must be remedied by Nov. 18, 2024**. Otherwise, FEMA's regulations (Title 44 Code of Federal Regulations 59.24(b) Suspension of Community Eligibility) required FEMA to place the Town on probation. That letter also stated that if probation was to go into effect the Town would no longer be eligible for Community Rating System participation and would be retrograded to Class 10 effective on April 1, 2025.

We have responded to each of your questions below.

Action Item 2

Assess all floodplain development from Hurricane Ian in the Special Flood Hazard Area, ensuring that permits for all repairs, construction and development were obtained consistent with local floodplain management regulations.

Follow-up Action Item #2 Questions

Question 1: What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action Item #2?

FEMA Response: Of the 1,665 addresses listed in the crosswalk data submitted by the Town, 1,583 had no permit or any other information listed. FEMA is unable to determine what, if any, actions have taken place with these properties. FEMA cannot consider the assessment of all floodplain development to be complete without updated status information on these properties. Status updates could include, but are not limited to, Permit issued/pending, Notice of Violation Issued/Pending, Notification Letter sent, awaiting response, Administrative Hearing pending, etc. The status will be determined by what phase of the Town's enforcement process the property is currently in.

Question 2: What specific permitting paperwork is still required that has not been submitted previously submitted to EMA in the letter dated 11/21/2024?

FEMA Response: The Town will need to submit updated spreadsheets that clearly indicate the status of these properties and what, if any, actions have been taken.

Question 3: Are there specific properties you are referring to that the Town needs to assess that were not covered in the previous documentation presented to FEMA in the letter dated 11/21/2024?

FEMA Response: FEMA is not requiring data on any properties besides those already identified.

Action Item 3

Provide documentation that demonstrates your community is leveraging its code enforcement process to address new and existing code cases for all structures not confirmed as compliant.

Follow-up Action Item #3 Questions

Question 1. What exactly has not been completed in the crosswalk assessment tool that prevents the Town from being in compliance with Action item #3?

FEMA Response: FEMA cannot determine if the Town is leveraging its code enforcement process without the missing information mentioned above. Submission of the data spelled out in response to Action Item 1 will allow FEMA to confirm the Town is pursuing its code enforcement process appropriately.

Question 2: What additional documentation would you like the Town to provide that has not been previously presented to FEMA in the letter dated 11/21/2024?

FEMA Response: The documentation spelled out above, indicating status of the properties in question will satisfy FEMA's requirement and assure the Agency that the Town is appropriately enforcing its ordinance.

Question 3: The Town has provided you with its code requirements to provide a Notice of Violation to non-compliant structures giving them 30 days to come into compliance. If they do not, they are scheduled for a magistrate hearing for a ruling. The Town will be seeking abatement of these structures at these hearings. Is the Town's current code process sufficient to meet action item #3?

FEMA Response: If the process outlined above conforms to the Town's ordinance and any relevant State or Federal regulation then it will be deemed sufficient so long as the Town can demonstrate that it is be enforced consistently throughout the Town on all properties deemed out of compliance. Submission of the status updates requested above will demonstrate the consistent enforcement of this process.

Action Item 5

Remove noncompliant structures that were incorrectly permitted and should not have been placed in the Special Flood Hazard Area.

Follow-up Action Item #5 Questions

Question 1: Do temporary housing trailers [such as recreational vehicles, park trailers, or other similar] need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: Temporary housing for disaster survivors that has been permitted by the Town of Fort Myers Beach is acceptable.

Question 2: Do temporary food trucks and/or trailers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024 [if these are licensed as vehicles and can be moved in the event of an approaching storm?]

FEMA Response: Food trucks are vehicles and should be regulated in the SFHA similar to any licensed and road-ready vehicle in the Town's jurisdiction. Trailers that have been placed on a foundation or modified to include any structural attachments are to be elevated and anchored to meet the Town's Floodplain Management Regulations. Connex boxes, storage containers or any other similar units should not be placed in the SFHA without being elevated and properly anchored to meet the Town's Floodplain Management Regulations.

Question 3: Do temporary storage containers need to be removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: Storage containers are not to be placed in the Special Flood Hazard Area (V zone, Coastal A, or A zone) without meeting the Town's Floodplain Management Regulations. All non-compliant structures are to be removed. Connex boxes, storage containers or any other similar units should not be placed in the SFHA without being elevated and properly anchored to meet the Town's Floodplain Management Regulations.

Question 4: Will unsafe homes, [structures,] and businesses need to be required to be [demolished or] removed from the Special Flood Hazard Area for the Town to come into compliance with the letter dated 11/21/2024?

FEMA Response: The Town would need to continue to leverage their code enforcement process to ensure non-compliant structures are brought into compliance. They should be reviewed on a case-by-case basis and would need to be monitored and be brought into compliance to the maximum extent possible.

Question 5: Will non-compliant substantially damaged homes, [structures,] or businesses that have been deemed in violation and cited by the Town be held against the town if they are not demolished after a magistrate ruling [requiring demolition?]

FEMA Response: The Town would need to continue to leverage their code enforcement process to ensure non-compliant structures are brought into compliance. They should be reviewed on a case-by-case basis and would need to be monitored and be brought into compliance to the maximum extent possible.

FEMA remains committed to assisting the Town of Fort Myers Beach as it navigates the probation process. As in the past, staff remain available to work, in person, with the Town to assist in resolving these compliance issues.

If you have any questions or would like to arrange in-person technical assistance to address these issues, please contact FEMA Region 4 Office, Jason Hunter, Floodplain Management and Insurance Branch Chief, at jason.hunter@fema.dhs.gov or 404-909-6125.

Sincerely,

Jacky S. Bell
Director, Mitigation Division

cc:

Jason Hunter, Region Floodplain Management & Insurance Branch Chief

Jillian Kraynak, Florida NFIP State Coordinator

Hearing Exhibit C

Status of Compliance

HEARING

EXHIBIT

D

- Violated Regulation(s)

See relevant highlighted section(s) of
applicable code

- 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration.*
 - 2.2. *Ultimate deformation.*
 - 2.3. Fractures.
 - 2.4. Fissures.
 - 2.5. Spalling.
 - 2.6. Exposed reinforcement.
 - 2.7. *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration.*
 - 3.2. Corrosion.
 - 3.3. Elastic deformation.
 - 3.4. *Ultimate deformation.*
 - 3.5. Stress or strain cracks.
 - 3.6. Joint fatigue.
 - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration.*
 - 4.2. *Ultimate deformation.*
 - 4.3. Fractures in masonry or mortar joints.
 - 4.4. Fissures in masonry or mortar joints.
 - 4.5. Spalling.
 - 4.6. Exposed reinforcement.
 - 4.7. *Detached*, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration.*
 - 5.2. Elastic deformation.
 - 5.3. *Ultimate deformation.*
 - 5.4. Metal fatigue.
 - 5.5. *Detached*, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation.
 - 6.2. Deterioration.
 - 6.3. Damage from insects, rodents and other vermin.
 - 6.4. Fire damage beyond charring.
 - 6.5. Significant splits and checks.
 - 6.6. Horizontal shear cracks.
 - 6.7. Vertical shear cracks.
 - 6.8. Inadequate support.
 - 6.9. *Detached*, dislodged or failing connections.

- 6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted where *approved* by the *code official*.

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall be not less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards* shall not be required where exempted by the adopted building code.

SECTION 308 RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. *Exterior property* and *premises*, and the interior of every *structure*, shall be free from any accumulation of *rubbish* or *garbage*.

308.2 Disposal of rubbish. Every *occupant* of a *structure* shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

308.3 Disposal of garbage. Every *occupant* of a *structure* shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

308.3.1 Garbage facilities. The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit*; an *approved* incinerator unit in the *structure* available to the *occupants* in each *dwelling unit*; or an *approved* leakproof, covered, outside garbage container.

308.3.2 Containers. The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

The 2018 Edition of the International Property Maintenance Code is hereby amended as follows:

- (a) Wherever the term "code official" appears in the International Property Maintenance Code, that term shall be interpreted to mean the Director of the Department or Community Development or his or her designee. Wherever the term "department" appears in this code, it shall be interpreted to mean the Department of Community Development. Wherever the terms "International Building Code" or "International Existing Building Code" appear in this code, the term "Florida Building Code" shall be substituted for such terms.
- (b) Section 101.1 Title, is amended to read as follows:

These regulations shall be known as the Property Maintenance Code of the Town of Fort Myers Beach, Florida, hereinafter referred to as "this code."
- (c) *Section 102.3 Application of other codes*, is amended to read as follows:

Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the Florida Building Code, as amended.
- (d) *Section 102.6 Historic Buildings*, is amended to read as follows:

The provisions of this code shall not be mandatory for existing buildings or structures formally or officially designated as historic buildings by either the federal government, the state, or the Town, provided such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare.
- (e) *Section 102.7 Referenced codes and standards*, is amended to read as follows:

The codes and standards referenced in this code shall be the Florida Building Code, the Florida Fire Prevention Code, the Life Safety Code and any other code or standard contained in Articles II, III and IV in Chapter 6 of the Land Development Code. Where there are differences between provisions of this code, the Florida Building Code and any other code or standard contained in Articles II, III and IV in Chapter 6 of the Land Development Code, the Florida Building Code, the Florida Fire Prevention Code, the Life Safety Code, and any other code or standard contained in Articles II, III, and IV in Chapter 6 of the Land Development Code shall prevail.
- (f) *Section 103 Department of Property Maintenance Inspection* is hereby deleted in its entirety.
- (g) *Section 104.4 Right of Entry* is hereby deleted in its entirety.
- (h) Section 106.3 Prosecution of Violation, is hereby amended to read as follows:

Any person who fails to comply with a notice of violation or order served in accordance with Section 107 shall be adjudicated in accordance with the provisions of Chapter 162 of the Florida Statutes or any other method allowed by Florida law, or as provided in the codes and ordinances of the Town of Fort Myers.

- (i) *Section 107.2 Form*, is hereby amended to read as follows:

The notice prescribed in Section 107.1 shall comply with the requirements of F.S. ch. 162.

- (j) *Section 107.3 Method of Service*, is hereby amended to read as follows:

All notices shall be deemed to have been properly served if the service requirements contained in F.S. ch. 162 have been met.

- (k) *Section 107.5 Penalties*, is hereby amended to read as follows:

Penalties for noncompliance with orders and notices shall be as set forth in F.S. ch. 162, and the codes and ordinances of the Town of Fort Myers Beach.

- (l) *Section 107.6 Transfer of Ownership*, is hereby amended to read as follows:

If the owner of property that is subject to a code enforcement proceeding before the special magistrate, or court transfers ownership of such property between the time the notice of violation was served and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
 - (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
 - (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
 - (4) File a notice with the code official of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within 5 days after the date of the transfer.
 - (5) A failure to make the disclosures described in paragraphs (1), (2), and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable period of time to correct the violation before the hearing is held.
- (m) *Section 108.2 Closing of vacant structures*, is hereby amended to read as follows:

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or person creating the need for closing or securing the premises fails and refuses to pay or reimburse the Town for the costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

- (n) *Section 108.7 Record*, is hereby amended to read as follows:

The code official shall prepare a report on an unsafe condition. In addition, a written notice of the unsafe condition shall be recorded in the public records for Lee County. The notice shall state the occupancy of the structure and the nature of the unsafe condition.

- (o) *Section 109.5 Costs of emergency repairs*, is hereby amended to read as follows:

Costs incurred in the performance of emergency work shall be paid by the Town. All costs incurred by the Town in the performance of emergency work shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or person creating the need for emergency repairs fails and refuses to pay or reimburse the Town for the costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

- (p) *Section 109.6 Hearing*, is hereby amended to read as follows:

Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon appeal to the Town Council, be afforded a hearing as described in this code.

- (q) *Section 110.1 General*, is hereby amended to read as follows:

The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove

such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction in accordance with the Florida Building Code, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the Building Official.

(r) *Section 110.3 Failure to comply*, is hereby amended as follows:

If the owner of a premises fails to comply with a demolition order within the time prescribed, the Town shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate for said costs. In the event the owner or person creating the need for demolition and removal fails and refuses to pay or reimburse the Town for the costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(s) *Section 111.1 Application for appeal*, is hereby amended to read as follows:

Any person directly affected by a decision of the code official or a notice or order issued pursuant to this code shall have the right to appeal to the Town Council, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served on the affected person or from the date of posting on the property. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. This section shall not apply to orders issued by the Town special magistrate in connection with a code enforcement special magistrate hearing.

(t) *Sections 111.2 through Section 111.8* are hereby deleted in their entirety.

(u) *Section 112.4 Failure to comply*, is hereby amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a code violation and shall be subject to a fine as determined by the Town special magistrate.

(v) *Section 302.3 Sidewalks and driveways*, is hereby amended to read as follows:

Section 302.3. Sidewalks, driveways and rights-of-way. All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Trees and shrubs shall be maintained to provide for horizontal clearance of at least three (3) feet from and vertical clearance of at least eight (8) feet above any sidewalk, bike path, or street right-of-way. Unpaved areas shall be regularly mowed or otherwise maintained in a neat and attractive condition.

(w) *Section 302.4 Weeds*, is hereby amended to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs, provided, however, this term shall not include cultivated flowers and gardens and native beach vegetation such as sea oats. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation and having been given a reasonable time to cut and destroy the weeds, any duly authorized employee of the Town or contractor hired by the Town shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. All costs incurred by the Town to cut and destroy the weeds shall be a lien upon such real estate for said costs. The lien shall be superior to all other liens and encumbrances, including prior recorded mortgage or judgments and only inferior to liens for taxes. In the event the owner or agent fails and refuses to pay or reimburse the Town for its costs, the Town may foreclose said lien in accordance with the law applicable to the foreclosure of such liens and the Town shall be entitled to recover its reasonable attorney's fees and costs incurred in such foreclosure action.

(x) *Section 302.8 Motor Vehicles*, is hereby amended to read as follows:

Section 302.8 Motor Vehicles and Boats. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle or boat shall be parked, kept or stored on any premises, and no vehicle or boat shall at any time be in a state of major disassemble, disrepair, or in the process of being stripped or dismantled. Painting of vehicles or boats is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle or boat of any type is permitted to undergo major overhaul, including body or hull work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(y) A new *Section 302.10* is hereby added as follows:

Section 302.10 Exterior Storage.

1. No temporary or permanent storage of materials or equipment is permitted on any vacant parcel, unless in conjunction with an active building permit or where such storage is specifically permitted by Chapter 34 of the Land Development Code.
2. Equipment, materials, and furnishings not designed for use outdoors, such as automotive parts and tires, building materials, and interior furniture, may not be stored outdoors.

(z) *Section 303.2 Enclosures*, is hereby amended to read as follows:

Public swimming pools, hot tubs and spas shall include all safety features specified by F.S. § 514.0315, including any subsequent amendments thereto. Residential swimming pools shall be maintained in compliance with the State Residential Swimming Pool Safety Act, as contained in F.S. ch. 515.

(aa) A new *Section 303.3* is hereby added as follows:

Section 303.3 Disposal of swimming pool water. Prior to disposing of any swimming pool water, chlorine and bromine levels must be reduced by not adding chlorine or bromine for a least five (5) days or until levels are below 0.1 mg per liter. One of the following methods of disposal shall be utilized:

1. Discharge of the water into roadside swales to allow for percolation of the water into the ground without any runoff to canals, beaches, wetlands, other tidal waters, or onto adjoining properties. This shall be the preferred method of disposal.
2. Discharge of the water into the sanitary sewer system operated by Lee County Utilities is also permitted, but is not the preferred method.

Under no circumstances shall any swimming pool water be discharged either directly or indirectly onto the beach, or into canals, wetlands, or any other tidal waters.

(bb) *Section 304.3 Premises Identification*, is hereby amended to read as follows:

All buildings shall have address numbers that have been assigned by Lee County placed in a position to be plainly legible and visible by emergency personnel from the street or road fronting the property. All address numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 3 inches high. Numbers on all commercial, institutional, or multifamily buildings that are set back more than 50 feet from the street shall be at least eight inches high.

(cc) *Section 304.14 Insect screens*, is hereby amended to read as follows:

Every window in a residential structure that is capable of being opened and every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored shall be

supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Screens shall not, however, be required where other approved means, such as air curtains or insect repellent fans, are employed.

(dd) A new *Section 308.4* is hereby added as follows:

308.4 Additional Regulations for Rubbish and Garbage Containers.

1. Rubbish and Garbage containers shall not be moved to the street more than 24 hours prior to scheduled curbside collection, nor remain there more than 24 hours after scheduled collection.
2. Each refuse container that is not movable shall be opaquely screened from view from streets and adjoining properties and such screening shall be of sufficient height to entirely screen the container. Screening may be achieved by landscaping, wall, or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the property.
3. Any rubbish or garbage container not located within a roofed enclosure must have a cover or lid that renders the interior of the container inaccessible to animals.

(ee) *Section 402.2 Common halls and stairways*, is hereby amended to read as follows:

Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9,144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads, provided, however, that during Sea turtle nesting season (May 1 through October 31), the provisions of Chapter 14, Article II of the Fort Myers Beach Land Development Code shall supersede the foregoing requirements.

(ff) *Section 507 Storm Drainage*, is hereby amended to read as follows:

Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance. Point sources of stormwater discharge from private property directly onto the beach are prohibited. This prohibition includes drainage collected from parking lots or other paved surfaces and stormwater from roofs of buildings.

(gg) A new *Section 602.7* is hereby added as follows:

Section 602.7 Screening of Mechanical Equipment. Any new mechanical equipment placed on a roof shall be screened from view from ground level of adjoining properties and public rights-of-way. When mechanical equipment is being replaced on a roof of a building that is not undergoing structural alterations, such equipment shall be screened to the same standard using non-structural materials such as ornamental latticework.

(hh) *Section 701.1 Scope*, is hereby amended to read as follows:

The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided. All references to the "International Fire Code" in this Chapter 7 shall be replaced with the "Florida Fire Prevention Code."

(Ord. No. 13-01, § 2, 1-22-2013; Ord. No. 21-01, § 2(Exh. A), 3-15-2021)

Property Address and Owner:

Hearing Date: April 1, 2025

FMB Building Official Appeal Case No. 2025-01 (Unsafe Building)
Appellant/Property Owner: Kaminsky at 131 Estero LLC (Island Shores Club)
Property Address: 131/133 Estero Blvd., Fort Myers Beach

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. Hearing Exhibit A - Amended Notice of Hearing (2)
2. Hearing Exhibit B - Demolition Notice and Notice to Vacate
3. Hearing Exhibit C - Copy of Warranty Deed & Property Appraiser Records
4. Hearing Exhibit D- Affidavit of Unsafe Structure 20240653
5. D.1 - Deck falling
6. D.2 - Loose debris on top of deck
7. D.3 - Loose stair stringer & deck
8. D.4 - Unsupported deck with debris on top
9. D.5 - Front Side View
10. D.6 - Front View (Opposite Angle)
11. D.7 - Front View (Main)
12. D.8 - Roof Side Rear View
13. D.9 - Bay View (1)
14. D.10 - Bay View (2)
15. D.11 - Bay View (Pre-Ian)
16. D.12 - Dilapidation
17. D.13 - Partial Collapse
18. Hearing Exhibit E - Photos of Posting of Demolition Notice and Notice to Vacate
19. Hearing Exhibit F - Letter of Appeal to the Town of Ft Myers Beach, 8-15-2024
20. Hearing Exhibit G - 2nd Letter to Town of Fort Myers Beach Regarding Appeal, 8-16-2024
21. Hearing Exhibit H.1 - Application for Appeal of Administrative Decision by Building Official
22. Hearing Exhibit H.2 - Supplement to Application for Appeal of Administrative Action- Supplement-PH-F
23. Hearing Exhibit H.3 - Administrative Appeal - Map of Properties Within 500 Feet
24. Hearing Exhibit H.4 - Administrative Appeal - List of Property Owners (1)
25. Hearing Exhibit H.5 - Administrative Appeal - Legal Description
26. Hearing Exhibit I - Emergency Ordinance 24-29 - Unsafe Structures
27. Hearing Exhibit J - Ordinance 24-30, Unsafe Building
28. Hearing Exhibit K - Town Council Agenda - September 23, 2024 (2) for Discussion of Possible Settlement
29. Hearing Exhibit L - Agenda Item Summary Regarding Possible Settlement

Town Recommendations:

Town Approvals:

Frankie Kropacek, Operations & Compliance Director

Date: March 20, 2025

Traci Kohler, Assistant to the Town manager

Date: March 20, 2025

nancy stuparich, Town Attorney

Date: March 21, 2025

Lizzette Roman, Town Clerk Administrative Coordinator

Date: March 21, 2025

Amy Baker, Town Clerk

Date: March 21, 2025

STATE OF FLORIDA

DIVISION OF ADMINISTRATIVE HEARINGS

**TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,**

FMB Case No's. 20250056 / 20240653

Petitioner,

vs.

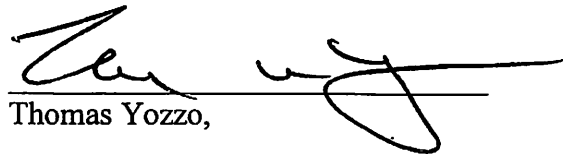
KAMINSKIY AT 131 ESTERO LLC

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, April 1st, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 24th day of February 2025.



Thomas Yozzo,

Security and Code Compliance Manager



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Kaminskiy At 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

Respondent,

FMB Case Number:	20240653 20250056
Certified Mail:	
Regular Mail:	
DOAH Case Number:	

Site Address:131/133 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No.244623W10080D0370

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared D. Batt, who is the Code Compliance Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20240653 for the keeping and/or maintaining of a structure and property in disrepair in example but not limited to missing and/or damaged siding, leaning structure, broken and/or missing windows, etc. and case #20250056 Chapter 6-1, 308.1 for the accumulation of metal drum, scrap lumber, derelict air conditioner parts and other miscellaneous items throughout the property. 6-2 ,302.4: for the overgrowth of weeds and plants

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



in excess of 12 inches. 6-2, 302.8: for the parking and/or storing of an inoperable white and blue boat without visible current registration, missing engine(s), holes throughout the vessel indicating it is not water tight and will not float, damaged and/or missing metal railings and on its side off trailer on the Southeast corner of the property at the property of 131/133 Estero Blvd, Fort Myers Beach, FL 33931.

1. I personally mailed by certified mail a copy of the Notice of Hearing scheduled for 04/01/2025 to the following:
 - a. Kaminskiy At 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128
Certified Mail No. 9589071052700636642978
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 131/133 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 25th day of February 2025. A true, accurate and unaltered copy of the photographs are attached.
3. I posted a copy of the Notice at the primary municipal government office for the Town of Fort Myers Beach, which is Town Hall and located at 2731 Oak Street, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 25th day of February 2025 are attached.
4. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 25th day of February 2025. A copy of the posted webpage is attached as Evidence

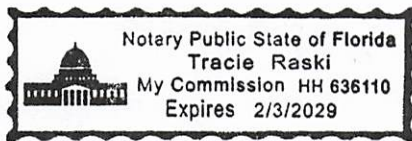


Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

Signature of Affiant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 25th day of February, 2025, by D. Batt. She ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

Notary Public, State of Florida

Print Name: Tracie Raski

My Commission Expires: 2/3/2029

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

9589 0710 5270 0636 6429 78

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

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

Certified Mail Fee

\$

Extra Services & Fees (check box and fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

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Total Postage and Fees

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Postmark
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Amended Net 4/1
20240653
20252054
131/133 Estero

Kaminskiy at 131 Estero LLC
12463 Rancho Bernardo Rd #237
San Diego, CA 92128

PS Form 3800, January 2023 with 1-2022 rate stamp See Reverse for Instructions





STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

FMB Case No's. 20250056 / 20240653

Petitioner,

vs.

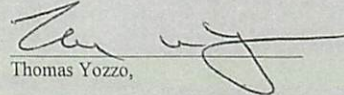
KAMINSKIY AT 131 ESTERO LLC

Respondent,

AMENDED NOTICE OF HEARING

The undersigned hereby gives notice that a hearing previously scheduled at 9:00 am Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, April 1st, 2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 24th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager

Special Magistrate even if you
specifying the date, time and location of the hearing if
Florida Statutes, Chapter 162 and Town of Fort Myers
b), a fine of up to \$250.00 per day for the first violation or
posed for each day the violation continues to exist past
gistrate. If the Special Magistrate finds that a violation is
to \$5,000.00 per violation may be imposed. The Special
ation of the case against you and you may be required to
corrected prior to the hearing.

The action is needed to bring the violation(s) into compliance with the requirements of the
containers from property. 2) Provide proof of compliance with the requirements of the
Chapter 6, Article IV Division section 6-5.11 and 6-5.25 of the Land Development Code.
You are hereby directed to bring these violations into compliance within 30 days.
ONCE THE VIOLATION(S) IS (ARE) IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE
ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT

of Fort Myers Beach
CODE COMPLIANCE
10000 Gulf Breeze Parkway, Suite 100
Fort Myers Beach, FL 33931
(239) 765-0202 Fax: (239) 765-0909

Case Number:	20250144
Certified Mail:	9589071051700832
Regular Mail:	

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

FMB Case No's. 20250056 / 20240653

Petitioner,
vs.
KAMINSKIY AT 131 ESTERO LLC
Respondent,

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Tuesday, February 4, 2025, before the Honorable Judge John G. Van Laningham at the Fort
Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931
regarding a Notice of Violation has been **rescheduled to 9:00 a.m. Tuesday, April 1st,
2025** at the same location before the Honorable Judge John G. Van Laningham.

Signed this 24th day of February 2025.


Thomas Yozzo,
Security and Code Compliance Manager

NOTICE OF VIOLATION

an inspection of the above-referenced property, the Enforcement Officer T. Hoffman indicates that the property

less (Bahia Bowl) without first obtaining required permits

ing Town Codes:

owner's authorized agent thereafter "applicant" is not in
the scope of this article, including buildings, structures, signs, etc.
which is wholly within or partially within any flood hazard area, the
applicant, and the building official, if applicable, shall review the
permit or approval will be reviewed until compliance with the Town
and regulations has been satisfied.

COMPLIANCE:

bring the violation(s) into compliance. Contact the Enforcement Officer at 239-

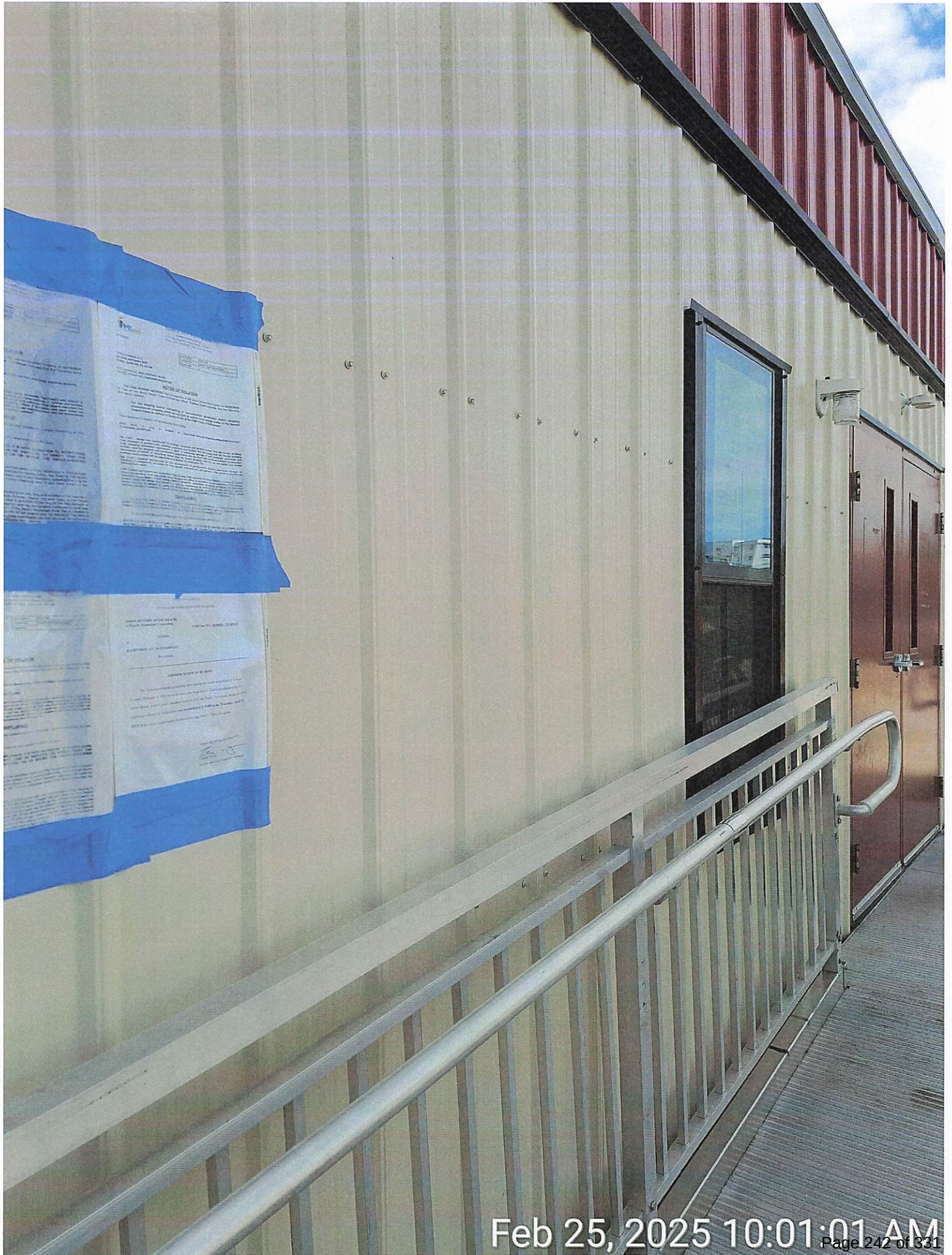
bring these violations into compliance within 14 Days.

ONCE IN COMPLIANCE, IT IS YOUR OBLIGATION TO NOTIFY CODE
ENFORCEMENT SO THAT THE PROPERTY CAN BE INSPECTED TO VERIFY THAT THE
VIOLATION(S) HAS BEEN CORRECTED ON OR BEFORE THE ABOVE-SPECIFIED

on the date specified above, or if the violation(s) is/are brought
to the attention of the Enforcement Division may, in their discretion, schedule the case for
a hearing by the Special Magistrate even if you have corrected the
violation(s).

Notice of Hearing specifying the date, time and location of the hearing if
provided under Florida Statutes, Chapter 162 and Town of Fort Myers
Section 2-4.27(b), a fine of up to \$250.00 per day for the first violation or
a fine of up to \$5,000.00 per violation may be imposed for each day the violation continues to exist past
the Special Magistrate. If the Special Magistrate finds that a violation is
continued, a fine of up to \$5,000.00 per violation may be imposed. The Special
Magistrate's decision of the case against you and you may be required to
corrected prior to the hearing.

Staples



Feb 25, 2025 10:01:01 AM

WorQ x Property Data Search | Lee Co. x Public Notices | Town of Fort M. x

fortmyersbeachfl.gov/1294/Public-Notices#liveEditTab_versionsList

CIVICPLUS Municipal Websites Central

HOME PAGE DASHBOARD MODULES LIVE EDIT IS ON

SAVE SAVE AS COPY CANCEL ACTIONS

Public Notices

All Public Notices will be taken off the website after 90 days.
See below for a current list.

TOWN CLERK

NOTICE OF VIOLATION

NOTICE OF HEARING

NOTICE TO VACATE AND DEMOLITION NOTICE

OTHER NOTICES

FMB PERMITS

CDBG-DR

Notice of Hearings

- 1249 Estero Blvd case #20240919 12/23/2024
- 1035 Estero Blvd case #20240915 12/23/2024
- 406 Estero Blvd case #20240921 12/23/2024
- 4900 Estero Blvd case #20240960 12/23/2024
- 2815 Estero Blvd case #20240994 12/23/2024
- 2450 Estero Blvd case #20240946 12/23/2024
- 1821 Estero Blvd case #20240914 12/23/2024
- 81 Miramar St case #20240912 12/23/2024
- 2450 Estero Blvd case #20240946 (rescheduled) 12/30/2024
- 201 Delmar Ave case #20240647 01/02/2025 (CANCELED)
- 1 Fairview Blvd case #20240850 01/02/2025 (CANCELED)
- 32 Fairview Blvd case #20240680 01/02/2025
- 3127 Estero Blvd case #20240784 01/02/2025 (CANCELED)
- 104 Washington Ave case #20240522 01/02/2025 (CANCELED)
- 80 Avenue F case #CE140394 01/10/2025
- 7864 Buccaneer Dr case #20240786 01/27/2025
- 190 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240680 01/27/2025

WorQ x Property Data Search | Lee Co. x Public Notices | Town of Fort M. x

fortmyersbeachfl.gov/1294/Public-Notices#liveEditTab_versionsList

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Public Information

[DRAFT] Town Hall Bulletin

Public Notices

[DRAFT] Public Information

Add Page

- 7864 Buccaneer Dr case #20240786 01/27/2025
- 190 Bayview Ave case #20240743 01/27/2025
- 32 Fairview Blvd case #20240680 01/27/2025
- 8285 Estero Blvd case #20241106 01/31/2025
- 406 Estero Blvd case #20240921 Amended 02/03/2025
- 4900 Estero Blvd case #20240960 Amended 02/03/2025
- 1249 Estero Blvd case #20240919 Amended 02/03/2025
- 2450 Estero Blvd case #20240946 Amended 02/03/2025
- 8285 Estero Blvd case #20241106 Amended 02/03/2025
- 131/133 Estero Blvd case #20240653 02/10/2025
- 131/133 Estero Blvd case #20250056 02/10/2025
- 207 Driftwood Ln case #20241151 02/19/2025
- 131/133 Estero Blvd case #20240653 (amended) 02/19/2025
- 131/133 Estero Blvd case #20250056 (amended) 02/19/2025
- 131/133 Estero Blvd case #20240653 (amended) 02/25/2025
- 131/133 Estero Blvd case #20250056 (amended) 02/25/2025

Mayor & Council Special Event Permit Bay Oaks Park Careers Mound House Matanzas Pass Mooring Field Utilities PERMITTING (also Building Services, zoning, code)



06/28/2024

KAMINSKIY AT 131 ESTERO LLC

12463 RANCHO BERNARDO RD., #237, SAN DIEGO, CA 92128

RE: 131/133 Estero Blvd., Fort Myers Beach, FL 33931

DEMOLITION NOTICE

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property was completed on the 28th day of June, 2024 by the FMB Building Official. In accordance with Section 6-36 of the Land Development Code of the Town of Fort Myers Beach, Florida, the structure on the above-referenced property is determined to be in violation of the Town of Fort Myers Beach Code and UNSAFE for the following reasons:

- [] 1. Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
- [] 2. Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
- [] 3. The stress in any material, member or portion thereof, due to all imposed loads including dead loads exceeds the stresses allowed in the Florida Building Code for new buildings.
- [✓] 4. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Florida Building Code for new buildings.
- [✓] 5. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Florida Building Code for new buildings.
- [✓] 6. The building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
- [✓] 7. The building, structure or portion thereof as a result of decay, deterioration or dilapidation appears likely to fully or partially collapse.
- [] 8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Standard Codes or of a city, county or state law.



- ☒ 9. The building, structure, or portion thereof is in such a condition as to constitute a public nuisance.
- ☒ 10. The building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
- ☐ 11. OTHER: _____

The Town of Fort Myers Beach has determined that it is unreasonable to repair this structure. The premises MUST BE vacated within 60 days of service of this notice. As the property owner you may:

- 1) Immediately apply for a demolition permit and arrange for the structure to be demolished. Please provide documentation of these arrangements, including your case number (if applicable), to the Director of Operations and Compliance, at fkropacek@fmbgov.com within 10 days. OR
- 2) Appeal this Demolition Notice to the Lee County Board of Adjustment and Appeals by submitting a written appeal and filing it with the Building Official within 30 days of this notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances. Failure to submit a timely appeal will constitute a waiver of all rights to an administrative hearing of this matter. OR
- 3) Voluntarily waive your rights to an appeal of the Demolition Notice and any rights you may have under the Notice to Vacate before expiration the appeal and vacation period, by informing the Director of Operations and Compliance, at fkropacek@fmbgov.com. If you choose this option, the Town will schedule and demolish the structure at your expense and bill you for the costs.

If an appeal is not filed, no application for a demolition permit is received and 60 has lapsed since the date of service of this notice, demolition of the structure on the above referenced property will be scheduled. You will then be charged at your expense for all costs incurred by the Town for the demolition, which will be recorded as a lien against the property in the event of nonpayment. The Town will use any and all legal means to collect monies owed due to the demolition.

If you have any questions, please contact the Building Official by email at jspecht@fmbgov.com.

Joseph W Specht
Building Official



06/28/2024

KAMINSKIY AT 131 ESTERO LLC

12463 RANCHO BERNARDO RD., #237, SAN DIEGO, CA 92128

RE: 131/133 Estero Blvd., Fort Myers Beach, FL 33931

NOTICE TO VACATE

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property was completed on the 28th day of June, 2024 by the FMB Building Official. In accordance with Section 6-36 of the Land Development Code of the Town of Fort Myers Beach, Florida, the structure on the above-referenced property is determined to be in violation of the Town of Fort Myers Beach Code and UNSAFE pursuant to the Demolition Notice, a copy of which is attached.

**THE PREMISES MUST BE VACATED WITHIN
60 DAYS OF THIS NOTICE.**

**THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY
HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL.**

You have a right appeal this Notice to the Lee County Board of Adjustment and Appeals by submitting a written appeal and filing it with the Building Official within 30 days of this notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances. Failure to submit a timely appeal will constitute a waiver of all rights to an administrative hearing.

If an appeal is not filed or if no application for a demolition permit is received and 60 days have lapsed since the date of this Notice, the Town intends to proceed with demolition of this structure, as further outlined in the Demolition Notice.

If you have any questions, please contact the Building Official by email at jspecht@fmbgov.com

Town of Fort Myers Beach, Florida

Joseph W Specht

Building Official

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | **F.** 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

Prepared by and return to:

Samuel J Hagan, IV
Cheffer & Hagan, P.A.
2120 McGregor Blvd.
Fort Myers, FL 33901
239-334-1381
File Number: 4146.1890200

Parcel Identification No. 24-46-23-W1-0080D.0370

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 28th day of September, 2021 between Peter Lisich and Susan Lisich, husband and wife, whose post office address is 8980 Crown Bridge Way, Fort Myers, FL 33908 of the County of Lee, State of Florida, grantor*, and Kaminskiy at 131 Estero LLC, a Florida limited liability company, whose post office address is 12463 Rancho Bernardo Road #237, San Diego, CA 92128 of the County of San Diego, State of California, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

Lot 37, Block D, ISLAND SHORES CLUB, according to plat thereof as recorded in Plat Book 9, Page 41, of the Public Records of Lee County, Florida.

Subject to taxes for 2021 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

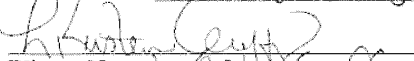
and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

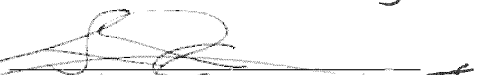
* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

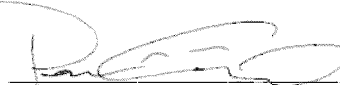
Signed, sealed and delivered in our presence:

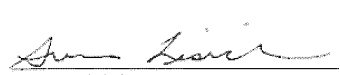

Witness Name: Samuel J. Hagan, IV


Witness Name: Kristin Guffy


Witness Name: Samuel J. Hagan, IV


Witness Name: Kristin Guffy


Peter Lisich (Seal)


Susan Lisich (Seal)

State of Florida
County of Lee

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 27 day of September, 2021 by Peter Lisich and Susan Lisich, who ☐ are personally known or ☒ have produced a driver's license as identification.

[Notary Seal]



Lorri Kristene Guffey
Notary Public
Printed Name: Lorri Kristene Guffey
My Commission Expires: 7/6/2022



**BEFORE THE TOWN OF FORT MYERS BEACH
CODE ENFORCEMENT SPECIAL MAGISTRATE**

RE: 131/133 Estero Blvd, Fort Myers Beach

PARCEL STRAP NO: 24-46-23-W10080D.0370

**KAMINSKIY AT 131 ESTERO LLC
12463 RANCHO BERNARDO ROAD #237
SAN DIEGO, CALIFORNIA 92128**

FMB Case 20240653
Number:
Certified Mail:
Regular Mail:

AFFIDAVIT OF UNSAFE STRUCTURE

BEFORE ME, the undersigned authority, personally appeared Joseph W. Specht, who being by me first duly sworn under oath, deposes and says the following:

1. My name is Joseph W. Specht. I am over 18 years of age and am competent to testify to the matters set forth herein. I make this Affidavit based upon my personal knowledge of the facts of this case and my review of the Town's public records.

2. I am employed by the Jacobs Group, which is a consulting firm hired by the Town of Fort Myers Beach. I was appointed by the Town Manager to serve as the Town's Building Official pursuant to Section 6-44 of Chapter 6 Article II of the Town of Fort Myers Beach code of ordinances and I have served in this appointed role for approximately two years. Prior to this appointment, I served as the Assistant Building Official and Lead Inspector for the City of Bonita Springs.

3. As the Building Official for the Town of Fort Myers Beach, I am responsible for the implementation and enforcement of the Town's Unsafe Building Abatement Code, as provided in Section 6-36, Division 3, Article 1

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member
of Chapter 6 of the Town's Code of Ordinances. A copy of the Unsafe Building Abatement Code is attached as Exhibit J.

4. On or about June 28, 2024, I inspected the property located at 131/133 Estero Blvd., Ft. Myers Beach, Florida and found it to be in an unsafe condition as provided in the Town's Unsafe Building Abatement Code. The Town's records indicate the degree of damage and deterioration of the structure was caused by Hurricane Ian. After my initial inspection, I returned to Town Hall and researched ownership of the Property and prepared a Demolition Notice together with a Notice to Vacate ("Notice"). A copy of the Notice is attached as Exhibit E.

5. I determined KAMINSKIY AT 131 ESTERO LLC, ("Kaminskiy") is the record owner of the Property by virtue of information in the Lee County Property Appraiser's records and that certain Warranty Deed dated September 28, 2021, and recorded as Instrument Number 20210001119193 in the Official Records Lee County, Florida. A copy of ownership information I relied on is attached as Exhibit C. The Property is legally described in the Warranty Deed as "Lot 37, Block D, Island Shores Club, according to Plat thereof as recorded in Plat Book 9, Page 41, of the public records of Lee County, Florida."

6. I completed the Notice as required by Section 6-36 of the Code of Ordinances of the Town of Fort Myers Beach, Florida. In the Notice, I found the Property to be in violation of the Town of Fort Myers Beach Code and unsafe for 6 reasons.

The following is a list of the 6 reasons and the information I relied upon in reaching that conclusion :

1. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Florida Building Code for new buildings. (See Check #4 on the Demolition Notice) The building was majorly impacted by Hurricane Ian and determined by me to be inhabitable.

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



Documentation: Comparison of pictures of the building pre-and post-Hurricane Ian as demonstrated in Exhibits D.1 - D. 4.

2. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Florida building Code for new buildings. (See Check #5 on the Demolition Notice). Upon looking at the structure, it is evident that both the front and rear decks are not supported as well as the exterior walls, are not supported properly.

Documentation: Comparison of pictures of the building pre-and post-Hurricane Ian as demonstrated in Exhibits D.1 - D. 4.

3. The building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used. (See Check #6 on the Demolition Notice)

Documentation: Comparison of pictures of the building pre-and post-Hurricane Ian as demonstrated in Exhibits D.5 - D.11.

4. The building, structure or portion thereof as a result of decay, deterioration or dilapidation appears likely to fully or partially collapse. Due to exposure to Hurricane Ian as well as subsequent weather storms.

Documentation: Comparison of pictures of the building pre-and post-Hurricane Ian as demonstrated in Exhibits D.12 - D.13.

5. The building, structure, or portion thereof is in such a condition as to constitute a public nuisance. The wood framed structure has signs of decay, rot, and dismemberment.

Documentation: Complaint from neighboring property owner – Pink Shell

6. The building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to the human life, or which in relation

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

Documentation: Comparison of pictures of the building pre-and post-Hurricane Ian as demonstrated in Exhibits D.1 - D.13.

7. I thereafter directed Town staff to assist with providing the Notice to Kaminskiy by certified mail and by posting a copy of the Demolition Notice together with the Notice to Vacate, which was printed on red paper ("Red Tag"), on the Property. The Notice was mailed by certified mail to Kaminskiy on June 28, 2024. The Notice was posted at the entrance of the fenced Property on June 28, 2024. A photograph of the posting is attached as Exhibit E.

8. Attached as Exhibits D.1 to D.10 are photographs showing the condition of the Property shortly after I prepared the Notice.

9. In mid-August 2024, I received a letter via email and federal express overnight, dated August 15, 2024, from Attorney Noel Davies representing Kaminskiy. The letter was an appeal of my Notice and contained the Town's form to appeal the Notice and request a hearing before the Lee County Board of Adjustments and Appeal ("Lee County Board").

10. The following day, I received a second letter from Mr. Davies advising that he attempted to file the appeal with the Lee County Board, but the Lee County Board no longer provided appellate review of the Town's Building Official decisions since the existing Interlocal Agreement between the Town and the Lee County Board of County Commissioners had expired in 2017. The letter further advised that Mr. Davies was alternatively requesting appellate review as an administrative appeal pursuant to Section 34-86 of the Town's Land Development Code.

11. The Town was not aware of the expiration of the Interlocal Agreement and responded by the immediate adoption of Ordinance 24-29, as an Emergency Ordinance on September 9, 2024, to be effective retroactively to July

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931



Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

19, 2024, in order to provide Kaminskiy with an appeal process. During the September 9, 2024, Town Council meeting, the Town Council also approved Ordinance 24-30 on first reading. Ordinance 24-30 provided for formal adoption of Ordinance 24-29 as a non-emergency ordinance. Ordinance 24-29 and 24-30 both vested appellate review of appeals of unsafe building determinations by the Building Official in the Town of Fort Myers Beach Special Magistrate.

12. Between September 9, 2024, and the date of final adoption of Ordinance 24-30 on November 18, 2024, the parties attempted to resolve the situation. Kaminskiy, through its attorney, advised that it was seeking a rezoning of the Property and upon approval would demolish the structure. The Town wanted immediate remediation of the unsafe structure or demolition for safety reasons. In September 2024, there were several conversations resulting in a draft settlement agreement, which was prepared for review by the Town Council, but was ultimately rejected by Kaminskiy. Exhibit K is a copy of the agenda materials containing a draft settlement agreement. The Town requested in the Settlement Agreement that Kaminskiy repair the more dangerous damage to the structure, however, there remained disagreement between the parties related to the identification of the specifically needed repairs.

13. Although several periodic conversations between the Town staff and Kaminskiy followed, no resolution was reached regarding the issue of whether the structure required demolition based on its condition, necessitating a review of Kaminskiy by the Special Magistrate.

14. Prior to the hearing before the Special Magistrate scheduled for April 1, 2025, I again inspected the property and did not find evidence of any remediation or compliance with the Town's Code. To the contrary, I found the unsafe condition of the property has further deteriorated. I have attached photographs taken during my recent inspection of the Property on _____.



15. Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true to the best of my knowledge and belief.

X

Joseph W. Specht, Building Official
Town of Fort Myers Beach

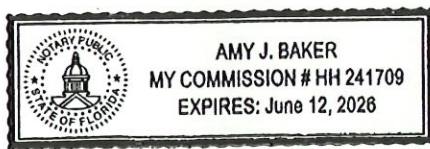


FMBgov.com

Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 18 day of March, 2025, by Joseph Specht. He ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

Amy J Baker

Notary Public, State of Florida

Print Name: Amy J Baker

My Commission Expires: 6-12-2026

FORT MYERS BEACH ESTERO ISLAND

P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931

Page 7 | 7











Jan 22, 2025 1:26:14 PM



Jan 22, 2025 1:26:16 PM







Jan 22, 2025 1:27:47 PM



Jan 22, 2025 1:28:15 PM







Jan 22, 2025 1:26:06 PM





1415 Panther Lane, Suite 442
Naples, FL 34109

www.DaviesDuke.com
Offices: Naples, Bonita Springs

Noel J. Davies, Esq.
239.216.2792
Noel.Davies@daviesduke.com

August 15, 2024

VIA EMAIL AND FEDERAL EXPRESS OVERNIGHT

Joseph W. Specht, Building Official
Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931
jspecht@fmbgov.com

***Re: APPEAL OF DEMOLITION NOTICE AND NOTICE TO VACATE
131 Estero Blvd., Fort Myers Beach, Florida 33931***

Dear Building Official Specht:

As you know, this Firm represents Kaminskiy at 131 Estero LLC, the owner of the above-referenced property (the "Property"). Our client hereby appeals the Town of Fort Myers Beach's Demolition Notice and Notice to Vacate the structure on the Property dated June 28, 2024 (collectively, the "Notice"). Please note that the Town's Notice was not sent to our client until July 16, 2024 and was not received at the address of record until July 20, 2024 at 9:34 A.M., as evidenced by the attached photograph of the certified envelope together with the official USPS Tracking report.

Pursuant to Section 302.1.3 of the 1985 Standard Unsafe Building Abatement Code, as adopted and amended by Section 6-36 and Section 6-37 of the Town's Land Development Code, respectively (the "Unsafe Building Code"), the effective date of the Notice is the date the Notice was received as indicated on the return receipt. Therefore, the effective date of the Notice is July 20, 2024. Accordingly, this appeal is timely filed.

The Notice is insufficient and must be overturned for the reasons outlined hereinbelow. First, the requisite notice was not properly posted on the Property. The Unsafe Building Code has very specific requirements for the content and posting of such notice, pursuant to Section 304 of the Unsafe Building Code, as follows:

"Every notice to vacate, in addition to complying with 302, shall be posted at each exit and entrance to the building or structure and shall state: THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL. Said notice shall remain posted until the required repairs are made or demolition is completed."

There was no notice posted in compliance with the foregoing.

Second, the Notice fails to comply with the substantive requirements of the Unsafe Building Code. Specifically, Section 301.1.1 of the Unsafe Building Code requires that the Notice “shall contain...a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the provisions of this code.” (Emphasis added.) No such detailed report was provided; rather, mere conclusory remarks were made on the Notice alleging that the subject building is unsafe without providing any supporting documentation for same, as required by the Unsafe Building Code.

Third, the Notice states summarily that it has “determined that it is unreasonable to repair the structure” – without more. The Town is required to provide the basis for such determination, including the above-referenced detailed report. Nothing was provided beyond this self-serving, conclusory and unsupported opinion.

Our client disputes and objects to any and all assertions in the Notice. For the reasons outlined above, the Notice is required to be overturned. Accordingly, our client respectfully requests that the Lee County Board of Adjustments and Appeals deem the Notice improper and reverse and overturn same. As we previously discussed, Building Official Specht, our client is in the process of rezoning and redeveloping the Property so any demolition of the structure on the Property – in the event the Town eventually provides proper notice – would be premature and inappropriate.

Further, the Town violated our client’s constitutional due process rights by failing to provide him with an opportunity to be heard, prior to leaving our client no other option but to file the instant Appeal. Moreover, the Notice did not afford our client the opportunity to commence any repairs in order to correct any alleged unsafe conditions; such an opportunity is required to be provided before summarily concluding that the subject building must be demolished without delivery of the required supporting documentation. As such, any attempt to demolish the Property by the Town will constitute an unconstitutional taking of the Property without due compensation.

Finally, our client hereby challenges the constitutionality of the Town’s recently adopted Unsafe Building Ordinance, Ordinance No. 2024-13 (the “Ordinance”). The Ordinance’s notice provisions do not comport with the fundamental requirements of due process, as they are not reasonably calculated to apprise property owners of violations so that property owners may be afforded a reasonable opportunity to present their objections. A due process opportunity to be heard is required prior to the right of appeal; skipping that step constitutes a constitutional due process violation. Accordingly, our client requests that the Town rescind the Ordinance.

Our client reserves all of its rights pursuant to Florida and federal law to the fullest of the law, including but not limited to the commencement of legal proceedings against the Town and any and all actions to preserve and protect its constitutional rights.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Noel J. Davies', is positioned above the typed name.

Noel J. Davies, Esq.
DAVIES DUKE, PLLC

Attachments (as stated hereinabove)

cc: Becky Vose, Esq. – Town of Fort Myers Beach Attorney
Nancy Stuparich, Esq. – Town of Fort Myers Beach Attorney
Lee County Board of Adjustments and Appeals (via hand delivery)

ALERT: FLOODING AND SEVERE WEATHER IN THE CARIBBEAN, SOUTHEAST, MID-ATLANTIC,...

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Tracking Number:

[Remove X](#)

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[Copy](#)[Add to Informed Delivery \(https://informedelivery.usps.com/\)](https://informedelivery.usps.com/)

Latest Update

Your item was delivered to an individual at the address at 9:34 am on July 20, 2024 in SAN DIEGO, CA 92128.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, Left with Individual

SAN DIEGO, CA 92128

July 20, 2024, 9:34 am

Arrived at USPS Regional Facility

SAN DIEGO CA DISTRIBUTION CENTER

July 19, 2024, 1:54 pm

In Transit to Next Facility

July 18, 2024

Departed USPS Regional Facility

FORT MYERS FL DISTRIBUTION CENTER

July 17, 2024, 6:01 am

Arrived at USPS Regional Facility

FORT MYERS FL DISTRIBUTION CENTER

July 16, 2024, 8:49 pm

Feedback

Case #ADM _____

LEE COUNTY BOARD OF ADJUSTMENTS AND APPEALS APPLICATION

Name: Noel J. Davies, Esq., Davies Duke, PLLC

Address: 3301 Bonita Beach Road, Suite 213, Bonita Springs, FL 34134

Phone #: 239-405-8033

Email: noel.davies@daviesduke.com

STRAP #: 24-46-23-W1-0080D.0370

Representing: Kaminskiy at 131 Estero LLC

IS THIS A ☐ VARIANCE OR ☒ APPEAL? (PLEASE SELECT ONE)

Please provide specific sections of the code or ordinance to which the variance or appeal applies:

BUILDING CODE LDC Sec. 6-36, 6-37, 6-80, Town of Fort Myers Beach

COASTAL PLAIN MANAGEMENT (Cont.) 1985 Standard Unsafe Building Abatement Code

FIRE CODE _____

FLOOD PLAIN MANAGEMENT _____

LIFE SAFETY CODE _____

L.D.C. _____

MECHANICAL _____

PLUMBING _____

If this is an appeal of an administrative decision, please indicate the official who made the decision:

Joseph W. Specht, Building Official, Town of Fort Myers Beach

I Request that this matter be scheduled for a hearing before the Lee County Board of Adjustments and Appeals. My reason for this request is as follows: (Provide additional sheets if needed.)

Please see attached letter.

I hereby certify that to the best of my knowledge, the information submitted for this hearing is true and correct.

Signature Authorization: _____

Date: 8-15-2024

NOTE: Provide ten (10) copies of all backup information for BOAA members. If there are sealed plans/drawings for the project for which the appeal/variance is requested, the architect/engineer who sealed the plans or drawings **MUST** be present at the hearing.

The applicant's presence is required for a case to be heard by this board.

Hearing dates are usually arranged for Thursday morning at 10:00 a.m.

Applications must be received at least 10 WORKING DAYS before the hearing date.

FEE: \$100.00 - Make check payable to Lee County Board of County Commissioners

This application must be submitted to the Lee County Community Development Permit Center.

Revised 12/8/14

s:\committees\boaa\boaa.doc



DAVIES | DUKE

3301 Bonita Beach Road, Suite 213
Bonita Springs, FL 34134

www.DaviesDuke.com
Offices: Naples, Bonita Springs

Noel J. Davies, Esq.
239.216.2792
Noel.Davies@daviesduke.com

August 16, 2024

VIA E-MAIL ONLY

Andy Hyatt, Town Manager
Town of Fort Myers Beach
2525 Estero Blvd.
Fort Myers Beach, FL 33931
andyhyatt@fmbgov.com

Nancy Stuparich, Esq., Town Attorney
Town of Fort Myers Beach
324 W. Morse Blvd.
Winter Park, FL 32789
nstuparich@voselaw.com

Becky Vose, Esq., Town Attorney
Town of Fort Myers Beach
324 W. Morse Blvd.
Winter Park, FL 32789
bvose@voselaw.com

Joseph W. Specht, Building Official
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931
jspecht@fmbgov.com

***Re: APPEAL OF DEMOLITION NOTICE AND NOTICE TO VACATE
131 Estero Blvd., Fort Myers Beach, Florida 33931***

Dear Town Manager Hyatt,

This Firm represents the interests of Sergei Kaminskiy as Manager of Kaminskiy at 131 Estero LLC, the owner of the above-referenced property (the “Property”). Our client filed an appeal of the Town of Fort Myers Beach’s Demolition Notice and Notice to Vacate the structure on the Property dated June 28, 2024 (collectively, the “Notice”) with the Lee County Board of Adjustment and Appeals (the “Board”), as instructed by the Notice and Section 6-80 of the Town’s Land Development Code (“LDC”), on August 15, 2024. However, the Board refused to accept the appeal, stating that Lee County no longer has an interlocal agreement with the Town, and therefore does not have jurisdiction over any appeal pursuant to the LDC.

Accordingly, please process this application as an appeal of a decision of an administrative official to the Town Council pursuant to LDC Section 34-86. The legal basis for this timely appeal is set forth in the attached letter addressed to Joseph W. Specht, Building Official for the Town of Fort Myers Beach, dated August 15, 2024 (the “Letter”).

The application with supporting documentation is attached and the fees are being paid on line.

Our client reserves all of its rights pursuant to Florida and federal law to the fullest extent of the law, including, but not limited, the commencement of legal proceedings against the Town, and any and all actions to preserve and protect its constitutional rights.

Sincerely,

A handwritten signature in black ink, appearing to read "Noel J. Davies", is centered within a light gray rectangular box.

Noel J. Davies, Esq.
DAVIES DUKE, PLLC

Attachments (as stated hereinabove)



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

This is a first part of a two-part application. Please be sure to fill out this form, which requires general information, as well as the Supplemental Form application specific to action requested for the subject property. Please submit a complete Public Hearing application with required, supplemental information, exhibits and documents to zoningpermits@fmbgov.com. Please do not submit the instructions at the end of the application.

Site Address: 131 Estero Blvd., Fort Myers Beach, FL 33931
STRAP Number: 24-46-23-W1-0080D.0370
Applicant: Noel J. Davies, Esq., Davies Duke, PLLC Phone: 239-405-8033
Contact Name: Noel J. Davies, Esq. Phone: 239-405-8033
Email: noel.davies@daviesduke.com Fax: _____
Current Zoning District: Commercial Planned Development (CPD)
Future Land Use Map (FLUM) Category: Mixed Residential
FLUM Density Range: N/A Platted Overlay: ☐ YES ☐ NO

ACTION REQUESTED

- ☐ Special Exception
☐ Variance
☐ Conventional Rezoning
☐ Planned Development ☐ Commercial ☐ Residential
☐ Master Concept Plan Extension
☒ Appeal of Administrative Action
☐ Vacation of Platted Right-of-way and Easement
☐ Other – cite LDC Section: _____

SUPPLEMENTAL FORM REQUIRED

PH-A
PH-B
PH-C
PH-D
PH-E
PH-F
PH-G
attach on separate sheet

PART I – General Information

A. Applicant*: Noel J. Davies, Esq., Davies Duke, PLLC Phone: 239-405-8033
**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*
Applicant Mailing Address: 3301 Bonita Beach Road, Suite 213, Bonita Springs, FL 34134
Email: noel.davies@daviesduke.com Fax: _____
Contact Name: Noel J. Davies, Esq. Phone: 239-405-8033



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

B. Relationship of Applicant to subject property:

- | | | |
|--|---|--|
| ☐ Owner* | ☐ Land Trust* | ☐ Partnership* |
| ☐ Corporation* | ☐ Association* | ☐ Condominium* |
| ☐ Subdivision* | ☐ Timeshare Condo* | ☐ Contract Purchaser* |
| ☒ Authorized Representative* | ☐ Other* (please indicate) _____ | |

**Applicant must submit a statement under oath that he/she is the authorized representative of the property owner.
Please see PART III to complete the appropriate Affidavit form for the type of applicant.*

C. Authorized Agent(s). Please list the name of Agent authorized to receive correspondence Agents

Name: Noel J. Davies, Esq. Phone: 239-405-8033
Address: 3301 Bontia Beach Road, Suite 213, Bonita Springs, FL 34134
Email: noel.davies@daviesduke.com Fax: _____

D. Other Agent(s). Please list the names of all Authorized Agents (attach extra sheets if necessary)

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

Name: _____ Phone: _____
Address: _____
Email: _____ Fax: _____

PART II – Nature of Request

Requested Action (each request requires a separate application)

- ☐ Special Exception
- ☐ Variance from LDC Section _____ - _____
- ☐ Conventional Rezoning from _____ to _____
- ☐ Planned Development
- ☐ Rezoning from _____ to ☐ Commercial PD ☐ Residential PD
- ☐ Amendment. List the project number: _____
- ☐ Extension/reinstatement of Master Concept Plan. List project number: _____



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

☒ Appeal of Administrative Action

☐ Vacation

☐ Right-of-Way

☐ Easement

☐ Other. Please Explain: _____

PART III – Waivers

Please indicate any specific submittal items that have been waived by the Director for the request. Attach a copy of the signed approval as Exhibit 3-1. (Use additional sheets if necessary)

Code Section: _____ Description: _____

Code Section: _____ Description: _____

Code Section: _____ Description: _____

PART IV – Property Ownership (Single Owner)

☐ Single Owner (individual or husband and wife)

Name: _____ Phone: _____

Mailing Address: _____

Email: _____ Fax: _____

AFFIDAVIT

APPLICATION IS SIGNED BY AN INDIVIDUAL OWNER OR APPLICANT

I, Noel J. Davies swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;

All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address and Office

Percentage of Stock

Sergei Kaminskiy, 131 Estero Blvd., Fort Myers Beach, FL 33931, Manager

50%

Elena Kaminskiy, 131 Estero Blvd., Fort Myers Beach, FL 33931, Manager

50%

If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address

Percentage of Interest

If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address

Percentage of Ownership

If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address and Office

Percentage of Stock



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

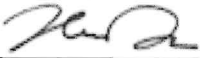
Date of Contract: _____

If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final certificate of compliance, a supplemental disclosure of interest must be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.



Signature

Noel J. Davies

Printed Name

AFFIDAVIT

APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, _____ (name), as _____ (title) of _____ (company), swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the Town of Fort Myers Beach in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I have authorized the staff of Fort Myers Beach Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Name of Entity (corporation, partnership, LLP, LLC, etc)

Signature

Title

Typed or Printed Name

Date

STATE OF _____ COUNTY OF _____

The foregoing instrument was certified and subscribed before me by means of ____ physical presence OR ☐ online notarization, this ____ day of _____, 20____, by _____, ☐ who is personally known to me OR ☐ who has produced _____ as identification.

Notary Public Signature

PART VI- Property Information

A. Legal Description:

STRAP: 24-46-23-W1-0080D.0370

Property Address: 131 Estero Blvd., Fort Myers Beach, FL 33931

Is the subject property within a platted subdivision recorded in the official Plat Books of Lee County? ☒ No. Attach a legible copy of the legal description as Exhibit 6-1.

☐ Yes. Property identified in subdivision: _____

Book: _____ Page: _____ Unit: _____ Block: _____ Lot(s): _____

B. Boundary Survey:

☐ Attach a Boundary Survey of the property meeting the minimum standards of Chapter 61G17-6 of the Florida Administrative Code. A Boundary Survey must bear the raised seal and original signature of a Professional Surveyor and Mapper licensed to practice Surveying and Mapping by the State of Florida. Attach and label as Exhibit 6-2.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

C. Property Dimensions:

Width (please provide an average width if irregular in shape) N/A feet

Depth (please provide an average width if irregular in shape) N/A feet

Frontage on street: N/A feet. Frontage on waterbody: N/A feet

Total land area: N/A ☐ acres ☐ square feet

D. General Location of Subject Property (from Sky Bridge or Big Carlos Pass Bridge):

N/A

☐ Attach Area Location Map as Exhibit 6-3

E. Property Restrictions (check applicable):

- ☒ There are no deed restrictions and/or covenants on the subject property.
☐ A list of deed restrictions and/or covenants affecting the subject property is attached as Exhibit 6-4.
☐ A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5.

F. Surrounding Property Owners (these items can be obtained from the Lee County Property Appraiser):

- ☒ Attach a list of surrounding property owners within 500 feet as Exhibit 6-6.
☒ Attach a map showing the surrounding property owners as Exhibit 6-7.
☐ Provide Staff with two (2) sets of surrounding property owner mailing labels.

G. Future Land Use Category (see Future Land Use Map):

- | | |
|---|--|
| ☐ Low Density | ☐ Marina |
| ☒ Mixed Residential | ☐ Recreation |
| ☐ Boulevard | ☐ Wetlands |
| ☐ Pedestrian Commercial | ☐ Platted Overlay |



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

EXPLANATORY NOTES

Please do not print, copy and submit these instructions

Please submit required applications, supplemental information, exhibits and documents to zoningpermits@fmbgov.com.

Application fees are set by resolution of the Town Council of the Town of Fort Myers Beach and must be paid before any materials submitted will be considered an application.

The applicant is responsible for the accuracy and completeness of this application. Time delays or additional expenses necessitated by submitting inaccurate or incomplete information will be the responsibility of the applicant. Decisions regarding requests to waive submittal requirements are at the discretion of the Community Development Director and may not be appealed.

All information submitted with the application becomes a part of the public record and will be a permanent part of the file.

All attachments and exhibits must be legible, suitable for recording, and of a size that will fit or conveniently fold into a letter size (8 ½ by 11) folder.

Explanatory Notes – Part I

- A. Applicant's name: The applicant may be the landowner or an authorized agent.
- B. Relationship of applicant to property: Indicate if the applicant is the property owner, and if so, the type of ownership. If the applicant is not the owner of the property, indicate the relationship of the applicant to the owner and submit a notarized authorization from the owner(s) to the applicant.
- C. Agent's name: If the applicant will have others representing him/her in processing the application, indicate name, address, and phone number.
- D. Other agents: Provide contact information for any other agents that may be involved in the request.

Explanatory Notes – Part II

Indicate the requested action.

Explanatory Notes – Part III

If waiver of any application requirement has been approved by the Community Development Director, attach a copy of the approval. Please request waivers prior to applying. Exhibit 3-1

Explanatory Notes – Part IV

- A. If the property owner is an individual or husband and wife, check the box and provide the information.



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

Explanatory Notes – Part V

- A. If there are multiple property owners exhibit 5-1, complete the disclosure form and include the names and mailing addresses of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries. Disclosure is not required of any entity whose interests are solely equity interests that are regularly traded on an established securities market in the United States or another country.
- B. If more than one parcel is involved, submit a list of all property owners and their mailing addresses. Provide a map keyed to the list of property owners showing their interests. The applicant is responsible for the accuracy of the list and map Exhibit 5-2
- C. Where the property is a condominium or timeshare condominium, the application must be initiated by both the condominium association and no less than 75% of the total number of unit owners. To verify ownership, the list of property owners must be identified by unit number and/or timeshare period as applicable, along with proof that the owners who did not join in the application were given actual written notice of the application by the applicants, who must verify the list and the notice by sworn affidavit. Attach this affidavit as Exhibit 5-3.
- D. In addition, a letter of opinion from an attorney licensed to practice law in the State of Florida addressing the considerations in LDC Section 34-201(a)(1)b.3. must be attached as Exhibit 5-4.

Explanatory Notes – Part VI

- A. Include the street address of the subject property. List STRAP number. If more than one parcel is involved, list all STRAP numbers. If you don't know the STRAP number, you can look up the property in the records of the Lee County Property Appraiser at <http://www.leepa.org>. If the application includes only one or more undivided platted lots within a subdivision officially recorded in the Plat Books of Lee County, Florida, identify the property by lot number(s), block if applicable, subdivision unit if applicable, subdivision name, and plat book number and page number. If the property is not one or more undivided platted lots or is in an "unrecorded" subdivision, attach a metes and bounds legal description giving accurate bearings and distances for each course. If multiple parcels are involved, the metes and bounds legal description must describe the perimeter of the entire property subject to the request. The initial point in the description must be related to at least one established identifiable real property corner, such as a government corner or a recorded corner. The bearings used in the description must be clearly referenced to a well-established and monumented line. Exhibit 6-1
- B. Submit a Boundary Survey meeting the minimum technical standards for surveying set out in Chapter 61G17-6 of the Florida Administrative Code. Make sure that the surveyor is aware of any specific needs of the survey (location of Coastal Construction Lines, locations of existing structures, locations of easements, etc) that are relevant to your request. The perimeter boundary of the entire subject property should be indicated clearly with a heavy



COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION for PUBLIC HEARING

line. Exhibit 6-2

- C. Provide the property dimensions or the approximate dimensions if the property is not a regular quadrilateral.
- D. Describe how to get to the property starting from either the Sky Bridge or the Big Carlos Pass Bridge (specify which). Exhibit 6-3
- E. If there are any deed restrictions or covenants that might affect the requested action, provide the information. Exhibit 6-4
- F. A narrative statement detailing how the restrictions/covenants may or may not affect the request is attached as Exhibit 6-5
- G. Attach a list of the surrounding property owners within 500 feet of the perimeter of the area of the request. Also include two sets of mailing labels providing the names and addresses of the owners on this list, and a map showing the parcel boundaries within the 500-foot radius Exhibit 6-6. This information can be acquired for a small fee by requesting a "variance report" from the Map Sales Office at the Lee County Property Appraiser's Office. Contact information for the Property Appraiser can be found at <http://www.leepa.org>.
- H. Indicate the Future Land Use Map category or categories of the property as shown on the Fort Myers Beach Comprehensive Plan's Future Land Use Map, and whether the property is located in the "platted overlay" on the map.
- I. Indicate the current zoning of the property. In most cases the current zoning is shown on the official zoning map of the Town of Fort Myers Beach, as adopted by ordinance. If zoning actions affecting the subject property have been taken since March 2004, call Town Hall to verify the current zoning.

Explanatory Notes – Part IV & V

The applicant must sign and submit either of the affidavits in Part V & VI, as applicable.

Case # _____ Date Received: _____

Town of Fort Myers Beach
COMMUNITY DEVELOPMENT DEPARTMENT
Supplement PH-F
Additional Required Information for an Appeal of an
Administrative Action

This is the second part of a two-part application. This part requests specific information for an appeal of an administrative action. Include this form with the Request for Public Hearing form.

Fees: Appeals going to Council \$1000.00

Project Name: Kaminskiy at 131 Estero LLC (Sergei Kaminskiy, Mgr.)
Authorized Applicant: Noel J. Davies, Esq., Davies Duke, PLLC
STRAP Number(s): 24-46-23-W1-0080D.0370

Current Property Status: Improved
Current Zoning: Commerical Planned Development (CPD)
Future Land Use Map (FLUM) Category: Mixed Residential
Platted Overlay? ☐ yes ☐ no FLUM Density Range: N/A

Requested Action:

☐	Appeal interpretation of LDC Section(s) _____
☒	Appeal other administrative action (Explain: <u>Decision of Building Official</u>)
☐	Appeal development permit (must be authorized by property owner)
☐	Appeal decision of LPA (Explain: _____)

Date of decision: July 20, 2024

Submittal Requirements

Narratives

On separate sheets, address the following questions as applicable to the specific type of action you are appealing:

LDC Interpretation

1. What is the interpretation that you are appealing?

Also attach copies of the request for an interpretation, and the written response by the Town, as "Exhibit 1."

2. Describe what interpretation, in your opinion, should have been given. Explain the basis for your opinion.

Other administrative action

1. What administrative action are you appealing? (summarize)

Also attached copies of your application for administrative action and the written response by the Town, as "Exhibit 1."

2. Describe what action, in your opinion, should have been taken. Explain the basis for your opinion.

Appeal of development permit

1. What specific development permit application are you appealing?

Include as much information as is necessary to make clear the nature of the proposed development, including site plans, elevations, construction plans, or any other relevant plans or designs. Attach these items and a copy of the written response by the Town or designee as "Exhibit 1"

2. Describe what action should have been taken, in your opinion, on the development permit being appealed. Explain the basis for your opinion.

Appeal of LPA decision

1. What specific LPA decision are you appealing? Indicate the context of the LPA decision (Historic Preservation Board decision, landmark sign request, MUD hearing, Comprehensive Plan interpretation) and attach a copy of the LPA resolution constituting the decision you are appealing.

2. Describe what decision the LPA (or LPA acting as Historic Preservation Board) should have made, in your opinion. Explain the basis for your opinion.

LDC Section 34-86 governs appeals of administrative actions unless other procedures are specifically provided in the LDC in a particular context. Note that an appeal is appropriate where it is alleged that there is an *error* in the administration and enforcement of the provisions of the LDC or any other ordinance.

Exhibit 6-7 – Map of Properties Within 500 Feet



- The yellow star indicates the location of 131 Estero Blvd.

Exhibit 6-6 – Property Owners Within 500 Feet of 131 Estero Blvd.

<u>Property Address</u>	<u>Property Owner(s)</u>
50/58 Estero Blvd.	Lee County
100 Estero Blvd., #131	Fun & Sun LLC
100 Estero Blvd., #132	100 Estero Blvd LLC
100 Estero Blvd., #133	Holly & Andrew Baggot
100 Estero Blvd., #134	Christine Walters
100 Estero Blvd., #135	Robert Burns & Michele Chambe-Burns
100 Estero Blvd., #231	Patricia B. Steder & Judith Clifford
100 Estero Blvd., #232	Unknown Heirs of Ruth E. Cudzik
100 Estero Blvd., #233	TTK Enterprises LLC
100 Estero Blvd., #234	Elise Kay & Virginia Leigh Harris
100 Estero Blvd., #235	A&H 100 Estero FMB LLC
100 Estero Blvd., #331	Reed Stigen, as Trustee for the Reed A Stigen Trust
100 Estero Blvd., #332	Suzanne Davis Almaguer
100 Estero Blvd., #333	TTK Enterprises LLC
100 Estero Blvd., #334	WW & Angela L Scholz
100 Estero Blvd., #335	Richard Cassidy & Jennie Sokalsky
100 Estero Blvd., #431	Carol S Oudersluys, as Trustee for the Carol S Oudersluys Trust
100 Estero Blvd., #432	Natalie Ciccone & Catherine Ciccone et al
100 Estero Blvd., #433	Martha McGinnity, as Trustee for the Dennis McGinnity Trust
100 Estero Blvd., #434	Amy Ryffel-Kragh
100 Estero Blvd., #435	Elyse Shepka & Marlene Znidarsic
100 Estero Blvd., #531	Ryreal Florida LLC
100 Estero Blvd., #532	Michael P. & Anna L. Flanagan, as Trustees for the Michael + Anna Flanagan Trust
100 Estero Blvd., #533	Wayne D & Jacqueline K Schulte
100 Estero Blvd., #534	Phyllis T Scroggie, as Trustee for the Phyllis T Scroggie Trust
100 Estero Blvd., #535	Reggie 535 LLC
100 Estero Blvd., #631	Pink Shell Properties LLC
100 Estero Blvd., #632	Bengston Properties LLC
100 Estero Blvd., #633	CMME Properties LLC
100 Estero Blvd., #634	Penny J Aguirre, as Trustee for the Penny J Aguirre Trust
100 Estero Blvd., #635	TL 5109 LLC
140 Estero Blvd., #2101	Randall P & Karen M Deutsch
140 Estero Blvd., #2102	Joseph E & Monica B Layman, as Trustees for the Layman Living Trust
140 Estero Blvd., #2103	Premium Properties LP

140 Estero Blvd., #2104	Midland Trust Company, FBO Rayetta McCuiston
140 Estero Blvd., #2105	KLB Holdings LLC
140 Estero Blvd., #2106	Joseph N Namour Trust & Jennifer L Namour Trust
140 Estero Blvd., #2107	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
140 Estero Blvd., #2108	P&P Property Group LLC
140 Estero Blvd., #2109	Jim & Lisa J Shemroske; Mark & Carolyn B Shemroske
140 Estero Blvd., #2110	Richard C & Caroline T Fick
140 Estero Blvd., #2111	Daniel E & Sandra M Clifford
140 Estero Blvd., #2112	Mark A Trieglaff
140 Estero Blvd., #2201	Susan M Atkinson
140 Estero Blvd., #2202	Afzal Abdullah
140 Estero Blvd., #2203	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
140 Estero Blvd., #2204	Freedom Liberty Properties LLC
140 Estero Blvd., #2205	Kenneth R & Carolyn M Zacharias
140 Estero Blvd., #2206	Juliette Richter, as Trustee for the Juliette Richter Trust
140 Estero Blvd., #2207	Frank J & Loretta M Richter
140 Estero Blvd., #2208	Florence & Robert Wieder, as Trustee for the Robet E Wieder Trustee
140 Estero Blvd., #2209	Randall D Hart & Timonthy Dickey
140 Estero Blvd., #2210	Alan & Janet Davis
140 Estero Blvd., #2211	Dennis L Baer, as Trustee for the Baer Family Trust
140 Estero Blvd., #2212	Zuri Cay LLC
140 Estero Blvd., #2301	Jabo LLC
140 Estero Blvd., #2302	William G & Jean B Gowdy
140 Estero Blvd., #2303	Joshua H & Kathryn Hembrough
140 Estero Blvd., #2304	Jaime A Olescyski
140 Estero Blvd., #2305	Francis1704 LLC
140 Estero Blvd., #2306	CC Squared Holdings LLC
140 Estero Blvd., #2307	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
140 Estero Blvd., #2308	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
140 Estero Blvd., #2309	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
140 Estero Blvd., #2310	Lorraine Golosow & Thomas Scoufis
140 Estero Blvd., #2311	Advanta IRA Services LLC, FBO Michael Williams
140 Estero Blvd., #2312	Mari Takayama White

140 Estero Blvd., #2401	S & G Property Management LLC
140 Estero Blvd., #2402	Jasper Com LLC
140 Estero Blvd., #2403	Classe Properties LLC
140 Estero Blvd., #2404	PSVC LLC
140 Estero Blvd., #2405	Mark R & Sheryl L Vieau
140 Estero Blvd., #2406	PSVC LLC
140 Estero Blvd., #2407	Richard A & Rose M Pinkerton
140 Estero Blvd., #2408	Robert P & Rose M Ferguson, as Trustees for the Ferguson Family Trust
140 Estero Blvd., #2409	PSVC LLC
140 Estero Blvd., #2410	Edwin H Schmidt Trust
140 Estero Blvd., #2411	PSVC LLC
140 Estero Blvd., #2412	Juergen Mees & Ute Johnson
140 Estero Blvd., #2501	832 LLC
140 Estero Blvd., #2502	Campbell Family Limited Partnership 1
140 Estero Blvd., #2503	Campbell Family Limited Partnership 1
140 Estero Blvd., #2504	H C J Associates LLC
140 Estero Blvd., #2505	DI-AN 2 LLC
140 Estero Blvd., #2506	Advanta IRA Services LLC, FBO Michael Williams
140 Estero Blvd., #2507	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
140 Estero Blvd., #2508	Jabo LLC
140 Estero Blvd., #2509	Larry F & Angela M Hoff
140 Estero Blvd., #2510	Dennis J Girnys, as Trustee for the Dennis J & Filomena Girnys Trust
140 Estero Blvd., #2511	PSVC LLC
140 Estero Blvd., #2512	La Plama West LLC
140 Estero Blvd., #C101	Jabo LLC
140 Estero Blvd., #C201	Jabo LLC
140 Estero Blvd., #C301	Jabo LLC
140 Estero Blvd., #C401	Jabo LLC
140 Estero Blvd., #C501	Jabo LLC
140 Estero Blvd., #CUE1	Jabo LLC
171/191 Estero Blvd	Jabo LLC
190 Estero Blvd., #101	Larry W and Jane E Root
190 Estero Blvd., #201	Pink Shell Property Holdings, LLC
190 Estero Blvd., #202	Kathlee & Ryan D Kruger
190 Estero Blvd., #203	Christopher G Johnson, as Trustee for the Johnson Family Trust
190 Estero Blvd., #204	McKee Family Properties LLC
190 Estero Blvd., #205	Nick A Peth
190 Estero Blvd., #206	Healing Spaces 2 LLC
190 Estero Blvd., #207	Denmar Properties LLC
190 Estero Blvd., #301	James A Volpe

190 Estero Blvd., #302	Angela Landau & Werner Kuhn
190 Estero Blvd., #303	Kurt & Lori Hostetter
190 Estero Blvd., #304	Susan S Mertz
190 Estero Blvd., #305	5CS LLC
190 Estero Blvd., #306	Vincent J Kirsch
190 Estero Blvd., #307	Bala Properties LLC
190 Estero Blvd., #401	Kurt & Lori Hostetter
190 Estero Blvd., #402	Mark R Sheryl L Vieau
190 Estero Blvd., #403	Mark R Sheryl L Vieau
190 Estero Blvd., #404	Nick J Allen & Judy L Gagnon
190 Estero Blvd., #405	Mark R Sheryl L Vieau
190 Estero Blvd., #406	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
190 Estero Blvd., #407	Kanda Ridge LLC
190 Estero Blvd., #501	501 Captive Villas LLC
190 Estero Blvd., #502	Angela Landau & Werner Kuhn
190 Estero Blvd., #503	William R Schauls, as Trustee for William R & Valetta E Schauls Trust
190 Estero Blvd., #504	Mark Trieglaff
190 Estero Blvd., #505	AMM Villa Services LLC
190 Estero Blvd., #506	Laura M & Robert V D'Angelo, as Trustee for the Laura M D'Angelo Trust
190 Estero Blvd., #507	Christian Loffreno
190 Estero Blvd., #601	Campbell Family Limited Partnership 1
190 Estero Blvd., #602	Campbell Family Limited Partnership 1
190 Estero Blvd., #603	Campbell Family Limited Partnership 1
190 Estero Blvd., #604	William M & Deborah L Byrne
190 Estero Blvd., #605	Jason A & Kathleen M Witt
190 Estero Blvd., #606	Laura M & Robert V D'Angelo, as Trustee for the Laura M D'Angelo Trust
190 Estero Blvd., #607	Jeffrey R Wentworth
190 Estero Blvd., #701	Luigina A & Paul J Sollazzo
190 Estero Blvd., #702	Campbell Family Limited Partnership 1
190 Estero Blvd., #703	Daniel R & Susan L Schmitt
190 Estero Blvd., #704	Gipean Inc.
190 Estero Blvd., #705	Christian P Loffreno
190 Estero Blvd., #706	S & L Campbell Family Limited Partnership
190 Estero Blvd., #707	RDK Sunshine Properties LLC
190 Estero Blvd., #CO101	Captiva Villas Development LLC
190 Estero Blvd., #CO201	Captiva Villas Development LLC
190 Estero Blvd., #CO301	Captiva Villas Development LLC
190 Estero Blvd., #CO401	Captiva Villas Development LLC
190 Estero Blvd., #CO501	Captiva Villas Development LLC
190 Estero Blvd., #CO601	Captiva Villas Development LLC
190 Estero Blvd., #CO701	Captiva Villas Development LLC

190 Estero Blvd., G01	Captiva Villas Development LLC
200 Estero Blvd.	Jabo LLC
200 Estero Blvd., #1001	Jabo LLC
200 Estero Blvd., #1002	Jabo LLC
200 Estero Blvd., #101	Douglas G & Mary M Nelson
200 Estero Blvd., #102	Ronald J & Nancy I Panetta
200 Estero Blvd., #103	Joseph V & Marie J Pizzano
200 Estero Blvd., #104	Ann E Marso
200 Estero Blvd., #105	Jackson Land Co LLC
200 Estero Blvd., #106	Doreen C Schultz
200 Estero Blvd., #107	Gregory M & Maureen P Gibbons
200 Estero Blvd., #108	Carlisle Kirkpatrick III & J Gran Clark Jr, as Trustees for the Kirkpatrick and Jones Trust
200 Estero Blvd., #201	Larry A & Darlene D Simons
200 Estero Blvd., #202	Daniel & Sandra Clifford
200 Estero Blvd., #203	Beach Coast Properties LLC
200 Estero Blvd., #204	Timothy D Talsma, as Trustee for the Timothy D and Janice F Talsma Trust
200 Estero Blvd., #205	Beach Family Traditions LLC
200 Estero Blvd., #206	John R Gray Jr & Jane E Gray
200 Estero Blvd., #207	Kenneth C & Christine J Kareta
200 Estero Blvd., #208	Lynn M DiSilvestro, as Trustee for the Lynn M DiSilvestro Trust
200 Estero Blvd., #301	Matthew J Simpkins
200 Estero Blvd., #302	Robert J Lally & Amanda Brown
200 Estero Blvd., #303	Goodin Properties LLC
200 Estero Blvd., #304	Randy & Terry Lewis
200 Estero Blvd., #305	Frank J & Loretta M Richter
200 Estero Blvd., #306	Christian P Loffreno
200 Estero Blvd., #307	Betzruhen LLC
200 Estero Blvd., #308	Campbell Family Limited Partnership 1
200 Estero Blvd., #309	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
200 Estero Blvd., #310	Rosanne H Bounds & Pensco Trust Co.
200 Estero Blvd., #401	Steven B & Constance J Vickery
200 Estero Blvd., #402	Joseph W Baran Jr & Janine M Baran
200 Estero Blvd., #403	Sheren Investment LLC
200 Estero Blvd., #404	Edwin H Schmidt Trust
200 Estero Blvd., #405	Pink Shell Property Holdings LLC
200 Estero Blvd., #406	Linda C Revis & Robert T Hardison
200 Estero Blvd., #407	Kathleen G Pella, as Trustee for the William A Pella Jr Family Trust
200 Estero Blvd., #408	Michael J & Patricia M Cusack
200 Estero Blvd., #409	Clarence W Kaechle
200 Estero Blvd., #410	200 Estero Boulevard LLC

200 Estero Blvd., #501	S V & Chrithra Nagarathinam
200 Estero Blvd., #502	Michael J & Susan L Bruner
200 Estero Blvd., #503	Mark R Grosskopf
200 Estero Blvd., #504	Scott A & Marylee A Reck
200 Estero Blvd., #505	IFG Holdings LLC
200 Estero Blvd., #506	Alan L & Karen R Klavans, as Trustees for the Klavans Family Trust
200 Estero Blvd., #507	S V & Chrithra Nagarathinam
200 Estero Blvd., #508	Duane E Borkowski, as Trustee for the Duane E Borkowski Trust
200 Estero Blvd., #509	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
200 Estero Blvd., #510	Glomerlot Properties LLC
200 Estero Blvd., #601	200-601 Estero Boulevard LLC
200 Estero Blvd., #602	Mark T & Diana L Fill
200 Estero Blvd., #603	Chicago Title Timeshare Land Trust for Pink Shell Resort Club Trust
200 Estero Blvd., #604	174 Passaic Avenue LLC
200 Estero Blvd., #605	Keith M Hammernik, as Trustee for the Keith M Hammernik Trust
200 Estero Blvd., #606	Thomas R Riedel, as Trustee for the Thomas E Riedel Trust
200 Estero Blvd., #607	Vincenzo S & Concetta M Liotta
200 Estero Blvd., #608	Daniel W Benecke Trust & Gina M Benecke Trust
200 Estero Blvd., #609	Anthony Puorro, as Trustee for the Anthony & Pamela Puorro Family Trust
200 Estero Blvd., #610	Pink Shell Property Holdings LLC
200 Estero Blvd., #701	Campbell Family Limited Partnership 1
200 Estero Blvd., #702	Ludvik F & Eva Cecil
200 Estero Blvd., #703	Campbell Family Limited Partnership 1
200 Estero Blvd., #704	Campbell Family Limited Partnership 1
200 Estero Blvd., #705	PSVC LLC
200 Estero Blvd., #706	Bradley Gordee, as Trustee for the Gordee Trust
200 Estero Blvd., #707	Mark R & Sheryl L Vieau
200 Estero Blvd., #708	Ludvik & Eva Cecil
200 Estero Blvd., #709	Main Real-Estate & Capital LLC
200 Estero Blvd., #710	Cuatro Amigos Properties LLC
200 Estero Blvd., #801	Loffreno Real Estate LLC
200 Estero Blvd., #802	Farrell C Tyson II & Michele N Tyson
200 Estero Blvd., #803	Randall P Deutsch
200 Estero Blvd., #804	Juliette Richter, as Trustee for the Juliette Richter Trust
200 Estero Blvd., #805	Kenneth C & Donna M Durr

200 Estero Blvd., #806	George & Linda Merschmann, as Trustee for the Linda D Merschmann Trust
200 Estero Blvd., #807	David C Bristol
200 Estero Blvd., #808	Ferry Realty LLC
200 Estero Blvd., #809	Sundaram V & Chrithra Nagarathinam
200 Estero Blvd., #810	Douglas A Cash
200 Estero Blvd., #811	Mark R & Sheryl Vieau
200 Estero Blvd., #812	Mark R & Sheryl Vieau
200 Estero Blvd., #CU101	Jabo LLC
200 Estero Blvd., #CU102	Jabo LLC
200 Estero Blvd., # CU103	Jabo LLC
200 Estero Blvd., # CU104	Jabo LLC
200 Estero Blvd., # CU105	Jabo LLC
200 Estero Blvd., # CU106	Jabo LLC
200 Estero Blvd., # CU107	Jabo LLC
200 Estero Blvd., # CU108	Jabo LLC
200 Estero Blvd., # CU109	Jabo LLC
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200 Estero Blvd., # CU111	Jabo LLC
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200 Estero Blvd., # CU202	Jabo LLC
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200 Estero Blvd., # CU401	Jabo LLC
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200 Estero Blvd., # CU409	Jabo LLC
200 Estero Blvd., # CU501	Jabo LLC
200 Estero Blvd., # CU502	Jabo LLC
200 Estero Blvd., # CU503	Jabo LLC

200 Estero Blvd., # CU504	Jabo LLC
200 Estero Blvd., # CU601	Jabo LLC
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200 Estero Blvd., #CU804	Jabo LLC
200 Estero Blvd., #CUG01	Jabo LLC
200 Estero Blvd., #E1	Jabo LLC
200 Estero Blvd., #E2	Jabo LLC
200 Estero Blvd., #E3	Jabo LLC
200 Estero Blvd., #G02	Jabo LLC
200 Estero Blvd., #G03	Jabo LLC
200 Estero Blvd., #G04	Jabo LLC
200 Estero Blvd., #G05	Jabo LLC
200 Estero Blvd., #G06	Jabo LLC
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200 Estero Blvd., #G09	Jabo LLC
200 Estero Blvd., #G10	Jabo LLC
200 Estero Blvd., #G11	Jabo LLC
200 Estero Blvd., #G12	Jabo LLC
200 Estero Blvd., #M01	Jabo LLC
200 Estero Blvd., #M02	Jabo LLC
200 Estero Blvd., #M03	Jabo LLC
200 Estero Blvd., #M04	Jabo LLC
200 Estero Blvd., #M05	Jabo LLC
200 Estero Blvd., #M06	Jabo LLC
200 Estero Blvd., #M07	Jabo LLC
200 Estero Blvd., #M08	Jabo LLC
200 Estero Blvd., #M09	Jabo LLC
200 Estero Blvd., #M10	Jabo LLC
200 Estero Blvd., #P01	Jabo LLC
200 Estero Blvd., #P01	Jo Mar Family LLC
200 Estero Blvd., #P02	Tri Boelter Properties LLC
200 Estero Blvd., #P02	Jabo LLC
200 Estero Blvd., #P03	Jabo LLC
200 Estero Blvd., #P03	Victoria M & Ashton & The Michelle N Ashton Trust

200 Estero Blvd., #P04	Zako Vacations Inc.
200 Estero Blvd., #P04	Jabo LLC
200 Estero Blvd., #P05	Ludvik F & Eva Cecil
200 Estero Blvd., #P06	200-906 Estero Blvd LLC
200 Estero Blvd., #P07	200-907 Estero Boulevard LLC
200 Estero Blvd., #P08	Harley J & Brenda V Cole
200 Estero Blvd., #P09	Shri Enterprises LLC
200 Estero Blvd., #P10	Jawahar Balakrishnan & Menaka Natchiappan
200 Estero Blvd., #P11	Main Real Estate & Capital LLC
200 Estero Blvd., #P12	Mark T & Diana L Fill
200 Estero Blvd., #P13	Victor J & Karen L Palma
200 Estero Blvd., #P14	Raejayinvestments LLC
275/322 Estero Blvd.	Jabo LLC

Exhibit 6-1 – Legal Description

Lot 37, Block D, ISLAND SHORES CLUB, according to plat thereof as recorded in Plat Book 9, Page 41, of the Public Records of Lee County, Florida.

EMERGENCY ORDINANCE NO. 24-29

AN EMERGENCY ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING 1) DIVISION 3 “UNSAFE BUILDING ABATEMENT CODE” OF ARTICLE I “PROPERTY MAINTENANCE CODES”; AND 2) DIVISION 2 “LEE COUNTY’S BOARDS OF ADJUSTMENT AND APPEALS” OF ARTICLE II “BUILDING CODES” OF CHAPTER 6 “MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS” OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL’S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL’S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN’S BUILDING OFFICIAL’S DECISIONS; PROVIDING FOR NON-CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, Section 166.041(3)(b), Florida Statutes, permits the governing body of a municipality, by a two-thirds vote, to enact an emergency ordinance without complying with the requirements of paragraph (a) of Section 166.041; and

WHEREAS, Section 6-37 “Exceptions and revisions” of the Town’s Land Development Code states that appeals of the Town’s Building Official’s decisions regarding unsafe conditions of structures shall go to the Lee County Board of Adjustment and Appeals; and

WHEREAS, division 2 “Lee County’s Boards of Adjustment and Appeals” of article II “Building Codes” of chapter 6 “Maintenance Codes, Building Codes and Coastal Regulations” of the Town’s Land Development Code establishes an appeals process for review of decisions by the Building Official to be heard by the Lee County Boards of Adjustment and Appeals; and

WHEREAS, subsequent to the Town’s incorporation, the Town and Lee County entered into an Interlocal Agreement which provided that the Lee County Board of Adjustment and Appeals would provide appellate review of the Town’s Building Official’s decisions; and

WHEREAS, the Town has recently become aware that the Interlocal Agreement between the Town and the Lee County related to the Board’s appellate review of the Town Building Official’s decisions expired in 2017 and there exists an immediate need for a reassignment of this responsibility; and

WHEREAS, in the absence of an opportunity for appellate review, the rights of property owners within the Town are endangered; and

WHEREAS, the Town desires to reassign the responsibility for appellate review of decisions by the Town Building Official from Lee County Board of Adjustment and Appeals to the Town of Fort Myers Beach Special Magistrates via this Emergency Ordinance; and

WHEREAS, adoption of this Emergency Ordinance is in the best interests of the health, safety, welfare, and morals of the Town’s residents.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. That the above recitals are true and correct, and incorporated herein by this reference.

Section 2. This Emergency Ordinance is adopted to address a situation in the Town of Fort Myers Beach in the interests of the public health, safety, welfare, and morals, and for the following purposes:

- a. To address the fact that currently the interlocal agreement between the Town and Lee County is expired, which eliminates the opportunity for an affected property owner to appeal an adverse decision by the Town’s Building Official; and
- b. To ensure that a property owner’s rights are not violated, immediate action is needed by the Town to reestablish its appellate review process; and
- c. To provide the Town with time to formally amend section 6-37 of division 3 of article I, and division 2 of article II, of chapter 6 of the Town’s Land Development Code with a reassignment of appellate review of the Town’s Building Official’s decisions from the Lee County Board of Adjustment to the Town of Fort Myers Beach Special Magistrates.

As a result, immediate revisions to section 6-37 “Exceptions and revisions” of Division 3 “Unsafe Building Abatement Code” of Article I “Property Maintenance Codes,” and Division 2 “Lee County’s Boards of Adjustment and Appeals” of Article II “Building Codes,” of Chapter 6 “Maintenance Codes, Building Codes and Coastal Regulations” of the Town’s Land Development Code, are needed as set forth herein. These immediate revisions are enacted to avoid any infringement upon property owners’ due process rights.

Section 3. That Section 6-37 “Exceptions and revisions” of Division 3 “Unsafe Building Abatement Code” of Article I “Property Maintenance Codes,” is hereby amended as follows:

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-37. - Exceptions and revisions.

a) Section 105 of Chapter I, Administration is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to the Town of Fort Myers Beach Special Magistrates ~~Lee County's Construction Board of Adjustment and Appeals~~ found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Town of Fort Myers Beach Special Magistrates ~~Lee County Board of Adjustment and Appeals~~; and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49, Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

- (1) File suit to foreclose on the lien property as provided by law in suits to foreclose mortgages; or
- (2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

Section 4. That Division 2 “Lee County’s Boards of Adjustment and Appeals” of Article II “Building Codes,” of Chapter 6 “Maintenance Codes, Building Codes and Coastal Regulations,” of the Land Development Code of the Town of Fort Myers Beach, Florida, are hereby amended to read as follows:

DIVISION 2. - ~~LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS~~
APPEAL OF DECISIONS BY THE TOWN'S BUILDING OFFICIAL

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes and identify a process for appeal of a decision by the Town's Building Official.

~~Sec. 6-73. — Boards established; jurisdiction.~~

~~Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.~~

~~Sec. 6-74. — Delegation of authority to Lee County's Boards of Adjustment and Appeals.~~

~~(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.~~

~~(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.~~

~~Secs. 6-75 — 6-79. — Reserved.~~

Secs. 6-73—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to the Town of Fort Myers Beach Special Magistrates Lee County's appropriate Board of Adjustment and Appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) ~~Lee County's Boards of Adjustment and Appeals~~ A Town of Fort Myers Beach Special Magistrate, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of ~~Lee County Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing, ~~and shall indicate the vote upon the decision.~~ ~~Every decision of Lee County's Boards of Adjustment and Appeals shall be signed and attested to by the chairman of the board.~~

(b) ~~Lee County's Boards of Adjustment and Appeals~~ The Town of Fort Myers Beach Special Magistrate shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of the Town of Fort Myers Beach Special Magistrates ~~Lee County's Boards of Adjustment and Appeals~~ reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees, or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the ~~board of adjustment and appeals'~~ Special Magistrate's decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Section 5. The provisions of this Ordinance shall not be codified as it is temporary in nature.

Section 6. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 7. If any section, subsection, sentence, clause, word, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 8. This Ordinance shall take effect immediately upon its final adoption and shall remain effective until such time as actions by the Town have enacted a revision to Section 6-37 “Exceptions and revisions” of Division 3 “Unsafe Building Abatement Code,” and Division 2 “Lee County’s Boards of Adjustment and Appeals” of Article II “Building Codes” of Chapter 6 “Maintenance Codes, Building Codes and Coastal Regulations” of the Town’s Land Development Code, as otherwise provided under Florida law. This Emergency Ordinance shall apply to any notices mailed by the Town to property owners advising of the unsafe condition of their structure, as of July 19, 2024.

The foregoing emergency Ordinance was adopted by the Town Council upon a motion by Council Member King and seconded by council Member Safford, and upon being put on a roll call vote, the results were as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Karen Woodson, Council Member	Aye
Scott Stafford, Council Member	Aye

ADOPTED this 9th day of September 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH


Dan Allers (Sep 15, 2024 06:54 EDT)

Dan Allers, Mayor

ATTEST:



Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Nathan Stupar (Sep 13, 2024 18:13 EDT)

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 13th day of September 2024.

ORDINANCE NO. 24-30

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 “UNSAFE BUILDING ABATEMENT CODE” OF ARTICLE I “PROPERTY MAINTENANCE CODES”; AND 2) DIVISION 2 “LEE COUNTY’S BOARDS OF ADJUSTMENT AND APPEALS” OF ARTICLE II “BUILDING CODES” OF CHAPTER 6 “MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS” OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL’S DECISIONS; DIVESTING THE LEE COUNTY’S CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL’S DECISIONS REGARDING UNSAFE BUILDINGS; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN’S BUILDING OFFICIAL’S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on September 28, 2022, residences and businesses in the Town of Fort Myers Beach were destroyed by Hurricane Ian, resulting in the loss of lives, the displacement of lives and catastrophic financial losses; and

WHEREAS, although the Town, residents and businesses have engaged in recovery efforts to repair and rebuild structures in existence prior to Hurricane Ian, the Building Official has identified structures that have sustained significant damage and remain in an unsafe condition; and

WHEREAS, the Town’s “Unsafe Building Abatement Code” incorporates the 1985 Standard Unsafe Building Abatement Code to provide a procedure for the Building Official to follow if a structure is determined to be unsafe and requires demolition, with exceptions; and

WHEREAS, the Unsafe Building Abatement Code currently provides that any appeals of the Building Official decision would be reviewed by the Lee County's Construction Board of Adjustment and Appeals (the “Board”); and

WHEREAS, the Interlocal Agreement between the Town and the Lee County Board of County Commissioners related to the Board’s appellate review of the Town’s Building Official’s decisions has expired; and

WHEREAS, it is in the Town’s best interest to reassign the responsibility of appellate review of the Town’s Building Official’s decisions to the Town of Fort Myers Beach Special Magistrate; and

WHEREAS, on the 9th day of September 2024, the Town Council held a first reading of the Ordinance and gave full and complete consideration to the request of the proposed ordinance to amend the Unsafe Building Abatement Code as provided herein; and

WHEREAS, a second reading was scheduled for October 28, 2024 and was continued to November 18, 2024; and

WHEREAS, a Business Impact Estimate was prepared and posted on the City’s website as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041, Florida Statutes; and

WHEREAS, on the 18th day of November 2024, the Town Council held a second and final reading of the Ordinance; and

WHEREAS, the Town Council determined that adoption of the Ordinance as provided herein is in the best interest of the health, safety and welfare of the public.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNIL OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. That Section 6-37 of Division 3 “Unsafe Building Abatement Code” of Article I “Property Maintenance Codes,” is hereby amended to read as follows:

DIVISION 3. - UNSAFE BUILDING ABATEMENT CODE

Sec. 6-37. - Exceptions and revisions.

a) Section 105 of Chapter I, Administration is hereby amended as follows:

Section 105, relating to the board of adjustment and appeals, is deleted, and replaced by the procedures set forth for the delegation of authority to the Town of Fort Myers Beach Special

Magistrates Lee County's Construction Board of Adjustment and Appeals found in division 2 of article II of this chapter. Any reference to the board of adjustment and appeal as may be in other Chapters shall be amended as provided herein by reference.

b) Sections 302.1.1(4) and 302.1.2-302.1.4 in Chapter III, Inspection and Notice of Noncompliance are hereby amended as follows:

302.1.1(4) A statement advising that any person having any legal interest in the property may appeal the notice by the Building Official to the Town of Fort Myers Beach Special Magistrates Lee County Board of Adjustment and Appeals; and that such appeal shall be in writing and shall be filed with the Building Official within 30 days from the date of the notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances and that failure to appeal in the time specified will constitute a waiver of all rights to an administrative hearing.

302.1.2 The notice and all attachments thereto shall be served upon the property owner as identified on the records of the Lee County Property Appraiser and posted on the property. Failure of the building official to serve any person or entity other than the owner of record shall not invalidate any proceedings hereunder nor shall it relieve any other person or entity served from any obligation imposed on that person or entity.

302.1.3 The notice shall be served either personally by hand delivery by Town staff or a process server or by certified mail, postage prepaid, return receipt requested, to the owner of record at the address shown for the owner on the Lee County Property Appraiser's website. Notice shall also be mailed to the address of the building or structure involved in the proceedings. The failure of any person or entity to receive notice, either actual or constructive, other than the owner of record, shall not invalidate any proceedings under this section. Service by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt.

302.1.4 Proof of service of the notice shall be by written affidavit indicating the date, time and manner in which service was made. In the event service is not perfected by certified mailing or hand delivery, the property owner shall be subject to constructive service using the methods as provided in Chapter 49, Florida Statutes.

c) *Chapter VI, Implementation* is hereby amended as follows:

601.2.2 Subsequent to posting the building, the building official may cause the building to be repaired to the extent required to render it safe or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premise. The cost of repair or demolition, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses and the administrative fee as provided hereinafter, shall constitute a lien on the property and shall be collected in a manner provided by law.

d) *Chapter VII, Recovery of Cost of Repair or Demolition* is hereby amended as follows:

If the building official proceeds to demolish the building or structure as set forth herein, the town council shall, by proper resolution, assess the entire cost of such demolition and removal, and all reasonable attorney's fees and costs, and costs of notices related thereto, and all collection costs and expenses plus an administrative fee in an amount as adopted by the town council by resolution, against the real property upon which such cost and fee was incurred, which assessment, when made, shall constitute a lien upon the property superior to all others except taxes. The lien shall be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date of filing such notice of lien and shall bear interest from such date at the rate of ten percent per annum until paid. If the resulting lien remains unpaid the town may:

- (1) File suit to foreclose on the lien property as provided by law in suits to foreclose mortgages; or
- (2) Follow any other lawful process or procedure available for enforcement or collection of the lien, including, but not limited to, the Uniform Method of Collection in accordance with any general law of the state relating to the enforcement or collection of municipal liens.

Section 3. That Division 2 “Lee County’s Boards of Adjustment and Appeals” of Article II “Building Codes,” of Chapter 6 “Maintenance Codes, Building Codes and Coastal Regulations,” of the Land Development Code of the Town of Fort Myers Beach, Florida, are hereby amended to read as follows:

DIVISION 2. - ~~LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS~~
APPEALS OF DECISIONS BY THE TOWN'S BUILDING OFFICIAL

Sec. 6-71. - Applicability of division.

This division shall include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Town of Fort Myers Beach.

Sec. 6-72. - Intent of division.

The town has adopted various standard codes relating to building, plumbing, mechanical, gas, electrical, unsafe buildings, housing and fire. This division is intended to be construed in conjunction with these codes.

~~Sec. 6-73. - Boards established; jurisdiction.~~

~~Lee County has established a construction board of adjustment and appeals known as the Lee County Board of Adjustment and Appeals. The purpose of that board is to hear and decide appeals from the decision of the county's building official and fire official or their designees on any of the various standard codes regulated and enforced by the county except the plumbing code~~

and mechanical code. Lee County has also established separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code.

~~Sec. 6-74. — Delegation of authority to Lee County's Boards of Adjustment and Appeals.~~

~~(a) The Town of Fort Myers Beach hereby delegates to each of the three Lee County Boards of Adjustment and Appeals the authority to make decisions on appeals that may be filed in accordance with § 6-80 of this division.~~

~~(b) The town attorney will provide legal advice to each of the three Lee County Boards of Adjustment and Appeals when warranted.~~

~~Secs. 6-75 — 6-79. — Reserved.~~

Secs. 6-73—6-79. - Reserved.

Sec. 6-80. - Right of appeal; notice of appeal.

(a) Whenever the building official or fire official or their designees shall reject or refuse to approve the mode or manner of construction to be followed or materials to be used, or when it is claimed that the provisions of a code do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official or fire official or their designees to the Town of Fort Myers Beach Special Magistrates Lee County's appropriate Board of Adjustment and Appeals. Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official or fire official or their designees. All requests for appeal shall be on forms provided by the building official with payment of the appropriate fee.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

Sec. 6-81. - Variations and modifications.

(a) ~~Lee County's Boards of Adjustment and Appeals~~ A Town of Fort Myers Beach Special Magistrate, pursuant to an appeal from a decision of the building official or fire official or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the building official or fire official or their designees should be modified or reversed.

(b) Any decision of ~~Lee County Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate to vary the application of any provision of a code or to modify an order of the building official or fire official or their designees shall specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(c) Variances to the floodplain regulations must meet the additional criteria in article IV of this chapter.

Sec. 6-82. - Decisions.

(a) Every decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate shall be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Every decision shall be in writing, ~~and shall indicate the vote upon the decision.~~ Every decision of ~~Lee County's Boards of Adjustment and Appeals~~ shall be signed and attested to by the chairman of the board.

(b) ~~Lee County's Boards of Adjustment and Appeals~~ The Town of Fort Myers Beach Special Magistrate shall, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of any of ~~the Town of Fort Myers Beach Special Magistrates~~ ~~Lee County's Boards of Adjustment and Appeals~~ reverses or modifies a refusal, order or disallowance of the building official or fire official or their designees or varies the application of any provision of a code, the appropriate official shall immediately take action in accordance with such decision.

(d) Any aggrieved person may obtain judicial review of the decision of ~~Lee County's Boards of Adjustment and Appeals~~ the Town of Fort Myers Beach Special Magistrate by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the ~~board of adjustment and appeals'~~ Special Magistrate's decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition shall be filed with the building official for forwarding to the town attorney.

Secs. 6-83—6-110. - Reserved.

Section 4. That the town council intends that the provisions of this ordinance be made a part of the Fort Myers Beach, Florida, Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the town manager without further process.

Section 5. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 6. If any section, subsection, sentence, clause, word, or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional

or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

Section 7. This Ordinance shall become effective upon adoption by the Town Council.

The foregoing Ordinance was adopted by the town council upon a motion by Council Member King and seconded by Mayor Allers, and upon being put on a roll call vote, the results were as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Karen Woodson, Council Member	Aye
Scott Stafford, Council Member	Aye

ADOPTED this 18th day of November 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH


Dan Allers (Nov 22, 2024 13:44 EST)

Dan Allers, Mayor

ATTEST:


Amy Baker (Nov 25, 2024 13:06 EST)

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**


Nancy Stuparich (Nov 25, 2024 12:20 EST)

Vose Law Firm, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 22nd day of November 2024.



Fort Myers Beach Town Council

**Town Hall Council Chambers
2731 Oak Street
Fort Myers Beach, FL 33931**

Agenda

Monday, September 23, 2024

6:00 PM

ORDER OF BUSINESS

- I. CALL TO ORDER**
- II. INVOCATION**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF FINAL AGENDA**
- V. PUBLIC COMMENT**
- VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS**
- VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS**
- VIII. APPROVAL OF MINUTES**
 - A. Town Council - September 9, 2024
 - B. Town Council Budget Hearing - September 9, 2024
- IX. CONSENT AGENDA**
- X. ITEMS REMOVED FROM CONSENT AGENDA**
- XI. PUBLIC HEARINGS**
 - A. Resolution 24-189; SEZ20240200, 6500 & 6502 Estero Privateer
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/DENYING SPECIAL EXCEPTION SEZ20240200 TO ALLOW REPAIRS TO A RETAINING WALL IN THE EC ZONING DISTRICT AS AUTHORIZED BY SECTION 6-366 OF THE TOWN OF FORT MYERS LAND DEVELOPMENT CODE FOR PROPERTY LOCATED AT 6500 AND 6502 ESTERO BOULEVARD; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.

- B. Resolution 24-187; SEZ20240024, 1400 Estero Blvd, Lani Kai
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVE/ APPROVE WITH CONDITIONS/ DENY SPECIAL EXCEPTION FOR 1400 ESTERO BLVD, LANI KAI RESORT TO REBUILD PAVER DECKS, BEACH-BAR STRUCTURES, WALKWAYS, COVERED SCREENED AREAS, GAZEBO, PLANTING AREAS AND WOOD DECKING TO PRE-IAN CONDITION FULLY IN THE EC ZONING.
- C. Resolution 24-190; 3030 Shell Mound FMB Art Association
**Request to continue to a date certain of October 7, 2024 at 9:00 AM
A RESOLUTION VACATING AN UTILITY EASEMENT LOCATED OVER REAL PROPERTY OWNED BY FORT MYERS BEACH ART ASSOCIATION, GENERALLY LOCATED AT 3030 SHELL MOUND BOULEVARD, FORT MYERS BEACH; ACCEPTING AND ACCEPTING AND APPROVING A COMPARABLE REPLACEMENT EASEMENT TO BE LOCATED ON THE SAME REAL PROPERTY, SUBJECT TO TERMS AND CONDITIONS AS CONTAINED IN A SECOND AMENDED AND RESTATED UTILITY EASEMENT AGREEMENT; DIRECTING THE TOWN COUNCIL TO ACCEPT THE SECOND AMENDED AND RESTATED UTILITY EASEMENT AND AGREEMENT; DIRECTING CLERK TO RECORD THIS RESOLUTION; AUTHORIZING THE MAYOR TO SIGN ALL NEEDED DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE.**
- D. Ordinance 24-27; DCI20240155, 2545 & 2555 Estero Blvd., FMB Fire Control District
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING THE COMMERCIAL PLANNED DEVELOPMENT (CPD) ZONING FOR THE PROPERTY LOCATED AT 2545 AND 2555 ESTERO BLVD., GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W3-00458.0000; 19-46-24-W3-00458.0010 IN FORT MYERS BEACH, TO ALLOW A FIRE STATION AND A MIXED USE DEVELOPMENT INCLUDING CIVIC, RESIDENTIAL, LODGING, RETAIL, OFFICE AND MARINE USES; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.
- E. Ordinance 24-28; CPD20240015 1836 & 1840 Estero Blvd - EIBC
**Request to continue to a date certain of October 7, 2024 at 9:00 AM
AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING/ APPROVING WITH CONDITIONS/ DENYING A TOWN OF FORT MYERS BEACH ORDINANCE, AND APPROVING THE CONDITIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT REZONING FOR THE PROPERTIES LOCATED AT 1836 AND 1840 ESTERO BLVD. (LESS THE AREA WITHIN THE ENVIRONMENTALLY CRITICAL ZONING DISTRICT), GENERALLY IDENTIFIED AS STRAP NUMBERS 19-46-24-W4-03200.00CE AND 19-46-24-W4-03200.1010 FORT**

MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

F. Ordinance 24-26; CB Zoning District Amendment

First reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-2 TITLED "USE SUB-GROUPS PERMITTED IN EACH ZONING DISTRICT" IN CHAPTER 34, ARTICLE III, DIVISION 2 TO AMEND THE ALLOWED SUB-GROUPS, FOR THE CB ZONING DISTRICT, FROM LIMITED TO OPEN FOR THE LODGING, OFFICE, AND RETAIL USE GROUPS; 2) THE LAND DEVELOPMENT CODE SUBDIVISION V. – CB ZONING DISTRICT FOUND IN CHAPTER 34, ARTICLE III, DIVISION 5. – REDEVELOPMENT ZONING DISTRICT TO PLACE LIMITATIONS ON NEW OUTDOOR DINING AND OUTDOOR ENTERTAINMENT USES; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on October 7, 2024 at 9:00 a.m.

G. Ordinance 24-20; DCI20240130 Margaritaville Signs

Request to Continue to a date certain of October 7, 2024

First Reading and Public Hearing on a proposed ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING TOWN OF FORT MYERS BEACH ORDINANCE NO. 24-01, AND APPROVING DEVIATIONS FOR THE COMMERCIAL PLANNED DEVELOPMENT ZONING FOR THE PROPERTY LOCATED AT 1170, 1180/1192, 1204/1206 ESTERO BLVD., 251 CRESCENT ST., 1150 FIFTH ST. AND UNADDRESSED PARCELS, PARCELS GENERALLY IDENTIFIED AS STRAP NUMBERS 24-46-23-W3-00205.0070 (MCP PARCEL #3), 24-46-23-W3-00006.0000 (MCP PARCEL #1), 24-46-23-W3-00206.0060 (MCP PARCEL #1), 24-46-23-W3-00009.0000 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0494.2609 (MCP PARCEL #2), 24-46-23-W3-00205.0070, 19-46-24-W4-U0491.2610 (MCP PARCEL #2), 19-46-24-W4-0140B.0070 (MCP PARCELS #2 AND #5), 19-46-24-W4-U0496.2608 (MCP PARCEL #2), AND 19-46-24-W4-U0498.2607 (MCP PARCELS #2 AND #6) FORT MYERS BEACH; PROVIDING FOR OTHER CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. Open the public hearing and schedule for second reading and final adoption on September 23, 2024 at 6:00 PM.

H. Ordinance 24-17; Advisory Committees

**Request to continue to a date certain of October 7, 2024 at 9:00 AM
Second Reading and Final Public Hearing of an Ordinance entitled: AN
ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA,
AMENDING SECTION 2-94 "QUALIFICATIONS AND APPOINTMENTS OF
MEMBERS" AND SECTION 2-96 "REMOVAL OF AGENCY, BOARD,
COMMITTEE OR COMMISSION MEMBERS" OF DIVISION 2
"PROCEDURES FOR THE ESTABLISHMENT OF BOARDS,
COMMITTEES AND COMMISSIONS" OF ARTICLE IV "BOARDS,
COMMISSIONS, COMMITTEES AND OTHER AGENCIES" OF CHAPTER 2
"ADMINISTRATION" AND SECTION 34-113 "COMPOSITION,
APPOINTMENT AND COMPENSATION OF MEMBERS" OF DIVISION 3
"LOCAL PLANNING AGENCY" OF ARTICLE II "ZONING PROCEDURES"
OF CHAPTER 34 "ZONING DISTRICTS, DESIGN STANDARDS AND
NONCONFORMITIES" OF THE CODE OF ORDINANCES OF THE TOWN
OF FORT MYERS BEACH, FLORIDA, REMOVING PROPERTY
OWNERSHIP AS A QUALIFICATION REQUIREMENT FOR THE
MEMBERS OF THE TOWN'S AGENCIES, BOARDS, COMMITTEES OR
COMMISSIONS, INCLUDING THE TOWN'S LOCAL PLANNING AGENCY;
ELIMINATING DUPLICATIVE LANGUAGE; ADDING A GRANDFATHER
PROVISION FOR CURRENT NON-QUALIFYING MEMBERS OF THE
TOWN'S BOARDS, AGENCIES, COMMISSIONS, AND COMMITTEES;
ADDING A PROVISION TO SECTION 34-113, REGARDING THE
MANDATORY ANNUAL FINANCIAL DISCLOSURE FORM AS REQUIRED
BY THE FLORIDA COMMISSION ON ETHICS; PROVIDING FOR
CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS
OF LAW, AND AN EFFECTIVE DATE.**

I. Resolution 24-178; Updating Town Council Procedure and Policy Manual

**Request to continue to a date certain of October 7, 2024
A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, FLORIDA,
AMENDING SECTIONS 2 AND 5 OF THE TOWN'S POLICIES AND
PROCEDURES MANUAL TO MAKE IT CONSISTENT WITH ELIGIBILITY
REQUIREMENTS FOR MEMBERS OF THE TOWN'S AGENCIES,
BOARDS, COMMITTEES AND COMMISSIONS AND TO UPDATE
REFERENCE TO REQUIRED FINANCIAL DISCLOSURE FORMS; AND
PROVIDING FOR AN EFFECTIVE DATE.**

J. Ordinance 24-19; Amendment for Immobilization Payment Options

**Second and Final Reading of proposed Ordinance 24-19 entitled AN
ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA,
AMENDING SECTION 28-30 "IMMOBILIZATION AND IMPOUNDING OF
ILLEGALLY PARKED VEHICLES" OF DIVISION 1 "GENERALLY" OF
ARTICLE II "STOPPING, STANDING AND PARKING" OF CHAPTER 28
"TRAFFIC AND VEHICLES" OF THE CODE OF ORDINANCES OF THE
TOWN OF FORT MYERS BEACH, TO INCLUDE THE ACCEPTED
METHODS OF PAYMENT OF ANY FINES AND CHARGES RELATED TO**

ILLEGAL PARKING AND IMMOBILIZATION OF ILLEGALLY PARKED VEHICLES; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

K. Ordinance 24-25; Public Camping or Sleeping

Second Reading and Final Public Hearing on proposed Ordinance 24-25 entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING CHAPTER 16, ARTICLE I OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH BY CREATING SECTION 16-1 "PUBLIC CAMPING OR SLEEPING ON ANY PUBLIC PROPERTY, PUBLIC BUILDING, OR PUBLIC RIGHT-OF-WAY PROHIBITED," AND AMENDING ARTICLE IV OF CHAPTER 32, TO REMOVE SECTIONS 32-70 "APPLICABILITY," 32-71 "INTENT," AND 32-72 "PROHIBITED"; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER'S ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

L. Ordinance 24-30; Unsafe Building Code Appeals

Request to continue to a date certain of October 21, 2024 at 9:00 a.m. Second Reading and Final Public Hearing on proposed Ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING: 1) DIVISION 3 "UNSAFE BUILDING ABATEMENT CODE" OF ARTICLE I "PROPERTY MAINTENANCE CODES"; AND 2) DIVISION 2 "LEE COUNTY'S BOARDS OF ADJUSTMENT AND APPEALS" OF ARTICLE II "BUILDING CODES" OF CHAPTER 6 "MAINTENANCE CODES, BUILDING CODES AND COASTAL REGULATIONS" OF THE LAND DEVELOPMENT CODE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, TO AMEND EXISTING PROVISIONS RELATED TO APPEALS OF THE BUILDING OFFICIAL'S DECISIONS; DIVESTING THE LEE COUNTY CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS OF THE RESPONSIBILITY FOR REVIEW OF APPEALS OF THE TOWN BUILDING OFFICIAL'S DECISIONS INCLUDING BUT NOT LIMITED TO DETERMINATION OF AN UNSAFE BUILDING; AUTHORIZING THE TOWN OF FORT MYERS BEACH SPECIAL MAGISTRATES TO HEAR APPEALS OF THE TOWN'S BUILDING OFFICIAL'S DECISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW, AND AN EFFECTIVE DATE.

M. Ordinance 24-24; Building Coverage Instead of FAR

Second Reading and Public Hearing of an ordinance entitled: AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING 1) TABLE 34-3 TITLED "DIMENSIONAL REGULATIONS IN CONVENTIONAL ZONING DISTRICTS" IN CHAPTER 34, ARTICLE III, DIVISION 4 TO CREATE NOTE (10) TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY HOMES WITHOUT A COMMERCIAL USE, IN ANY CONVENTIONAL ZONING DISTRICT WHERE THAT USE IS

ALLOWED, MAY BE EVALUATED BY BUILDING COVERAGE RATHER THAN FAR; 2) SECTION 34-675(C) IN CHAPTER 34, ARTICLE III, DIVISION 5 TO PROVIDE THAT BUILDING INTENSITY OF COMMERCIAL AND MIXED-USE BUILDINGS SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE NOT TO EXCEED 40% IN THE DOWNTOWN ZONING DISTRICT; 3) SECTION 34-683 IN CHAPTER 34, ARTICLE III, DIVISION 5 RELATED TO THE CREATION OF NEIGHBORHOOD CENTERS IN THE SANTINI ZONING DISTRICT TO PROVIDE THAT DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE BUILDING COVERAGE SHALL NOT EXCEED 40%; 4) SECTION 34-693 IN THE VILLAGE ZONING DISTRICT REGULATIONS TO PROVIDE THAT COMMERCIAL AND MIXED-USE BUILDING INTENSITY SHALL BE EVALUATED USING FLOOR AREA RATIO (FAR) AND DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCE INTENSITY SHALL BE EVALUATED USING BUILDING COVERAGE AND SHALL NOT EXCEED 40%; 5) SECTION 34-705 IN THE CB ZONING DISTRICT TO PROVIDE THAT FOR COMMERCIAL AND MIXED-USE DEVELOPMENTS FLOOR AREA RATIOS SHALL NOT EXCEED 1.0 AND BUILDING COVERAGE FOR DETACHED SINGLE-FAMILY AND TWO-FAMILY RESIDENCES, BUILDING COVERAGE SHALL NOT EXCEED 40%; PROVIDING FOR SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS; CONFLICTS OF LAW; AND PROVIDING AN EFFECTIVE DATE.

XII. ADMINISTRATIVE AGENDA

- A. Ratification of Mayors signatures and changes to resolution
Motion to ratify the Mayor's signature and the changes made to Resolution 24-183 which was approved on September 9, 2024
- B. CDBG-DR Public Facilities and Critical Infrastructure Awards
Accept CDBG-DR Funding awards in the amounts of up to \$8,336,753.00 and \$4,681,844.90 for the projects submitted to the Public Facilities and Critical Infrastructure CDBG-DR programs.
- C. Lobbyist Ronald L. Book, P.A. Contract Renewal
Authorize the Town Manager to renew and execute an agreement in the amount of \$45,000 with the Town's State Lobbyist, Ronald L. Book, P.A.
- D. Contract for Sale, 6221 Estero Boulevard
Authorize the Mayor or Town Manager to sign all needed closing documents and for both to sign the closing statement approving the final expenditure of Town funds for the property at 6221 Estero Boulevard.

- E. Settlement Agreement (131 Estero, LLC)
Proposed settlement agreement between the Town of Fort Myers Beach, Florida, and Kaminskiy at 131 Estero, LLC, the Owner of 131/133 Estero Blvd.
- F. Bandes Construction 3rd Amendment
Authorize the Mayor to execute Amendment #3 to the previous Non-Exclusive Right of Way Agreement with Bandes Construction Company, Inc. to extend the agreement for one additional month under the same terms and conditions.

XIII. FINAL PUBLIC COMMENT**XIV. TOWN MANAGER'S ITEMS****XV. TOWN ATTORNEY'S ITEMS****XVI. COUNCILMEMBERS ITEMS AND REPORTS****XVII. ADJOURNMENT**

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



For special accommodation, please notify the Town Clerk's Office at least 72 hours in advance. (239) 765-0202

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

1. **Request:**

Meeting Date: September 23, 2024

Proposed settlement agreement between the Town of Fort Myers Beach, Florida, and Kaminskiy at 131 Estero, LLC, the Owner of 131/133 Estero Blvd.

Why the action is necessary:

The approval of the proposed settlement agreement between the Town of Fort Myers Beach and the Owner of 131/133 Estero Blvd. is necessary to facilitate the resolution of unsafe conditions on the property, located at 131/133 Estero Blvd., without resorting to a lengthy and costly demolition process.

What the action accomplishes:

The proposed settlement agreement allows the property owner of 131/133 Estero Blvd. to make the property safe without demolishing it, which is beneficial to the Town and promotes health and safety of the Town's residents.

2. **Agenda:**

ADMINISTRATIVE AGENDA

3. **Requirement/Purpose:**

Other

4. **Submitter of Information:**

Nancy Stuparich, Town
Attorney

5. **Background:**

On or around July 19, 2024, the property located at 131/133 Estero Blvd. was deemed unsafe and noticed for demolition by the Town Building Official. Following the noticing, the property owner's attorney reached out to the Town Building Official in an effort to resolve the matter without the necessity for a demolition. The Building Official and the attorney for the property owner were able to resolve the matter by agreeing that the property owner would resolve the unsafe conditions on the property and the Town would remove the property off of the list of unsafe properties within the Town. The proposed settlement agreement memorializes the terms discussed between the Town Building Official, the Town Attorney, and the Attorney for the property owner.

Attachments:

1. 131_133 Estero - Settlement Agreement final for TC with exhibits

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Amy Baker, Town Clerk
nancy stuparich, Town Attorney
Amy Baker, Town Clerk
Andy Hyatt, Town Manager

Created/Initiated - 9/3/2024
Approved - 9/4/2024
Approved - 9/4/2024
Final Approval - 9/4/2024

SETTLEMENT AGREEMENT
(Unsafe Structure)

THIS SETTLEMENT AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 2024, by and between, KAMINSKIY AT 131 ESTERO, LLC, a Florida limited liability company (the “Owner”), and the TOWN OF FORT MYERS BEACH, a municipal corporation of the State of Florida (the “Town”), collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, KAMINSKIY AT 131 ESTERO LLC, is the current owner of certain parcel of real property located at 131/133 Estero Blvd., Fort Myers Beach, Florida 33931 (STRAP: 24-46-23-W1-0080D.0370) (the “Property”); and

WHEREAS, the structure on the Property became the subject of a notice of unsafe building on the 19th day of July of 2024, issued by the Town of Fort Myers Beach Building Official, attached hereto as Exhibit “A”; and

WHEREAS, subsequent to the receipt of the notice of an unsafe structure and within the allowable 30-day appeal period, the Owner filed a notice of appeal of the Building Official’s determination; and

WHEREAS, prior to review of the appeal, the Town and the Owner reached a resolution of the matter.

NOW, THEREFORE, in exchange for the mutual promises contained herein and other good and valuable consideration, the Parties hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are incorporated herein by reference.

2. **SETTLEMENT.** Parties agree that there are unsafe conditions on the Property as identified by the Town Building Official, reflected in Exhibit “B.” The Owner has agreed to remediate the unsafe conditions identified in Exhibit “B” within 15 days of full execution of this Agreement and dismiss the appeal in exchange for the Building Official delaying any further action regarding the unsafe structure on the Property as provided under section 6-37 of Town of Fort Myers Beach Land Development Code.

3. **COMPLIANCE.** The Parties acknowledge that the Owner is proceeding through the process of obtaining a re-zoning, which will result in a demolition of the structure on the Property. In the event a re-zoning is not approved, the Owner agrees to demolish the structure on the Property. Furthermore, the Owner agrees to fence the Property off to prevent any harm to private and public parties until the structure is demolished.

4. **ENTIRE AGREEMENT.** The Parties acknowledge that this Agreement constitutes the entire agreement between them regarding the settlement of their dispute and any prior statements, whether oral or written, are merged herein. This Agreement may not be modified

or amended without a written instrument signed by the party against whom enforcement is sought.

5. **AUTHORITY.** The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.

6. **GOVERNING LAW.** The law of the State of Florida shall apply to this Agreement. Any dispute regarding this Agreement shall be litigated exclusively in the state courts of Lee County. The parties expressly agree that no action between the parties may be filed in, or removed to, Federal Court, and consent to exclusive jurisdiction and venue in the Circuit Court in Lee County and waive any objections thereto. Each party shall bear its own litigation fees and costs, including but not limited to attorney's fees and costs, regardless of which party is the prevailing party.

WHEREFORE, this Agreement is entered into as of the date of last execution below.

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor of Fort Myers Beach

Date: _____

ATTEST

Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE AND
RELIANCE OF THE TOWN OF FORT MYERS
BEACH ONLY:**

Vose Law Firm, Town Attorney

KAMINSKIY AT 131 ESTERO, LLC, a
Florida limited liability company

Signature: _____

Print Name: _____

Print Title: _____

Signature of Witness #1

Print Name of Witness #1

Signature of Witness #2

Print Name of Witness #2

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2024, by _____, [TITLE OF PERSON SIGNING], of KAMINSKIY AT 131 ESTERO, LLC, who is ☐ personally known to me or who ☐ has produced _____ as identification.

[Notary Seal]

Notary Public

Name typed, printed or stamped
My Commission Expires: _____

EXHIBIT "A"



FMBgov.com

Dan Allers, Mayor | Jim Atterholt, Vice Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

06/28/2024

KAMINSKIY AT 131 ESTERO LLC

12463 RANCHO BERNARDO RD., #237, SAN DIEGO, CA 92128

RE: 131/133 Estero Blvd., Fort Myers Beach, FL 33931

NOTICE TO VACATE

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property was completed on the 28th day of June, 2024 by the FMB Building Official. In accordance with Section 6-36 of the Land Development Code of the Town of Fort Myers Beach, Florida, the structure on the above-referenced property is determined to be in violation of the Town of Fort Myers Beach Code and UNSAFE pursuant to the Demolition Notice, a copy of which is attached.

**THE PREMISES MUST BE VACATED WITHIN
60 DAYS OF THIS NOTICE.**

**THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY
HAS BEEN PROHIBITED BY THE BUILDING OFFICIAL.**

You have a right appeal this Notice to the Lee County Board of Adjustment and Appeals by submitting a written appeal and filing it with the Building Official within 30 days of this notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances. Failure to submit a timely appeal will constitute a waiver of all rights to an administrative hearing.

If an appeal is not filed or if no application for a demolition permit is received and 60 days have lapsed since the date of this Notice, the Town intends to proceed with demolition of this structure, as further outlined in the Demolition Notice.

If you have any questions, please contact the Building Official by email at jspecht@fmbgov.com

Town of Fort Myers Beach, Florida

Joseph W Specht

Building Official

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931



06/28/2024

KAMINSKIY AT 131 ESTERO LLC

12463 RANCHO BERNARDO RD., #237, SAN DIEGO, CA 92128

RE: 131/133 Estero Blvd., Fort Myers Beach, FL 33931

DEMOLITION NOTICE

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property was completed on the 28th day of June, 2024 by the FMB Building Official. In accordance with Section 6-36 of the Land Development Code of the Town of Fort Myers Beach, Florida, the structure on the above-referenced property is determined to be in violation of the Town of Fort Myers Beach Code and UNSAFE for the following reasons:

- [] 1. Any means of egress or portion thereof is not of adequate size or is not arranged to provide a safe path of travel in case of fire or panic.
- [] 2. Any means of egress or portion thereof, such as but not limited to fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
- [] 3. The stress in any material, member or portion thereof, due to all imposed loads including dead loads exceeds the stresses allowed in the Florida Building Code for new buildings.
- [] 4. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirement established by the Florida Building Code for new buildings.
- [] 5. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Florida Building Code for new buildings.
- [] 6. The building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
- [] 7. The building, structure or portion thereof as a result of decay, deterioration or dilapidation appears likely to fully or partially collapse.
- [] 8. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Standard Codes or of a city, county or state law.



- ☐ 9. The building, structure, or portion thereof is in such a condition as to constitute a public nuisance.
- ☐ 10. The building, structure or portion thereof is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.
- ☐ 11. OTHER: _____

The Town of Fort Myers Beach has determined that it is unreasonable to repair this structure. The premises MUST BE vacated within 60 days of service of this notice. As the property owner you may:

- 1) Immediately apply for a demolition permit and arrange for the structure to be demolished. Please provide documentation of these arrangements, including your case number (if applicable), to the Director of Operations and Compliance, at fkropacek@fmbgov.com within 10 days. OR
- 2) Appeal this Demolition Notice to the Lee County Board of Adjustment and Appeals by submitting a written appeal and filing it with the Building Official within 30 days of this notice in accordance with Division 2 of Article II of Chapter 6 of the Fort Myers Beach Code of Ordinances. Failure to submit a timely appeal will constitute a waiver of all rights to an administrative hearing of this matter. OR
- 3) Voluntarily waive your rights to an appeal of the Demolition Notice and any rights you may have under the Notice to Vacate before expiration the appeal and vacation period, by informing the Director of Operations and Compliance, at fkropacek@fmbgov.com. If you choose this option, the Town will schedule and demolish the structure at your expense and bill you for the costs.

If an appeal is not filed, no application for a demolition permit is received and 60 has lapsed since the date of service of this notice, demolition of the structure on the above referenced property will be scheduled. You will then be charged at your expense for all costs incurred by the Town for the demolition, which will be recorded as a lien against the property in the event of nonpayment. The Town will use any and all legal means to collect monies owed due to the demolition.

If you have any questions, please contact the Building Official by email at jspecht@fmbgov.com.

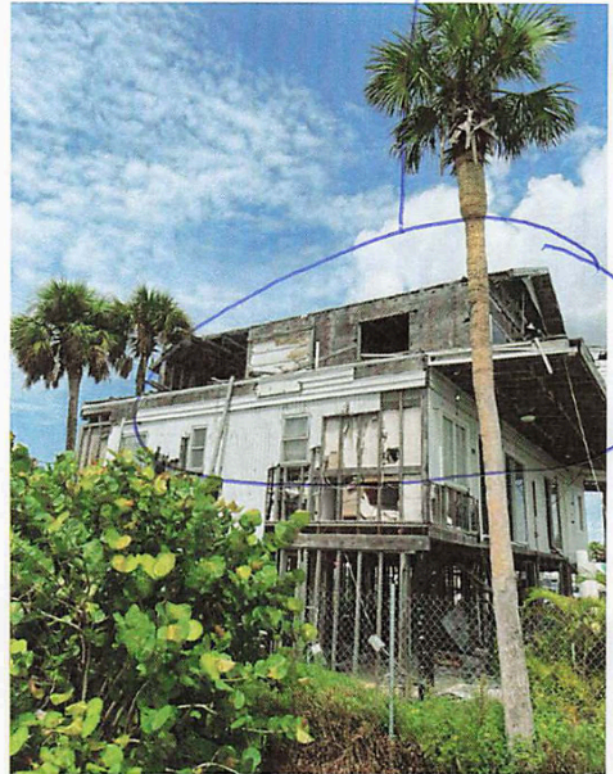
Joseph W Specht
Building Official

EXHIBIT "B"

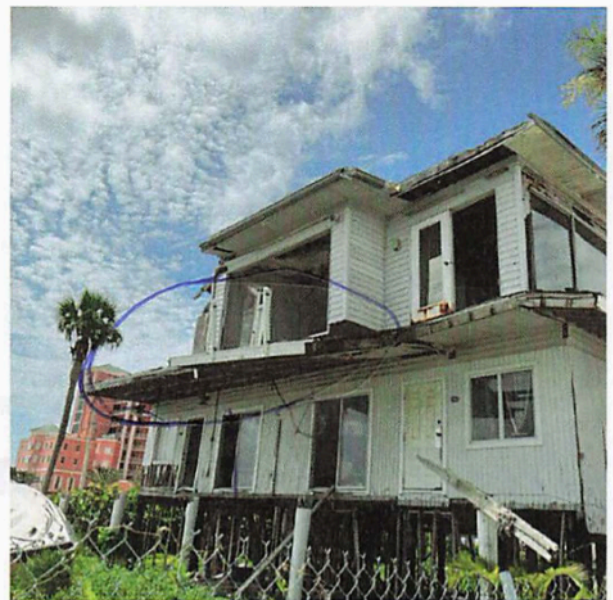
stabalize
ledge



loose
debris
and materials



hanging
objects



hanging
objects