



Fort Myers Beach Special Magistrate Hearing

Division of Administrative Hearings

Mound House

451 Connecticut Street

Fort Myers Beach, FL 33931

Agenda

Tuesday, August 5, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

- A. DOAH Special Magistrate Hearings - June 3, 2025

III. COMPLIANCE CASES (STATUS UPDATE)

- A. FMB Case # 20241095

FMB Case # 20241095

Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

Property Address: 5790 Estero Blvd

Violation: Non-Compliant Structure

IV. VIOLATION CASES

- A. FMB Case # 20250264

FMB Case # 20250264

Property Owner: Costantini Edmond D Jr & Costantini Patricia A

Property Address: 8387 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

- B. FMB Case # 20241102

FMB Case # 20241102

Property Owner: MHC FISH LLC c/o KROLL

Property Address: 7295 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

- C. FMB Case # 20250286

FMB Case # 20250286

Property Owner: Brazdau Alin Adrian & Brazdau Mihaela Burnea

Property Address: 277 Ibis St

Violation: Non-Compliant Structure (Storage Container)

V. CERTIFICATION OF LIEN(S)

A. FMB Case #: 20240994

FMB Case #: 20240994

Property Owner: Himmelstein Associates LLC

Property Address: 2815 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

VI. LIEN FORECLOSURE CASES**VII. BUILDING OFFICIAL APPEALS****VIII. 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, June 3, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Present: Town Clerk Amy Baker, Town Clerk Administrative Coordinator Lizzette Roman, Town Attorney Nancy Stuparich, Special Magistrate John Van Laningham and Emergency Services Director Thomas Yozzo.

II. APPROVAL OF MINUTES

- A. Special Magistrate Hearings - May 16, 2025
Special Magistrate Van Laningham approved the minutes.

III. VIOLATION CASES

- A. 134-138 Connecticut Street (First Baptist Church of Fort Myers)
FMB Case # 20241086
Property Owner: First Baptist Church of Fort M
Property Address: 134/138 Connecticut St
Violation: Non-Compliant Structure

Town Attorney Stuparich reviewed the background of the case. Special Magistrate Van Laningham swore in those providing testimony.

Director Yozzo observed non-compliant structures on October 28, 2024, based on the current floodplain regulations for the coastal AE zone. The non-compliant structure was not elevated and lacked engineer plans for pilings or infrastructure. The floodplain manager at the time confirmed that the structures were in violation. A notice of violation was issued on November 13 and sent to the address of record by certified mail. A copy was posted at the property and at the town hall. Copies are included in Exhibit C. Director Yozzo took photos of the violation on October 20, 2024, and unaltered copies are in Exhibit C. The property owner was given 30 days to remove the non-compliant structure from the property or to come into compliance with the town's codes. The shipping container has been removed, but the other structures on the property are still non-compliant. He reinspected the property on April 15, and the shipping container and non-compliant structures

were still on the property. He prepared an affidavit of non-compliance and photos are in Exhibit D. The property owner received a revocation of the temporary use permit on December 19, 2024, included in Exhibit B. The property owner was notified of today's hearing with an affidavit of notice and posting as shown in Exhibit A. Director Yozzo reinspected the property on June 2, 2025, and took pictures of the non-compliant structures that still existed on the property. He would like to add them to Exhibit C.

Floodplain Manager Kelli DeFedericis stated that there was not an elevation certificate on record to determine what the finished floor elevation is. An elevation certificate is needed to determine how much higher the structure would need to be for compliance. The property is in a base flood elevation of 11, and the structure is required to be one foot above base. The respondent must provide a certificate from a surveyor to determine the correct height of the structure.

Town Attorney Stuparich requested an order of violation and authorization to remove the non-compliant structure if the property owner fails to do so within the timeframe established by the Special Magistrate. She also asked for an administrative fee of \$250.00.

Pastor Critser did not contest the findings but wanted to leave the structure there while the church was being rebuilt. He felt it was the town's responsibility to remove it because he did not receive a temporary permit to move into the structure until August 31, 2024, and the fire inspection was completed on September 11. FEMA sent a letter to the town on April 8, 2024, indicating there was a problem, but the town allowed him to proceed through the permitting process without notifying him of the issue. He borrowed approximately \$121,000.00 to put the structure in place because he was told he could. He did not contest the removal of the building, but did not think he should have to pay for the town's error. He requested that the town refund \$121,000.00 or part of it. The LDO for the new building was in process and the final drawings have been submitted. Pastor Critser expects to break ground in the next 60 to 90 days.

Special Magistrate Van Laningham stated that he did not have the authority to make awards. Pastor Critser asked that he waive the administrative fee. Town Attorney Stuparich asked if Pastor Critser considered elevating the structure to come into compliance rather than removing it. Pastor Critser replied that it sat at 43 inches and if the town were willing to pay to raise it, that would help. He revealed that the town signed off on the permit after he submitted the base flood level certificate, which was 43 inches. Manager DeFedericis offered to meet with Pastor Critser to discuss his options. She explained how FEMA calculated the base flood elevation and how high the structure would have to be raised.

Town Attorney Stuparich modified the request to ask for a longer timeframe for compliance. She suggested August, but Pastor Critser requested September. Special Magistrate Van Laningham suggested a compliance date in August, with a review in September to determine whether to initiate fines. Town Attorney Stuparich commented that the town was agreeable.

Special Magistrate Van Laningham will make a finding of violation and set a compliance date near the end of August. A status review will be scheduled for September 2, 2025.

B. 5790 Estero Blvd

FMB Case # 20241095

Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

Property Address: 5790 Estero Blvd

Violation: Non-Compliant Structure

Town Attorney Stuparich noted the property owner was in attendance and requested a continuance to August 5, 2025. Director Yozzo stated the notice of violation was sent via certified mail to the address of record on November 13. It was posted at the property and at town hall and copies were included in Exhibit A. He confirmed that he attempted to reach the property owner by phone but had not made contact. Town Attorney Stuparich noted they wanted to continue the case and try to notify the property owner. Special Magistrate Van Laningham continued the case to August.

C. 6500/6502 Estero Blvd

FMB Case # 20240965

Property Owner: Privateer of Ft Myers Beach

Property Address: 6500/6502 Estero Blvd

Violation: Non-Compliant Structure

Town Attorney Stuparich indicated the property owner was in compliance. Director Yozzo described the case and noted the non-compliance structure had been removed, and an affidavit of compliance was completed on May 29, 2025. The town requested an administrative fee of \$250.00.

Special Magistrate Van Laningham entered an order establishing that the violation has been corrected and ordered \$250.00 for administrative fees.

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

A. 2815 Estero Blvd., Himmelstein Associates LLC

FMB Case #: 20240994

Property Owner: Himmelstein Associates LLC

Property Address: 2815 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Town Attorney Stuparich noted the property owner was not in attendance and requested a continuance. She indicated the town wanted to provide a courtesy notice to Mr. Himmelstein's attorney. The property owner was in compliance, but the town requested an assessment of the lien for the period subsequent to the compliance date. Special Magistrate Van Laningham granted a continuance to August 5, 2025.

V. COMPLIANCE CASES

No cases.

VI. LIEN FORECLOSURE CASES

No cases.

VII. BUILDING OFFICIAL APPEALS

No appeals.

VIII. ADJOURNMENT

Special Magistrate Van Laningham adjourned the meeting at 9:52 AM.

DRAFT

Property Address and Owner:

Hearing Date: August 5, 2025

FMB Case # 20241095

Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

Property Address: 5790 Estero Blvd

Violation: Non-Compliant Structure

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20241095_Affidavit of Compliance
2. FMB 20241095 5790 Estero Blvd. Dimillo Trust - Order Continuing Hearing Served 06.04.2025
3. 20241095_ Notice of Hearing
4. 20241095_Hearing Exhibit_A_Notice of Hearing and Affidavit of Posting
5. 20241095_Hearing Exhibit_B_FEMA and Related Ordinances thru April 2025
6. 20241095_Hearing Exhibit_C_Notice of Violation
7. 20241095_Hearing Exhibit_D_Status of Compliance
8. 20241095_Hearing Exhibit_E_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: July 30, 2025

Traci Kohler, Deputy Town Manager

Date: July 31, 2025

nancy stuparich, Town Attorney

Date: July 31, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: July 31, 2025



Amy Baker

Date: July 31, 2025



07/24/2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

Case Number:	20241095
Certified Mail:	
Regular Mail:	

TONINO DIMILLO TRUST + LYNN JACKSON DIMILLO TRUST

Respondent.

Site Address: 5790 ESTERO BLVD
Parcel Strap No.: 334624W20030B0080

AFFIDAVIT OF 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 11/13/2024, TONINO DIMILLO TRUST + LYNN JACKSON DIMILLO TRUST (property owner) was observed in violation of ASCE 24-14, Sec. 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. , at the property located at 5790 ESTERO BLVD, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 11/13/2024, and sent certified mail to the address of record, 30 STONEGATE ST, STOUFFVILLE, ON L4A 2C1, posted to the violation property located at 5790 ESTERO BLVD, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.
4. TONINO DIMILLO TRUST + LYNN JACKSON DIMILLO TRUST was/were given 15-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 12/13/2024.
5. I performed an inspection of the Subject Property on 06/25/2025, and the Subject Property was observed to be compliant with the Town of Fort Myers Beach Ordinance.
6. I have attached photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on 06/25/2025. These photographs are true, unaltered and accurate.
7. The Town of Fort Myers Beach hereby has determined the property located at 2815 Estero Blvd is in compliance with Fort Myers Beach Code of Ordinances.

FURTHER AFFIANT SAYETH NAUGHT.

Signature of Affiant:

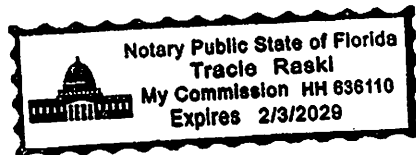


**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 30 day of July, 2025, by T. Yozzo, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

Notary Public Signature: 

(SEAL)



CODE COMPLIANCE SPECIAL MAGISTRATE
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH,
FLORIDA,

Petitioner,

vs.

FMB CASE NO. 20241095

TONINO DIMILLO TRUST + LYNN
JACKSON DIMILLO TRUST,

Respondent.

ORDER CONTINUING HEARING

THIS CAUSE came before the undersigned Special Magistrate on June 3, 2025, for a hearing regarding alleged violations of the Town of Fort Myers Beach Code of Ordinances at the property located at 5790 Estero Blvd., Fort Myers Beach, Florida 33931. Respondent Tonino Dimillo Trust + Lynn Jackson Dimillo Trust was not present at the hearing. Due to concerns regarding the adequacy of notice to Respondent, and in the interest of ensuring due process, the Special Magistrate hereby ORDERS as follows:

1. The hearing in this matter is continued to August 5, 2025, at 9:00 A.M., or as soon thereafter as the matter may be heard, at the Fort Myers Beach Town Hall Council Chambers, 2731 Oak Street, Fort Myers Beach, FL 33931.
2. The Town of Fort Myers Beach shall make additional efforts to provide proper notice to Respondent of the continued hearing date, in accordance with applicable laws and regulations.
3. If proper notice is achieved, the case will be heard on its merits at the continued hearing.

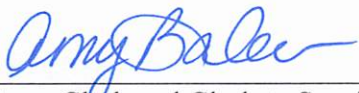
DONE AND ORDERED this 4th day of June, 2025, at the Division of Administrative Hearings, Tallahassee, Florida.


John G. Van Laningham
Special Magistrate

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of this Order has been furnished to
by U.S. mail this 4 day of June, 2025, to:

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
30 Stonegate St
Stouffville On L4A2C1, Canada

BY: 
Town Clerk and Clerk to Special Magistrate

Dated June 4, 2025



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

DOAH Case No. _____

FMB Case No. 20241095

vs.

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust,
Respondent,

Notice of 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 hereby gives notice that a Special Magistrate hearing is scheduled at **9:00 A.M. Tuesday, June 3, 2025**, before the Honorable John G. Van Laningham at Fort Myers Beach Town Hall Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931. The violation is as described on Notice of Violation issued on the 13th day of November 2024 by the undersigned Code Enforcement Officer.

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:

<https://www.fortmyersbeachfl.gov/1294/Public-Notices>

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 carried out to determine compliance. Telephone Number (239)765-0202

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISIONS OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH AT 2731 OAK STREET, FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE AND TIME.

FORT MYERS BEACH ESTERO ISLAND

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



IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH AS 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.

For Petitioner:

Nancy Stuparich

Florida Bar No. 646342

Vose Law Firm, LLP

324 W. Morse Blvd.

Winter Park, FL 32789-4294

Chloe Berryman

Florida Bar No. 1032129

Vose Law Firm, LLP

324 W. Morse Blvd.

Winter Park, FL 32789-4294

Thomas Yozzo

Emergency Services Director

Town of Fort Myers Beach

2731 Oak Street

Fort Myers Beach, FL 33931

Amy Baker

Town Clerk

Town of Fort Myers Beach

2731 Oak Street

Fort Myers Beach, FL 33931

For Respondent:

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

30 Stonegate St

Stouffville On L4A2C1, Canada

Signed this 25 day of April, 2025

Thomas Yozzo, Emergency Services Director

FORT MYERS BEACH ESTERO ISLAND

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

HEARING

EXHIBIT

A

- Notice of Hearing and Affidavit of Posting



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

DOAH Case No. _____

FMB Case No. 20241095

vs.

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust,
Respondent,

Notice of 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 hereby gives notice that a Special Magistrate hearing is scheduled at **9:00 A.M. Tuesday, June 3, 2025**, before the Honorable John G. Van Laningham at Fort Myers Beach Town Hall Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931. The violation is as described on Notice of Violation issued on the 13th day of November 2024 by the undersigned Code Enforcement Officer.

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:

<https://www.fortmyersbeachfl.gov/1294/Public-Notices>

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 carried out to determine compliance. Telephone Number (239)765-0202

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISIONS OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH AT 2731 OAK STREET, FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE AND TIME.

FORT MYERS BEACH ESTERO ISLAND

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



IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE WITH RESPECT TO ANY MATTER CONSIDERED AT HEARING, SUCH AS 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.

For Petitioner:

Nancy Stuparich

Florida Bar No. 646342

Vose Law Firm, LLP

324 W. Morse Blvd.

Winter Park, FL 32789-4294

Chloe Berryman

Florida Bar No. 1032129

Vose Law Firm, LLP

324 W. Morse Blvd.

Winter Park, FL 32789-4294

Thomas Yozzo

Emergency Services Director

Town of Fort Myers Beach

2731 Oak Street

Fort Myers Beach, FL 33931

Amy Baker

Town Clerk

Town of Fort Myers Beach

2731 Oak Street

Fort Myers Beach, FL 33931

For Respondent:

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

30 Stonegate St

Stouffville On L4A2C1, Canada

Signed this 25 day of April, 2025

Thomas Yozzo, Emergency Services Director

FORT MYERS BEACH ESTERO ISLAND

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



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
30 Stonegate St
Stouffville, ON L4AC21

Respondent,

FMB Case Number:	20241095
Certified Mail:	
Regular Mail:	
DOAH Case Number:	

Site Address: 5790 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No.334624W20030B0080

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241095 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 at the property of 5790 Estero Blvd, Fort Myers Beach, FL 33931.

FORT MYERS BEACH ESTERO ISLAND

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



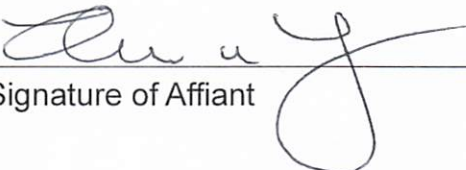
1. I personally mailed by regular and certified mail a copy of the Notice of Hearing scheduled 06/03/2025 to the following:
 - a. Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
30 Stonegate St
Stouffville, ON L4A2C1
Certified Mail No. 70222410000084701617
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 5790 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 29th day of April 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 29th day of April 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 30th day of April 2025.



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.

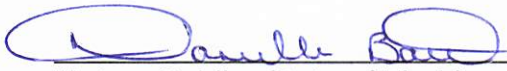
x 
Signature of Affiant

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 30th day of April, 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 14 2026

FORT MYERS BEACH ESTERO ISLAND

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

7022 2410 0000 8470 1617

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
\$ **Town of Fort Myers Beach**

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

Sent by: DB

Postmark
Here

Postage

\$
Total Postage and Fees
\$ **9.64**

NOH 6/3/25
20241055
5790 ESTUD

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
5790 Estero Blvd
Fort Myers Beach, FL 33931

PS Form 3800, April 2015 PSN 7530-02-000-9031 See Reverse for Instructions



rd
3931

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
5790 Estero Blvd
Fort Myers Beach, FL 33931

FIRST-CLASS



US POSTAGE PAID PITNEY BOWES

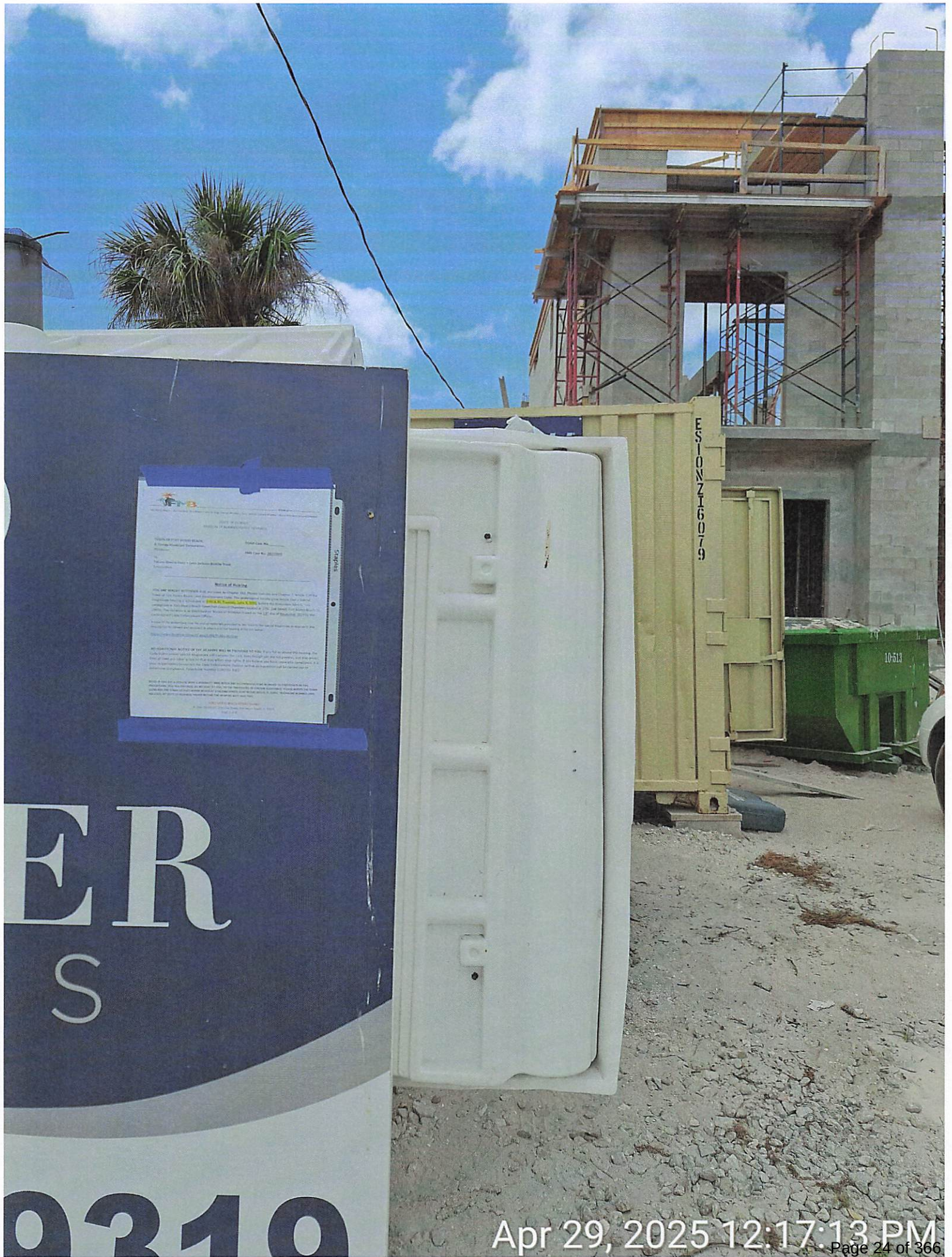
ZIP 33931
02 7H

\$ 000.69⁰

Town of Fort Myers Beach
APR 29 2025

Sent by:





0241086

utes and Chapter 2, Article V of the
reby gives notice that a Special
for the Honorable John G. Van
2731 Oak Street, Fort Myers Beach, FL
13th day of November 2024 by the

Special Magistrate in relation to this
w:

U. If you fail to attend this hearing, the
ugh you are not present, and may assess
ieve you have come into compliance, it is
an inspection can be carried out to

ATIONS IN ORDER TO PARTICIPATE IN THIS
IF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN
ERS BEACH, FL 33931; TELEPHONE NUMBER (239)
AL.

ISLAND
Myers Beach, FL 33931



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

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

vs.
Tonino Dimillo Trust + Lynn Jackson Dimillo Trust,
Respondent,

DOAH Case No. _____

FMB Case No. 20241095

Notice of 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 hereby gives notice that a Special Magistrate hearing is scheduled at **9:00 A.M. Tuesday, June 3, 2025**, before the Honorable John G. Van Laningham at Fort Myers Beach Town Hall Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931. The violation is as described on Notice of Violation issued on the 13th day of November 2024 by the undersigned Code Enforcement Officer.

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:

<https://www.fortmyersbeachfl.gov/1294/Public-Notices>

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 carried out to determine compliance. Telephone Number (239) 765-0202

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISIONS OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH AT 2731 OAK STREET, FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE AND TIME.

FORT MYERS BEACH ESTERO ISLAND
P. 239-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931
Page 1 of 2



Dan Allers, Mayor | Jim Atterholt, Vice Mayor

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

vs.
Privateer of FT Myers Beach,
Respondent,

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 hereby gives notice that a Special Magistrate hearing is scheduled at 9:00 A.M. Tuesday, June 3, 2025, before the Honorable John G. Van Laningham at Fort Myers Beach Town Hall Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931. The violation is as described on Notice of Violation issued on the 13th day of November 2024 by the undersigned Code Enforcement Officer.

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:

<https://www.fortmyersbeachfl.gov/1294/Public-Notices>

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 carried out to determine compliance. Telephone Number (239) 765-0202

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISIONS OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH AT 2731 OAK STREET, FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE AND TIME.

P. 239-765-0202





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
DIVISION OF ADMINISTRATIVE HEARINGS

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

DOAH Case No. _____

FMB Case No. 20241095

vs.

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust,
Respondent,

Notice of 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 hereby gives notice that a Special Magistrate hearing is scheduled at **9:00 A.M. Tuesday, June 3, 2025**, before the Honorable John G. Van Laningham at Fort Myers Beach Town Hall Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931. The violation is as described on Notice of Violation issued on the 13th day of November 2024 by the undersigned Code Enforcement Officer.

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:

<https://www.fortmyersbeachfl.gov/1294/Public-Notices>

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 carried out to determine compliance. Telephone Number (239)765-0202

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISIONS OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN CLERK FOR THE TOWN OF FORT MYERS BEACH AT 2731 OAK STREET, FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239) 765-0202, AT LEAST 72 BUSINESS HOURS BEFORE THE HEARING DATE AND TIME.

FORT MYERS BEACH ESTERO ISLAND

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

Page 1 of 2

Staples.

Property Data

STRAP: 33-46-24-W2-0030B.0080 Folio ID: 10230365

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

Generated on 4/23/2025 12:33 PM

Owner Of Record - Tenants in Common
[\[Change Mailing Address\]](#)



TONINO DIMILLO TRUST +
LYNN JACKSON DIMILLO
TRUST
30 STONEGATE ST
STOUFFVILLE ON L4A 2C1
CANADA

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



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

Site Address
Site Address maintained by E911 Program Addressing

5790 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description
Do not use for legal documents!



MC PHIE PARK UNIT 1 BLK B PB
8 PG 52 LOT 8

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

Use this link to do an Official Records
search on the Lee County Clerk of
Courts website, using 8 and 52 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	33	0030B	0080

MunicipalityLatitude Longitude

Town of Fort 26.42777-81.91114

Myers

Beach

[View Parcel on Google Maps](#)

Image of Structure



◀ Photo Date January of 2025 ▶ ☐ View other photos

Last Inspection Date: 01/13/2025

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	CI
2024 / Additional Info	2024 (Final Value)	3,649,740	3,647,869	3,649,740	2,452,016	0	
2023 / Additional Info	2023 (Final Value)	2,655,077	2,653,206	2,655,077	2,229,105	0	
2022 / Additional Info	2022 (Final Value)	2,913,185	2,110,350	2,913,185	2,026,459	0	
2021 / Additional Info	2021 (Final Value)	1,943,768	1,279,000	1,943,768	1,842,235	0	
2020 / Additional Info	2020 (Final Value)	1,674,759	1,279,000	1,674,759	1,674,759	0	
2019 / Additional Info	2019 (Final Value)	1,629,537	1,184,250	1,629,537	1,608,580	0	
2018 / Additional Info	2018 (Final Value)	1,576,233	1,184,250	1,576,233	1,458,361	0	
2017 / Additional Info	2017 (Final Value)	1,465,595	947,400	1,465,595	1,325,783	0	
2016	2016 (Final Value)	1,404,281	947,400	1,404,281	1,200,521	0	
2015	2015 (Final Value)	1,262,599	947,400	1,262,599	1,091,383	0	

2014	2014 (Final Value)	1,209,996	947,400	1,209,996	992,166	0
2013	2013 (Final Value)	1,116,684	725,700	1,116,684	901,969	0
2012	2012 (Final Value)	819,972	770,000	819,972	819,972	0
2011	2011 (Final Value)	913,765	800,000	913,765	913,765	0
2010	2010 (Final Value)	1,093,287	980,000	1,093,287	1,093,287	0
	2009 (Final Value)	1,196,200	1,080,000	1,196,200	1,196,200	0
	2008 (Final Value)	1,185,390	1,081,000	1,185,390	1,185,390	0
	2007 (Final Value)	1,716,230	1,600,000	0	1,716,230	25,000
	2006 (Final Value)	1,822,310	1,760,000	0	1,822,310	25,000
	2005 (Final Value)	1,501,300	1,360,000	0	1,501,300	25,000
	2004 (Final Value)	1,457,880	1,360,000	0	1,457,880	25,000
	2003 (Final Value)	897,890	800,470	0	897,890	0
	2002 (Final Value)	676,170	522,720	0	676,170	0

	2001 (Final Value)	466,330	345,000	0	466,330	0
	2000 (Final Value)	402,000	300,000	0	402,000	0
	1999 (Final Value)	387,020	285,000	0	387,020	0
	1998 (Final Value)	342,780	285,000	0	342,780	0
	1997 (Final Value)	345,870	275,000	0	345,870	0
	1996 (Final Value)	296,470	200,000	0	296,470	0
	1995 (Final Value)	227,040	150,000	0	227,040	0
	1994 (Final Value)	223,250	150,000	0	223,250	0
	1993 (Final Value)	277,540	150,000	0	277,540	0
	1992 (Final Value)	249,410	150,000	0	249,410	0

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 4/22/2025)
Generated on 4/23/2025 12:33 PM

Land		Land Tracts	
Use Code	Use Code Description	Number of Units	Unit of Measure
0	Vacant Residential	1.00	Lot
Land Features		Year Added	Units
Description			
SLAB - CONCRETE		1987	450
SEAWALL - CONCRETE		1946	60

 Property Details (2024 Tax Roll)
Generated on 4/23/2025 12:33 PM

Land		Land Tracts	
Use Code	Use Code Description	Number of Units	Unit of Measure
0	Vacant Residential	1.00	Lot
Land Features		Year Added	Units
Description			
SLAB - CONCRETE		1987	450

Taxing Authorities

Generated on 4/23/2025 12:33 PM

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
33902-0398FORT MYERS BEACH FIRE
CONTROL DIST / 032Independent
DistrictFORT MYERS BEACH
FIRE CONTROL DIST
100 VOORHIS ST
FORT MYERS BEACH FL
33931FORT MYERS BEACH
MOSQUITO CONTROL / 035Independent
DistrictFORT MYERS BEACH
MOSQUITO CONTROL
PO BOX 2837
FORT MYERS BEACH FL
33932-2837FORT MYERS BEACH PUBLIC
LIBRARY DIST / 033Independent
DistrictFORT MYERS BEACH
PUBLIC LIBRARY DIST
2755 ESTERO BLVD
FORT MYERS BEACH FL
33931LEE CO HYACINTH CONTROL
DIST / 051Independent
DistrictLEE CO HYACINTH
CONTROL DIST
15191 HOMESTEAD RD
LEHIGH ACRES FL
33971WEST COAST INLAND
NAVIGATION DIST / 098Independent
DistrictWEST 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 4/23/2025 12:33 PM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
1,700,000.00	06/09/2008	2008000158877	06		
2,010,000.00	06/24/2005	4809/1143	06		
100.00	06/24/2005	4809/1141	01		
1,900,000.00	03/24/2005	4643/2136	08		
100.00	04/22/2004	4308/669	01		

240,000.00	09/01/1987	1940/2900	06	
100.00	09/01/1987	1940/2898	01	

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

Use the above link to do a search on the Lee County Clerk of Courts website, using **8** and **52** 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

Generated on 4/23/2025 12:33 PM

Permit Number	Permit Type	Date
241646	Building New Construction	09/11/2024
230068	Demolition	01/05/2023
224743	Mobile Home	12/08/2022
FNC17-0115	Fence	06/11/2018
BLD16-0225	Building Window / Door Replacement	11/23/2016
BLD16-0019	Building Miscellaneous	02/25/2016
MEC15-0398	AC New / Change out	12/17/2015
ROF2005-08195	Roof	11/27/2007
RES2006-01084	Residential	04/12/2006
ROF2005-06069	Roof	07/18/2005
ROF2005-05326	Roof	06/14/2005

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 4/23/2025 12:33 PM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
33-46-24-03-0000B.0080	N/A	Reserved for Renumber ONLY	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 4/23/2025 12:33 PM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	R - Residential Category		0	0.00
Garbage Thursday	Collection Days Thursday	Recycling Thursday	Horticulture Thursday	

Flood and Storm Information

Generated on 4/23/2025 12:33 PM

Community	Panel	Flood Insurance Find my flood zone	Version	Date	Evacuation Zone
071C	0566	G		11/17/2022	A

Generated on 4/23/2025 12:33 PM

Prepared by:
Jocelyne A. Mufalli
Accent Title Insurance Agency, Inc.
11050 Summerlin Square Drive
Fort Myers Beach, Florida 33931

File Number: 08-2078

Fee 22.50
due 11,900
11,922.50

General Warranty Deed

Made this June 9, 2008 A.D., By **LARRY KIKER and PAULA KIKER**, husband and wife, whose post office address is: P.O. Box 2826, Fort Myers Beach, Florida 33932, hereinafter called the grantor, to **TONINO DIMILLO**, Trustee of the **Tonino Dimillo Living Trust Agreement dated May 27, 2008** and **LYNN JACKSON DIMILLO**, Trustee of the **Lynn Jackson Dimillo Living Trust Agreement dated May 27, 2008**, each as to an undivided one-half (1/2) interest as tenants in common, with full power and authority either to protect, conserve and to sell, or to lease, or to encumber, or otherwise to manage and dispose of the real property described in this Deed, whose post office address is: 30 Stonegate Street, Gormley, Ontario L0H 1G0 Canada, hereinafter called the grantee:

(Whenever used herein the term "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)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Lee County, Florida, viz:

See Attached Schedule A

Parcel ID Number: 33-46-24-W2-0030B.0080

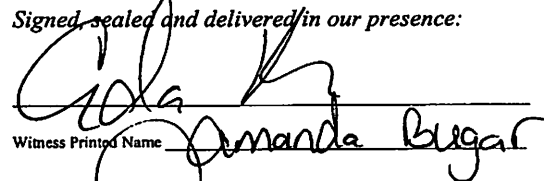
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

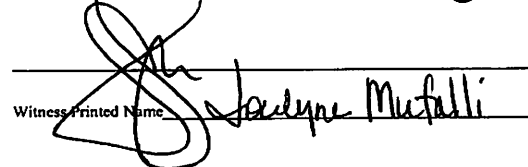
To Have and to Hold, the same in fee simple forever.

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 December 31, 2007.

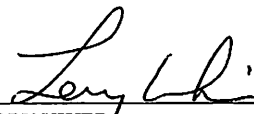
In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

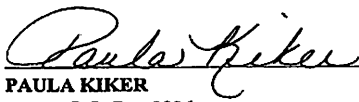
Signed, sealed and delivered in our presence:


Witness Printed Name Amanda Bugar

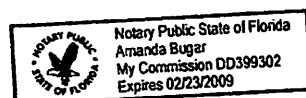

Witness Printed Name Jocelyne Mufalli

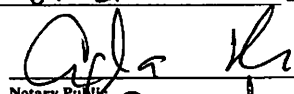
State of Florida
County of Lee


LARRY KIKER (Seal)
Address: P.O. Box 2826
Fort Myers Beach, Florida 33932


PAULA KIKER (Seal)
Address: P.O. Box 2826
Fort Myers Beach, Florida 33932

The foregoing instrument was acknowledged before me this 9th day of June, 2008, by LARRY KIKER and PAULA KIKER, husband and wife, who is/are personally known to me or who has produced FL DR Lic as identification.




Notary Public
Print Name: Amanda Bugar
My Commission Expires: 2/23/09

Prepared by:

Jocelyne A. Mufalli

Accent Title Insurance Agency, Inc.

11050 Summerlin Square Drive

Fort Myers Beach, Florida 33931

File Number: 08-2078

SCHEDULE "A"

Lot 8, Block B, McPhie Park Unit No. One, according to the map or plat thereof, as recorded in Plat Book 8, Page 52, of the Public Records of Lee County, Florida.

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



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.



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/1vCBHhwpTdKXBX877OIRInmTin2M8k9/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

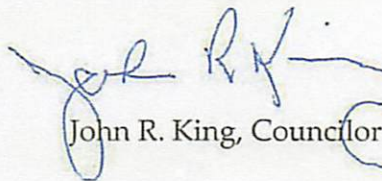
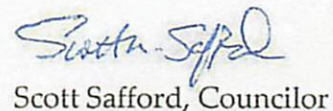
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

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



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

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.



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.
- [REDACTED]
- [REDACTED]

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. [REDACTED]



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



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.

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.

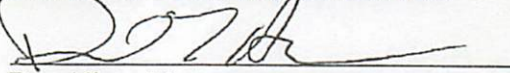
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

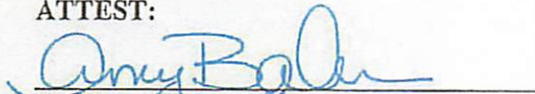
APPROVED AND ADOPTED this 16th day of December 2024, by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



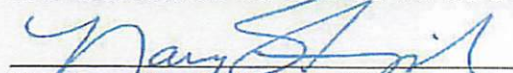
Dan Allers, Mayor

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.

HEARING

EXHIBIT

C

- Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931

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

11/13/2024

Case Number:	20241095
Certified Mail:	9589071052700183635928
Regular Mail	

TONINO DIMILLO TRUST + LYNN JACKSON
DIMILLO TRUST
30 STONEGATE ST
STOUFFVILLE, ON L4A 2C1

SITE ADDRESS: 5790 ESTERO BLVD
PARCEL STRAP NO: 334624W20030B0080

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 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.

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 239-292-3568 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.

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
30 Stonegate St
Stouffville, ON L4A2C1

Respondent,

FMB Case Number:	20241095
Certified Mail:	
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Site Address: 5790 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 334624W20030B0080

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241095 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 for the property 5790 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. Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
30 Stonegate St
Stouffville, ON L4A2C1
Registered Mail No. RF734581958US
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 5790 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 13th day of November 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 13th day of November 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 13th day of November, 2024.



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 25 day of April, 2025, by Thomas Yozzo. He ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

Tracie Raski
Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

Registered No. RF724581958US		Date Stamp 04:00 03
To Be Completed By Post Office	Postage \$ 1.65	Extra Services & Fees (continued)
	Extra Services & Fees ☐ Registered Mail \$ 1.75	☐ Signature Confirmation \$
	☐ Return Receipt (hardcopy) \$ 06.10	☐ Signature Confirmation Restricted Delivery \$
	☐ Return Receipt (electronic) \$ 00.00	Total Postage & Fees \$ 29.50
	☐ Restricted Delivery \$ 00.00	
Customer Must Declare Full Value \$ 00.00		Received by 11/14/2024

Domestic Insurance up to \$50,000 is included based upon the declared value. International indemnity is limited. (See Reverse).

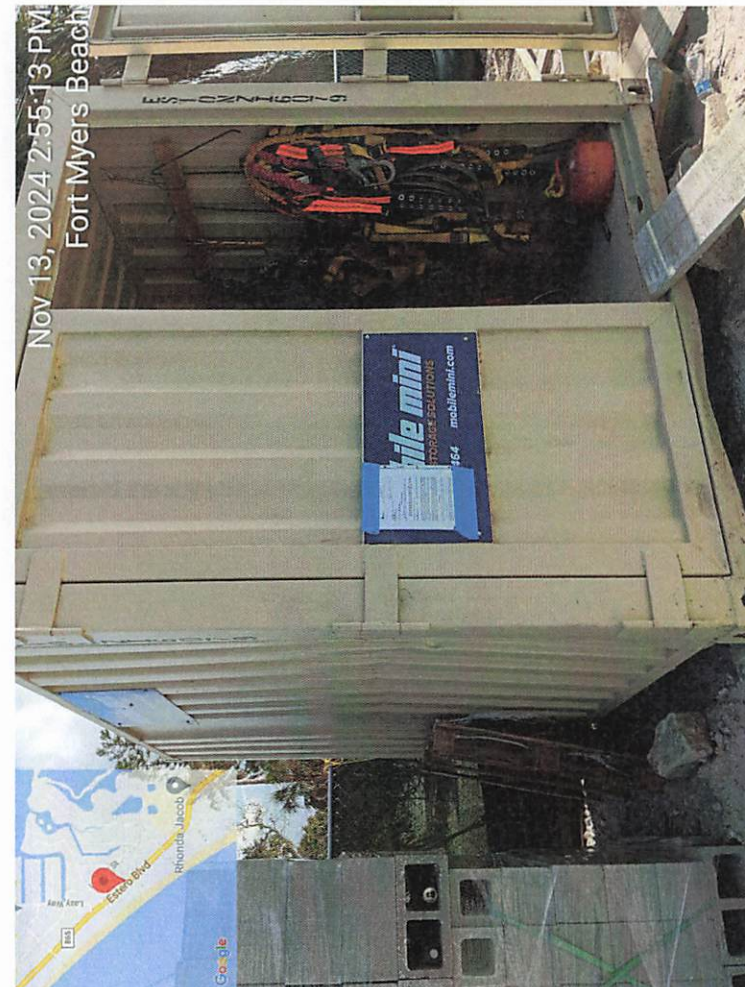
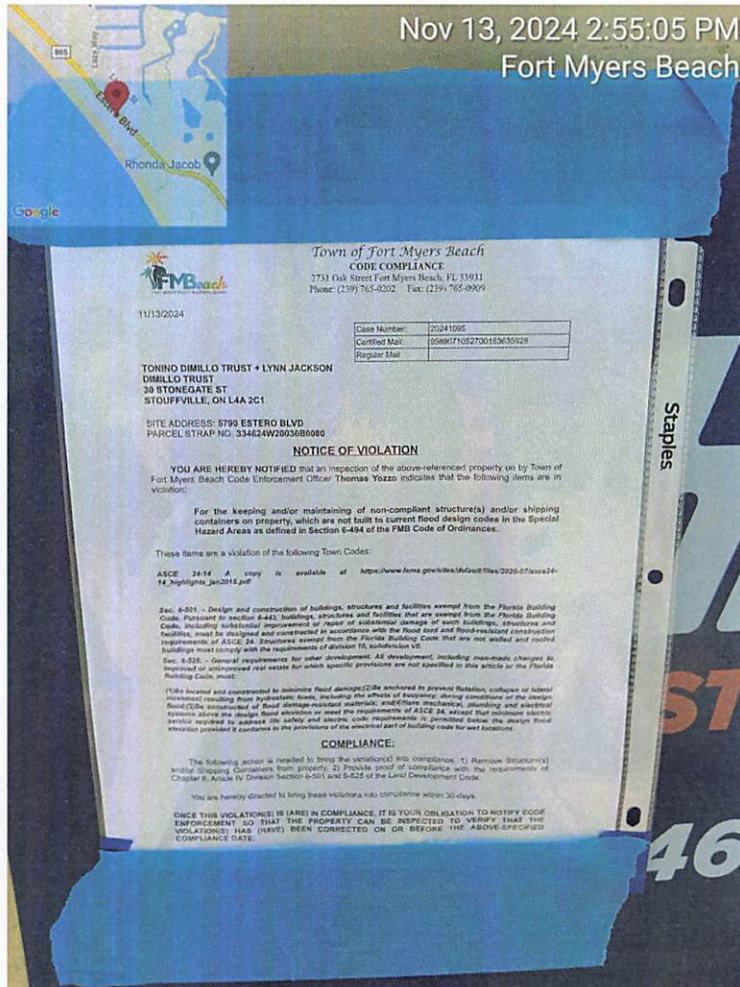
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	TOWERT WERS BEACH MEYERS BEACH 2731 Oak Street FL. Myers Beach, FL 33931 USA
	TO	Tonino Dimillo Trust + Lynn Jackson Dillo 30 Stouffville St. Stouffville, ON L4A 2C1 Canada

PS Form 3806, Registered Mail Receipt
April 2015, PSN 7530-02-000-9051

Copy 1 - Customer

(See Information on Reverse)

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





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

11/13/2024

Case Number:	20241095
Certified Mail:	9589071052700183635928
Regular Mail:	

TONINO DIMILLO TRUST + LYNN JACKSON
DIMILLO TRUST
30 STONEGATE ST
STOUFFVILLE, ON L4A 2C1

SITE ADDRESS: 5790 ESTERO BLVD
PARCEL STRAP NO: 334624W20030B0080

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 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.

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 also schedule the case for

NOV 14, 2024 7:57:57 AM

HEARING

EXHIBIT

D

- Status of Compliance



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

04/01/2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
Respondent.

Case Number:	20241095
Certified Mail:	
Regular Mail:	

Site Address: **5790 Estero Blvd**
Parcel Strap No.: **334624W20030B0080**

AFFIDAVIT OF NON-COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

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

1. I, D. Batt, 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 10/28/2024 , Tonino Dimillo Trust + Lynn Jackson Dimillo Trust (property owner) was observed in violation of ASCE 24-14, 6-501, and 6-525 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 at the property located at 5790 ESTERO BLVD, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 11/13/2024, and sent certified mail to the address of record, 30 Stonegate St, Stouffville, ON L4A2C1, posted to the violation property located at 5790 ESTERO BLVD, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.
4. Tonino Dimillo Trust + Lynn Jackson Dimillo Trust was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 12/13/2024.
5. I performed an inspection of the Subject Property on 04/15/2025, and the Subject Property was observed to be non-compliant with the Town of Fort Myers Beach Ordinance.
6. I have attached photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on 04/15/2025. 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.

9.

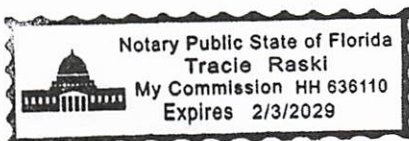
FURTHER AFFIANT SAYETH NAUGHT.

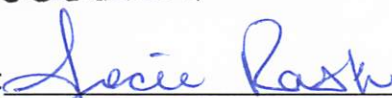
Signature of Affiant: 

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 30 day of April, 2025, by Danielle Batt, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

(SEAL)



Notary Public Signature: 





Apr 15 2025 10:32:00 AM



Apr 15 2025 10:32:11 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.

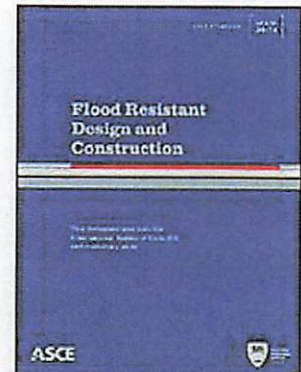
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (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.

Property Address and Owner:

Hearing Date: August 5, 2025

FMB Case # 20250264

Property Owner: Costantini Edmond D Jr & Costantini Patricia A

Property Address: 8387 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20250264_Hearing Exhibit A_Notice of Hearing
2. 20250264_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250264_Hearing Exhibit C_Notice of Violation
4. 20250264_Hearing Exhibit D_Status of Compliance
5. 20250264_Hearing Exhibit E_Violated Regulations

Town Recommendations:

Town Approvals:

_____	Date: July 28, 2025
Thomas Yozzo, Emergency Services Director	
_____	Date: July 28, 2025
Traci Kohler, Deputy Town Manager	
_____	Date: July 29, 2025
nancy stuparich, Town Attorney	
_____	Date: July 29, 2025
Lizzette Roman, Town Clerk Administrative Coordinator	
_____	Date: July 30, 2025
Amy Baker, Town Clerk	

Hearing Exhibit

A

Notice of Hearing and Affidavit of Posting



7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

COSTANTINI EDMOND D JR & COSTANTINI PATRICIA A
12 Sunnys Way
Newton Square, PA 19073

Respondent.

Case Number:	20250264
Certified Mail:	70222410000084714563
Regular Mail:	Standard 1 st Class

Site Address: 8387 Estero Blvd, Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W3-00253.0000

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

P. 239-765-0202 | F. 239-765-0909 | 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. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

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

Emergency Services Director
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

FORT MYERS BEACH, ESTERO ISLAND

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



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Costantini Edmond D JR & Costantini Patricia A
12 Sunnys Way
Newton Square, PA 19073

Respondent,

FMB Case Number:	20250264
Certified Mail:	70222410000084714563
Regular Mail:	Standard 1st Class
DOAH Case Number:	Not Assigned

Site Address: 8387 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 34-47-24-W3-00253.0000

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is a Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250264 that certain Notice Of Special Magistrate DOAH Hearing. Presented as Hearing Exhibit A (" The Notice")

FORT MYERS BEACH ESTERO ISLAND

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



I personally mailed by certified mail & first class service a copy of the Notice of Hearing to the following:

- a. Costantini Edmond D JR & Costantini Patricia A
12 Sunnys Way
Newton Square, PA 19073
Certified Mail No. 70222410000084714563
(Listed Leepa.org Property Owner Address)

- b. N/A

Certified Mail No.
(Listed Registered Agent)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 8387 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 23rd day of July 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
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 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 23rd day of July 2025 are attached in Hearing Exhibit A.
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 23rd day of July, 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.



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 23 day of July, 2025, by T. Yozzo He ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

[Signature]
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

7022 2410 0000 8471 4563

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	20250264
\$	
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$ Town of Fort Myers Beach
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$ JUL 22 2025
☐ Adult Signature Restricted Delivery	\$
Postage	Sent by: _____
\$	
Total Postage and Fees	8387 EST 620 Bld
COSTANTINI EDMOND D JR & COSTANTINI	
PATRICIA A	
12 SUNNYS WAY	
NEWTOWN SQUARE, PA 19073	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Jul 23, 2025 12:51:07 PM

Fort Myers Beach

SUPER

Carlos Point

Estero Blvd

Lover's
State Park be

Google

Carlos Pass, FL



FMBgov.com

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

7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

COSTANTINI EDMOND D JR & COSTANTINI PATRICIA A
12 Sunnys Way
Newton Square, PA 19073

Respondent.

Site Address: 8387 Estero Blvd, Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W3-00253.0000

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

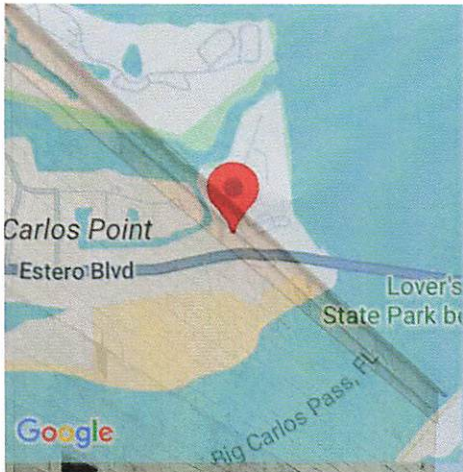
A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

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

FORT MYERS BEACH, ESTERO ISLAND
P. 439-765-0202 | F. 339-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(04/06/2024)

Jul 23, 2025 12:51:29 PM
Fort Myers Beach



Jul 23, 2025 4:39:16 PM
Fort Myers Beach



the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

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



FMBgov.com

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

7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

COSTANTINI EDMOND D JR & COSTANTINI PATRICIA A
12 Sunnys Way
Newton Square, PA 19073

Respondent.

Case Number:	20250264
Certified Mail:	70222410000084714563
Regular Mail:	Standard 1 st Class

Site Address: 8387 Estero Blvd, Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W3-00253.0000

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

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

(Last 06/2024)

Staples



Property Data

STRAP: 03-47-24-W3-00253.0000 Folio ID: 10234147

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

Generated on 7/22/2025 6:24 PM

Owner Of Record - Tenants by Entirety

[\[Change Mailing Address\]](#)[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)

Tax Map

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

COSTANTINI EDMOND D JR &
COSTANTINI PATRICIA A
12 SUNNYS WAY
NEWTOWN SQUARE PA 19073

Site Address

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

8387 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



LAGUNA SHORES UNIT 2 PB 9 PG 84 LOT 53

[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 84 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	6 / 4.5
1st Year Building on Tax Roll	N/A
Historic Designation	No

Township	Range	Section	Block	Lot
47	24E	03	00253	0000
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.40522	-81.88541		

[View Parcel on Google Maps](#)

Image of Structure


[◀ Photo Date January of 2025 ▶](#) ☐ View other photo

Last Inspection Date: 01/22/2025

Property Values / Exemptions / TRIM Notices

Generated on 7/22/2025 6:24 PM

Exemption

Amount

Homestead Exemption

Additional Homestead Exemption

2025 Homestead Exemption Renewal Card

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
2024 / Additional Info	2024 (Final Value)	747,298	740,179	747,298	612,052	50,000	0	
2023 / Additional Info	2023 (Final Value)	594,225	594,215	594,225	594,225	50,000	0	
2022 / Additional Info	2022 (Final Value)	978,623	347,800	978,623	690,668	50,000	0	
2021 / Additional Info	2021 (Final Value)	670,551	331,250	670,551	670,551	50,000	0	
2020 / Additional Info	2020 (Final Value)	613,704	331,250	613,704	557,790	50,000	0	
2019 / Additional Info	2019 (Final Value)	591,896	265,000	591,896	545,249	50,000	0	
2018 / Additional Info	2018 (Final Value)	597,539	265,000	597,539	535,082	50,000	0	
2017 / Additional Info	2017 (Final Value)	524,076	240,700	524,076	524,076	50,000	0	
2016	2016 (Final Value)	535,787	240,700	535,787	535,787	50,000	0	
2015	2015 (Final Value)	551,203	240,700	551,203	551,203	0	0	
2014	2014 (Final Value)	512,296	240,700	512,296	512,296	0	0	
2013	2013 (Final Value)	442,909	162,500	442,909	301,744	50,000	0	
2012	2012 (Final Value)	431,201	230,000	431,201	296,700	50,000	0	
2011	2011 (Final Value)	500,473	300,000	500,473	288,058	50,000	0	
2010	2010 (Final Value)	469,837	320,000	469,837	283,801	50,000	0	
	2009 (Final Value)	565,030	420,000	565,030	276,340	50,000	0	
	2008 (Final Value)	727,180	525,000	727,180	276,070	50,000	0	
	2007 (Final Value)	825,180	625,000	0	268,030	25,000	0	
	2006 (Final Value)	881,910	650,000	0	227,060	25,000	0	
	2005 (Final Value)	538,530	375,000	0	220,450	25,000	0	
	2004 (Final Value)	490,780	346,500	0	225,650	25,000	0	
	2003 (Final Value)	439,550	275,000	0	221,440	25,000	0	
	2002 (Final Value)	322,960	150,000	0	216,250	25,000	0	
	2001 (Final Value)	216,310	116,500	0	172,090	25,000	0	
	2000 (Final Value)	181,350	78,000	0	167,080	25,000	0	
	1999 (Final Value)	173,270	68,500	0	162,690	25,000	0	
	1998 (Final Value)	160,130	68,500	0	160,130	25,000	0	
	1997 (Final Value)	155,860	65,500	0	155,860	25,000	0	
	1996 (Final Value)	141,680	66,490	0	141,680	25,000	0	
	1995 (Final Value)	142,600	66,490	0	142,600	0	0	
	1994 (Final Value)	152,110	75,090	0	152,110	0	0	
	1993 (Final Value)	163,050	78,990	0	163,050	0	0	
	1992 (Final Value)	161,980	66,010	0	161,980	0	0	

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 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 parcels that are primarily 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 Exemption* 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 1% 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.

Property Details (Current as of 7/21/2025)

Generated on 7/22/2025 6:24 PM

Land**Land Tracts**

Use Code	Use Code Description	Number of Units	Unit of Measure
0	Vacant Residential	1.00	Lot

Land Features

Description	Year Added	Un
PIER - RESIDENTIAL	2006	
SEAWALL - CONCRETE	1977	

Buildings**Building 1 of 1****Building Characteristics**

Improvement Type	Model Type	Stories	Living Units
0 - Vacant	0 - VACANT LAND	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year Bui
6	4.5	2025	2025

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAL - BALCONY	N	
BAL - BALCONY	N	
BAS - BASE	Y	
FLG - FINISHED LOWER GARAGE	N	
FLL - FINISHED LOWER LEVEL	N	
FOP - FINISHED OPEN PORCH	N	
FOP - FINISHED OPEN PORCH	N	
FST - FINISHED UTILITY	N	
FUS - FINISHED UPPER STORY	Y	

Building Features

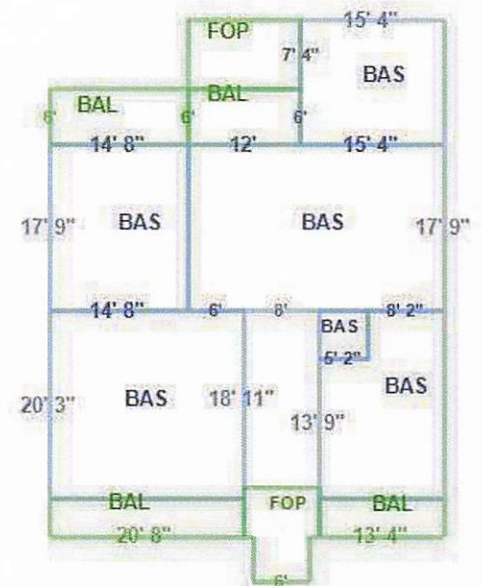
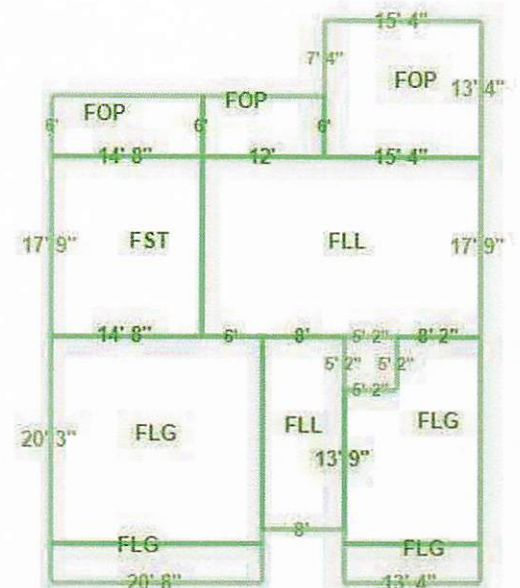
Description	Year Added	Units
XTRA/ADDITIONAL A/C UNITS	2025	
OUTDOOR KITCHEN	2025	

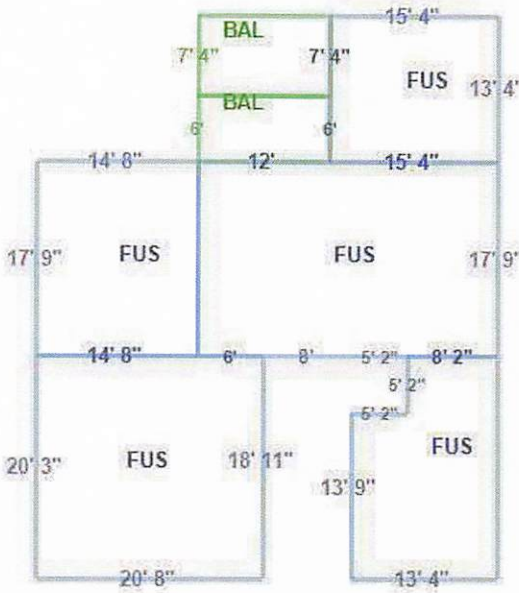
Building Front Photo

Building Footprint



Photo Date: January of 2025





 Property Details (2024 Tax Roll)

Generated on 7/22/2025 6:24 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
0	Vacant Residential	1.00	Lot

Land Features

Description	Year Added	Un
PIER - RESIDENTIAL	2006	
SEAWALL - CONCRETE	1977	

Taxing Authorities

Generated on 7/22/2025 6:24 PM

Sales / Transactions

Generated on 7/22/2025 6:24 PM

Sale Price	Date	Clerk File Number	Type	Notes	Vac Impr
1,019,000.00	01/30/2020	2020000028737	01		
		Sales Questionnaire Complete			
690,000.00	09/16/2013	2013000215446	01		
169,900.00	11/01/1993	2446/1902	06		
100.00	04/01/1993	2383/2002	03		

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

Use the above link to do a search on the Lee County Clerk of Courts website, using **9** and **84** for the book and page numbers and **Plats Book** for the book number.

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

Building / Construction Permit Data

Generated on 7/22/2025 6:24 PM

Permit Number	Permit Type	Date
240155	Site Development - Driveway / Sidewalks	04/04/2024
240047	Building New Construction	03/19/2024
235071	Building Miscellaneous	08/25/2023
230935	Demolition	01/28/2023
210714	Electric	04/27/2021
ELE14-0287	Electric	01/20/2015
BLD14-0164	Shutter, Awning	10/07/2014
ELE14-0188	Electric	07/11/2014
PLB14-0085	Plumbing	07/10/2014
BLD14-0077	Building Remodel / Repair	06/03/2014
ELE14-0013	Electric	01/15/2014
RES2005-16840	Pool & Spa	09/22/2005
RES2005-04323	Building Addition	04/20/2005
RES2000-06836	Building Remodel / Repair	01/17/2001
RES199700965	Building Addition	01/31/1997
199610676	Boathouse, Dock & Shoreline	10/28/1996
RES199606395	Pool & Spa	06/21/1996
POL199604823	Pool & Spa	05/09/1996
805024	Residential	04/21/1988

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 represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding 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 7/22/2025 6:24 PM

Solid Waste (Garbage) Roll Data

Generated on 7/22/2025 6:24 PM

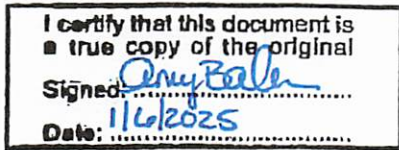
Flood and Storm Information

Generated on 7/22/2025 6:24 PM

Flood Insurance		Find my flood zone		Evacuation Zone
Community	Panel	Version	Date	
071C	0569	G	11/17/2022	A

Hearing Exhibit B

FEMA and Related Ordinances



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



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.

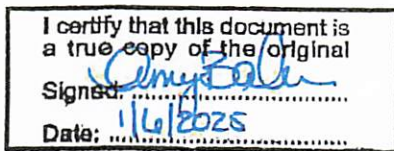
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

www.fema.gov



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:

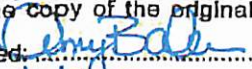
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

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.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- 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,

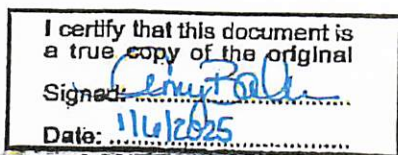


Robert D. Samaan
Regional Administrator

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.

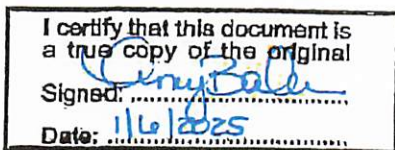
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.

I certify that this document is a true copy of the original

Signed: Cheryl Baker

Date: 11/6/2023



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.

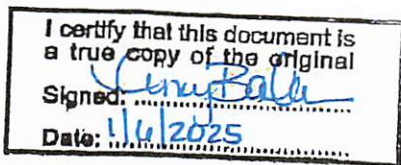
Complete – FEMA needs no further information regarding the specific address.

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

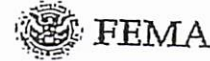
5. Documentation on the Finding Report and Site list:

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



U.S. Department of Homeland Security
Washington, DC 20528



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.

I certify that this document is
a true copy of the original

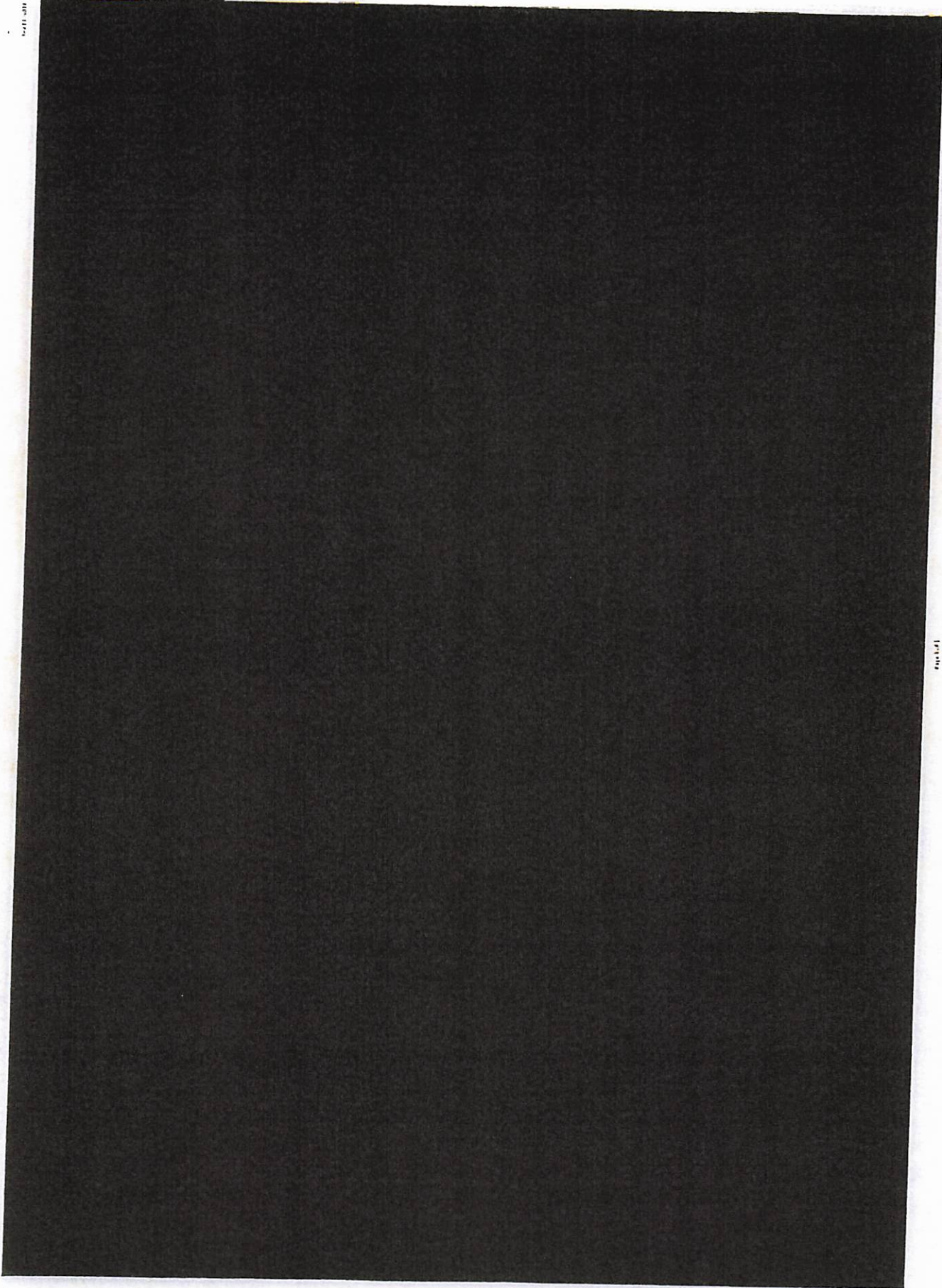
Signed: *[Signature]*

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: C. B. Baker

Date: 11/6/2025



I certify that this document is
a true copy of the original
Signed: Ami Ball
Date: 11/6/2024

FMBgov.com

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

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

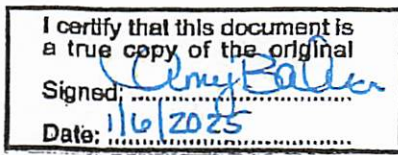
Dear Mr. Samaan,

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.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCB1leawpTJkXB1x877OIRInmTin2M8k9/view?usp=sharing_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other 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.

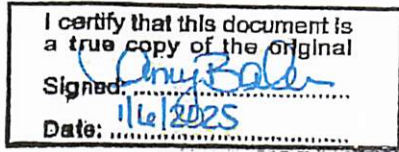
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist 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

FORT MYERS BEACH ESTERO ISLAND

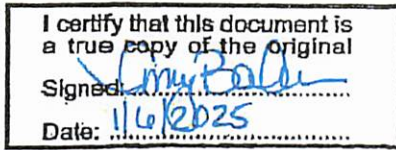
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025



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.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

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



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.

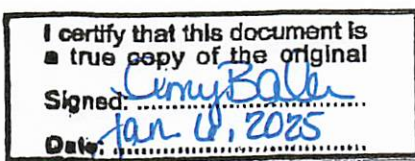
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

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



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.

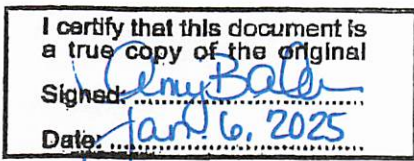
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

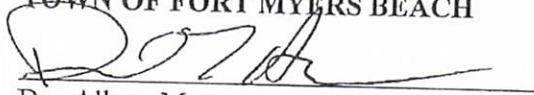
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

Hearing Exhibit C

Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931

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

05/08/2025

Case Number:	20250264
Certified Mail:	70222410000084704168
Regular Mail	

**COSTANTINI EDMOND D JR & COSTANTINI
PATRICIA A
12 SUNNYS WAY
NEWTOWN SQUARE, PA 19073**

**SITE ADDRESS: 8387 ESTERO BLVD
PARCEL STRAP NO: 034724W3002530000**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on **03/27/2025** 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.

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 239-220-6458 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

7022 2410 0000 8470 4168

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	\$ 20250264
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	\$ 8387 ESTERO BLVD
COSTANTINI EDMOND D JR & COSTANTINI PATRICIA A 12 SUNNYS WAY NEWTOWN SQUARE, PA 19073	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

Town of Fort Myers Beach
MAY 08 2025
Sent by: *[Signature]*

May 8, 2025 11:38:02 AM

Fort Myers Beach

Carlos Point

Estero Blvd

Lover's Key B

Google

Big Carlos Pass, FL



05/08/2025

Town of Fort Myers Beach
CODE COMPLIANCE

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

Case Number:	20250264
Certified Mail:	70222410000084704168
Regular Mail:	

COSTANTINI EDMOND D JR & COSTANTINI
PATRICIA A
12 SUNNYS WAY
NEWTOWN SQUARE, PA 19073

SITE ADDRESS: 8387 ESTERO BLVD
PARCEL STRAP NO: 034724W3002530000

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 03/27/2025 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.

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.

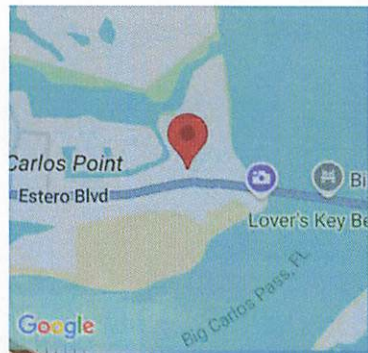
COMPLIANCE:

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 6-525 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

May 8, 2025 11:38:13 AM
Fort Myers Beach



May 8, 2025 8:34:40 AM
Fort Myers Beach



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

Case Number	20250264
Certified Mail	70222410000084704169
Regular Mail	

GOSTANTINI EDMOND D JR & COSTANTINI
PATRICIA A
12 SUNNYS WAY
NEWTOWN SQUARE, PA 19073

SITE ADDRESS: 8387 ESTERO BLVD
PARCEL STRAP NO: 034724W3002530000

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 03/27/2025 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.

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.

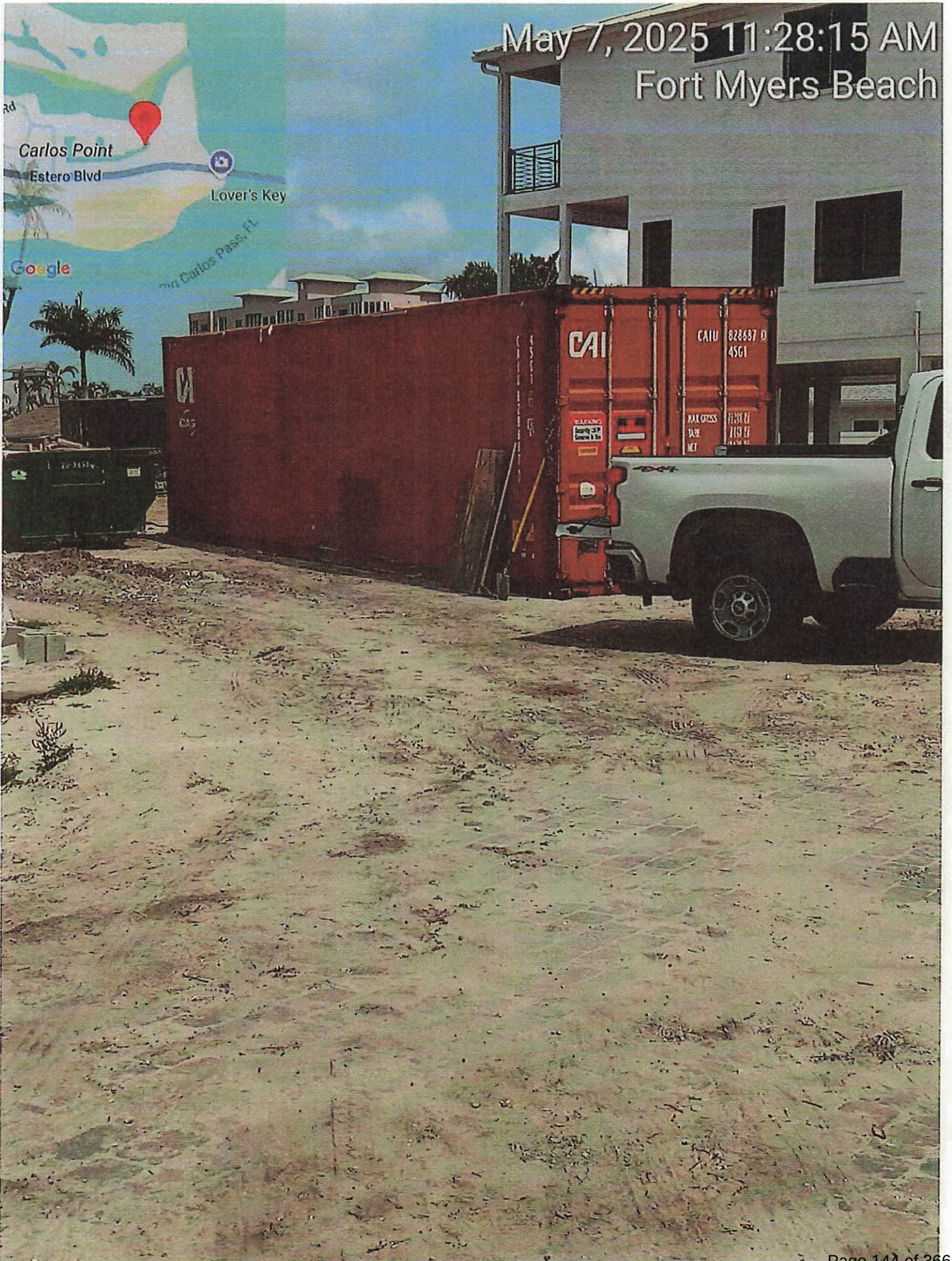
COMPLIANCE:

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

May 7, 2025 11:28:15 AM
Fort Myers Beach



May 7, 2025 11:28:19 AM
Fort Myers Beach

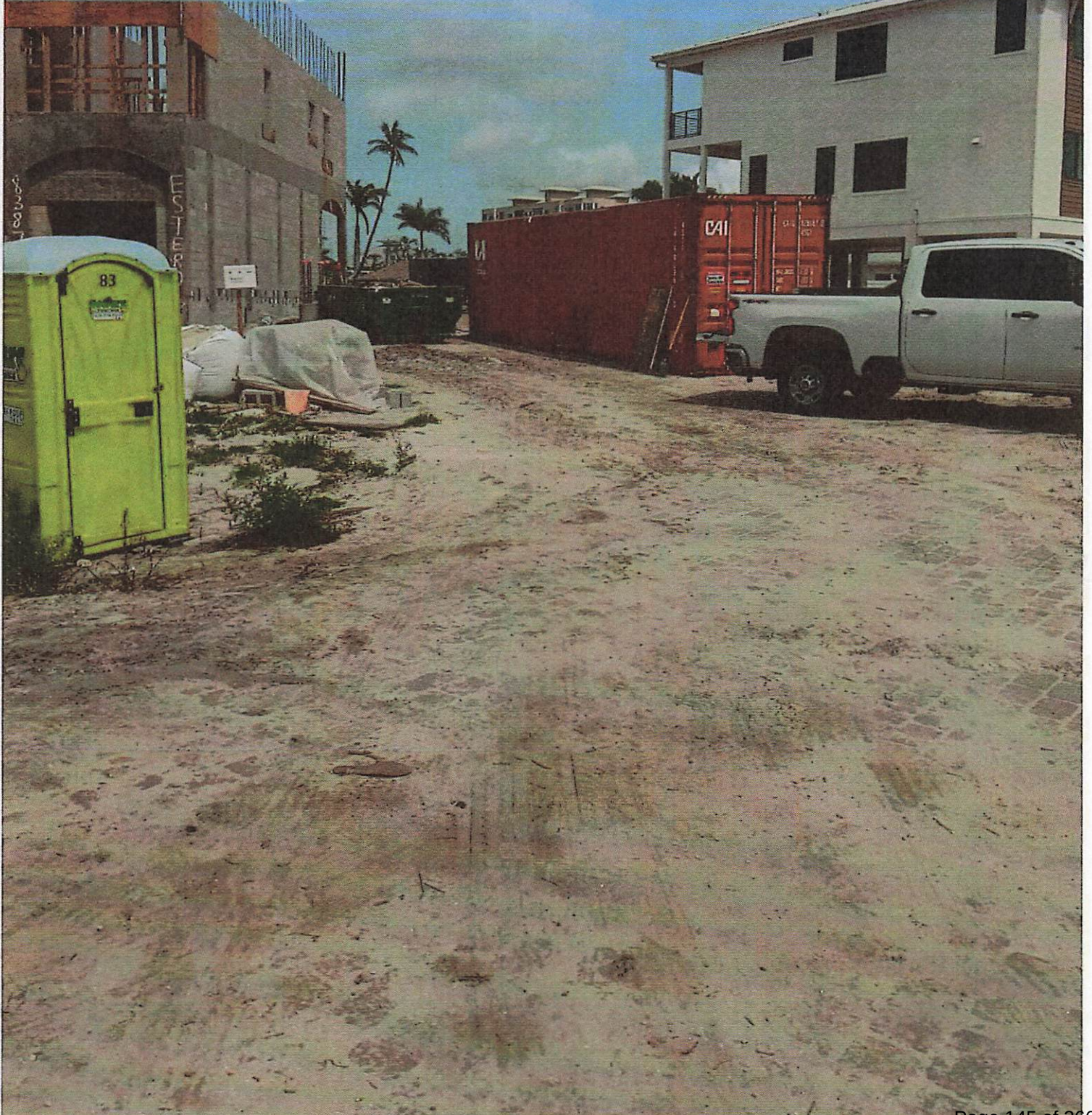
Carlos Point

Estero Blvd

Lover's Key Be

Google

Big Carlos Pass, FL



Hearing Exhibit D

Status of Compliance



FMBgov.com

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

07/23/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

COSTANTINI EDMOND D JR & COSTANTINI
PATRICIA A

Respondent.

Site Address: 8387 ESTERO BLVD
Parcel Strap No.: 034724W3002530000

Case Number: 20250264

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 03/27/2025, COSTANTINI EDMOND D JR & COSTANTINI PATRICIA A (property owner) was observed in violation of ASCE 24-14, SEC 6-501, SEC 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. , at the property located at 8387 ESTERO BLVD, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 05/08/2025, and sent certified mail to the address of record, 12 SUNNYS WAY, NEWTOWN SQUARE, PA 19073, posted to the violation property located at 8387 ESTERO BLVD, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.

4. COSTANTINI EDMOND D JR & COSTANTINI PATRICIA A was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 06/09/2025.

5. I performed an inspection of the Subject Property on 07/23/2025, and the Subject Property remains in violation with the Town of Fort Myers Beach Ordinance. There does not appear to be any

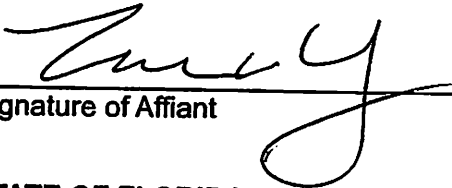
progress made towards compliance at 8387 ESTERO BLVD, Fort Myers Beach, FL 33931.

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 07/23/2025. 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

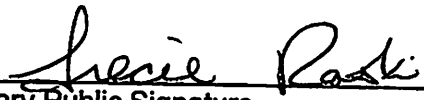
**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence
OR ☐ online notarization, this 23 day of July, 2025, by
Thomas Yozzo, ☒ who is personally known to me OR who has produced

as identification.



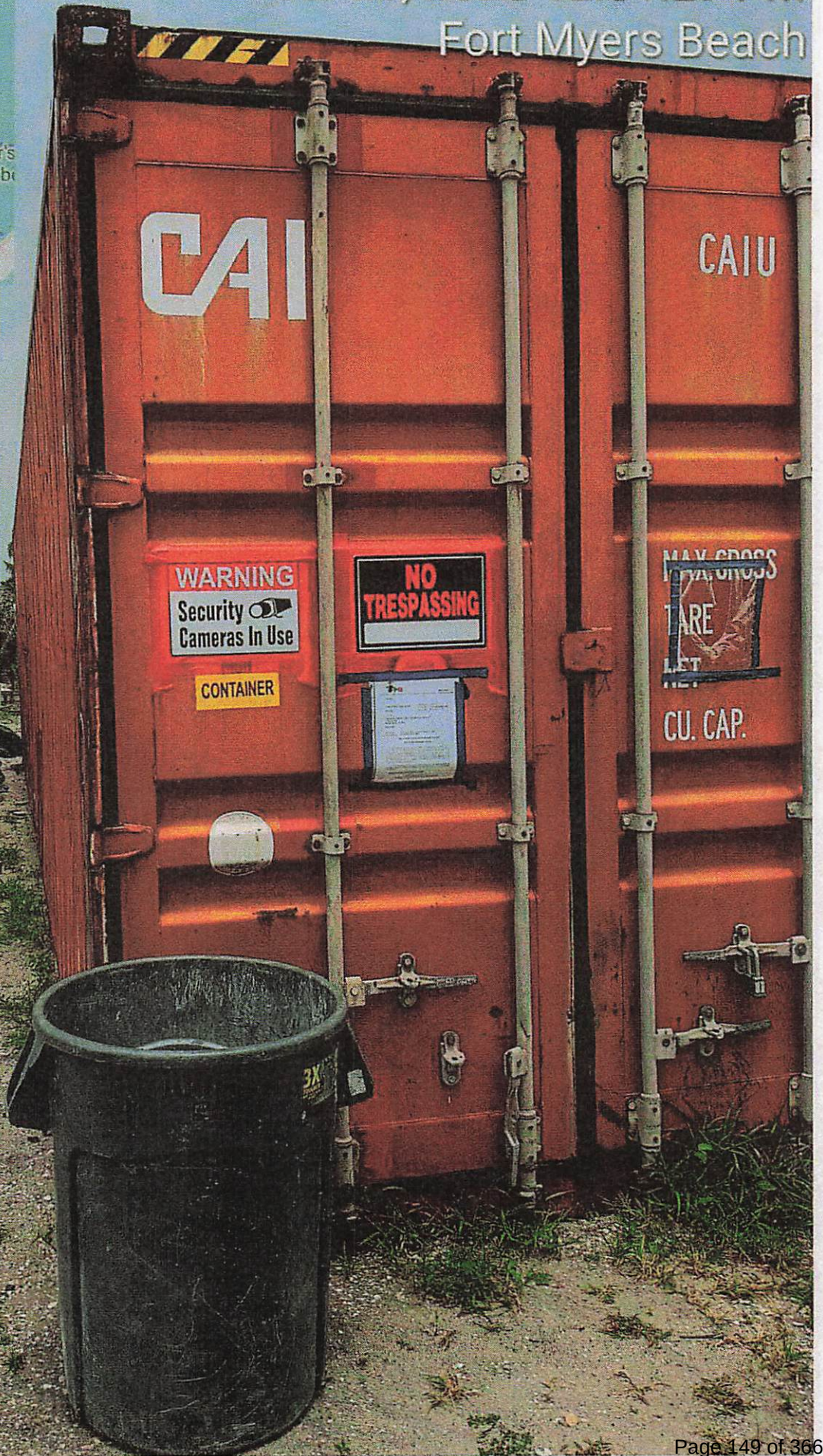
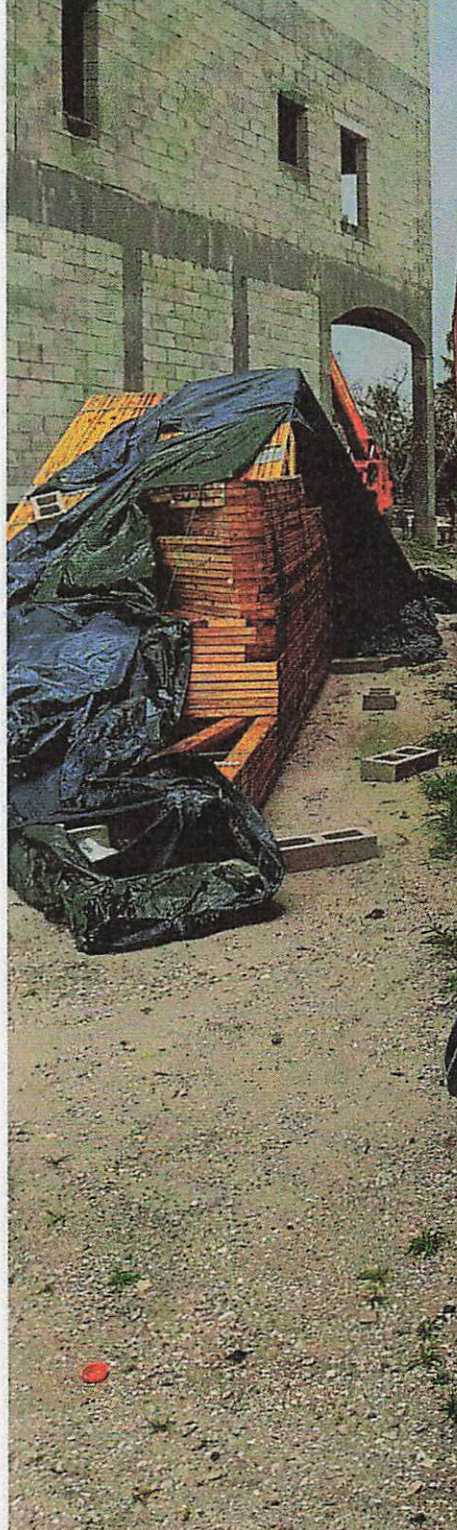
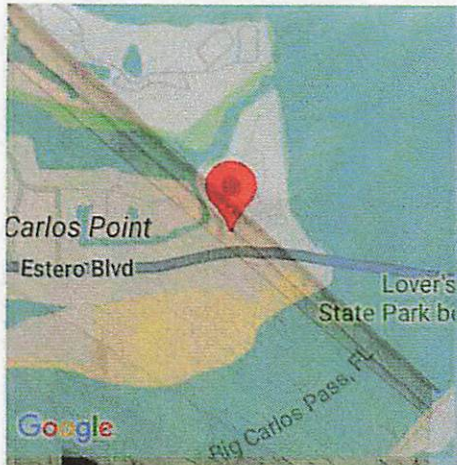
(SEAL)



Notary Public Signature

My Commission Expires: 2/3/2029

Jul 23, 2025 12:51:29 PM
Fort Myers Beach



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.

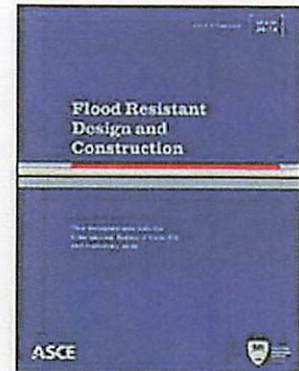
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (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.

Property Address and Owner:

Hearing Date: August 5, 2025

FMB Case # 20241102
Property Owner: MHC FISH LLC c/o KROLL
Property Address: 7295 Estero Blvd
Violation: Non-Compliant Structure (Storage Container)

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20241102_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting
2. 20241102_Hearing Exhibit B_FEMA and Related Ordinances
3. 20241102_Hearing Exhibit C_Notice of Violation
4. 20241102_Hearing Exhibit D_Status of Compliance
5. 20241102_Hearing Exhibit D1_Status of Compliance
6. 20241102_Hearing Exhibit E_Violated Regulations

Town Recommendations:

Town Approvals:

_____ Thomas Yozzo, Emergency Services Director	Date: July 28, 2025
_____ Traci Kohler, Deputy Town Manager	Date: July 28, 2025
_____ nancy stuparich, Town Attorney	Date: July 29, 2025
_____ Lizzette Roman, Town Clerk Administrative Coordinator	Date: July 29, 2025
_____ Amy Baker, Town Clerk	Date: July 30, 2025

Hearing Exhibit

A

Notice of Hearing and Affidavit of Posting



7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

MHC FISH TALE LLC c/o KROLL
PO BOX 2629
Addison, TX 75001

Respondent.

Case Number:	20241102
Certified Mail:	70222410000084703703 9589071052703142173011 9589071052703142173028
Regular Mail:	Standard 1 st Class

Site Address: 7295 Estero Blvd, Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W1-00011.003B

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

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

(Last 06/2024)



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. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

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

Emergency Services Director
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

FORT MYERS BEACH, ESTERO ISLAND

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



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

MHC FISH TALE LLC
c/o KROLL
PO BOX 2629
Addison, TX 75001

Respondent,

FMB Case Number:	20241102
Certified Mail:	70222410000084703703 9589071052703142173011 9589071052703142173028
Regular Mail:	Standard 1st Class
DOAH Case Number:	Not Assigned

Site Address: 7295 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 03-47-24-W1-00011.003B

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is a Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241102 that certain Notice Of Special Magistrate DOAH Hearing. Presented as Hearing Exhibit A (" The Notice")

FORT MYERS BEACH ESTERO ISLAND

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



I personally mailed by certified mail & first class service a copy of the Notice of Hearing to the following:

- a. MHC Fish Tale LLC c/o Kroll
PO Box 2629
Addison, TX 75001
Certified Mail No. 9589071052703142173011
(Listed Leepa.org Property Owner Address)
- b. CT Corporation System
1200 South Pine Island Rd
Plantation, FL 33324
Certified Mail No. 9589071052703142173028
(Listed Registered Agent)
- c. MHC Fish Tale LLC
917 W Washington MS 316
Chicago, IL 60607
Certified Mail No. 70222410000084703703
(Out of State Secondary)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 7295 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 23rd day of July 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
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 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 23rd day of July 2025 are attached in Hearing Exhibit A.

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

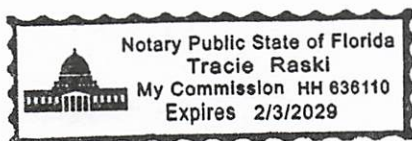
3. In addition, I posted a copy of the Notice on the Town's publicly accessible website at <https://www.fortmyersbeachfl.gov/1294/Public-Notices> on the 23rd day of July, 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

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.

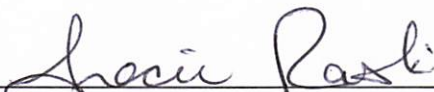
x 
Signature of Affiant

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 23 day of July, 2025, by T. Yozzo He 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 3142 1730 11

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	\$

20241102

Postmark
Here

Postage	\$
Total Postage and Fees	\$

Sent To 7295 ESTERO BL
MHC Fish Tale LLC 1/2 roll
Po Box 2629
Addison, TX 75001

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

9589 0710 5270 3142 1730 28

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	\$

20241102

Postmark
Here

Postage	\$
Total Postage and Fees	\$

Sent To 7295 ESTERO BL
CT Corporation System
1200 South Pine Island RD.
Plantation, FL 33324

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

7022 2410 0000 8470 3703

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	\$

20241102

Town of Fort Myers Beach

JUL 22 2025

Postage	\$
Total Postage and Fees	\$

Sent by:

7295 ESTERO BL

Sent To
MHC FISH TALE LLC
917 W WASHINGTON MS 316
CHICAGO, IL 60607

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Jul 23, 2025 12:58:09 PM
Fort Myers Beach



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

FMBgov.com

7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

MHC FISH TALE LLC c/o KROLL
PO BOX 2629
Addison, TX 75001

Respondent.

Case Number:	20241102
Certified Mail:	70222410000084703703 9589071052703142173011 9589071052703142173028
Regular Mail:	Standard 1 st Class

Site Address: 7295 Estero Blvd, Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W1-00011.003B

State of Florida Division of Administrative Hearings

NOTICE OF CODE ENFORCEMENT HEARING

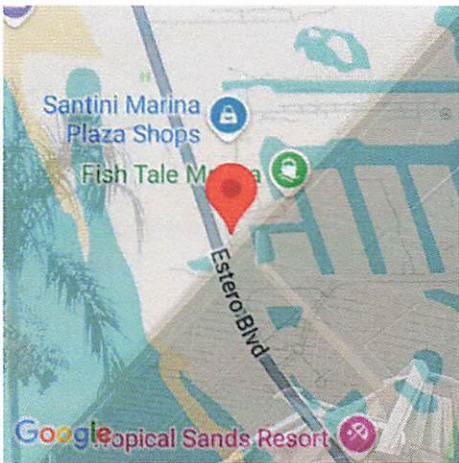
YOU ARE HEREBY NOTIFIED that, pursuant to Chapter 162, Florida Statutes and Chapter 2, Article V of the Town of Fort Myers Beach Land Development Code, the undersigned Code Enforcement Officer has documented that (an) uncorrected violation(s) of one or more codes of the Town of Fort Myers Beach, as described in the **NOTICE OF VIOLATION**, previously provided to you (another 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 Tuesday 08/05/2025 at 9:00 A.M., before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

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



Jul 23, 2025 12:58:25 PM
Fort Myers Beach



Jul 23, 2025 4:40:12 PM
Fort Myers Beach



FMBgov.com

GullWing Beach Resort | Mayor | John R. King, Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

MHC FISH TALE LLC c/o KROLL
PO BOX 2629
Addison, TX 75001

Respondent.

Site Address: 7295 Estero Blvd, Fort Myers Beach, FL 33931
Parcel Strap No.: 03-47-24-W1-00011.003B

Case Number:	20241102
Certified Mail:	70222410000084703703 9589071052703142173011 9589071052703142173028
Regular Mail:	Standard 1 st Class

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

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

(Last 06/2024)



Property Data

STRAP: 03-47-24-W1-00011.003B Folio ID: 10231728

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

Generated on 7/22/2025 5:15 PM

Owner Of Record - Sole Owner

[\[Change Mailing Address\]](#)

MHC FISH TALE LLC
c/o KROLL
PO BOX 2629
ADDISON TX 75001

Site Address

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

7295 ESTERO BLVD
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



PARL IN GOV LOT 2 AS DESC OR 2040 PG 4592 + LESS PAR DESC OR
2129/3916

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 2040 and 4592 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Fixtures (multiple buildings, see Property Details below) 0 / 5

Gross Building Area (multiple buildings, see Property Details below) 8,395

1st Year Building on Tax Roll 1990

Historic Designation No

Township	Range	Section	Block	Lot
47	24E	03		
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.41267	-81.89938		

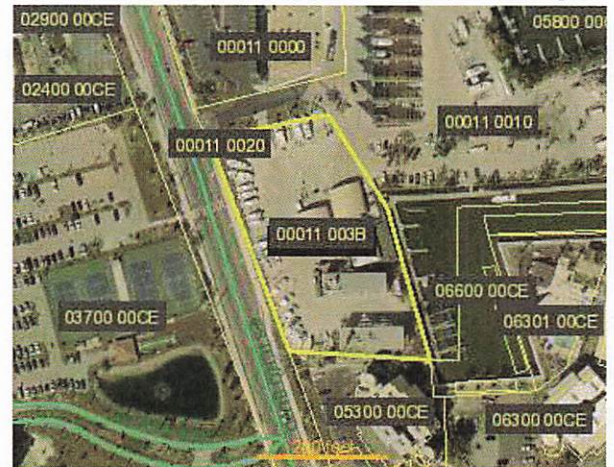
[View Parcel on Google Maps](#)[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)[\[Pictometry Aerial Viewer \]](#)

Image of Structure

[◀ Photo Date January of 2025 ▶](#) ☐ View other photos

Last Inspection Date: 01/22/2025

Property Values / Exemptions / TRIM Notices

Generated on 7/22/2025 5:15 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
2024 / Additional Info	2024 (Final Value)	2,012,606	1,751,252	2,012,606	2,012,606	0	0	
2023 / Additional Info	2023 (Final Value)	2,009,977	1,751,661	2,009,977	1,966,250	0	0	
2022 / Additional Info	2022 (Final Value)	1,999,601	1,682,408	1,999,601	1,787,500	0	0	
2021 / Additional Info	2021 (Final Value)	1,625,000	1,385,895	1,625,000	1,625,000	0	0	
2020 / Additional Info	2020 (Final Value)	1,623,322	1,319,245	1,491,266	1,491,266	0	132,056	
2019 / Additional Info	2019 (Final Value)	1,581,303	1,379,018	1,454,188	1,454,188	0	127,115	
2018 / Additional Info	2018 (Final Value)	1,525,394	0	1,388,894	1,388,894	0	136,500	
2017 / Additional Info	2017 (Final Value)	1,531,725	1,062,480	1,369,344	1,369,344	0	162,381	
2016	2016 (Corrected Value)	1,531,725	1,210,502	1,369,344	0	0	162,381	
2015	2015 (Final Value)	1,529,776	1,032,598	1,390,682	1,390,682	0	139,094	
2014	2014 (Final Value)	1,526,930	1,026,621	1,388,592	1,388,592	0	138,338	
2013	2013 (Final Value)	1,160,357	791,229	1,074,763	1,074,763	0	85,594	
2012	2012 (Final Value)	1,158,560	764,176	1,073,430	1,073,430	0	85,130	
2011	2011 (Final Value)	1,119,228	817,009	1,119,228	1,119,228	0	0	
2010	2010 (Final Value)	1,411,360	1,151,971	1,411,360	1,411,360	0	0	
	2009 (Final Value)	1,531,440	1,247,030	1,531,440	1,531,440	0	0	
	2008 (Final Value)	2,925,560	2,724,540	2,925,560	2,925,560	0	0	
	2007 (Final Value)	3,540,250	3,293,010	0	3,540,250	0	0	
	2006 (Final Value)	4,014,660	3,985,290	0	4,014,660	0	0	
	2005 (Final Value)	3,983,720	3,542,020	0	3,983,720	0	0	
	2004 (Final Value)	1,834,000	1,608,160	0	1,834,000	0	0	
	2003 (Final Value)	1,855,540	1,623,830	0	1,855,540	0	0	
	2002 (Final Value)	1,252,240	1,086,040	0	1,252,240	0	0	
	2001 (Final Value)	1,244,630	1,086,410	0	1,244,630	0	0	
	2000 (Final Value)	1,073,080	909,690	0	1,073,080	0	0	
	1999 (Final Value)	1,076,640	910,050	0	1,076,640	0	0	
	1998 (Final Value)	855,030	784,990	0	855,030	0	0	
	1997 (Final Value)	777,030	705,300	0	777,030	0	0	
	1996 (Final Value)	778,710	705,300	0	778,710	0	0	
	1995 (Final Value)	780,950	705,320	0	780,950	0	0	
	1994 (Final Value)	788,550	710,720	0	788,550	0	0	
	1993 (Final Value)	796,150	716,110	0	796,150	0	0	
	1992 (Final Value)	803,760	721,510	0	803,760	0	0	

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 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 part of parcels) 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 1% 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 7/21/2025) ?

Generated on 7/22/2025 5:15 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
2010	Marina	80542.00	Square Feet
2015	Boat Units - A	65.00	Units
2015	Boat Units - A	35.00	Units

Land Features

Description	Year Added	Unit
FENCE - WOOD - SOLID BOARD	1990	
SEAWALL - CONCRETE	1990	
PAVEMENT - CONCRETE	2004	

Buildings

Building 1 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Uni
49 - Offices - Low Rise	5 - OFFICE/MEDICAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	1990	1990

Building Subareas

Description	Heated / Under Air	Area (Sq F
BAS - BASE	Y	
STP - STOOP	N	

Building Features

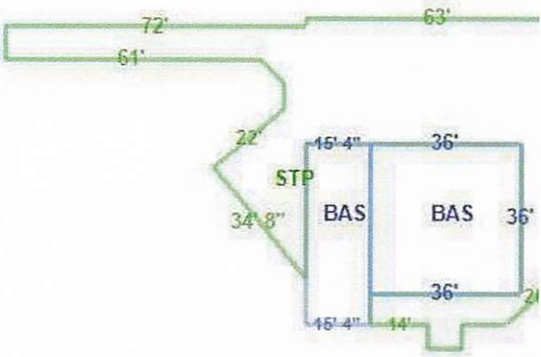
Description	Year Added	Units
SHED - FRAME W/FLOOR	1990	

Building Front Photo

Building Footprint



Photo Date: August of 2024



Building 2 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Uni
82 - Warehouse - Metal/Frame	6 - WAREHOUSE/INDUSTRIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	2002	2002

Building Subareas

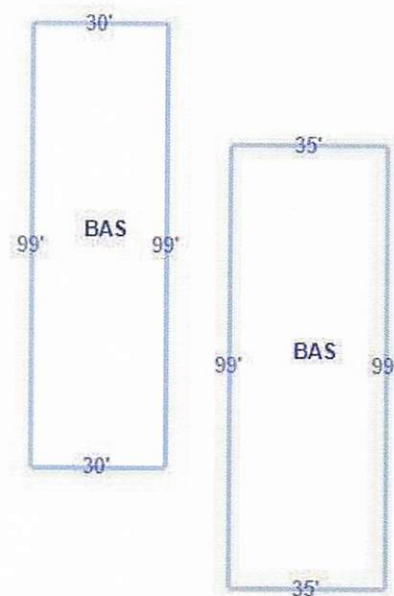
Description	Heated / Under Air	Area (Sq f)
BAS - BASE	Y	

Building Front Photo



Photo Date: January of 2025

Building Footprint



Property Details (2024 Tax Roll)



Generated on 7/22/2025 5:15 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
2010	Marina	80542.00	Square Feet
2015	Boat Units - A	65.00	Units
2015	Boat Units - A	35.00	Units

Land Features

Description	Year Added	Unit
FENCE - WOOD - SOLID BOARD	1990	
SEAWALL - CONCRETE	1990	
PAVEMENT - CONCRETE	2004	

Buildings

Building 1 of 2

Building Characteristics

Improvement Type	Model Type	Stories	Living Uni
49 - Offices - Low Rise	5 - OFFICE/MEDICAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	1990	1990

Building Subareas

Description	Heated / Under Air	Area (Sq f
BAS - BASE	Y	

STP - STOOP

N

Building Features			
Description	Year Added	Units	
SHED - FRAME W/FLOOR	1990		

Building Front Photo

Building Footprint

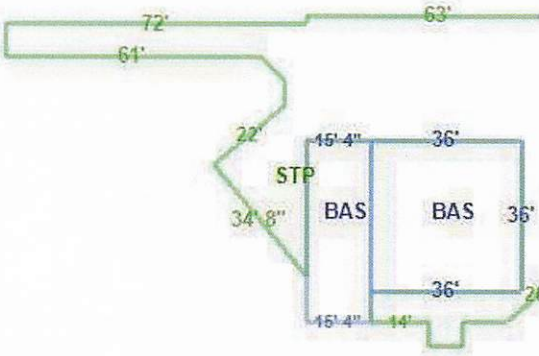


Photo Date: August of 2024

Building 2 of 2

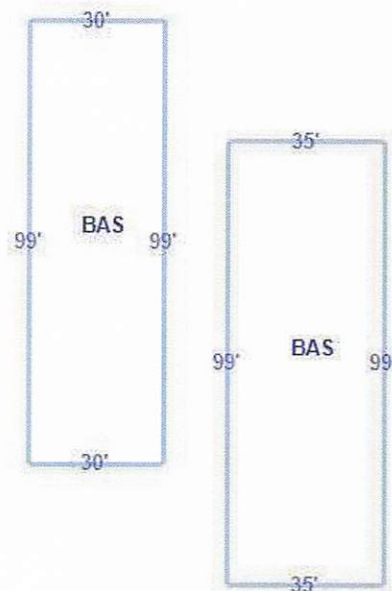
Building Characteristics			
Improvement Type	Model Type	Stories	Living Uni
82 - Warehouse - Metal/Frame	6 - WAREHOUSE/INDUSTRIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
0	0.0	2002	2002
Building Subareas			
Description	Heated / Under Air	Area (Sq F)	
BAS - BASE	Y		

Building Front Photo

Building Footprint



Photo Date: January of 2025



Taxing Authorities

Generated on 7/22/2025 5:15 PM

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 7/22/2025 5:15 PM

Sale Price	Date	Clerk File Number	Type	Notes	
12,520,000.00	02/20/2020	2020000051409	05	There are 2 additional parcel(s) with this document (may have been split after the transaction date)... 03-47-24-W1-00011.0010 03-47-24-W1-00011.0020	
932,400.00	11/01/1996	2769/247	04		
496,500.00	12/01/1988	2040/4592	06		

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

Use the above link to do a search on the Lee County Clerk of Courts website, using **2040** and **4592** for the book and page numbers and **Official Record** book type.

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

Building / Construction Permit Data

Generated on 7/22/2025 5:15 PM

Permit Number	Permit Type	Date
200228	Commercial	03/31/2020
COM2002-01333	Building Addition	11/04/2002
COM2001-01260	Building Addition	10/23/2001
COM2001-00600	Building New Construction	09/14/2001
COM2001-00905	Building New Construction	08/03/2001
COM2001-00907	Building New Construction	08/03/2001
199804025	COM - Completion Permit Issued	04/28/1998
DEM199612494	Demolition	12/12/1996
COM199503986	Building New Construction	04/27/1995
COM199411093	Building Addition	11/23/1994
FNC199002854	Fence	03/07/1990

198913848	Commercial	12/27/1989
198911572	Commercial	10/26/1989
407091	Commercial	08/21/1984

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 represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding 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 7/22/2025 5:15 PM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber I
03-47-24-00-00011.003B	N/A	Reserved for Renumber ONLY	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 7/22/2025 5:15 PM

Flood and Storm Information

Generated on 7/22/2025 5:15 PM

Community	Flood Insurance Find my flood zone		Date	Evacuation Zone
	Panel	Version		
071C	0567	G	11/17/2022	A

Generated on 7/22/2025 5:15 PM

[Previous Parcel Number](#)
[Next Parcel Number](#)
[New Query](#)
[Search Results](#)
[Home](#)



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

Detail by Entity Name

Foreign Limited Liability Company
MHC FISH TALE, L.L.C.

Filing Information

Document Number	M19000011717
FEI/EIN Number	84-3854603
Date Filed	12/10/2019
State	DE
Status	ACTIVE
Last Event	LC AMENDMENT AND NAME CHANGE
Event Date Filed	02/09/2021
Event Effective Date	NONE

Principal Address

Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Changed: 04/22/2025

Mailing Address

Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Changed: 04/22/2025

Registered Agent Name & Address

CT CORPORATION SYSTEM
1200 SOUTH PINE ISLAND RD
PLANTATION, FL 33324

Name Changed: 02/09/2021

Address Changed: 02/09/2021

Authorized Person(s) Detail**Name & Address**

Title Member

MHC Aquamarina Ultimate Holdings L.L.C.
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title EVP, CHIEF LEGAL OFFICER AND CORPORATE SECRETARY

Eldersveld, David
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title CEO, PRESIDENT

Nader, Marguerite
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title EVP, CFO AND TREASURER

Seavey, Paul
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title SENIOR VICE PRESIDENT

Bunce, Ronald
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title SENIOR VICE PRESIDENT

Hattel, Brett
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title SENIOR VICE PRESIDENT

Butler, Donald Everett, II
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title SENIOR VICE PRESIDENT

Martin, Stanley
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title VP

Forbes, Darrin
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Title VP

Clemmey, Monsie
Two North Riverside Plaza
Suite 800
Chicago, IL 60606

Annual Reports

Report Year	Filed Date
2023	03/24/2023
2024	04/19/2024
2025	04/22/2025

Document Images

[04/22/2025 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[04/19/2024 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[03/24/2023 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[06/27/2022 -- AMENDED ANNUAL REPORT](#)

[View image in PDF format](#)

[04/21/2022 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[04/26/2021 -- ANNUAL REPORT](#)

[View image in PDF format](#)

[02/09/2021 -- LC Amendment and Name Change](#)

[View image in PDF format](#)

[05/01/2020 -- ANNUAL REPORT](#)

[View image in PDF format](#)

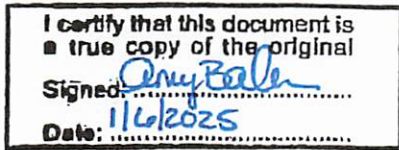
[12/10/2019 -- Foreign Limited](#)

[View image in PDF format](#)

Florida Department of State, Division of Corporations

Hearing Exhibit B

FEMA and Related Ordinances



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



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.

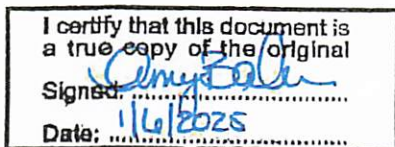
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

www.fema.gov



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.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- 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,

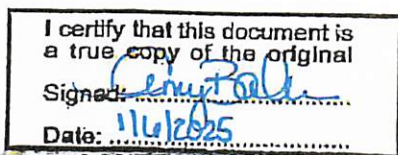


Robert D. Samaan
Regional Administrator

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.

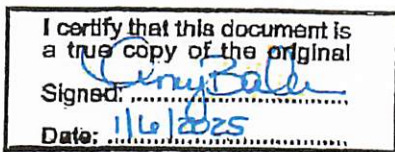
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.

I certify that this document is
a true copy of the original
Signed: Cheryl Baker
Date: 11/6/2023



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.

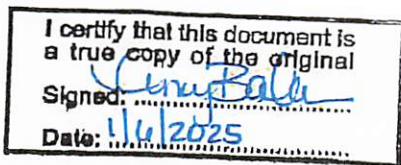
Complete – FEMA needs no further information regarding the specific address.

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

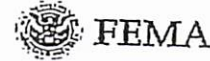
5. Documentation on the Finding Report and Site list:

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



U.S. Department of Homeland Security
Washington, DC 20528



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.

I certify that this document is
a true copy of the original

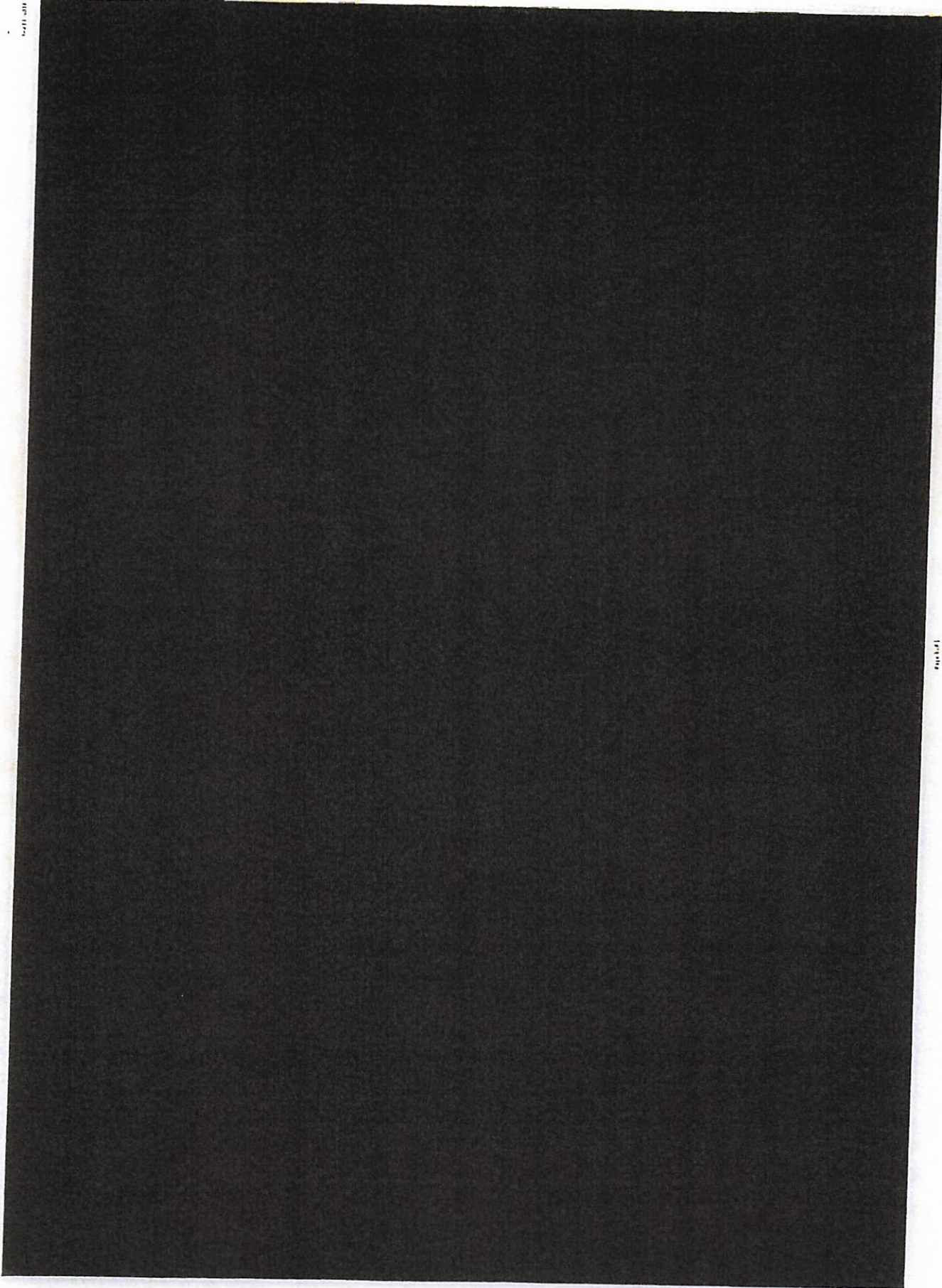
Signed: Crystal

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

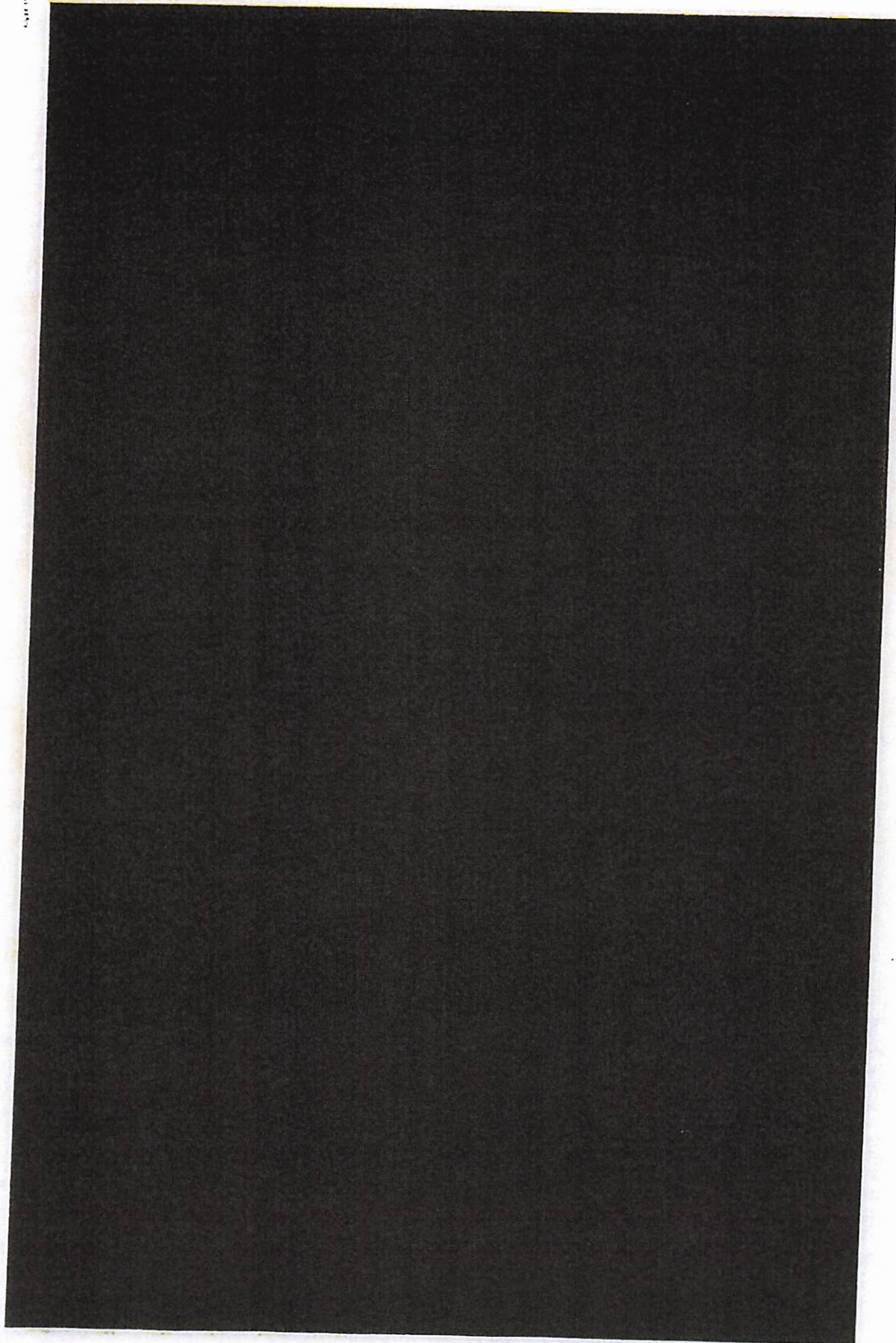
Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025





I certify that this document is
a true copy of the original
Signed: Ami Ball
Date: 11/6/2024

FMBgov.com

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

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

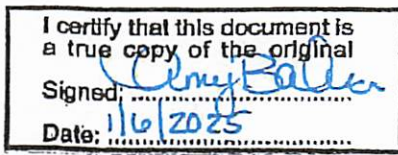
Dear Mr. Samaan,

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.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCBIleawpTJkXB1x877OIRInmTin2M8k9/view?usp=s_haring_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other 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.

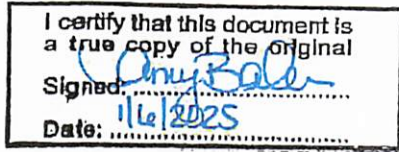
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist 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

FORT MYERS BEACH ESTERO ISLAND

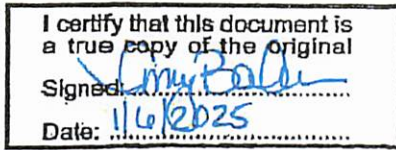
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025



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.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

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



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.

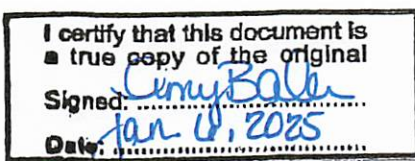
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

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



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.

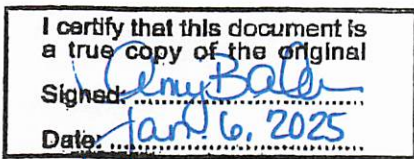
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

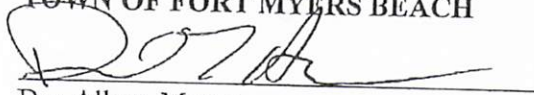
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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.

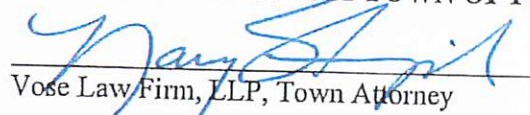
TOWN OF FORT MYERS BEACH


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

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

Hearing Exhibit C

Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

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

11/19/2024

Case Number:	20241102
Certified Mail:	9589071052700183636468
Regular Mail	

MHC FISH TALE LLC
917 W WASHINGTON MS 316
CHICAGO, IL 60607

SITE ADDRESS: 7295 ESTERO BLVD
PARCEL STRAP NO: 034724W100011003B

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 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.

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 239-292-3568 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.

MHC FISH TALE LLC
917 W WASHINGTON MS 316
CHICAGO, IL 60607

FMB Case Number:	20241102
Certified Mail:	
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Respondent,

Site Address: 7295 Estero Blvd
Fort Myers Beach, FL, 33931
Parcel Strap No. 03-47-24-W1-00011.003B

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241102 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. 7295 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 11/19/2024 to the following:

MHC FISH TALE LLC
917 W WASHINGTON MS 316
CHICAGO, IL 60607

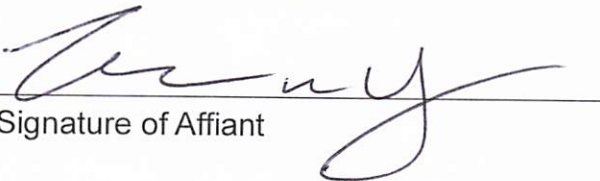
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

2. I had a copy of the Notice posted at 7295 Estero Blvd, Fort Myers Beach, FL 33931, which is the subject property. I took a photographs of the Notice I posted on the 19th day of November 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 in the book and to a window for availability to view 24 hours a day and 7 days a week. True, accurate and unaltered copies of photographs I took of the Notice posted on the 19th day of November 2024 are attached.
4. In addition, Code Compliance Coordinator Officer D. Batt posted a copy of the Notice of Violation to the Town Website for publication which is available 24 hours a day 7 days a week at <https://www.fortmyersbeachfl.gov/1294/Public-Notices>.

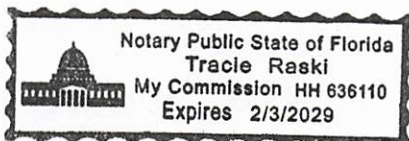


Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

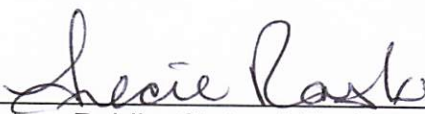
x 
Signature of Affiant

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 19 day of Nov, 2025, by T. Yozzo. He ☒ 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

9589 0710 5270 0183 6364 68

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

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

OFFICIAL USE

City of Fort Myers Beach

NOV 19 2021

Postmark Here

2024/1102

7295 Estero Blvd

Certified Mail Fee
 \$

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

☐ Return Receipt (hard copy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

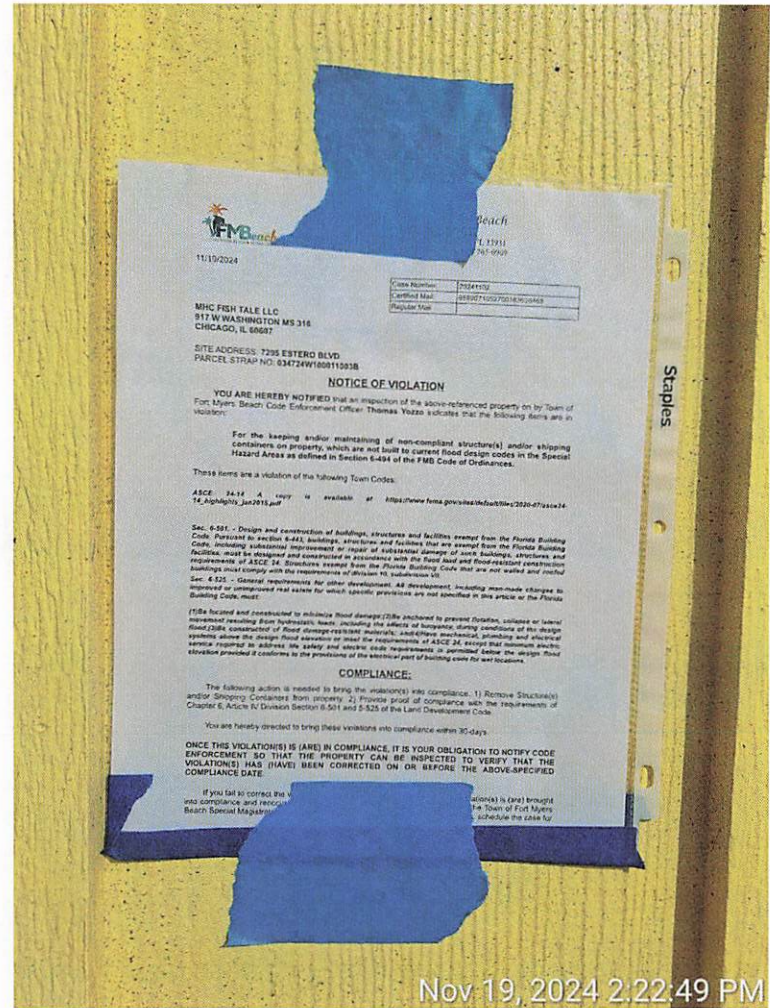
Postage
 \$

Total Postage and Fees
 \$

Sent by:

MHC FISH TALE LLC
917 W WASHINGTON MS 316
CHICAGO, IL 60607

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





Mar 25 2025 9:40:39 AM



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

11/19/2024

Case Number:	20241102
Certified Mail:	9589071052700183636466
Regular Mail:	

MHC FISH TALE LLC
917 W WASHINGTON MS 316
CHICAGO, IL 60607

SITE ADDRESS: 7295 ESTERO BLVD
PARCEL STRAP NO: 034724W100011003B

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 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.

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 6-525 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

Hearing Exhibit D

Status of Compliance



07/23/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

MHC FISH TALE LLC

Respondent.

Case Number: 20241102

Certified Mail:

Regular Mail:

Site Address: 7295 ESTERO BLVD
Parcel Strap No.: 034724W100011003B

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 , MHC FISH TALE LLC (property owner) was observed in violation of ASCE 24-14, SEC 6-501, SEC 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. , at the property located at 7295 ESTERO BLVD, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 11/19/2024, and sent certified mail to the address of record, 917 W WASHINGTON MS 316, CHICAGO, IL 60607, posted to the violation property located at 7295 ESTERO BLVD, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.

4. MHC FISH TALE LLC was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 12/20/2024.

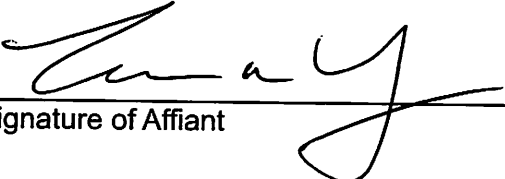
5. I performed an inspection of the Subject Property on 07/23/2025, and the Subject Property remains in violation with the Town of Fort Myers Beach Ordinance. There does not appear to be any progress made towards compliance at 7295 ESTERO BLVD, Fort Myers Beach, FL 33931.

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 07/23/2025. 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

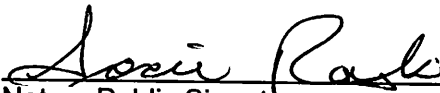
**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence
OR ☐ online notarization, this 23 day of July, 2025 by
Thomas Yozzo, ☒ who is personally known to me OR g who has produced

as identification.

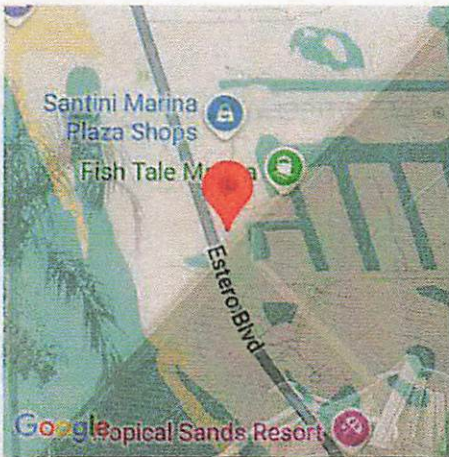


(SEAL)



Notary Public Signature

My Commission Expires: 2/3/2029



Jul 23, 2025 12:58:25 PM
Fort Myers Beach



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.

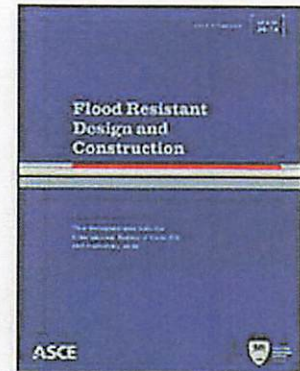
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (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.

Property Address and Owner:

Hearing Date: August 5, 2025

FMB Case # 20250286

Property Owner: Brazdau Alin Adrian & Brazdau Mihaela Burnea

Property Address: 277 Ibis St

Violation: Non-Compliant Structure (Storage Container)

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20250286_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting
2. 20250286_Hearing Exhibit B_FEMA and Related Ordinances
3. 20250286_Hearing Exhibit C_Notice of Violation
4. 20250286_Hearing Exhibit D_Status of Compliance
5. 20250286_Hearing Exhibit D1_Status of Compliance
6. 20250286_Hearing Exhibit E_Violated Regulations

Town Recommendations:

Town Approvals:

_____ Thomas Yozzo, Emergency Services Director	Date: July 28, 2025
_____ Traci Kohler, Deputy Town Manager	Date: July 28, 2025
_____ nancy stuparich, Town Attorney	Date: July 29, 2025
_____ Lizzette Roman, Town Clerk Administrative Coordinator	Date: July 29, 2025
_____ Amy Baker, Town Clerk	Date: July 30, 2025

Hearing Exhibit

A

Notice of Hearing and Affidavit of Posting



7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA BURNEA
11373 Willow Wood Ln
Plymouth, MI 48170

Respondent.

Case Number:	20250286
Certified Mail:	70222410000084703697
Regular Mail:	Standard 1 st Class

Site Address: 277 Ibis St, Fort Myers Beach, FL 33931
Parcel Strap No.: 34-46-24-W4-00300.0360

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND

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

(Last 06/2024)



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. If you believe you have come into compliance, it is your responsibility to contact the Code Enforcement Division so that an inspection can be carried out to determine compliance.

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

Emergency Services Director
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

FORT MYERS BEACH, ESTERO ISLAND

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



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Brazdau Alin Adrian & Brazdau Mihaela Burnea
11373 Willow Wood LN
Plymouth. MI 48173

Respondent,

FMB Case Number:	20250286
Certified Mail:	70222410000084703697
Regular Mail:	Standard 1st Class
DOAH Case Number:	Not Assigned

Site Address: 277 Ibis,
Fort Myers Beach, FL 33931
Parcel Strap No. 34-46-24-W4-00300.0360

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is a Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20250286 that certain Notice Of Special Magistrate DOAH Hearing. Presented as Hearing Exhibit A (" The Notice")

FORT MYERS BEACH ESTERO ISLAND

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



I personally mailed by certified mail & first class service a copy of the Notice of Hearing to the following:

- a. Brazdau Alin Adrian & Brazdau Mihaela Burnea
11373 Willow Wood Ln
Plymouth, MI 48170
Certified Mail No. 70222410000084703697
(Listed Leepa.org Property Owner Address)

- b. N/A

Certified Mail No.
(Listed Registered Agent)

Copies of the certified mailing receipts are attached in Hearing Exhibit A.

1. I posted a copy of the Notice at 277 Ibis St, Fort Myers Beach, FL 33931, which is the subject property. I took photographs of the Notice I posted on the 23rd day of July 2025. A true, accurate and unaltered copy of the photographs are attached in Hearing Exhibit A.
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 6231 Estero Blvd, Fort Myers Beach, FL 33931. True, accurate and unaltered copies of photographs I took of the Notice posted on the 23rd day of July 2025 are attached in Hearing Exhibit A.
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 23rd day of July, 2025. A copy of the posted webpage is attached as Evidence in Hearing Exhibit A.

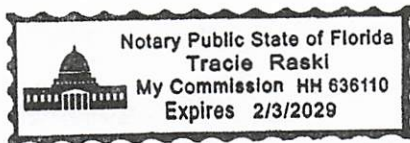


Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

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 23 day of July, 2025, by T. Yozzo He ☒ is personally known to me or ☐ has produced _____ as identification.



[Notary Seal]

[Signature]
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

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 by:

20250286
Town of Fort Myers Beach
Postmark Here
JUL 22 2025
277 Ibis St.
BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA
BURNEA
11373 WILLOW WOOD LN
PLYMOUTH, MI 48170

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



FMBgov.com

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

7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA BURNEA
11373 Willow Wood Ln
Plymouth, MI 48170

Respondent.

Site Address: 277 Ibis St, Fort Myers Beach, FL 33931
Parcel Strap No.: 34-46-24-W4-00300.0360

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

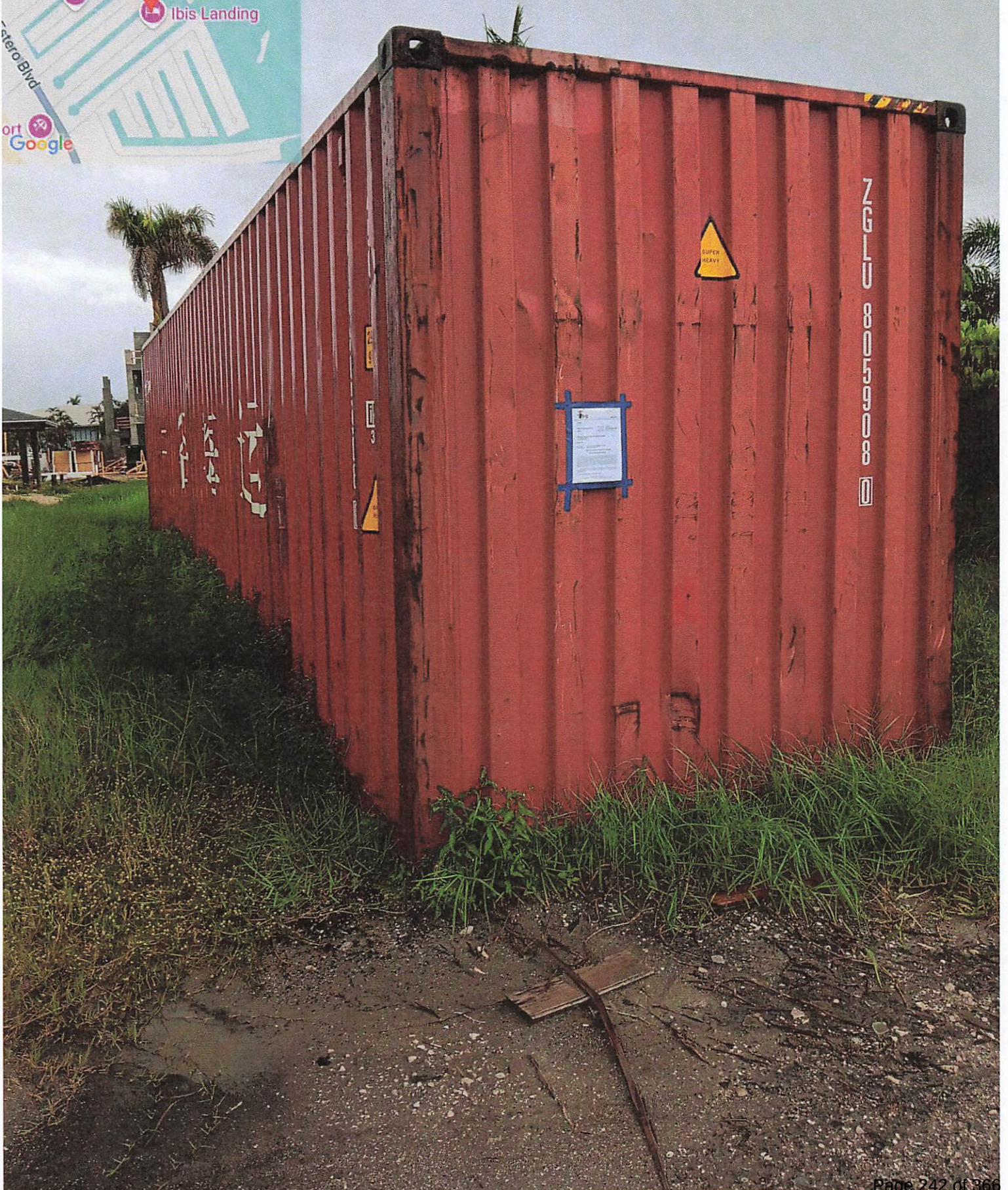
A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

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

FORT MYERS BEACH, ESTERO ISLAND

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

(Last 06/2024)





FMBgov.com

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

7/22/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA BURNEA
11373 Willow Wood Ln
Plymouth, MI 48170

Respondent.

Case Number:	20250286
Certified Mail:	70222410000084703697
Regular Mail:	Standard 1 st Class

Site Address: 277 Ibis St, Fort Myers Beach, FL 33931
Parcel Strap No.: 34-46-24-W4-00300.0360

State of Florida Division of Administrative Hearings

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 (another 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 **Tuesday 08/05/2025 at 9:00 A.M.**, before the Honorable John G Van Laningham in the Mound House Learning Center, located at 451 Connecticut St., Fort Myers Beach, Florida.

A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit 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>

FORT MYERS BEACH, ESTERO ISLAND
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

(Last 06/2024)

Staples.



Property Data

STRAP: 34-46-24-W4-00300.0360 Folio ID: 10231172

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

Generated on 7/22/2025 6:32 PM

Owner Of Record - Tenants by Entirety

[\[Change Mailing Address\]](#)

BRAZDAU ALIN ADRIAN &
BRAZDAU MIHAELA BURNEA
11373 WILLOW WOOD LN
PLYMOUTH MI 48170

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

Site Address

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

277 IBIS ST
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



SANDPIPER VILLAGE 2 PB 9 PG 52 LOT 36

[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 52 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	34	00300	0360
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.4236	-81.89951		

[View Parcel on Google Maps](#)

Image of Structure


[◀ Photo Date January of 2025 ▶](#) ☐ [View other photos](#)

Last Inspection Date: 01/16/2025

Property Values / Exemptions / TRIM Notices

Generated on 7/22/2025 6:32 PM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	1
2024 / Additional Info	2024 (Final Value)	1,002,904	1,002,894	1,002,904	1,002,904	0	0	
2023 / Additional Info	2023 (Final Value)	568,781	568,771	568,781	568,781	0	0	
2022 / Additional Info	2022 (Final Value)	1,021,068	402,950	1,021,068	741,550	0	0	
2021 / Additional Info	2021 (Final Value)	674,136	402,950	674,136	674,136	0	0	
2020 / Additional Info	2020 (Final Value)	617,746	402,950	617,746	617,746	0	0	
2019 / Additional Info	2019 (Final Value)	600,783	387,450	600,783	600,783	0	0	
2018 / Additional Info	2018 (Final Value)	562,035	387,450	562,035	562,035	0	0	
2017 / Additional Info	2017 (Final Value)	567,668	276,750	567,668	552,125	0	0	
2016	2016 (Final Value)	501,932	276,750	501,932	501,932	0	0	
2015	2015 (Final Value)	576,893	276,750	576,893	576,893	0	0	
2014	2014 (Final Value)	544,416	276,750	544,416	305,173	55,000	0	
2013	2013 (Final Value)	481,112	228,800	481,112	300,663	55,000	0	
2012	2012 (Final Value)	371,419	250,000	371,419	295,637	55,000	0	
2011	2011 (Final Value)	406,319	280,000	406,319	287,026	55,000	0	
2010	2010 (Final Value)	414,458	280,000	414,458	282,784	55,000	0	
	2009 (Final Value)	504,040	375,000	504,040	275,350	55,000	0	
	2008 (Final Value)	557,140	375,000	557,140	275,080	55,000	0	
	2007 (Final Value)	673,170	500,000	0	267,060	30,000	0	
	2006 (Final Value)	650,620	495,000	0	260,550	30,000	0	
	2005 (Final Value)	488,590	380,000	0	252,960	30,000	0	
	2004 (Final Value)	446,410	330,000	0	245,590	30,000	0	
	2003 (Final Value)	415,350	250,000	0	241,010	30,000	0	
	2002 (Final Value)	352,820	170,000	0	235,360	25,500	0	
	2001 (Final Value)	287,470	140,000	0	231,660	25,500	0	
	2000 (Final Value)	243,350	110,000	0	224,910	25,500	0	
	1999 (Final Value)	191,820	90,000	0	191,820	25,500	0	
	1998 (Final Value)	178,240	75,000	0	163,670	25,500	0	
	1997 (Final Value)	177,670	75,000	0	160,930	25,500	0	
	1996 (Final Value)	156,240	75,000	0	156,240	25,500	0	
	1995 (Final Value)	157,330	75,000	0	157,330	25,500	0	
	1994 (Final Value)	169,910	73,000	0	169,910	25,500	0	
	1993 (Final Value)	162,400	73,130	0	162,400	25,500	0	
	1992 (Final Value)	164,770	73,130	0	164,770	25,500	0	

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 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 part 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 1% 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 7/21/2025)

Generated on 7/22/2025 6:32 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
0	Vacant Residential	1.00	Lot

Land Features

Description	Year Added	Un
BOAT LIFT	1999	
PIER - RESIDENTIAL	1999	
SEAWALL - CONCRETE	1969	



Property Details (2024 Tax Roll)



Generated on 7/22/2025 6:32 PM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
131	Single Family Residential, Canal	1.00	Lot

Land Features

Description	Year Added	U
DAVITS - BOAT	1969	
SLAB - CONCRETE	1969	
BOAT LIFT	1999	
PIER - RESIDENTIAL	1999	
IRRIGATION SYSTEM LAWN	2003	
SEAWALL - CONCRETE	1969	

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Unit
99 - Florida Ranch	1 - SINGLE FAMILY RESIDENTIAL	1.0	0
Bedrooms	Bathrooms	Year Built	Effective Year
2	2.0	1969	1985

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	
FEP - FINISHED ENCLOSED PORCH	N	
FGR - FINISHED GARAGE	N	
FOP - FINISHED OPEN PORCH	N	
PS1 - 1 STORY SCREEN ENCL	N	

Building Features

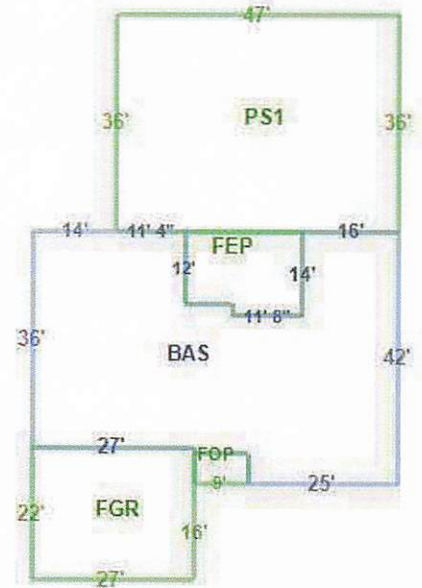
Description	Year Added	Units
BOAT HOUSE - OPEN	1999	
SHED - FRAME W/FLOOR	1999	
POOL - RESIDENTIAL	1999	
JACUZZI - TYPE B	1999	
A/C-POOL HEATERS	2004	
PATIO - BRICK AND TILE	2012	

Building Front Photo



Photo Date: January of 2025

Building Footprint



Taxing Authorities

Generated on 7/22/2025 6:32 PM

Sales / Transactions ⓘ

Generated on 7/22/2025 6:32 PM

Sale Price	Date	Clerk File Number	Type	Notes	Vaca Impro
1,100,000.00	02/24/2023	2023000086691	03		I
725,500.00	04/22/2014	2014000082100	01		I
10.00	04/09/2014	2014000079651	11		I
10.00	12/20/2013	2013000286791	11		I
0.00	05/25/2013	2013000231486	11		I
100.00	11/18/2002	3777/2426	01		I
100.00	11/18/2002	3777/2424	01		I
315,000.00	12/07/1998	3047/568	06		I
0.00	10/01/1994	2550/423	03		I
72,500.00	06/01/1976	1147/763			

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

Use the above link to do a search on the Lee County Clerk of Courts website, using **9** and **52** for the book and page numbers and **Plats Book** for the b

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

Building / Construction Permit Data

Generated on 7/22/2025 6:32 PM

Permit Number	Permit Type	Date
242109	Boathouse, Dock & Shoreline	09/24/2024
241047	Demolition	04/16/2024
220464	Boathouse, Dock & Shoreline	03/31/2022
PLB16-0083	Plumbing	07/06/2016
ROF15-0073	Roof	07/24/2015
BLD15-0014	Building Remodel / Repair	02/25/2015
BLD13-0008	Building Window / Door Replacement	01/18/2013
BLD11-0120	Building Remodel / Repair	09/02/2011
MEC11-0110	AC New / Change out	07/26/2011
RES2005-11049	Building Window / Door Replacement	09/19/2006
RES199903487	Pool & Spa	04/01/1999
DSH199901213	Boathouse, Dock & Shoreline	02/02/1999
DSH199901214	Boathouse, Dock & Shoreline	02/02/1999
RES199812780	Building Addition	12/30/1998
199812220	Pool & Spa	12/14/1998
505283	Fence	04/29/1985
PLB15-0053	Plumbing	01/01/1800

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 represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding 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 7/22/2025 6:32 PM



Solid Waste (Garbage) Roll Data

Generated on 7/22/2025 6:32 PM

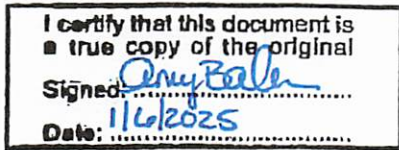
Flood and Storm Information				
Generated on 7/22/2025 6:32 PM				
Flood Insurance Find my flood zone				
Community	Panel	Version	Date	Evacuation Zone
071C	0567	G	11/17/2022	A

Generated on 7/22/2025 6:32 PM

[Previous Parcel Number](#) [Next Parcel Number](#) [New Query](#) [Search Results](#) [Home](#)

Hearing Exhibit B

FEMA and Related Ordinances



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



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.

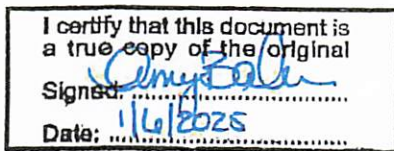
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

www.fema.gov



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.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- 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,

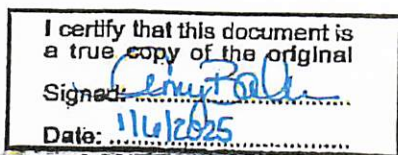


Robert D. Samaan
Regional Administrator

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.

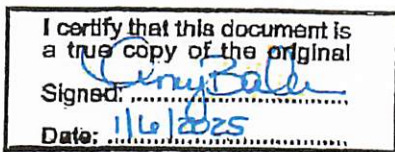
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.

I certify that this document is
a true copy of the original
Signed: Cheryl Baker
Date: 11/6/2023



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.

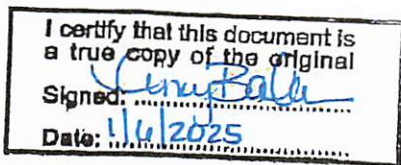
Complete – FEMA needs no further information regarding the specific address.

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

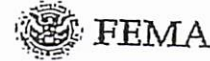
5. Documentation on the Finding Report and Site list:

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



U.S. Department of Homeland Security
Washington, DC 20528



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.

I certify that this document is
a true copy of the original

Signed: *[Signature]*

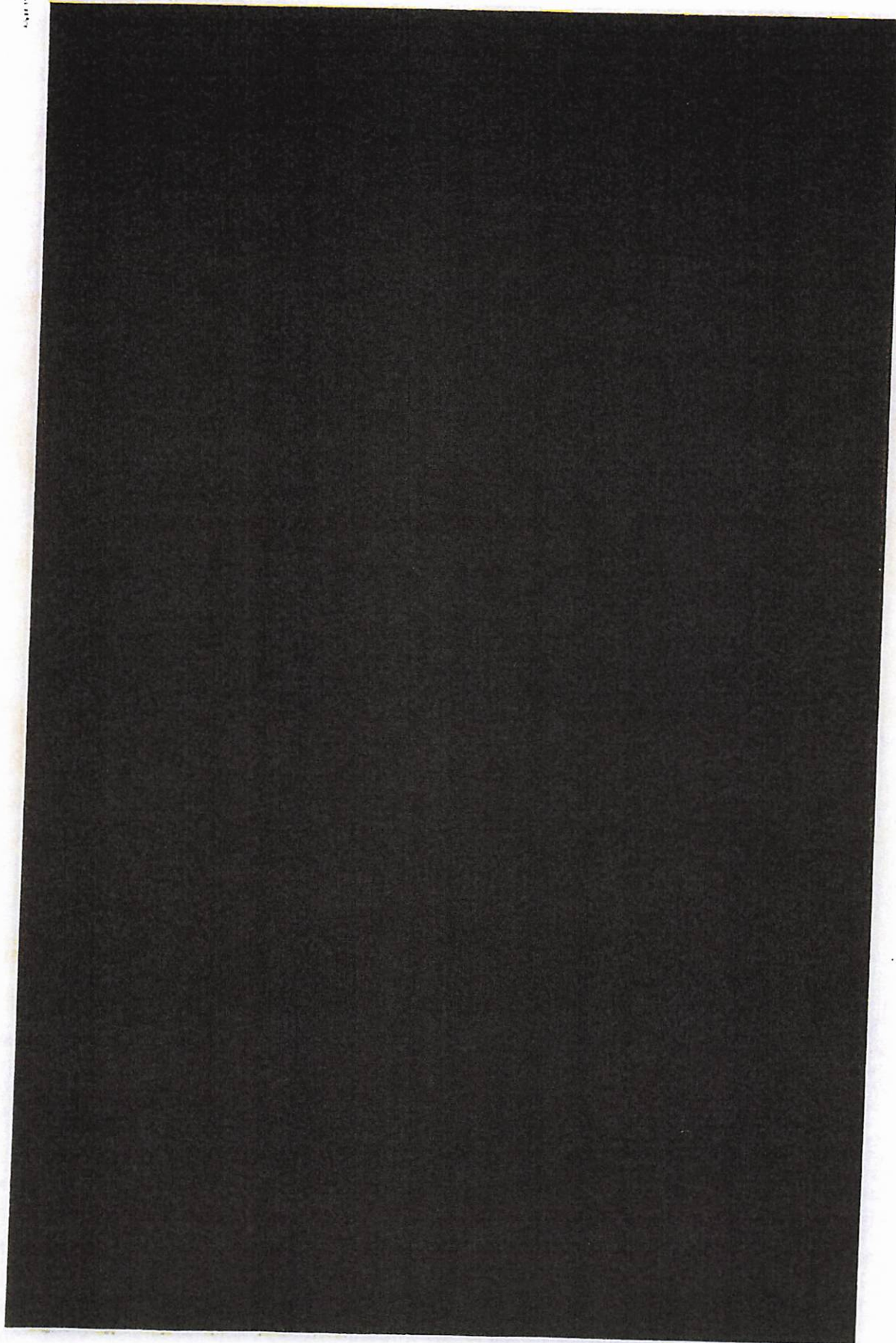
Date: 11/6/2025

I certify that this document is
a true copy of the original
Signed: Cindy Baker
Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: C. B. Baker

Date: 11/6/2025





I certify that this document is
a true copy of the original
Signed: Amr Ball
Date: 11/6/2025

FMBgov.com

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

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

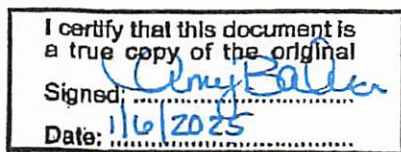
Dear Mr. Samaan,

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.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCB1leawpTJkXB1x877OIRInmTin2M8k9/view?usp=s_haring_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other 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.

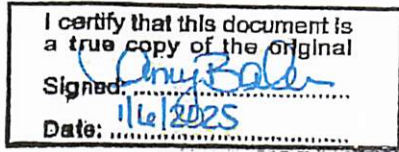
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist 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

FORT MYERS BEACH ESTERO ISLAND

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

I certify that this document is
a true copy of the original

Signed:

Date:

Cathy Baker
11/6/2025

I certify that this document is
a true copy of the original
Signed: [Signature]
Date: 11/6/2025

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.

I certify that this document is a true copy of the original
Signed: <u>Jacky Bell</u>
Date: <u>11/6/2025</u>

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



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.

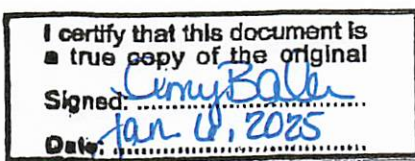
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

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



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.

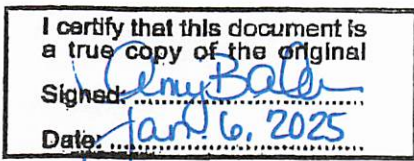
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

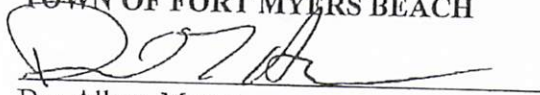
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

Hearing Exhibit C

Notice of Violation



Town of Fort Myers Beach

CODE COMPLIANCE

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

04/22/2025

Case Number:	20250286
Certified Mail:	70222410000084704304
Regular Mail	

**BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA
BURNEA
11373 WILLOW WOOD LN
PLYMOUTH, MI 48170**

**SITE ADDRESS: 277 IBIS ST
PARCEL STRAP NO: 344624W4003000360**

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on **04/21/2025** by Town of Fort Myers Beach Code Enforcement Officer **T. Hoffman** 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.

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.

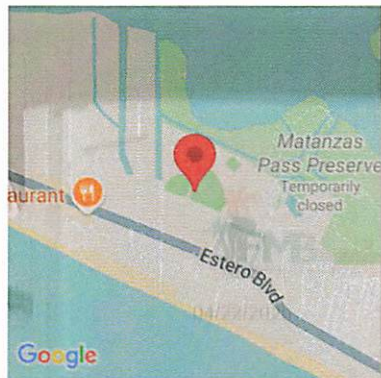
You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation 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 239-220-6458 or code@fmbgov.com if you have any questions concerning this Notice of Violation.

Respectfully,

T. Hoffman
Code Enforcement Officer
Town of Fort Myers Beach

Apr 22, 2025 10:24:12 AM
Fort Myers Beach



Town of Fort Myers Beach

CODE COMPLIANCE

2731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 365-0202 Fax: (239) 365-0999

Case Number:	25751285
Certified Mail:	1022261022000A194304
Regular Mail:	

BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA
BURNIA
11373 WILLOW WOOD LN
PLYMOUTH, MI 48170

SITE ADDRESS: 277 IBIS ST
PARCEL STRAP NO: 344624W4603000350

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 04/21/2025 by Town of Fort Myers Beach Code Enforcement Officer T. Hoffman 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.

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



Apr 22, 2025 3:21:46 PM
Fort Myers Beach



04/22/2025

BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA
BURNIA
11373 WILLOW WOOD LN
PLYMOUTH, MI 48170

SITE ADDRESS: 277 IBIS ST
PARCEL STRAP NO: 344624W4003000360

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

Case Number:	20250286
Certified Mail:	70222410000084704304
Regular Mail:	

NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an inspection of the above-referenced property on 04/21/2025 by Town of Fort Myers Beach Code Enforcement Officer T. Hoffman 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.

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 electrical 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 6-525 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

Hearing Exhibit D

Status of Compliance



07/23/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA
BURNEA

Respondent.

Site Address: 277 IBIS ST
Parcel Strap No.: 344624W4003000360

Case Number: 20250286

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 04/21/2025, BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA BURNEA (property owner) was observed in violation of ASCE 24-14, SCE 6-501, SEC 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. , at the property located at 277 IBIS ST, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 04/22/2025, and sent certified mail to the address of record, 11373 WILLOW WOOD LN, PLYMOUTH, MI 48170, posted to the violation property located at 277 IBIS ST, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.

4. BRAZDAU ALIN ADRIAN & BRAZDAU MIHAELA BURNEA was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 05/23/2025.

5. I performed an inspection of the Subject Property on 07/23/2025, 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 277 IBIS ST, 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 07/23/2025. 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.



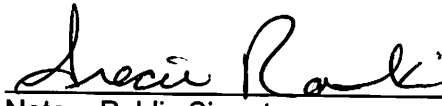
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence
OR ☐ online notarization, this 23 day of July, 2025 by
Thomas Jozzo, ☒ who is personally known to me OR ☐ who has produced
_____ as identification.



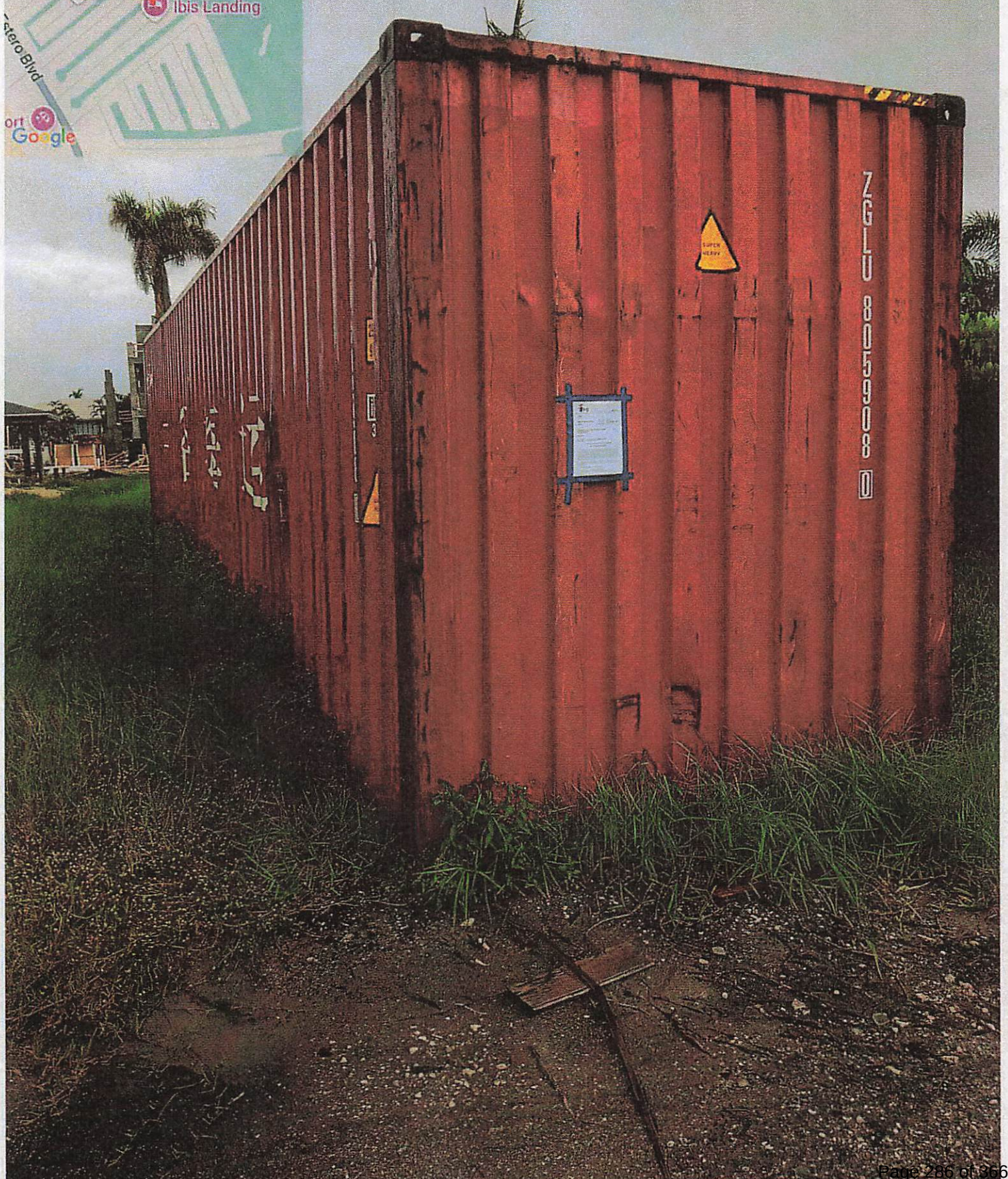
(SEAL)



Notary Public Signature

My Commission Expires: 2/3/2029

Jul 23, 2025 12:41:53 PM
Fort Myers Beach



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.

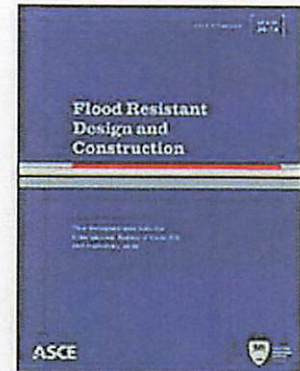
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (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.

Property Address and Owner:

Hearing Date: August 5, 2025

FMB Case #: 20240994
Property Owner: Himmelstein Associates LLC
Property Address: 2815 Estero Blvd
Violation: Non-Compliant Structure (Storage Container)

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Certification of Lien

Attachments:

1. 20240994_Notice of Hearing Continued to August 5, 2025
2. Attachment to Continued Hearing Notice (FMB 20240994 2815 Estero Blvd. Himmelstein - Order Continuing Hearing Dated 06.04.2025
3. 20240994_Notice of June 3, 2025 Hearing
4. 20240994_Hearing Exhibit A: Affidavit of Notice and Posting of the June 3, 2025 Hearing
5. 20240994_Hearing Exhibit B_FEMA and Related Ordinances
6. 20240994_Hearing Exhibit C: Affidavit of Compliance (May 5, 2025)
7. 20240994_Hearing Exhibit C-1 - Photo of Compliance
8. 20240994_Hearing Exhibit C-2: Affidavit of Non-Compliance & Lien Certification (April 22, 2025)
9. 20240994_Hearing Exhibit C-3 Photo of Non-Compliance
10. 20240994_Hearing Exhibit C-4 Code Enforcement Order

Town Recommendations:

Town Approvals:

_____	Date: July 28, 2025
Thomas Yozzo, Emergency Services Director	
_____	Date: July 28, 2025
Traci Kohler, Deputy Town Manager	
_____	Date: July 30, 2025
nancy stuparich, Town Attorney	
_____	Date: July 30, 2025
Lizzette Roman, Town Clerk Administrative Coordinator	
_____	Date: July 30, 2025
Amy Baker, Town Clerk	

**CODE COMPLIANCE SPECIAL MAGISTRATE
FOR
THE TOWN OF FORT MYERS BEACH, FLORIDA**

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs.

FMB CASE NO. 20240994

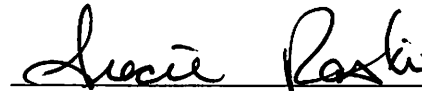
HIMMESTEIN ASSOCIATES LLC,

Respondent.

NOTICE OF CONTINUED HEARING

The undersigned hereby gives notice that the Honorable Judge John G. Van Laningham continued a hearing on a Certification of Lien in the above case at the Fort Myers Beach Council Chambers from Tuesday, June 9, 2025. The continued hearing date is **Tuesday, August 4, 2025 at 9:00 a.m. at Mound House**, 451 Connecticut Street, Fort Myers Beach, FL 33931. A copy of Judge VanLaningham's Order is attached

Signed this 23rd day of July 2025.


Tracie Raski, Magistrate Coordinator

CODE COMPLIANCE SPECIAL MAGISTRATE
THE TOWN OF FORT MYERS BEACH, FLORIDA

TOWN OF FORT MYERS BEACH,
FLORIDA,

Petitioner,

vs.

FMB CASE NO. 20240994

HIMMELSTEIN ASSOCIATES LLC,

Respondent.

ORDER CONTINUING HEARING

THIS CAUSE came before the undersigned Special Magistrate on June 3, 2025, for a hearing regarding the certification of a lien for fines accrued due to past non-compliance with the Town of Fort Myers Beach Code of Ordinances at the property located at 2815 Estero Blvd., Fort Myers Beach, Florida 33931. The Respondent, Himmelstein Associates LLC, was not present at the hearing. Due to concerns regarding the adequacy of notice to the Respondent, and in the interest of ensuring due process, the Special Magistrate hereby ORDERS as follows:

1. The hearing in this matter is continued to August 5, 2025, at 9:00 A.M., or as soon thereafter as the matter may be heard, at the Fort Myers Beach Town Hall Council Chambers, 2731 Oak Street, Fort Myers Beach, FL 33931.
2. The Town of Fort Myers Beach shall make additional efforts to provide proper notice to the Respondent of the continued hearing date, including providing notice to the Respondent's counsel, as appropriate, in accordance with applicable laws and regulations.
3. If proper notice is achieved, the case will be heard on its merits at the continued hearing.

DONE AND ORDERED this 4th day of June, 2025, at the Division of Administrative Hearings, Tallahassee, Florida.



John G. Van Laningham
Special Magistrate

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of this Order has been furnished to
by U.S. mail this 4 day of June, 2025, to:

Himmelstein Associates LLC
P.O. Box 218
Somers Point, NJ 08244

Himmelstein Associates LLC
907 Hyacinth Dr.
Delray Beach, Florida 33483

BY: 
Town Clerk and Clerk to Special Magistrate

Dated June 4, 2025

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

**DOAH Case No. 24-004838
FMB Case No. 20240994**

Petitioner,

vs.

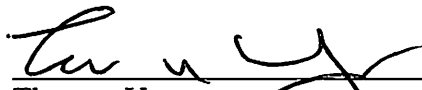
HIMMELSTEIN ASSOCIATES LLC

Respondent,

NOTICE OF HEARING

The undersigned hereby gives notice that the Honorable Judge John G. Van Laningham will conduct a Certification of Lien Hearing in the above referenced case(s) at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 at **9:00 a.m. Tuesday, June 3rd, 2025.**

Signed this 22nd day of April 2025.



Thomas Yozzo,
Emergency Services Director

Hearing Exhibit

A

- Affidavit of Notice and Posting



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

Himmelstein Associates LLC
P.O. Box 218
Somers Point, NJ 08244

Respondent,

FMB Case Number:	20240994
Certified Mail:	
Regular Mail:	
DOAH Case Number:	

Site Address: 2815 Estero Blvd,
Fort Myers Beach, FL 33931
Parcel Strap No. 204624W2003L00050

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Emergency Services Director for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20240994 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 at the property of 2815 Estero Blvd, Fort Myers Beach, FL 33931.

FORT MYERS BEACH ESTERO ISLAND

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



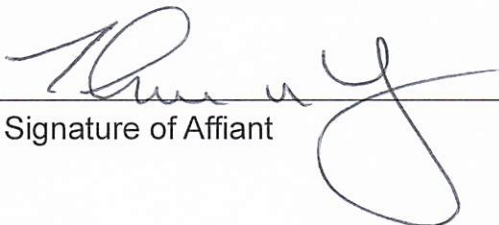
1. I personally mailed by regular and certified mail a copy of the Notice of Hearing scheduled 06/03/2025 to the following:
 - a. Himmelstein Associates LLC
P.O. Box 218,
Somers Point, NJ 08244
Certified Mail No. 70222410000084701631
(Property Owner)
 - b. Himmelstein, Richard B
907 Hyacinth Dr.
Delray Beach, FL 33483
Certified Mail No. 70222410000084701648
(Registered Agent)

Copies of the certified mailing receipts are attached as evidence.

2. I posted a copy of the Notice at 2815 Estero Blvd, Fort Myers Beach, FL 33931, by which is the subject property. I took a photographs of the Notice I posted on the 29th day of April 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 29th day of April 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 30th day of April 2025.



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 30th day of April, 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 14 2026

FORT MYERS BEACH ESTERO ISLAND

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

7022 2410 0000 8470 1631

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 \$

Sent by:

Postmark
Here

Postage

\$

Total Postage and Fees

\$

\$

Himmelstein Associates LLC
P.O. Box 218
Somers Point, NJ 08244

NOH 6/3/25 owner
20240994
2815 ESTERO

PS Form 3800, April 2015 PSN 7530-02-000-9037

See Reverse for Instructions

7022 2410 0000 8470 1648

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 \$

Sent by:

Postmark
Here

Postage

\$

Total Postage and Fees

\$

\$

Registered Agent: Himmelstein, Richard B
907 Hyacinth Dr.
Delray Beach, FL 33483

NOH 6/3/25 Agent
20240994
2815 ESTERO

PS Form 3800, April 2015 PSN 7530-02-000-9037

See Reverse for Instructions

FIRST-CLASS



US POSTAGE PAID PITNEY BOWES

ZIP 33921
02 TH

\$ 002.87⁰

Himmelstein Associates LLC
P.O. Box 218
Somers Point, NJ 08244

Town of Fort Myers Beach

APR 29 2025

Sent by:

FIRST CLASS



US POSTAGE PAID PITNEY BOWES

ZIP 33831
02 7H

\$ 002.870

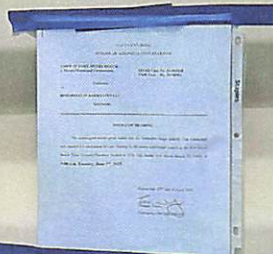
Registered Agent: Himmelstein, Richard B
907 Hyacinth Dr.
Delray Beach, FL 33483

Town of Fort Myers Beach
APR 29 2025

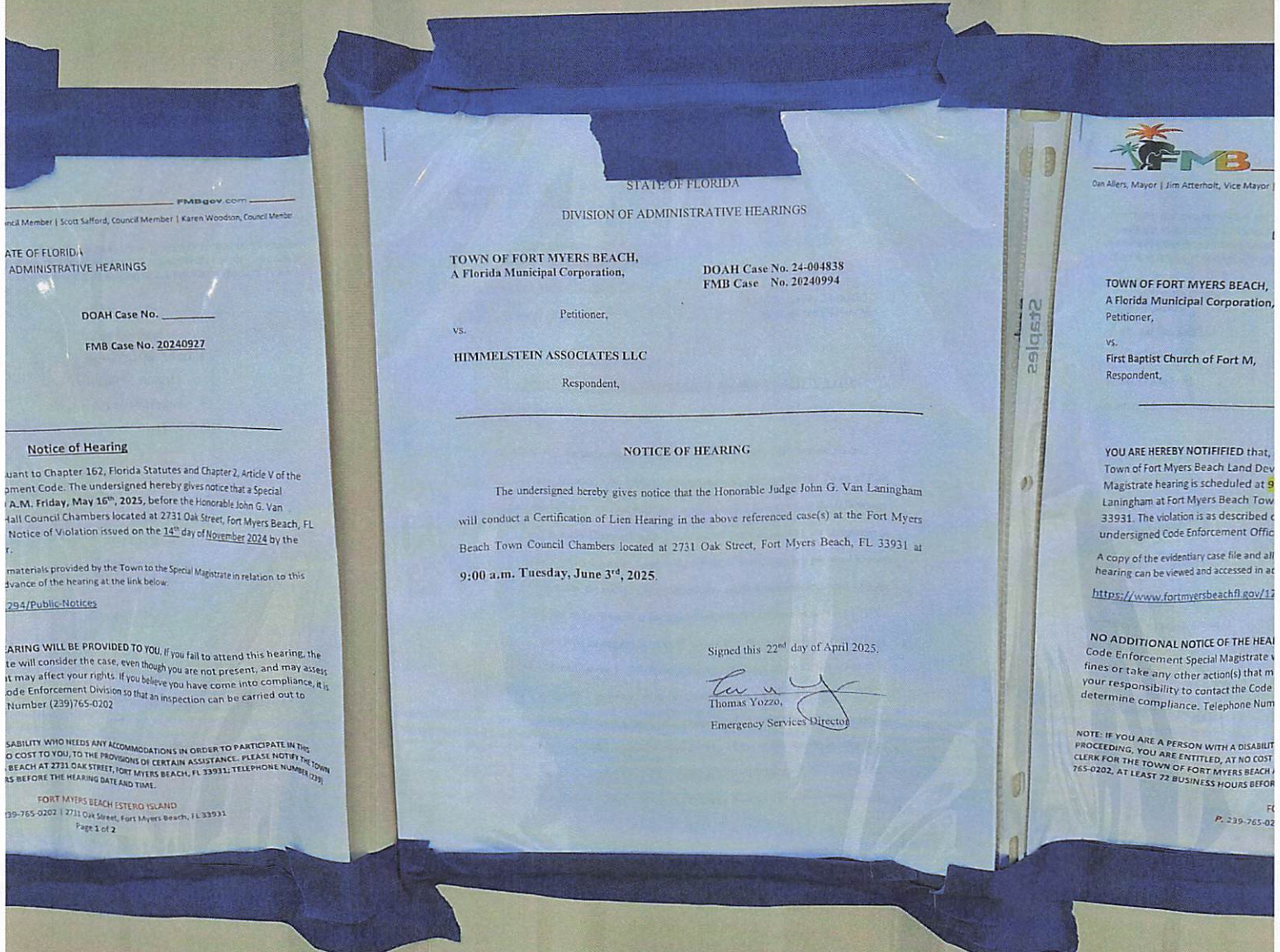
Sent by:



CAUTION
9'6" HIGH
CONTAINER



R.COM



FMBgov.com
Council Member | Scott Safford, Council Member | Karen Woodson, Council Member

STATE OF FLORIDA
ADMINISTRATIVE HEARINGS

DOAH Case No. _____
FMB Case No. 20240927

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. 24-004838
FMB Case No. 20240994

vs.
HIMMELSTEIN ASSOCIATES LLC
Respondent,



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

vs.
First Baptist Church of Fort M,
Respondent,

Notice of Hearing

uant to Chapter 162, Florida Statutes and Chapter 2, Article V of the
ment Code. The undersigned hereby gives notice that a Special
A.M. Friday, May 16th, 2025, before the Honorable John G. Van
Hall Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL
Notice of Violation issued on the 14th day of November 2024 by the
r.

materials provided by the Town to the Special Magistrate in relation to this
Avance of the hearing at the link below.
<https://www.fortmyersbeachfl.gov/12>

ARING WILL BE PROVIDED TO YOU. If you fail to attend this hearing, the
te will consider the case, even though you are not present, and may assess
it may affect your rights. If you believe you have come into compliance, it is
ode Enforcement Division so that an inspection can be carried out to
Number (239)765-0202

SABILITY WHO NEEDS ANY ACCOMMODATIONS IN ORDER TO PARTICIPATE IN THIS
O COST TO YOU, TO THE PROVISIONS OF CERTAIN ASSISTANCE. PLEASE NOTIFY THE TOWN
- BEACH AT 2731 OAK STREET, FORT MYERS BEACH, FL 33931; TELEPHONE NUMBER (239)
RS BEFORE THE HEARING DATE AND TIME.

FORT MYERS BEACH (ESTERO ISLAND)
39-765-0202 | 2731 Oak Street, Fort Myers Beach, FL 33931
Page 1 of 2

NOTICE OF HEARING

The undersigned hereby gives notice that the Honorable Judge John G. Van Laningham
will conduct a Certification of Lien Hearing in the above referenced case(s) at the Fort Myers
Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 at
9:00 a.m. Tuesday, June 3rd, 2025.

Signed this 22nd day of April 2025,

Thomas Yozzo,
Emergency Services Director

YOU ARE HEREBY NOTIFIED that,
Town of Fort Myers Beach Land Dev
Magistrate hearing is scheduled at 9
Laningham at Fort Myers Beach Tow
33931. The violation is as described c
undersigned Code Enforcement Offic
A copy of the evidentiary case file and all
hearing can be viewed and accessed in at
<https://www.fortmyersbeachfl.gov/12>

NO ADDITIONAL NOTICE OF THE HEAL
Code Enforcement Special Magistrate v
fines or take any other action(s) that m
your responsibility to contact the Code
determine compliance. Telephone Num

NOTE: IF YOU ARE A PERSON WITH A DISABILI
PROCEEDING, YOU ARE ENTITLED, AT NO COST
CLERK FOR THE TOWN OF FORT MYERS BEACH
765-0202, AT LEAST 72 BUSINESS HOURS BEFOR

P. 239-765-02



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOWN OF FORT MYERS BEACH,
A Florida Municipal Corporation,

DOAH Case No. 24-004838
FMB Case No. 20240994

vs. Petitioner,

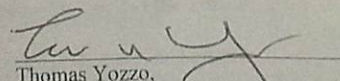
HIMMELSTEIN ASSOCIATES LLC

Respondent,

NOTICE OF HEARING

The undersigned hereby gives notice that the Honorable Judge John G. Van Laningham will conduct a Certification of Lien Hearing in the above referenced case(s) at the Fort Myers Beach Town Council Chambers located at 2731 Oak Street, Fort Myers Beach, FL 33931 at 9:00 a.m. Tuesday, June 3rd, 2025.

Signed this 22nd day of April 2025.


Thomas Yozzo,
Emergency Services Director



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

Detail by Entity Name

Florida Limited Liability Company
HIMMELSTEIN ASSOCIATES, LLC

Filing Information

Document Number	L21000452289
FEI/EIN Number	N/A
Date Filed	10/15/2021
Effective Date	02/26/2016
State	FL
Status	ACTIVE
Last Event	CONVERSION
Event Date Filed	10/15/2021
Event Effective Date	10/12/2021

Principal Address

907 HYACINTH DR
DELRAY BEACH, FL 33483

Mailing Address

907 HYACINTH DR
DELRAY BEACH, FL 33483

Registered Agent Name & Address

HIMMELSTEIN, RICHARD B
907 HYACINTH DR
DELRAY BEACH, FL 33483

Authorized Person(s) Detail

Name & Address

Title MGR

HIMMELSTEIN, RICHARD B
907 HYACINTH DR
DELRAY BEACH, FL 33483

Annual Reports

Report Year	Filed Date
2022	01/29/2022
2023	01/26/2023

2024

01/25/2024

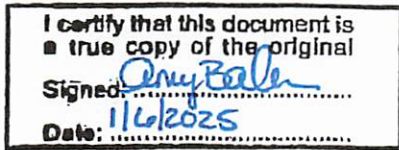
Document Images

01/25/2024 -- ANNUAL REPORT	View image in PDF format
01/26/2023 -- ANNUAL REPORT	View image in PDF format
01/29/2022 -- ANNUAL REPORT	View image in PDF format
10/15/2021 -- Florida Limited Liability	View image in PDF format

Florida Department of State, Division of Corporations

Hearing Exhibit B

FEMA and Related Ordinances



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



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.

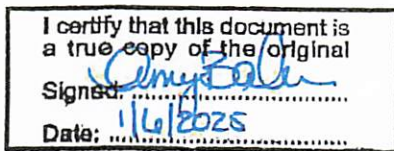
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

www.fema.gov



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:

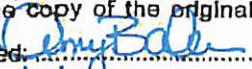
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

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.

I certify that this document is
a true copy of the original

Signed: 

Date: 11/6/2025

- 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,

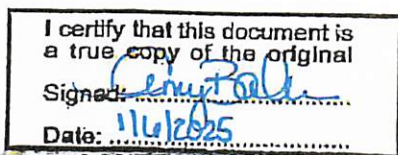


Robert D. Samaan
Regional Administrator

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.

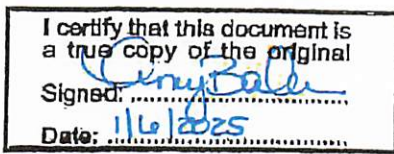
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.

I certify that this document is a true copy of the original

Signed: Cheryl Baker

Date: 11/6/2023



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.

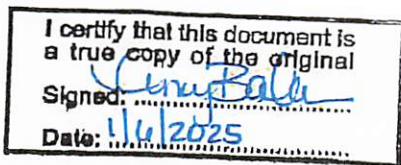
Complete – FEMA needs no further information regarding the specific address.

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

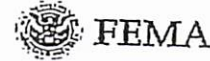
5. Documentation on the Finding Report and Site list:

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



U.S. Department of Homeland Security
Washington, DC 20528



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.

I certify that this document is
a true copy of the original

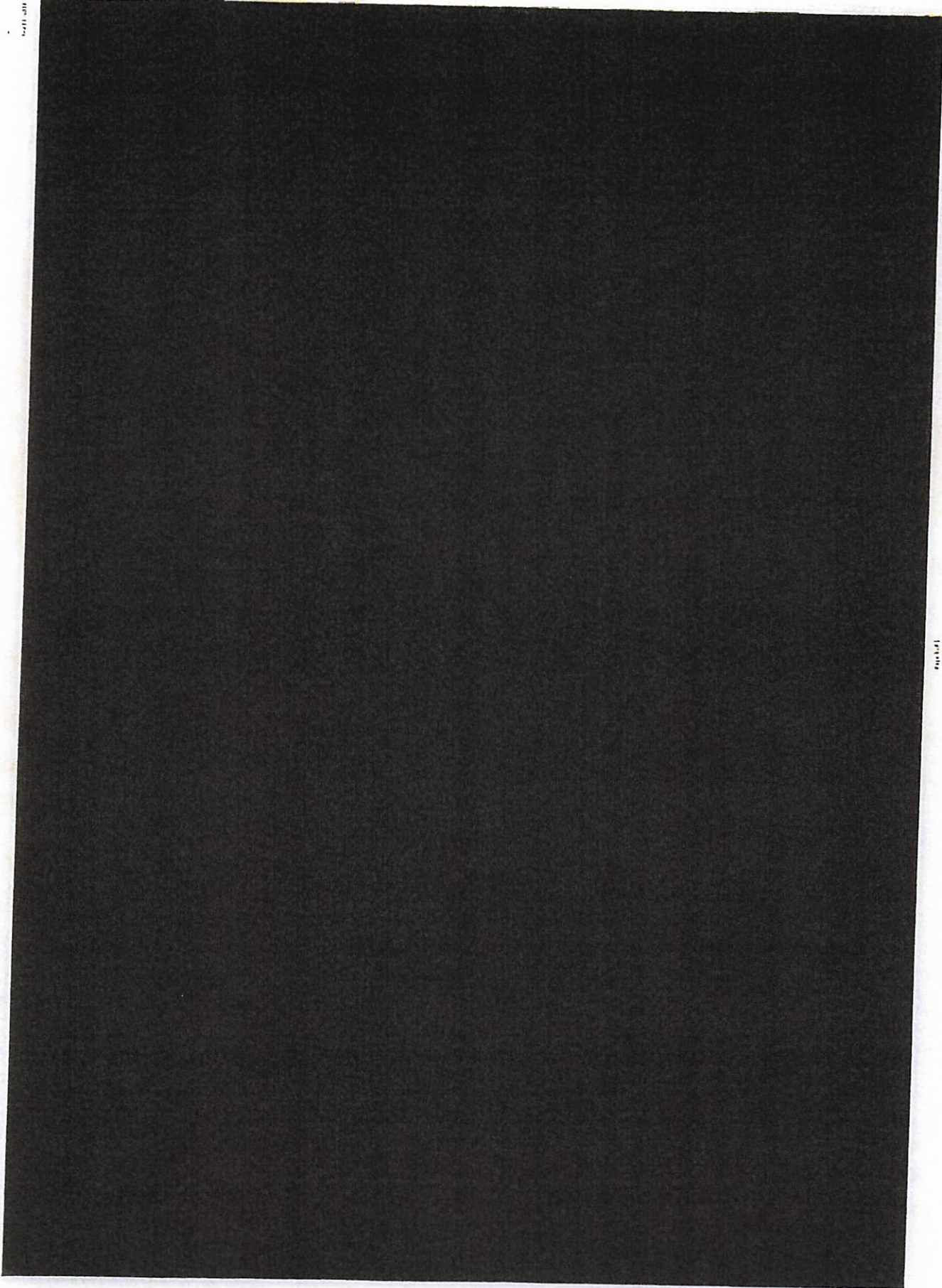
Signed: Crystal

Date: 11/6/2025

I certify that this document is
a true copy of the original

Signed: Cindy Baker

Date: 11/6/2025



I certify that this document is
a true copy of the original

Signed: Cebal

Date: 11/6/2025



I certify that this document is
a true copy of the original
Signed: Ami Ball
Date: 11/6/2024

FMBgov.com

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

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

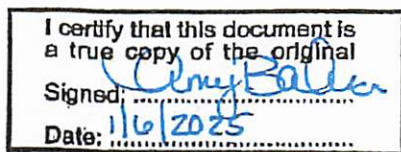
Dear Mr. Samaan,

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.

More specifically, the owners of La Ola Surfside Restaurant, who use a 9'x 16' shipping container for a bar, were able to create a video demonstrating how quickly its shipping container could be disassembled and removed from its location on 1035 Estero Boulevard. The following is a link to the video, which has been widely circulated throughout the Fort Myers Beach Community.

https://drive.google.com/file/d/1vCB1leawpTJkXB1x877OIRInmTin2M8k9/view?usp=s_haring_cil&ts=67237f46

La Ola Surfside Restaurant, as well as other 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.

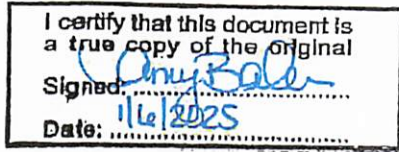
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist 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

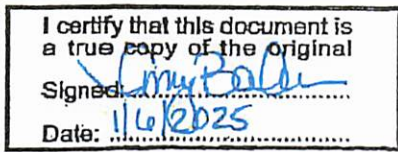
FORT MYERS BEACH ESTERO ISLAND

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

I certify that this document is
a true copy of the original

Signed: Carly Baker

Date: 11/6/2025



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.

I certify that this document is a true copy of the original
Signed: <u>Jacky S. Bell</u>
Date: <u>11/6/2025</u>

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



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.

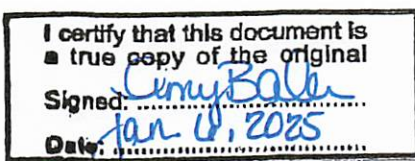
Sincerely,



Robert D. Samaan
Regional Administrator

cc:

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



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.

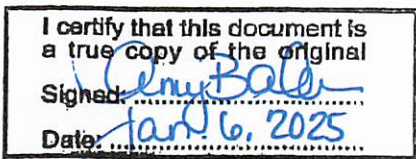
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

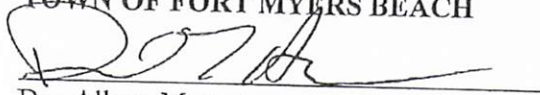
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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.

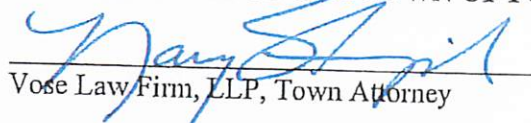
TOWN OF FORT MYERS BEACH


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

July 24, 2025

The Honorable Will McKannay
Town Manager, Town of Fort Myers Beach
6231 Estero Blvd
Fort Myers Beach, FL 33931

Reference: National Flood Insurance Program (NFIP) Community Assistance Visit (CAV)
Report of Findings

Dear Mr. McKannay:

The purpose of this letter is to provide you with our findings from the CAV that the Federal Emergency Management Agency (FEMA) conducted from Tuesday, July 15, 2025, to Thursday, July 17, 2025. Thank you for the courtesy extended to Tamara Hansen, Pier Janrhett and Yuzzeff Henderson of FEMA Region 4 and Scott Gaines, of the Florida Department of Emergency Management (FDEM).

An introductory meeting was held by FEMA Specialists Tamara Hansen, Pier Janrhett, Yuzzeff Henderson Melendez, Scott Gaines with FDEM, yourself and members of the Town of Fort Myers Beach staff including Thomas Yozzo, Tracie Kohler, Kelly Defedericis, Frankie Kropacek, Georgina Cid, Shanette Thomas and Traci Raski. FEMA Region 4 Staff, Jacky Bell and Jason Hunter, Mr. Michael Burchette (FDEM) attended virtually. As stated during the meeting, we are very appreciative of the Town's efforts to prepare for the CAV and extended attendance of your staff for the duration of the CAV.

The purpose of this visit was to determine if the Town of Fort Myers Beach's floodplain management program is compliant with the minimum requirements of the National Flood Insurance Program. During this visit, outstanding sites identified in the Community Rating System (CRS) Retrograde appeal process in April 2024, were discussed. These sites were originally identified during field tours conducted in October and November 2023, following technical assistance visits after Hurricane Ian. During the permit reviews conducted as part of the CRS Retrograde appeal process, FEMA personnel identified various actions that were in violation of the Town's floodplain management program resulting in the community's probation from the National Flood Insurance Program. Subsequently, the Town was retrograded in CRS, effective April 1, 2025.

On April 28, 2025, the Town was notified that the requirement to be removed from probation under the NFIP had been met, effective November 18, 2025.

During the CAV, the Town of Fort Myers Beach's floodplain management program and the floodplain development permit process were reviewed and discussed. Additionally, a field tour was conducted to capture potential violations in the floodplain.

We have reviewed the Town's floodplain management regulations in Ordinance 24-03 and found that it meets the minimum requirement of the National Flood Insurance Program. We didn't find language adopting Limit of Moderate Wave Action requirements beyond the Florida Building Code, nor the state's accessory language which is based upon FEMA Policy #104-008-03. Please contact Scott Gaines at scott.gaines@em.myflorida.com if the Town is interested in adopting language related to either of these topics.

During the visit, the following programmatic deficiencies were identified and must be resolved:

1. Substantial Damage/Substantial Improvement Determination Process

○ *Concerns:*

- During the permit documentation review, evidence showed that permits were issued prior to a Substantial Damage/Substantial Improvement determination having been made by the Town, resulting in non-compliant structures that were potentially Substantial Damaged/Substantial Improved and repaired without being brought into compliance with the Town's floodplain management regulations.
- Additionally, the permitting staff who reviewed and issued permits didn't have access to Substantial Damage determinations list, which lead to permits being issued for structures that had been deemed to be Substantially Damaged, without ensuring the structures were brought into compliance with the Town's floodplain management regulations.
- Some of the cost to repair estimates seem to only include costs to repair damages located below the base flood elevation.
- In the Town's Substantial Damage Management Plan, November 2024-Draft, *Cost of Work Verification – Pre-Permit Issuance* section, it indicates that verification of repairs and associated cost to repair the structure will be accounted for before issuing a building permit.
-

○ *Corrective actions require:*

- On or before August 8, 2025, provide a Standard Operating Procedure that documents the Substantial Damage/Substantial Improvement Determination Process and the permitting process. This should include how determinations are shared with staff who process permit applications.

2. Floodplain reviews related to Private Providers

○ *Concerns:*

- The Town requires Under Construction Elevation Certificates to be submitted and approved, before the building's construction goes vertical.
- Private providers aren't complying with this requirement. Permits that were reviewed for documented structures well beyond this tie-beam inspection that had failed to submit Under Construction Elevation Certificates.
- Failure to take corrective actions can result in non-compliant structures being identified after construction has been completed.

○ *Corrective actions require:*

- On or before August 8, 2025, provide revised permitting process procedures and any supporting documentation that addresses failure by the Private Providers to meet the Town's requirement for submittal of the Under Construction Elevation Certificate.

3. The Town adopted the following ordinances to allow temporary placement of various types of units: "Temporary Placement of Emergency Uses, Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwelling or Temporary Moveable Commercial Units" (Ordinance 23-05), "Temporary Governmental, Residential (Manufactured Homes, Mobile Homes, Motor Homes, Recreational Vehicles Other Temporary Residential Dwellings) or Movable Commercial Uses following Natural Disasters or Other Emergencies" (Ordinance 24-04), and "RESOLUTION TO REVOKE AND RESCIND EMERGENCY TEMPORARY PLACEMENT PERMITS" (Resolution Number 24-296).

▪ *Concerns:*

- Ordinance 23-05 and 24-04 authorized installation of non-compliant temporary units.
- Resulted in numerous non-compliant temporary units. Some have been removed, while others are still present.
- Resolution Number 24-296 (approved December 16, 2024) "mandated removal of noncompliant structures that were incorrectly permitted," but numerous noncompliant structures remain in place.

▪ *Corrective actions require:*

- On or before August 8, 2025, remove the non-compliant temporary structures.

During the field tour, data for 252 sites was collected. The list of addresses includes sites that fall into the following categories: 1) non-compliant structures that need to be mitigated, 2) structures that require additional documentation to determine compliance, and 3) temporary structures that need to be elevated and anchored or removed. The list of site addresses with the required action/documentation are in the attached Site List.

Following the field tour, an exit meeting was held with the Town, FEMA, and FDEM staff on July 17, 2025. FEMA's findings of the community's floodplain management program and the floodplain development permit process were discussed. As stated in the meeting, we ask that you review each program deficiency and the attached site list. The deadline to submit the requested documents or documented actions is August 8, 2025.

We recommend that the staff who support the administration and enforcement of the Town's floodplain management program, including code enforcement staff, also attend floodplain management training courses. FEMA's National Disaster and Emergency Management University (NDEMU) and the Florida Floodplain Managers Association (FFMA) offer various floodplain management-related training courses for local officials. For your convenience, web addresses for NDEMU's and FFMA's website are provided below:

www.training.fema.gov
flfloods.org

We appreciate the Town of Fort Myers Beach's commitment to administering the NFIP. We would like to remind you that the requirement for participation in the CRS is your community's full compliance with the NFIP. Again, we request that the Town provide the requested documentation by August 8, 2025, for consideration of reinstatement to the CRS program on April 1, 2026. If your staff members have questions or require additional information, Ms. Tamara Hansen may be reached by telephone at (770) 220-5288 or by e-mail at tamara.hansen@fema.dhs.gov and Pier Janrhett may be reached by telephone at (202) 826-5655 or by e-mail at pier.janrhett@fema.dhs.gov.

Sincerely,

Jacky S. Bell
Director
Mitigation Division

Attachment: Site List

Cc: Ms. Jillian Kraynak, Florida NFIP State Coordinator
Ms. Traci Kohler, Deputy Town Manager, Town of Fort Myers Beach
Ms. Kelli Defedericis, Floodplain Administrator, Town of Fort Myers Beach
Mr. Tom Yozzo, Emergency Services Director, Town of Fort Myers Beach
Mr. Frankie Kropacek, Operations & Compliance Director, Town of Fort Myers Beach

Hearing Exhibit

D

- Affidavit of Compliance



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

05/05/2025

TOWN OF FORT MYERS BEACH,
Petitioner,

vs.

Himmelstein Associates LLC,
Respondent,

Case Number:	20240994
Certified Mail:	
Regular Mail:	

Site Address: **2815 Estero Blvd**
Parcel Strap No.: **304624W2003L00050**

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA)
COUNTY OF LEE)

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

1. I, D. Batt, 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 10/17/2024 , Himmelstein Associates LLC (property owner) was observed in violation of ASCE 24-14, 6-501, and 6-525 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 at the property located at 2815 Estero Blvd, Fort Myers Beach, FL 33931 ("Subject Property").

3. A Notice of Violation was issued on 10/17/2024, and sent certified mail to the address of record for both the property owner and registered agent, PO BOX 218, Somers Point, NJ 08244 and 907 Hyacinth Dr., Delray Beach, FL 33483, posted to the violation property located at 2815 Estero Blvd, Fort Myers Beach, FL 33931, and posted to Town Hall located at 2731 Oak St., Fort Myers Beach, FL 33931.
4. Himmelstein Associates LLC was/were given 30-days to come into compliance with the Town of Fort Myers Beach Ordinance, which was on or before 11/17/2024.
5. Himmelstein Associates LLC was brought before the Florida Division of Administrative Hearings Magistrate on 01/07/2025. The Hearing was conducted in proper order and a Magistrate Order was created on 01/15/2025. **Hearing Exhibit A1 – Attached Order AP 24-4838 – 20240908**
6. I performed an inspection of the Subject Property on 05/05/2025, and the Subject Property was observed to be compliant with the Town of Fort Myers Beach Ordinance.
7. I have attached photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on 05/05/2025. These photographs are true, unaltered and accurate. **Hearing Exhibit B1.**
8. The Special Magistrate Order that was signed on 01/15/2025 gave a compliance date of 03/01/2025 to have the subject property in complete compliance. The Subject property of 2815 Estero Blvd, Fort Myers Beach, FL 33931 was not in compliance until 05/05/2025. The subject property accruing daily fines of \$250.00 daily from the dates 03/01/2025 to 05/05/2025 a total of 65 days totals to \$16,500.00
9. I have personal knowledge of all these facts, and each is true to the best of my knowledge and belief.
10. The Town of Fort Myers Beach hereby has determined the property located at 2815 Estero Blvd is in compliance with Fort Myers Beach Code of Ordinances.

FURTHER AFFIANT SAYETH NAUGHT.

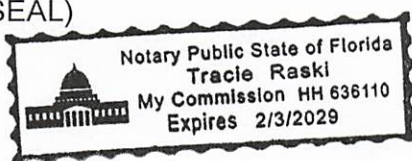
Signature of Affiant: 

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence OR ☐ online notarization, this 5 day of May, 2025, by Danielle Bhatt, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

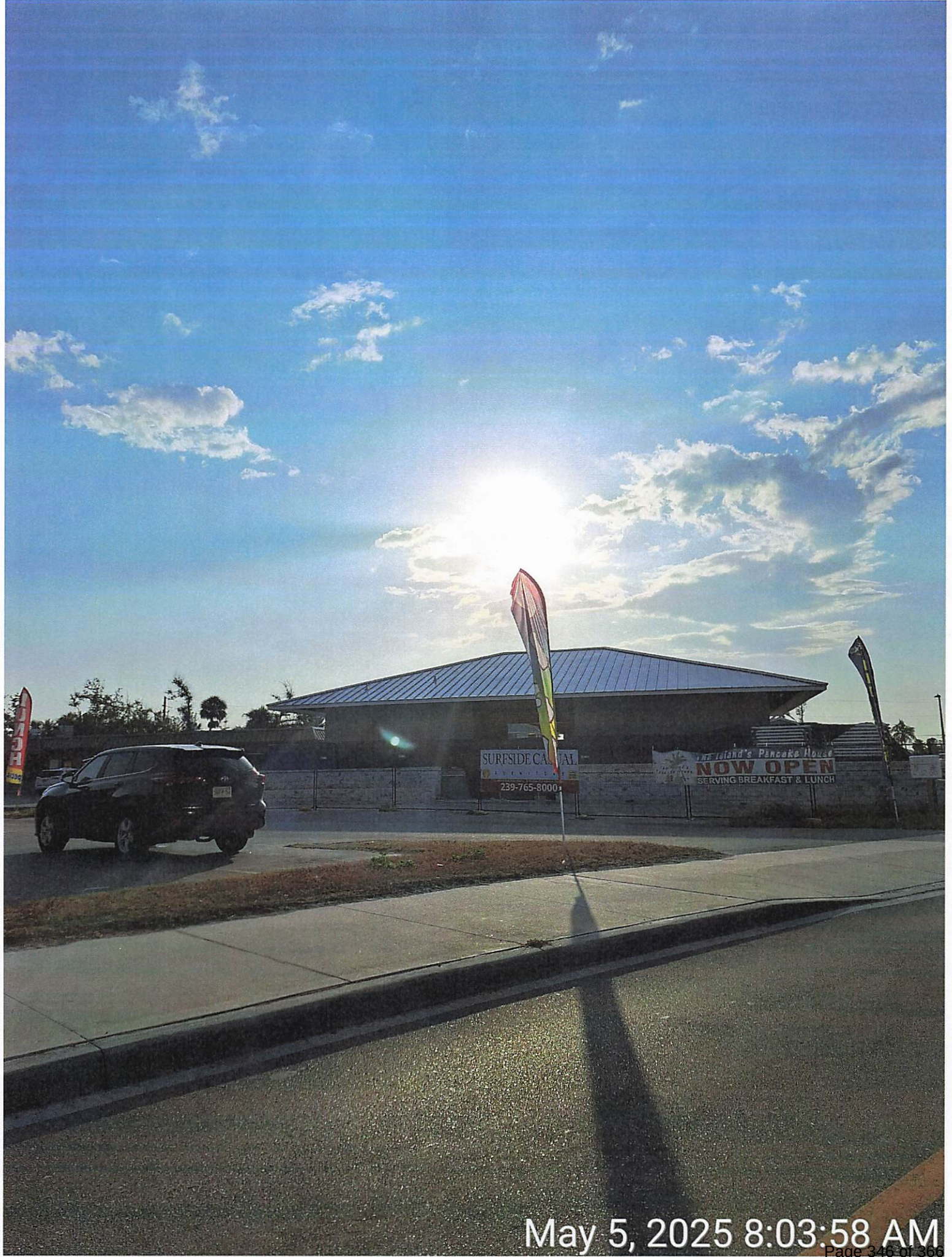
Notary Public Signature: 

(SEAL)



Hearing Exhibit

D2



SURFSIDE CAPITAL
239-765-8000

The Island's Pancake House
NOW OPEN
SERVING BREAKFAST & LUNCH



May 5, 2025 8:04:02 AM

May 5, 2025 8:03:53 AM





May 5, 2025 8:03:55 AM

Hearing Exhibit

C

- AFFIDAVIT OF NON-COMPLIANCE & LIEN CERTIFICATION

BEFORE THE TOWN OF FORT MYERS BEACH
CODE ENFORCEMENT SPECIAL MAGISTRATE

RE: 2815 ESTERO BLVD
PARCEL STRAP NO: 30-46-24-W2-003L0-0050

HIMMELSTEIN ASSOCIATES LLC
P.O. BOX 218
SOMERS POINT, NJ 08244

DOAH Case No.24-004838
CE Case No.20240994

AFFIDAVIT OF NON-COMPLIANCE & LIEN CERTIFICATION

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo,
Emergency Services Director, who is the Code Enforcement Director for the Town of Fort
Myers Beach, who being by me first duly sworn, on oath, deposes and says the following:

1. My name is Thomas Yozzo. 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 these cases, the entire investigative files and all documents recorded with the Lee
County Clerk of Court and contained in the files of the Town's official records.

2. I have been an employee of the Town of Fort Myers Beach, Florida ("Town") for
over 2 years and currently serve as a Code Enforcement Manager of the Towns Code
Enforcement Department. I am aware of the facts of the cases contained herein.

3. Himmelstein Associates LLC ("Himmelstein") is the recorded owner of real
property located in Lee County, Florida ("Property") by virtue of that certain Special Warranty
Deed ("Deed") recorded on May 4th, 2021 as Official Record Instrument No. 2021000747663 of
the Public Records of Lee County, Florida. The Property is located at 2815 Estero Blvd, Fort

Myers Beach, Florida 33931, and is legally described as follows:

All of Block L of that certain subdivision known as Winkler's Second Division, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 8, Page 49.

A true and correct copy of the Warranty Deed is attached hereto in **Hearing Exhibit "A1"**.

4. On or about October 17, 2024 the Town issued a notice of violation ("Notice of Violation") to Himmelstein for violations of Section 6-494 (ASCE 24-14) of the Town of Fort Myers Beach Code of Ordinances (the "Town Code"), which provides Section. 6-501, Section 6-443 & Section 6-525. A true and correct copy of the Notice of Violation is attached hereto as **Hearing Exhibit "B1"**.

5. The Notice of Violation specified that Himmelstein was required to correct the violations by a certain date (November 16, 2024) but Himmelstein failed or refused to do so.

6. As a result of Himmelstein's failure or refusal to correct the violations, the Town scheduled a code compliance hearing for January 07, 2025 and served Himmelstein with a notice of hearing for same.

7. On January 07, 2025 the Town's Special Magistrate ("Special Magistrate") held a duly noticed public hearing related to the violations. Himmelstein appeared at the hearing and had the opportunity to present testimony, evidence, and arguments in its defense.

8. As a result of the January 07, 2025 hearing, the Special Magistrate entered a code enforcement order ("Code Enforcement Order") on January 15, 2025 finding that proper notice

of the hearing had been provided to the property owners/violators and that the Property was in violation of Section **6-494 (ASCE 24-14)** of the Town Code which provides.

9. The Code Enforcement Order ordered that the Respondent must remove or bring the non-compliant structures into compliance with Town and FEMA regulations by **March 1, 2025**. The Special Magistrate will consider compliance steps taken in deciding whether to impose or defer fines.

A fine of \$250.00 per day will be imposed for each day the violation continues beyond the Compliance Date, unless deferred at the status review hearing based upon the circumstances then existing.

If compliance is not achieved by the deadline and no satisfactory progress is reported at the hearing, the town may abate the violation by removing the non-compliant structures. Associated costs will be recoverable as a lien on the Subject Property. A true and correct copy of the Code Enforcement Order is attached hereto as **Hearing Exhibit "C1"**.

10. Despite the Special Magistrate's Order, Himmelstein continued to fail or refuse to bring the Property into compliance.

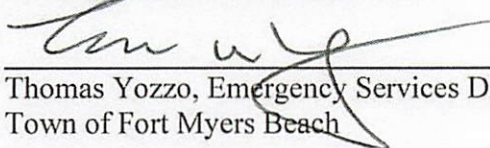
11. As of March 1, 2025, daily fines began to accrue in the amount of \$250.00 per day as specified in the Code Enforcement Order.

12. The Non-Compliant Structures have not been removed or brought into compliance as ordered. Please see **Hearing Exhibit "D1"** for true and accurate photo's showing same.

13. Due to Himmelstein's continued failure to bring the Property into compliance since March 1, 2025 to April 22, 2025 the Subject Property has been in non-compliance for 53 days.

14. As of April 22, 2025 a fine in the amount of \$13,250.00 is due and owing to the Town.

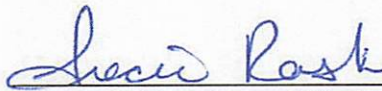
SWORN AND ATTESTED BY:


Thomas Yozzo, Emergency Services Director
Town of Fort Myers Beach

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of either ☒ personal presence or ☐ online notarization this 22 day of April, 2025, by Thomas Yozzo. He ☐ is personally known to me or ☒ has produced FL DL as identification.



[Notary Seal]

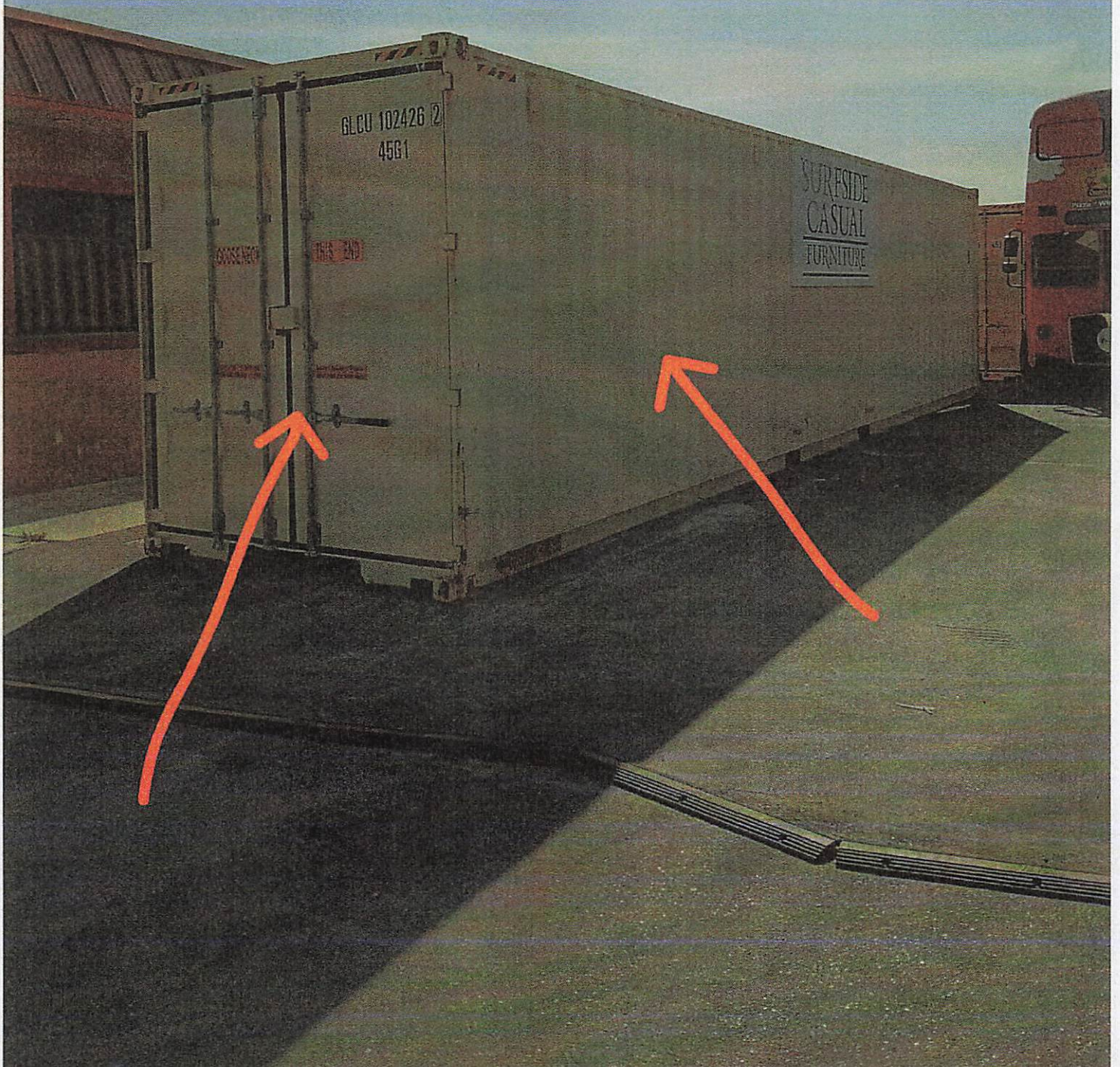

Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

Hearing Exhibit

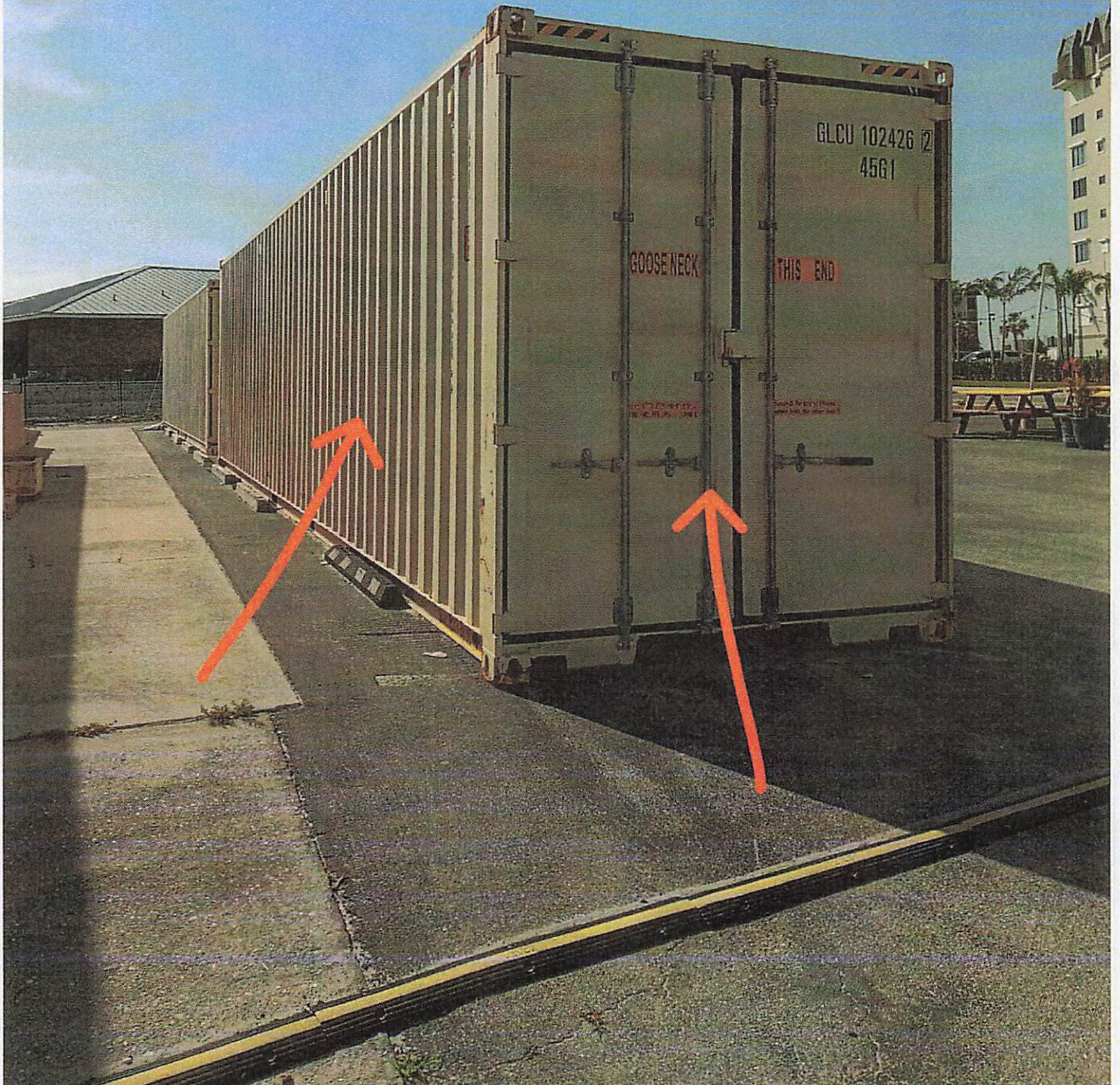
C4

- Photographs

Apr 22, 2025 9:36:45 AM
Town of Fort Myers Beach



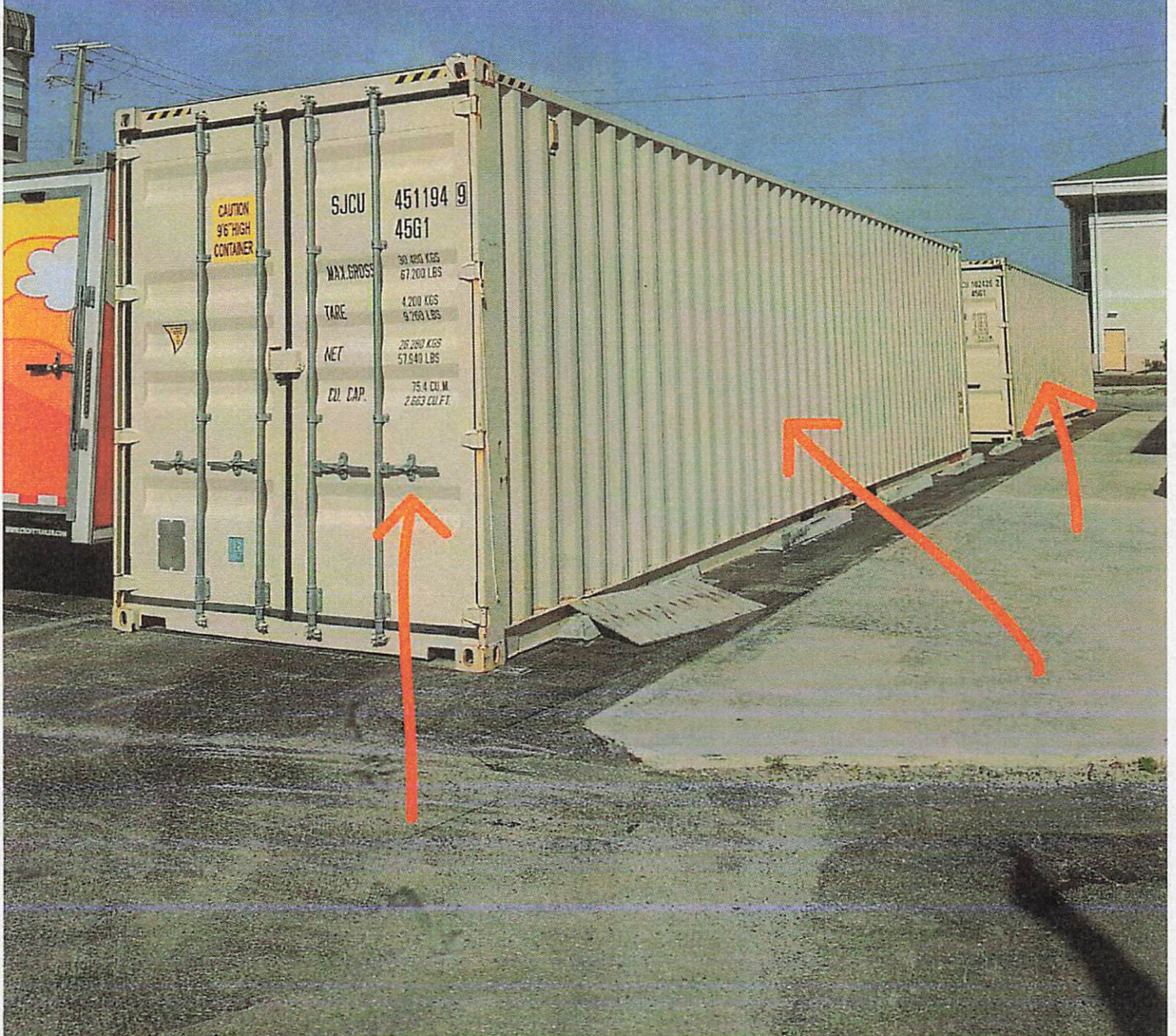
Apr 22, 2025 9:36:59 AM
Town of Fort Myers Beach



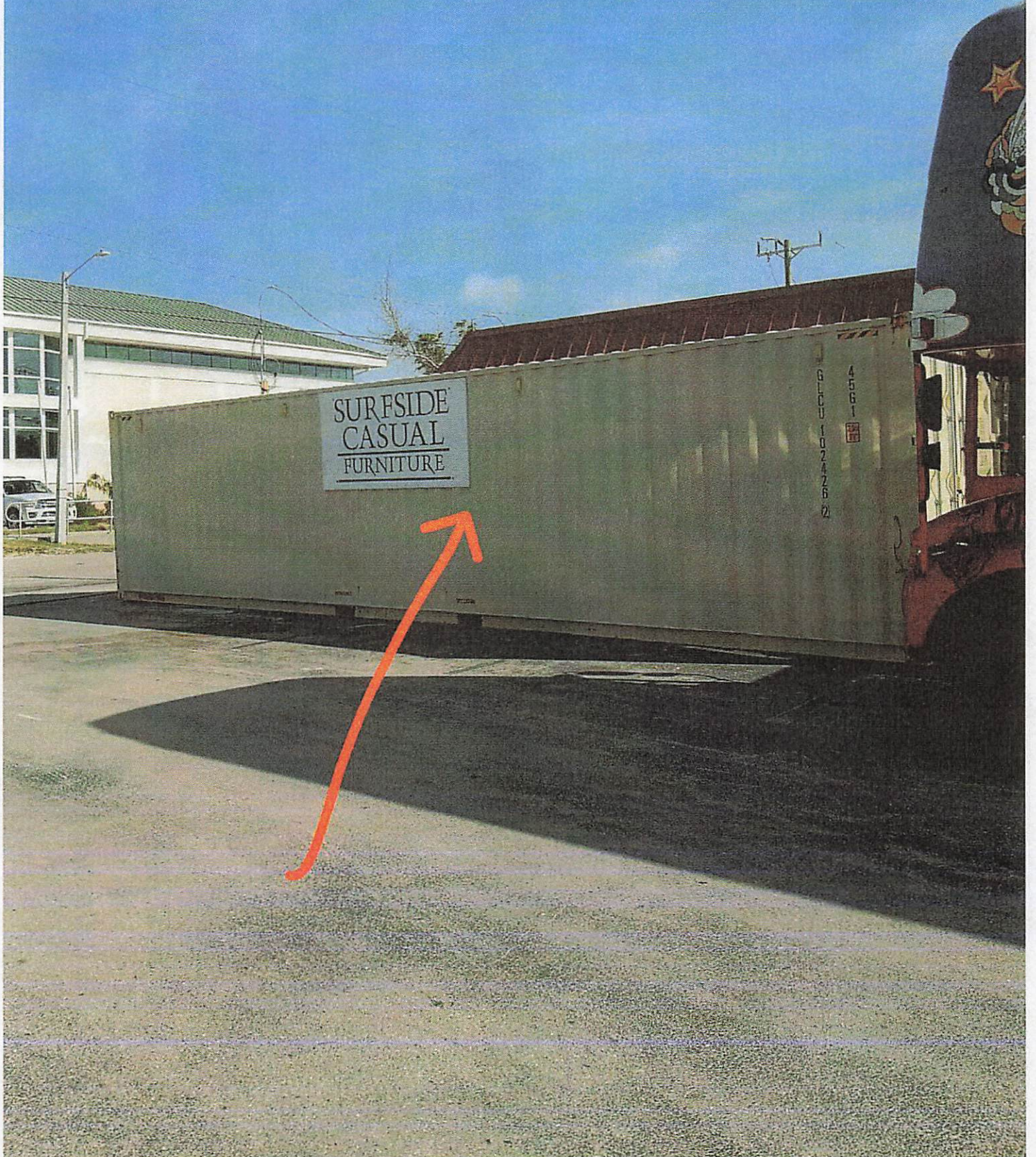
Apr 22, 2025 9:37:18 AM
Town of Fort Myers Beach

A photograph showing a yellow shipping container and an orange school bus. The container has text on its side: "CAUTION 9'6\" HIGH CONTAINER", "SJC", "451194 9", and "Music". Two red arrows are drawn on the image: one points to the side of the container, and the other points to the door. The bus is orange and has "Authentic Mexican Food" and "Moonrider" visible on its side. The scene is outdoors on a paved area under a clear blue sky.

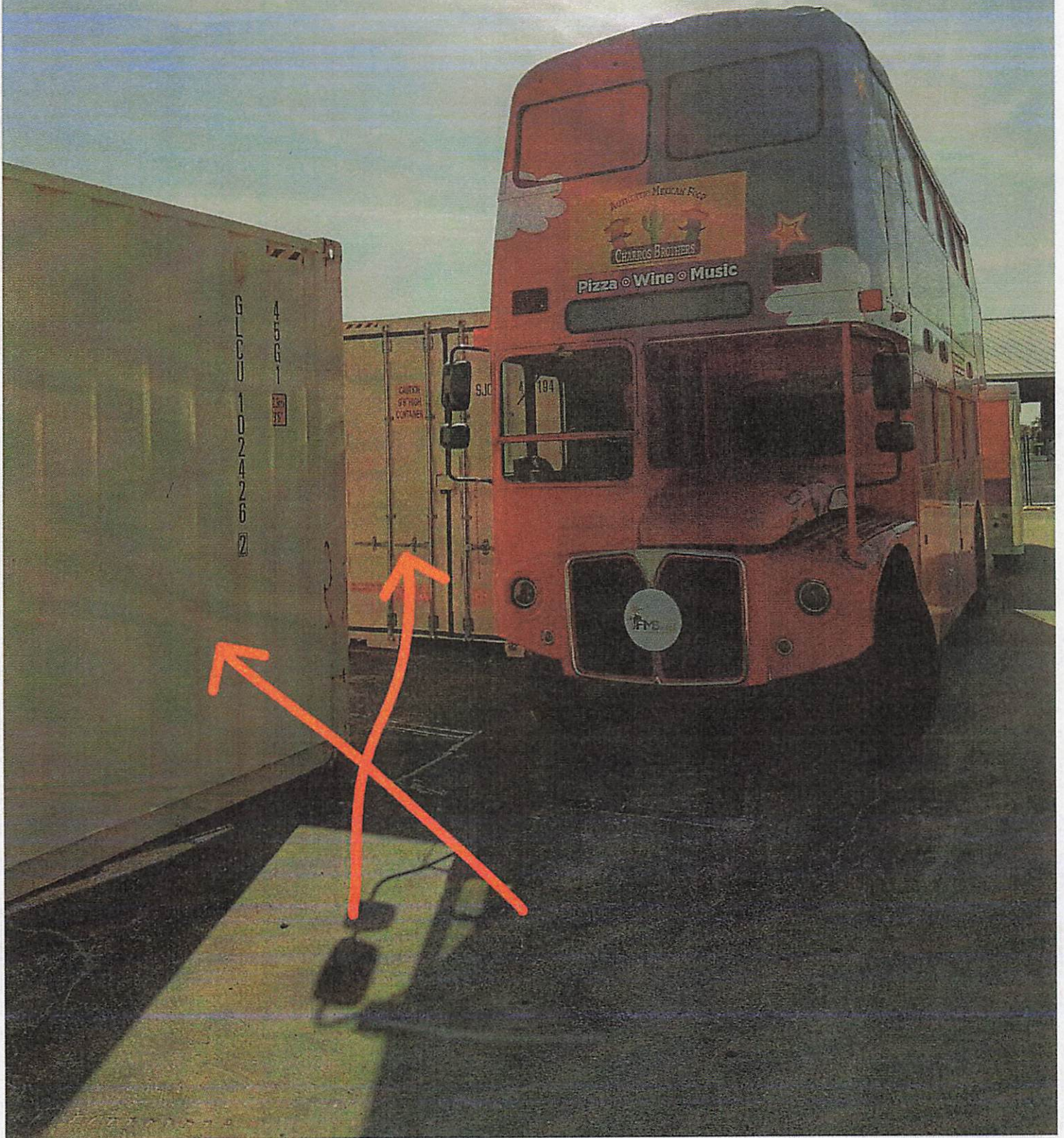
Apr 22, 2025 9:37:42 AM
Town of Fort Myers Beach



Apr 22, 2025 9:38:05 AM
Town of Fort Myers Beach



Apr 22, 2025 9:38:20 AM
Town of Fort Myers Beach



Hearing Exhibit

C4

Code Enforcement Order

**CODE COMPLIANCE SPECIAL MAGISTRATE
THE TOWN OF FORT MYERS BEACH, FLORIDA**

**TOWN OF FORT MYERS BEACH,
FLORIDA,**

Petitioner,

vs.

**CE CASE NO. 20240908
DOAH CASE NO. 24-4838**

HIMMELSTEIN ASSOCIATES, LLC,

Respondent.

**CODE ENFORCEMENT VIOLATION FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

THIS CAUSE came before the undersigned Administrative Law Judge, John G. Van Laningham, serving as the Special Magistrate for the Town of Fort Myers Beach (“Special Magistrate”), on January 7, 2025, for a public hearing. The Town of Fort Myers Beach (“Petitioner”) and Himmelstein Associates, LLC (“Respondent”), appeared, with Respondent represented by its Manager, Jeff Walker. The purpose of the hearing was to adjudicate the Town’s Notice of Violation, dated October 2, 2024, and the Town’s request for an Order finding the Respondent in violation. After reviewing sworn testimony and supporting evidence, including photographs, FEMA correspondence, and Town resolutions, the Special Magistrate makes the following findings and orders:

A. FINDINGS OF FACT

1. On February 6, 2023, Respondent applied for a Temporary Use Permit for the temporary placement of two shipping containers on the property located at 2815 Estero Boulevard, Fort Myers Beach, Florida (the “Subject Property”).¹ These containers were used to store inventory and display merchandise, allowing Respondent’s furniture business to continue operations while rebuilding after Hurricane Ian.

2. The Town issued Temporary Use Permit No. 231578 to Respondent on February 13, 2023, with an expiration date of September 23, 2025. The permit required compliance with hurricane

¹ The Subject Property’s Property Identification Number is 30-46-24-W2-003L0.0050. A legal description may be found in that certain Warranty Deed recorded as Instrument #2021000147663 in the Official Records of Lee County, Florida.

evacuation orders, proper tie-downs, and removal of temporary structures within 30 days after a certificate of occupancy or upon permit expiration.

3. On May 15, 2023, the Town Council of Fort Myers Beach adopted Ordinance 23-05 to address recovery efforts following Hurricane Ian. It authorized the temporary placement of emergency structures for recovery purposes. Ordinance 24-04, effective May 6, 2024, amended Ordinance 23-05 to explicitly authorize commercial Emergency Temporary Placement Permits ("ETPPs") and establish conditions for revocation.

4. On September 19, 2024, Code Enforcement Officer Thomas Yozzo inspected the Subject Property and found two shipping containers non-compliant with FEMA floodplain regulations and Town Code Sections 6-501 and 6-525, which incorporate ASCE 24-14 standards. These standards require elevation to the Base Flood Elevation ("BFE"), secure anchoring, and flood openings. Respondent failed to meet these standards, increasing flood risks.

5. Floodplain Manager Carl Thomas confirmed the non-compliance and highlighted risks of structural displacement and public safety hazards.

6. On October 17, 2024, the Town issued a Notice of Violation to Respondent, detailing deficiencies and providing 30 days for compliance.

7. Follow-up inspections on December 10, 2024, and January 6, 2025, confirmed continued non-compliance. Jeff Walker testified that Respondent applied for permits to rebuild the store on the same footprint and expected full compliance within four to six weeks after permit issuance. An Affidavit of Non-Compliance and photographic evidence were presented.

8. FEMA issued letters to the Town directing the removal of non-compliant structures and stricter enforcement of floodplain regulations. A November 21, 2024, letter placed the Town on probation in the National Flood Insurance Program ("NFIP"), threatening increased insurance premiums and reduced disaster assistance.

9. On December 16, 2024, the Town Council adopted Resolution No. 24-296, revoking all non-compliant ETPPs.

10. On December 19, 2024, the Town notified Respondent that Temporary Use Permit No. 231578 had been revoked effective December 16, 2024.

11. The Special Magistrate acknowledges the challenges caused by Hurricane Ian and Respondent's efforts to continue operations. However, ongoing non-compliance with floodplain regulations places the Town at risk of losing NFIP participation.

B. CONCLUSIONS OF LAW

12. Respondent violated Sections 6-501 and 6-525 of the Town's Land Development Code and ASCE 24-14 by failing to elevate, anchor, or modify the shipping containers.

13. These violations jeopardize the Town's compliance with FEMA floodplain regulations, risking higher insurance premiums and reduced disaster assistance.

14. Respondent received proper notice and adequate opportunities to correct the violations but failed to take corrective action.

15. The Town's enforcement efforts reflect its responsibility to protect public safety and maintain NFIP eligibility.

C. ORDER

Based on the foregoing, it is hereby ORDERED as follows:

Compliance Deadline and Review Hearing: Respondent must remove or bring the non-compliant structures into compliance with Town and FEMA regulations by **March 1, 2025**. A status review hearing is scheduled for **March 4, 2025**, to evaluate compliance progress. The Special Magistrate will consider compliance steps taken in deciding whether to impose or defer fines.

Daily Fine: A fine of \$250 per day will be imposed for each day the violation continues beyond the Compliance Date, unless deferred at the status review hearing based upon the circumstances then existing.

Abatement Authorization: If compliance is not achieved by the deadline and no satisfactory progress is reported at the hearing, the Town may abate the violation by removing the non-compliant structures. Associated costs will be recoverable as a lien on the Subject Property.

Costs: Pursuant to section 162.07(2), Florida Statutes, Respondent shall pay \$250 to cover the costs associated with this enforcement action.

This Order may be appealed by any aggrieved party to the Circuit Court of Lee County no later than 30 days from the date of this Order. Failure to timely file a written Notice of Appeal will waive the right of appeal.

DONE AND ORDERED this 15th day of January, 2025, at the Division of Administrative Hearings, Tallahassee, Florida.


John G. Van Laningham
Special Magistrate

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of this Order has been furnished to
by U.S. mail on this 16 day of January, 2025, to:

Himmelstein Associates LLC
P.O. Box 218
Somers Point, NJ 08244

Himmelstein Associates LLC
907 Hyacinth Dr.
Delray Beach, Florida 33483

BY:



Town Clerk and Clerk to Special Magistrate

Dated

Jan. 16, 2025