



Fort Myers Beach Special Magistrate Hearing

Bay Oaks Recreational Campus
2731 Oak St
Fort Myers Beach, FL 33931

AMENDED Agenda

Tuesday, September 2, 2025

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

- A. Special Magistrate - August 5, 2025

III. COMPLIANCE CASES

- A. FMB Case No. 20241095

FMB Case # 20241095

Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust

Property Address: 5790 Estero Blvd

Violation: Non-Compliant Structure

Recommendation: Dismissal due to compliance

- B. FMB Case No. 20250264

FMB Case # 20250264

Property Owner: Costantini Edmond D Jr & Costantini Patricia A

Property Address: 8387 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Recommendation: Dismissal due to compliance

- C. FMB Case No. 20241102

FMB Case # 20241102

Property Owner: MHC FISH LLC c/o KROLL

Property Address: 7295 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Recommendation: Dismissal due to compliance

IV. VIOLATION CASES

- A. FMB Case No. 20250286

FMB Case # 20250286

Property Owner: Brazdau Alin Adrian & Brazdau Mihaela Burnea

Property Address: 277 Ibis St

Violation: Non-Compliant Structure (Storage Container)

NEW B. FMB Case No. 20241086
FMB Case # 20241086
Property Owner: First Baptist Church of Fort M
Property Address: 134/138 Connecticut St
Violation: Non-Compliant Structure

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

A. FMB Case No. 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
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, August 5, 2025

Minutes

9:00 AM

DRAFT

ORDER OF BUSINESS

I. CALL TO ORDER

Present: Town Clerk Amy Baker, Town Attorney Nancy Stuparich and Special Magistrate John Van Laningham.

II. APPROVAL OF MINUTES

- A. DOAH Special Magistrate Hearings - June 3, 2025
Special Magistrate Van Laningham approved the minutes.

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
Continued to September 2, 2025.

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)
Continued to September 2, 2025.
- 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)

Town Attorney Stuparich noted that Emergency Services & Compliance Director Thomas Yozzo was unable to attend the hearing, but affidavits in the file indicated that notices were proper. She advised the court that she had conversations with the representatives before the hearing and she believed they intended to come into compliance. She also spoke to Officer Yozzo, who thought the cases would come into compliance before the September 2, 2025, hearing.

Stan Martin, attorney, represented Fishtale LLC and requested a continuance to October because he will be out of the country in September. They were in the permitting process and intended to come into compliance. Town Attorney Stuparich did not object to a continuance to October 7, 2025. She will prepare the continuances for Special Magistrate Van Laningham.

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)

Continued to September 2, 2025.

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)

Continued to September 2, 2025.

VI. **LIEN FORECLOSURE CASES**

No cases.

VII. **BUILDING OFFICIAL APPEALS**

No appeals.

VIII. **ADJOURNMENT**

Not recorded.

Property Address and Owner:

Hearing Date: September 2, 2025

FMB Case # 20241095
Property Owner: Tonino Dimillo Trust + Lynn Jackson Dimillo Trust
Property Address: 5790 Estero Blvd
Violation: Non-Compliant Structure
Recommendation: Dismissal due to compliance

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20241095_Affidavit of Compliance

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: August 20, 2025



Traci Kohler, Deputy Town Manager

Date: August 21, 2025

nancy stuparich, Town Attorney

Date: August 22, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: August 22, 2025

Amy Baker, Town Clerk

Date: August 22, 2025



FMBgov.com

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

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:



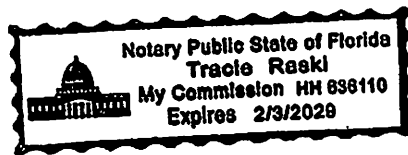
**STATE OF FLORIDA
COUNTY OF LEE**

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. Vozzo, ☒ who is personally known to me OR ☐ who has produced _____ as identification.

Notary Public Signature:

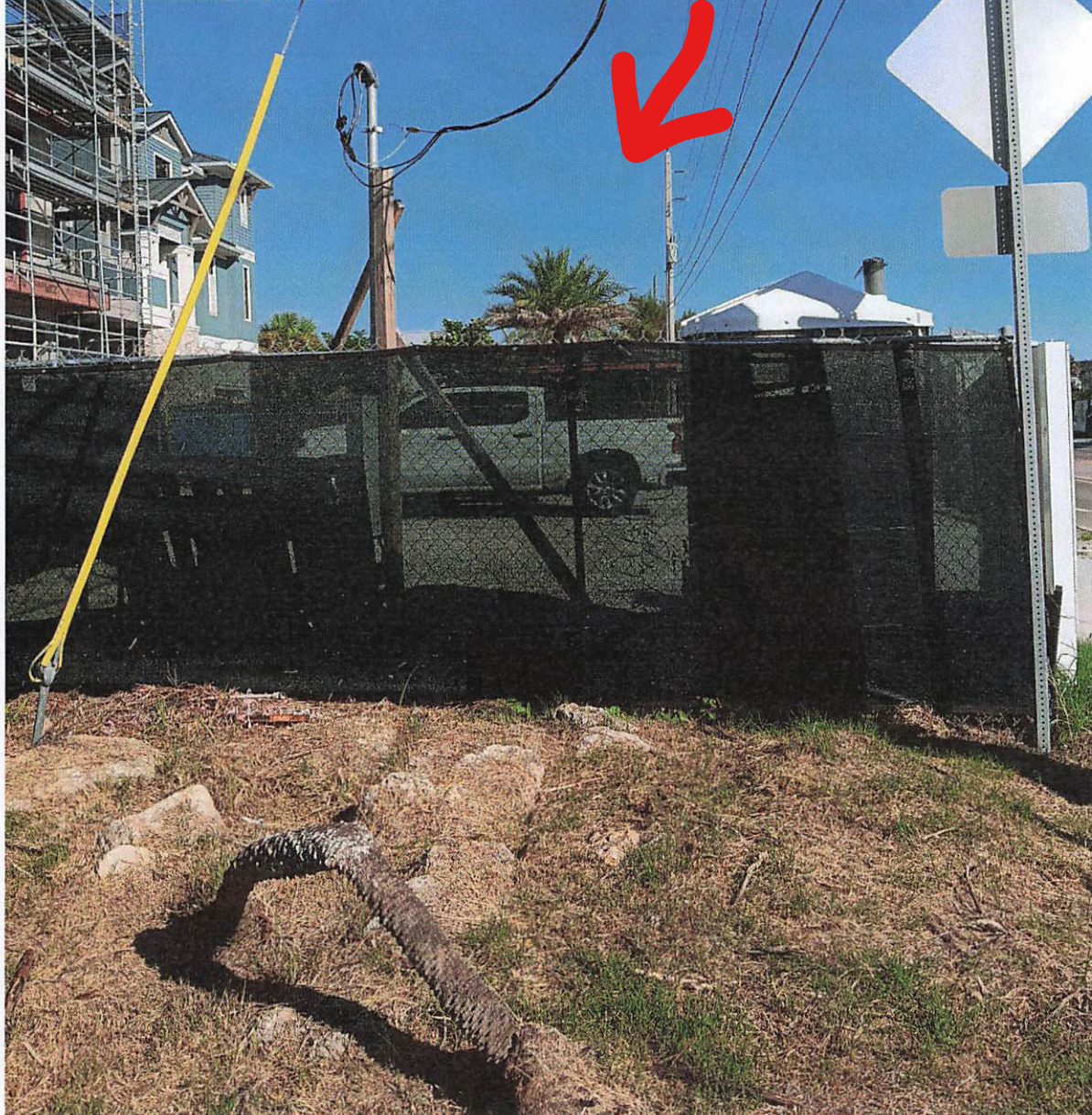
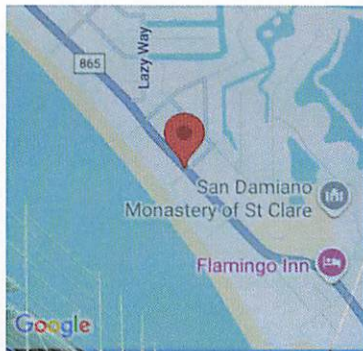


(SEAL)





Aug 18, 2025 9:26:56 AM
Fort Myers Beach





Property Address and Owner:

Hearing Date: September 2, 2025

FMB Case # 20250264

Property Owner: Costantini Edmond D Jr & Costantini Patricia A

Property Address: 8387 Estero Blvd

Violation: Non-Compliant Structure (Storage Container)

Recommendation: Dismissal due to compliance

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20250264_Affidavit of Compliance

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: August 20, 2025



Traci Kohler, Deputy Town Manager

Date: August 21, 2025

nancy stuparich, Town Attorney

Date: August 22, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: August 22, 2025

Amy Baker, Town Clerk

Date: August 22, 2025



08/04/2025

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 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 Section 6-494 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.

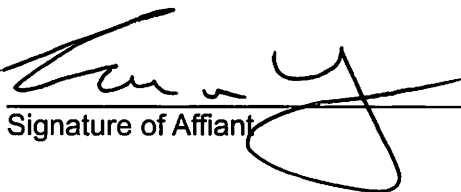
5. I performed an inspection of the Subject Property on 08/04/2025, and the Subject Property was observed to be compliant with the Town of Fort Myers Beach Ordinance.

6. I have attached Exhibit A, which are photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on . 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 determined the property located at 8387 ESTERO BLVD is in compliance with Fort Myers Beach Code of Ordinances.

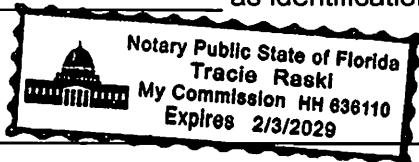
FURTHER AFFIANT SAYETH NAUGHT.



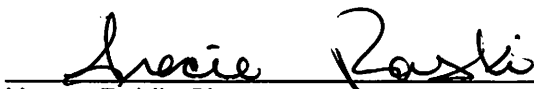
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ☒ physical presence
OR ☐ online notarization, this 20 day of August, 2025 by
T. Yozzo, ☒ who is personally known to me OR ☐ who has produced
_____ as identification.



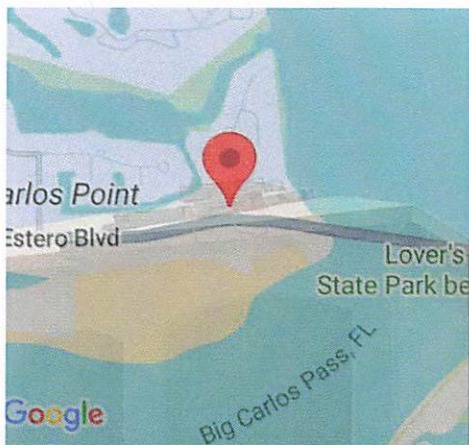
(SEAL)



Notary Public Signature

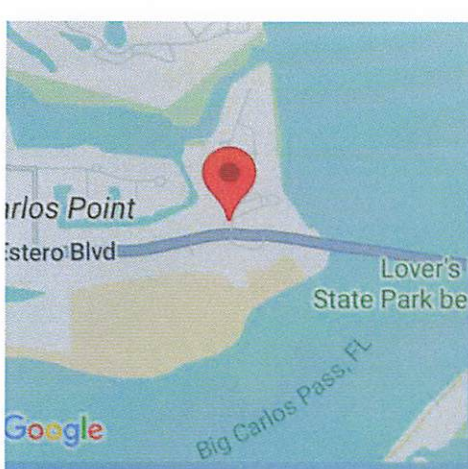
My Commission Expires: 2/3/2029

Aug 4, 2025 4:50:49 PM
Fort Myers Beach



Aug 4, 2025 4:51:16 PM

Fort Myers Beach



Property Address and Owner:

Hearing Date: September 2, 2025

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

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Attachments:

1. 20241102_Affidavit of Compliance

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: August 21, 2025



Traci Kohler, Deputy Town Manager

Date: August 21, 2025

nancy stuparich, Town Attorney

Date: August 22, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: August 22, 2025

Amy Baker, Town Clerk

Date: August 22, 2025



08/20/2025

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

MHC FISH TALE LLC

Respondent.

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

Case Number:	20241102
Certified Mail:	
Regular Mail:	

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 , MHC FISH TALE LLC (property owner) was observed in violation of 11/19/2024 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 12/19/2024.

5. I performed an inspection of the Subject Property on 08/20/2025, and the Subject Property was observed to be compliant with the Town of Fort Myers Beach Ordinance.

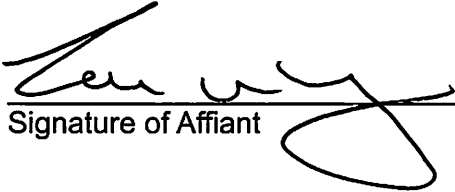
6. I have attached Exhibit A, which are photographs of the Subject Property, which I personally took, and which fairly represent the current condition of the Subject Property I personally observed on 08/20/2025. These photographs have not been altered in any way.

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.

8. The Town of Fort Myers Beach hereby has determined the property located at 7295 ESTERO BLVD is in compliance with Fort Myers Beach Code of Ordinances.

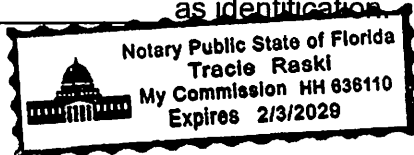
FURTHER AFFIANT SAYETH NAUGHT.



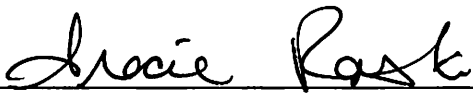
Signature of Affiant

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was certified and subscribed before me by means of ✓ physical presence
OR online notarization, this 20 day of August, 2025 by
_____, who is personally known to me OR who has produced
_____ as identification.

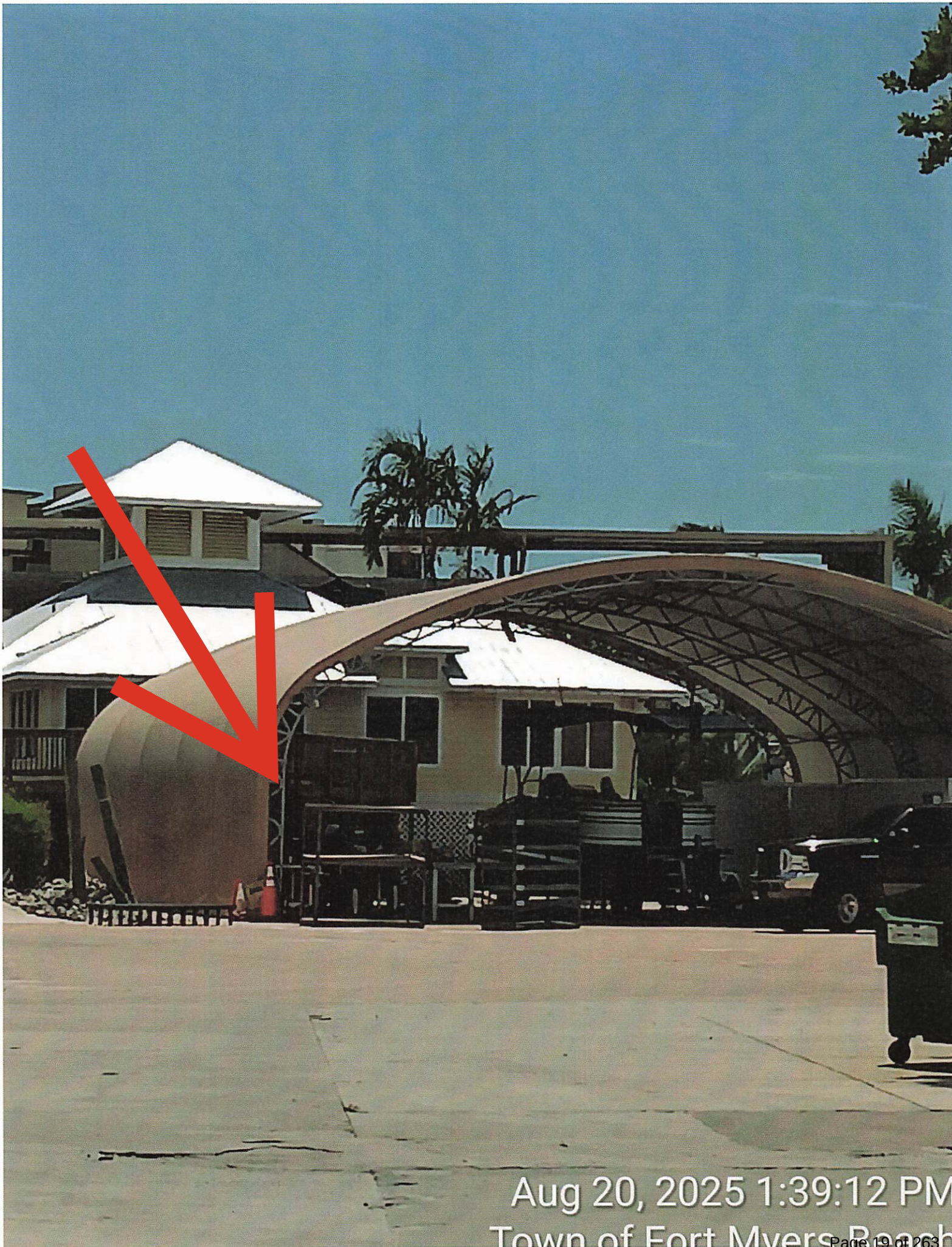


(SEAL)

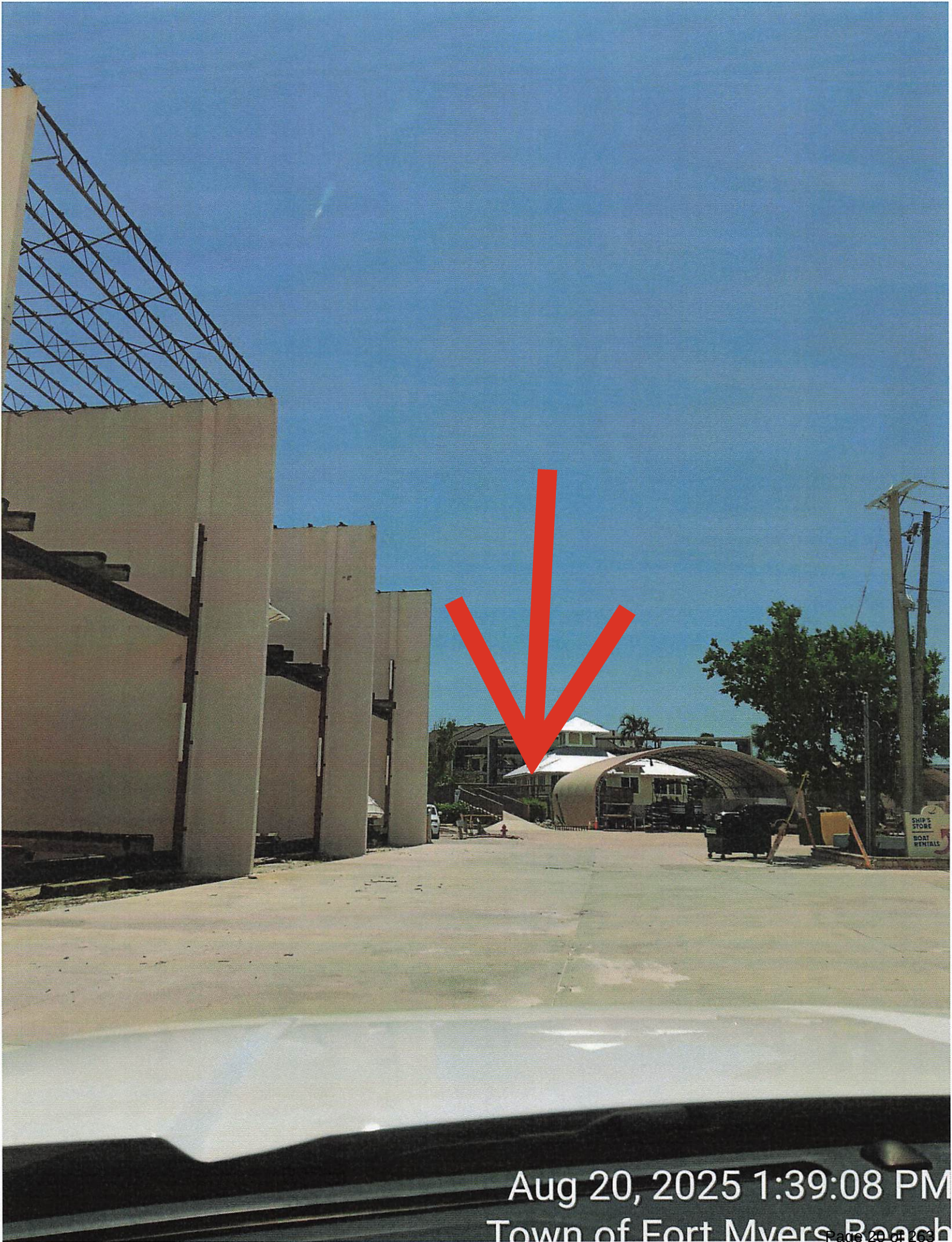


Notary Public Signature

My Commission Expires: 2/3/2029



Aug 20, 2025 1:39:12 PM
Town of Fort Myers Beach



Aug 20, 2025 1:39:08 PM
Town of Fort Myers Beach



Aug 20, 2025 1:39:36 PM
Town of Fort Myers Beach

Property Address and Owner:

Hearing Date: September 2, 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 Order of Continuance
2. 20250286_Hearing Exhibit A_Notice of Hearing and Affidavit of Posting
3. 20250286_Hearing Exhibit B_FEMA and Related Ordinances
4. 20250286_Hearing Exhibit C_Notice of Violation
5. 20250286_Hearing Exhibit D_Status of Compliance
6. 20250286_Hearing Exhibit D1_Status of Compliance
7. 20250286_Hearing Exhibit E_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: August 20, 2025



Traci Kohler, Deputy Town Manager

Date: August 21, 2025

nancy stuparich, Town Attorney

Date: August 21, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: August 22, 2025

Amy Baker, Town Clerk

Date: August 22, 2025

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

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs.

FMB CASE NO. 20250286

**ALIN ADRIAN BRAZDAU &
MIHAELA BURNEA BRAZDAU**

Respondents.

ORDER OF CONTINUANCE

NOTICE IS HEREBY GIVEN THAT THE SPECIAL MAGISTRATE CONTINUES THE ABOVE ACTION, THE ORIGINAL HEARING DATE OF WHICH WAS SCHEDULED FOR AUGUST 5, 2025, WITHOUT ENTERING FINDINGS OF FACT. FURTHER PROCEEDINGS IN THIS MATTER WILL BE HELD ON: **SEPTEMBER 2, 2025, at 9:00 A.M.**

The hearing will be held at the Town of Fort Myers Beach Town Hall, 2731 Oak Street, Fort Myers Beach, Lee County, Florida, unless notified that the chambers have moved before that time, and the Respondent is urged to be present if the violation has not been abated by that date.

DONE AND ORDERED this 13th day of August, 2025, at the Division of Administrative Hearings, Tallahassee, Florida.

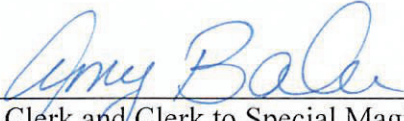


John G. Van Laningham
Special Magistrate

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order was sent by U.S. Mail on the 14 day of August 2025 to:

Brazdau Alin Adrian & Brazdau Mihaela Burnea
11373 Willow Wood Ln
Plymouth, MI 48170

BY: 
Town Clerk and Clerk to Special Magistrate

Dated: Aug. 14. 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.

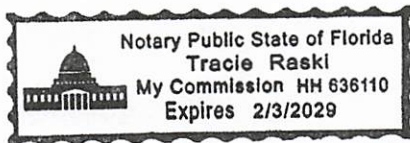


Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true and to the best of my knowledge and belief comply with Section 2-429 of the Town Land Development Code and Section 162.12, Florida Statutes.

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

\$

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

20250286

Town of Fort Myers Beach

JUL 22 2025

Postmark
Here

Sent by:

277 Ibis St

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

Case Number:	20250286
Certified Mail:	70222410000084703697
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.

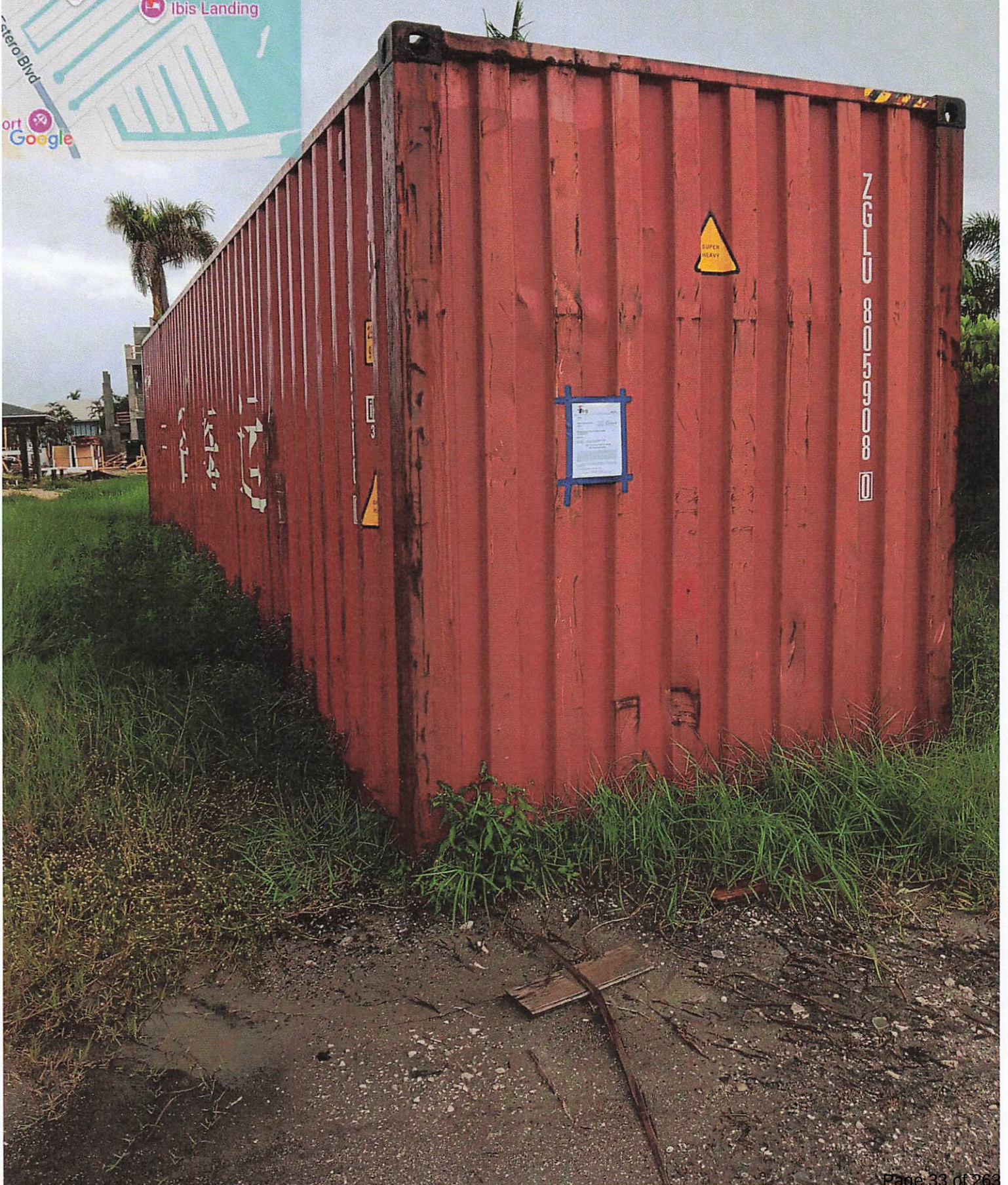
A copy of the evidentiary case file and all materials provided by the Town Code Enforcement Unit to the Special Magistrate in relation to this hearing can be viewed and accessed in advance of the hearing at the link below:

<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)





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

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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

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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

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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 parcels with 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 *Assessed 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)

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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)



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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

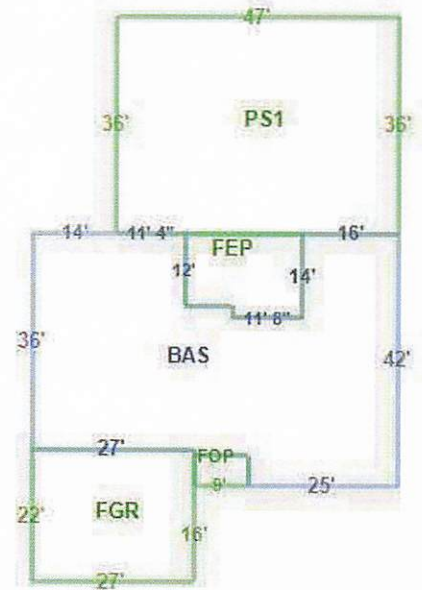
Description	Year Added	Units
BOAT HOUSE - OPEN	1999	
SHED - FRAME W/FLOOR	1999	
POOL - RESIDENTIAL	1999	
JACUZZI - TYPE B	1999	
A/C-POOL HEATERS	2004	
PATIO - BRICK AND TILE	2012	

Building Front Photo



Photo Date: January of 2025

Building Footprint



Taxing Authorities

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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 ⓘ

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Solid Waste (Garbage) Roll Data

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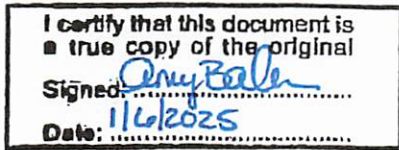
Flood and Storm Information				
Generated on 7/22/2025 6:32 PM				
Flood Insurance Find my flood zone				
Community	Panel	Version	Date	Evacuation Zone
071C	0567	G	11/17/2022	A

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.

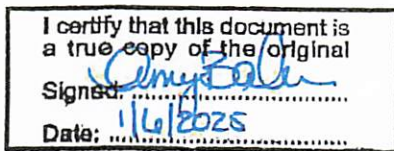
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

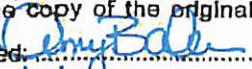
- 51 out of the 105 permit packages submitted did not include permits for structures that sustained documented damage.
- 76 of the 105 were missing itemized/detailed cost information for repair performed.
- 62 of the 105 had individual permits issued without total repair costs.

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,

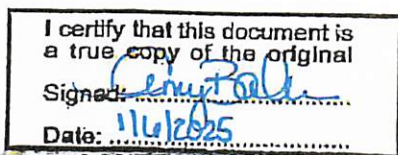


Robert D. Samaan
Regional Administrator

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.

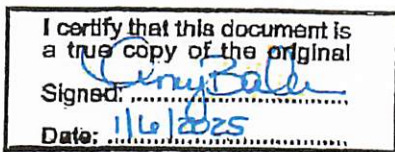
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.

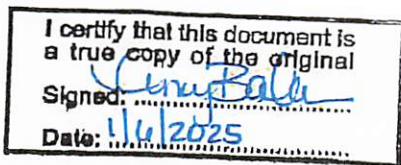
Complete – FEMA needs no further information regarding the specific address.

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

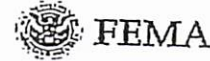
5. Documentation on the Finding Report and Site list:

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.

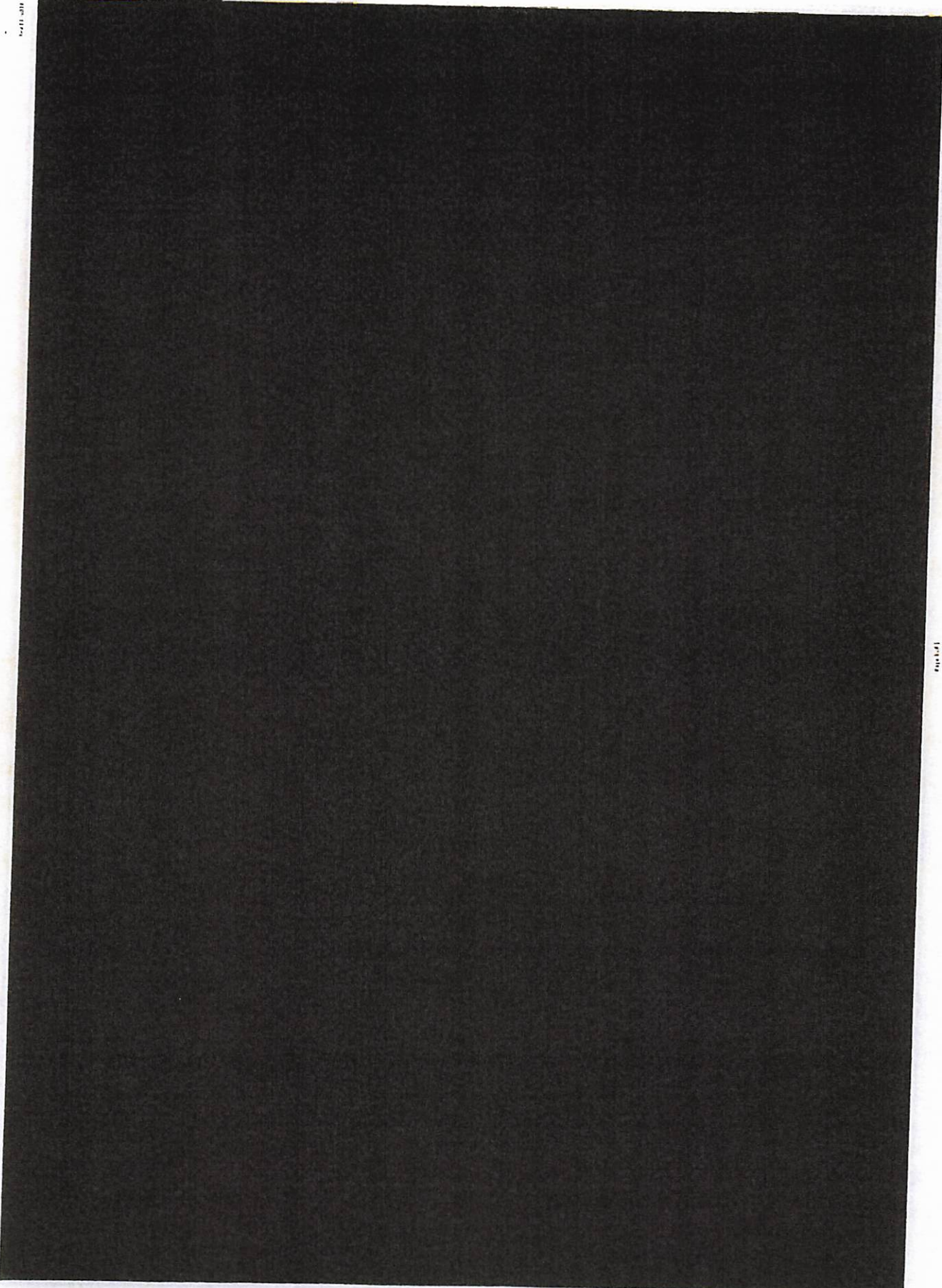
By accepting, receiving, downloading, or otherwise obtaining the routine use information or data discussed in this document, Town of Fort Myers Beach, FL understands, agrees, and accepts the terms of the use of the data as outlined in this document.

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

Signed: *[Signature]*

Date: 11/6/2025

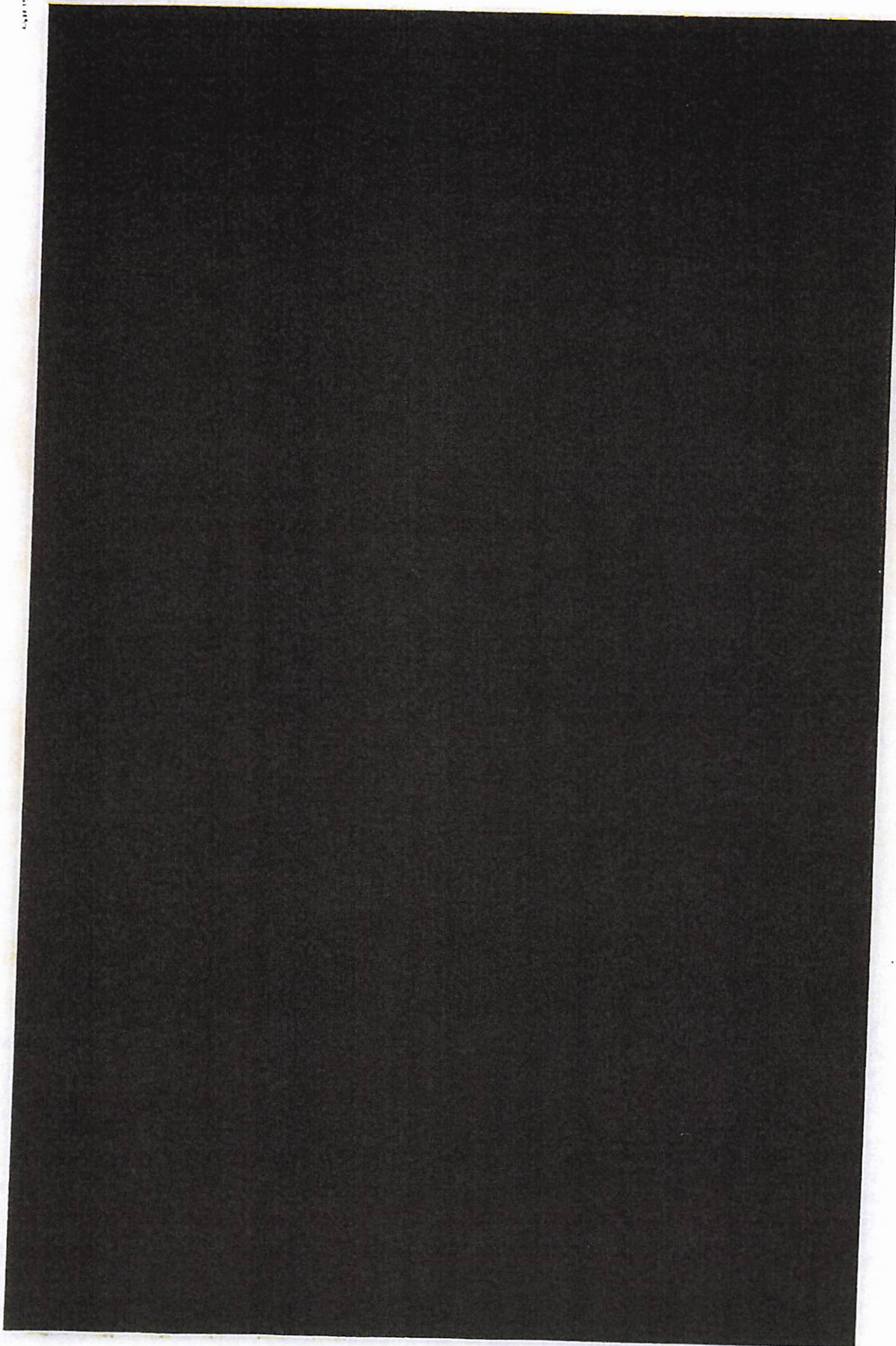
I certify that this document is
a true copy of the original
Signed: Cindy Baker
Date: 11/6/2025



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

Signed: 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

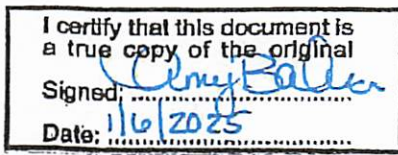
Dear Mr. Samaan,

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/1vCB1lewpTJkXB1x877OIRInmTin2M8k9/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.

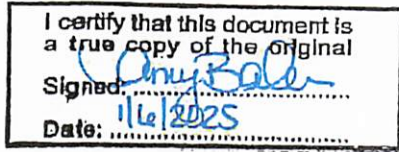
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist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

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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

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.

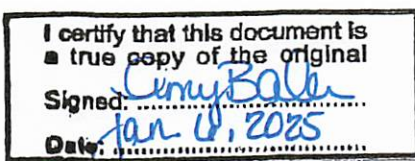
Sincerely,



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.

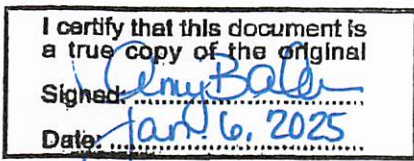
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

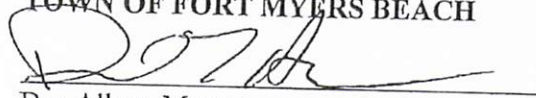
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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.

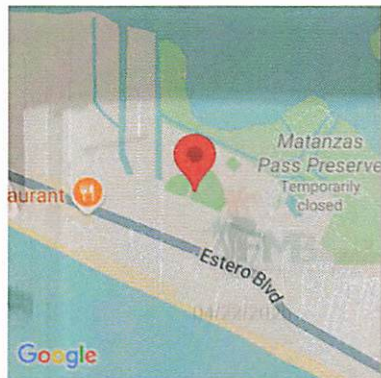
You will be provided with a Notice of Hearing specifying the date, time and location of the hearing if, one is scheduled. Please be aware that under Florida Statutes, Chapter 162 and Town of Fort Myers Beach Land Development Code, Section 2-427(b), a fine of up to \$250.00 per day for the first violation 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
1731 Oak Street Fort Myers Beach, FL 33931
Phone: (239) 365-0202 Fax: (239) 365-0999

Case Number:	25751285
Certified Mail:	10222610220004194304
Regular Mail:	

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

SITE ADDRESS: 277 IBIS ST
PARCEL STRAP NO: 344624W4903000350

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.

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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.

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COMPLIANCE:

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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 3:21:55 PM
Fort Myers Beach



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



04/22/2025

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:	20250286
Certified Mail:	7022241000084704304
Regular Mail:	

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

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

NOTICE OF VIOLATION

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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.

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(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.



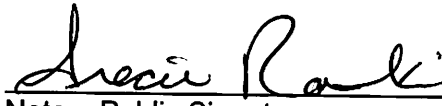
Signature of Affiant

**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)

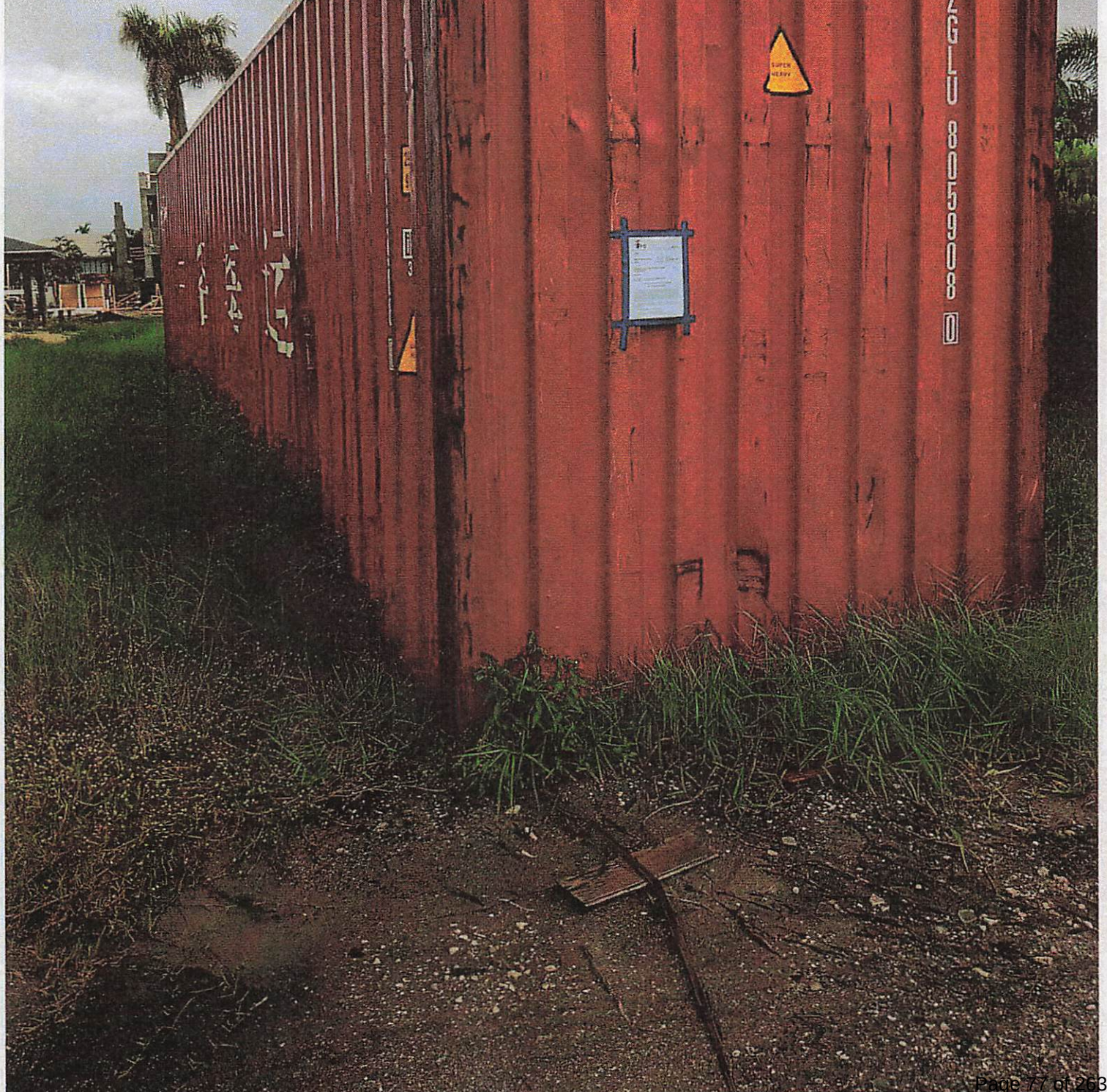


Notary Public Signature

My Commission Expires: 2/3/2029

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

Solve My Map by
LetsGoPDC.com



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.

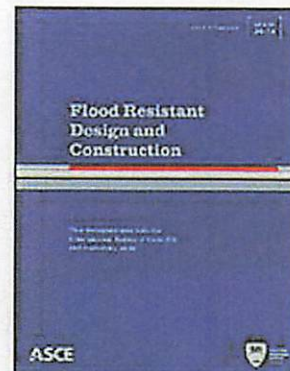
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (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: September 2, 2025

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

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

At the hearing held on June 6, 2025, Judge Van Lanningham directed that a status review be scheduled for September 2, 2025.

Attachments:

1. 20241086_DOAH Minutes 06.03.25 Hearings
2. Notice Waiver 9.2.25 - RE_ Baptist Church Project -- Fort Myers Beach
3. 20241086_Notice of Hearing
4. 20241086_Hearing Exhibit_A_Notice of Hearing and Affidavit of Posting
5. 20241086_Hearing Exhibit_B_FEMA and Related Ordinances
6. 20241086_Hearing Exhibit_C_Notice of Violation
7. 20241086_Hearing Exhibit_D_Status of Compliance
8. 20241086_Hearing Exhibit_E_Violated Regulations

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: August 29, 2025



Traci Kohler, Deputy Town Manager

Date: August 29, 2025

Frankie Kropacek, Community Development Director

Date: August 29, 2025

nancy stuparich, Town Attorney

Date: August 29, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: August 29, 2025

Amy Baker, Town Clerk

Date: August 29, 2025



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.

Minutes adopted as presented on June 3, 2025, by Special Magistrate Van Laningham.



~~Amy Baker (Aug 11, 2025 09:12:14 EDT)~~
Amy Baker, Town Clerk

From: [Amy Baker](#)
To: ["shawn@beachbaptist.org"](mailto:shawn@beachbaptist.org)
Cc: [Thomas Yozzo](#); [Georgina Cid](#); [Lizzette Roman](#); [Frankie Kropacek](#); [Kelli DeFedericis](#); [Lizzette Roman](#); ["laurieplue@paveslaw.com"](mailto:laurieplue@paveslaw.com); [Nancy Stuparich](#); [Joshua Pucek](#); [Jason Green](#); [Tracie Raski](#)
Subject: RE: Baptist Church Project -- Fort Myers Beach
Date: Friday, August 29, 2025 3:24:00 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Mr. Crister,

I was recently made aware of your request to appear at the Special Magistrate hearings Tuesday morning at 9:00 a.m. Please see the below Zoom link information.

Topic: Special Magistrate

Time: Sep 2, 2025 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://fmbgov.zoom.us/j/89246672211>

View meeting insights with Zoom AI Companion

<https://fmbgov.zoom.us/launch/edl?muid=2a481f2f-25e6-439f-b763-62cfe8bf5859>

Meeting ID: 892 4667 2211

One tap mobile

+13052241968,,89246672211# US

+16469313860,,89246672211# US

Join instructions

[https://fmbgov.zoom.us/meetings/89246672211/invitations?
signature=VvMTz2Gpp5oC72kvWmBmaTHI-69Yh3S9ZsqRQnywUxA](https://fmbgov.zoom.us/meetings/89246672211/invitations?signature=VvMTz2Gpp5oC72kvWmBmaTHI-69Yh3S9ZsqRQnywUxA)

Amy Baker

Town Clerk

Town of Fort Myers Beach
2731 Oak St
Fort Myers Beach, FL
33931
Phone: (239) 765-0202



FMBgov.com



As of January 1, 2024 the Town has implemented online records request. Please consider submitting your request through the portal. **Any requests received via email will be transferred by staff to this portal, with all responses coming from "Town of Fort Myers Beach Public Records"**

<https://fortmyersbeachfl.nextrequest.com/>

From: Laurie L. Plue <laurieplue@paveselaw.com>
Sent: Friday, August 29, 2025 2:52 PM
To: Nancy Stuparich <nstuparich@voselaw.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>; Jason Green <green@fmbgov.com>; Thomas Yozzo <tyozzo@fmbgov.com>; Georgina Cid <Georgina.Cid@fmbgov.com>; Amy Baker <Amy@fmbgov.com>; Lizzette Roman <Lroman@fmbgov.com>; Frankie Kropacek <fkropacek@fmbgov.com>; Kelli DeFedericis <kdefedericis@fmbgov.com>
Subject: RE: Baptist Church Project -- Fort Myers Beach

Good afternoon Nancy,

I have been informed by our clients that Pastor Shawn Critser has waived the notice and will be handling the Code matter. He cannot appear in person and is requesting a zoom hearing. Please advise if a virtual appearance can be arranged for him. His email is shawn@beachbaptist.org so please deal with him directly.

Thank you very much. I am out of the office next week and here til 5:00 today.

Laurie L. Plue, *Legal Assistant, Land Use Dept.*
Pavese Law Firm ~ Direct: 239.336.6244

From: Nancy Stuparich
Sent: Friday, August 29, 2025 10:22 AM
To: Laurie L. Plue <laurieplue@paveselaw.com>; Neale Montgomery <NealeMontgomery@Paveselaw.com>
Cc: Judith Frankel <jfrankel@fmbgov.com>; Jason Green <green@fmbgov.com>; Thomas Yozzo <tyozzo@fmbgov.com>; Georgina Cid <Georgina.Cid@fmbgov.com>; Amy Baker <Amy@fmbgov.com>; Lizzette Roman <lroman@fmbgov.com>; Frank Kropacek <fkropacek@fmbgov.com>; Kelli DeFedericis <kdefedericis@fmbgov.com>
Subject: Baptist Church Project -- Fort Myers Beach

Hi Neale,

I was made aware today that the Baptist Church code enforcement matter was supposed to be heard by the special magistrate on September 3rd according to the minutes of the prior meeting regarding the code violation. Unfortunately, the case was omitted from the schedule. The land use applications (development agreement and rezoning) are scheduled for September 9, 2025 and the code issue will come up and may cause delay in the LPA review/approval/denial of the development agreement and rezoning.

If you are willing to waive notice, we can notify the special magistrate that we will be adding this case to the agenda on September 3rd.

If you are not willing to waive notice, we will still proceed with review by the LPA on September 9th; however, in my opinion the unresolved code enforcement case may delay a decision by the LPA.

Also, although the Town is in the process of issuing extensions for previously granted emergency temporary uses, I don't think your client would be eligible since any extension of existing permits requires compliance with FEMA flood regulations and the special magistrate has made a preliminary determination that a violation of flood regulations exists. I would be helpful as well to know if your client has provided the Town's flood reviewers with a copy of the elevation certificate, which may resolve the matter.

Since this project impacts several departments, I have copied appropriate Town staff to keep them informed of the status of this matter.

I am available by phone if you need to discuss. 786-246-0635

Thanks.

Nancy



COUNSEL TO EXTRAORDINARY FAMILIES, BUSINESSES
& LEADERS WORLDWIDE SINCE 1973

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Note: Florida has a very broad public records law. Most communication(s) to or from Fort Myers Beach officials regarding Town business are public records available to the public and media upon request. Your email communications and email address may be subject to public disclosure.



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

DOAH Case No. _____

FMB Case No. 20241086

vs.

First Baptist Church of Fort M,
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

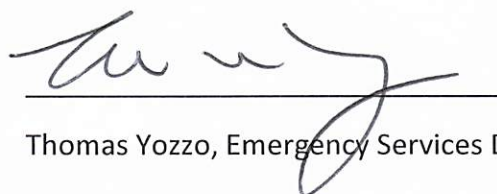
For Respondent:

First Baptist Church of Fort M

130 Connecticut St

Fort Myers Beach, FL 33931

Signed this 25 day of April, 2025



Thomas Yozzo, Emergency Services Director

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. **20241086**

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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:

First Baptist Church of Fort M

130 Connecticut St

Fort Myers Beach, FL 33931

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.

First Baptist Church of Fort M
130 Connecticut St
Fort Myers Beach, FL 33931

Respondent,

FMB Case Number:	20241086
Certified Mail:	
Regular Mail:	
DOAH Case Number:	

Site Address: 134/138 Connecticut St,
Fort Myers Beach, FL 33931
Parcel Strap No. 294624W100151001A

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 #20241086 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 134/138 Connecticut St, 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:

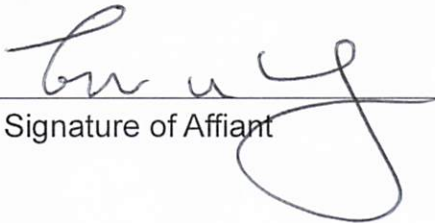
- a. First Baptist Church of Fort M
130 Connecticut St,
Fort Myers Beach, FL 33931
Certified Mail No. 70222410000084701624
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

- 2. I posted a copy of the Notice at 134/138 Connecticut St, 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 1624

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

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

OFFICIAL USE
 Town of Fort Myers Beach

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 \$
 \$9.104

Postmark
 Here

NOV 6/3/25
 20241030
 134/138 Connecticut

First Baptist Church of Fort M
 130 Connecticut St
 Fort Myers Beach, FL 33931

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

See Reverse for Instructions



ard
33931

First Baptist Church of Fort M
130 Connecticut St
Fort Myers Beach, FL 33931

FIRST-CLASS



US POSTAGE IMB PITNEY BOWES

ZIP 33931
02 7H

\$ 000.69⁰

APR 29 2025

Town of Fort Myers Beach
APR 29 2025

Sent by: 



RSHIP
TER HERE 
SHOP & OFFICE

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D  **THUR**



ARINGS

Case No. 24-004838
No. 20240994

G

Honorable Judge John G. Van Laningham
referenced case(s) at the Fort Myers
Court, Fort Myers Beach, FL 33931 at

dated this 22nd day of April 2025.

Thomas Yozzo
Thomas Yozzo,
Emergency Services Director

240994



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. 20241086

vs.
First Baptist Church of Fort M,
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



Dan Allers, Mayor | Jim Atterholt, Vice Mayor

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

vs.
Tonino Dimillo Trust + Lynn
Respondent,

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P. 239-





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. 20241086

VS.

First Baptist Church of Fort M,
Respondent,

Notice of Hearing

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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: 29-46-24-W1-00151.0010 Folio ID: 10229238

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

Generated on 11/13/2024 7:04 AM

Owner Of Record - Sole Owner

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



FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH FL 33931

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



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

Site Address

Site Address maintained by E911 Program Addressing

110-138 CONNECTICUT ST
FORT MYERS BEACH FL 33931

SEE ALTERNATE ADDRESS INFORMATION SECTION BELOW

Property Description

Do not use for legal documents!



CASE SUBD PB 1 PG 58 PT LOT 51

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 1 and 58 for the book and page numbers.

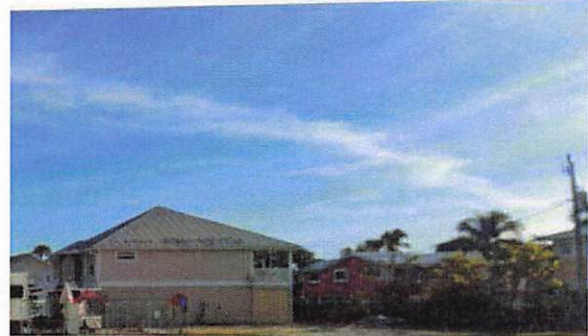
Attributes and Location Details

Total Bedrooms / Bathrooms 4 / 2.0
Gross Living Area 1,876
1st Year Building on Tax Roll 2008
Historic Designation No

Township	Range	Section	Block	Lot
46	24E	29	00151	0010
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.44297	-81.9299		

[View Parcel on Google Maps](#)

Image of Structure



◀ Photo Date February of 2024 ▶ ☐ View other photos

Last Inspection Date: 02/01/2024

Property Values / Exemptions / TRIM Notices

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Exemption

Amount

Religious Property

6,433,317.00

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2024 / Additional Info	2024 (Final Value)	9,040,764	8,580,000	9,040,764	6,433,317	6,433,317	0	0
2023 / Additional Info	2023 (Final Value)	5,720,010	5,720,000	5,720,010	5,720,010	5,720,010	0	0
2022 / Additional Info	2022 (Final Value)	7,575,131	5,720,000	7,575,131	5,316,791	5,316,791	0	0
2021 / Additional Info	2021 (Final Value)	7,295,099	5,720,000	7,295,099	4,833,446	4,833,446	0	0
2020 / Additional Info	2020 (Final Value)	4,394,042	2,860,000	4,394,042	4,394,042	4,394,042	0	0
2019 / Additional Info	2019 (Final Value)	4,443,456	2,860,000	4,443,456	4,343,950	4,343,950	0	0
2018 / Additional Info	2018 (Final Value)	4,373,488	2,860,000	4,373,488	3,949,045	3,949,045	0	0
2017 / Additional Info	2017 (Final Value)	4,349,525	2,860,000	4,349,525	3,590,041	3,590,041	0	0
2016	2016 (Final Value)	4,325,136	2,860,000	4,325,136	3,263,674	3,263,674	0	0
2015	2015 (Final Value)	4,339,417	2,860,000	4,339,417	2,966,976	2,966,976	0	0
2014	2014 (Final Value)	2,697,251	1,430,000	2,697,251	2,697,251	2,697,251	0	0
2013	2013 (Final Value)	2,700,943	1,430,000	2,700,943	2,700,943	2,700,943	0	0
2012	2012 (Final Value)	2,716,259	1,430,000	2,716,259	2,716,259	2,716,259	0	0

2011	2011 (Final Value)	2,676,187	1,430,000	2,676,187	2,676,187	2,676,187	0	0
2010	2010 (Final Value)	3,405,858	2,145,000	3,405,858	3,405,858	3,405,858	0	0
	2009 (Final Value)	4,126,210	2,860,000	4,126,210	4,126,210	4,126,210	0	0
	2008 (Final Value)	4,634,160	3,666,310	4,634,160	4,634,160	4,634,160	0	0
	2007 (Final Value)	4,647,210	3,668,850	0	4,647,210	4,647,210	0	0
	2006 (Final Value)	4,589,830	3,671,380	0	4,589,830	4,589,830	0	0
	2005 (Final Value)	3,821,410	2,893,460	0	3,821,410	3,821,410	0	0
	2004 (Final Value)	1,936,910	1,178,320	0	1,936,910	1,936,910	0	0
	2003 (Final Value)	1,951,590	1,179,170	0	1,951,590	1,951,590	0	0
	2002 (Final Value)	1,405,260	619,000	0	1,405,260	1,405,260	0	0
	2001 (Final Value)	1,461,080	620,120	0	1,461,080	1,461,080	0	0
	2000 (Final Value)	1,332,470	621,240	0	1,332,470	1,332,470	0	0
	1999 (Final Value)	1,232,100	622,360	0	1,232,100	1,232,100	0	0
	1998 (Final Value)	1,242,860	623,470	0	1,242,860	1,242,860	0	0
	1997 (Final Value)	1,222,950	624,590	0	1,222,950	1,222,950	0	0
	1996 (Final Value)	1,225,780	625,710	0	1,225,780	1,225,780	0	0
	1995 (Final Value)	1,238,380	626,830	0	1,238,380	1,238,380	0	0
	1994 (Final Value)	454,710	272,000	0	454,710	454,710	0	0
	1993 (Final Value)	454,730	272,000	0	454,730	454,730	0	0
	1992 (Final Value)	454,740	272,000	0	454,740	454,740	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 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 Working Values)

Generated on 11/13/2024 7:04 AM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
7100	Church	143000.00	Square Feet

Land Features

Description	Year Added	Units
BLACK TOP - IMPROVED	1993	37,300

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
103 - Split Entry/Raised Ranch	1 - SINGLE FAMILY RESIDENTIAL	1.0	1
Bedrooms	Bathrooms	Year Built	Effective Year Built

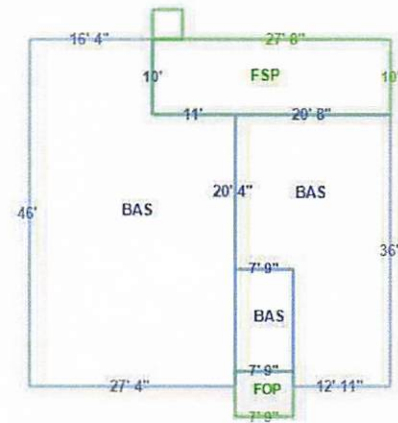
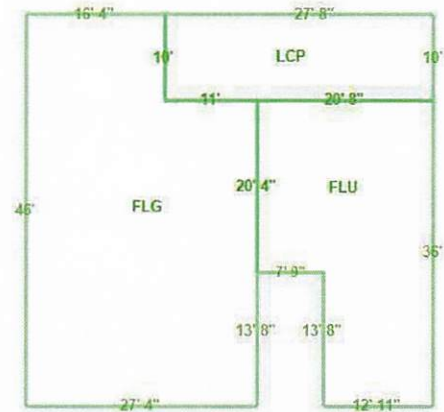
Building Subareas		2008	2008
Description	Heated / Under Air	Area (Sq Ft)	
BAS - BASE	Y	1,876	
FLG - FINISHED LOWER GARAGE	N	1,147	
FLU - FINISHED LOWER UTILITY	N	623	
FOP - FINISHED OPEN PORCH	N	47	
FSP - FINISHED SCREEN PORCH	N	317	
LCP - LOWER CARPORT / OPEN PORCH	N	317	
STP - STOOP	N	16	

Building Front Photo



Photo Date: February of 2024

Building Footprint



Property Details (2024 Tax Roll)

Generated on 11/13/2024 7:04 AM

Land		Land Tracts		Land Features	
Use Code	Use Code Description	Number of Units	Unit of Measure	Description	
7100	Church	143000.00	Square Feet	BLACK TOP - IMPROVED	
Buildings		Year Added		Units	
Building 1 of 1		1993		37,300	
Building Characteristics		Stories		Living Units	
Improvement Type	Model Type	1.0		1	
103 - Split Entry/Raised Ranch	1 - SINGLE FAMILY RESIDENTIAL				

Bedrooms	Bathrooms	Year Built	Effective Year Built
4	2.0	2008	2008
Building Subareas		Heated / Under Air	Area (Sq Ft)
Description			
BAS - BASE		Y	1,876
FLG - FINISHED LOWER GARAGE		N	1,147
FLU - FINISHED LOWER UTILITY		N	623
FOP - FINISHED OPEN PORCH		N	47
FSP - FINISHED SCREEN PORCH		N	317
LCP - LOWER CARPORT / OPEN PORCH		N	317
STP - STOOP		N	16

Building Front Photo

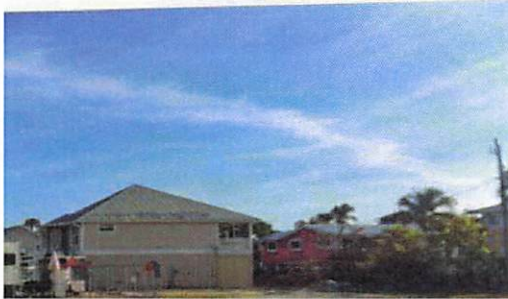
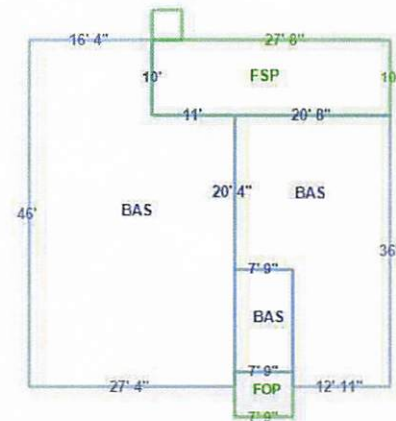
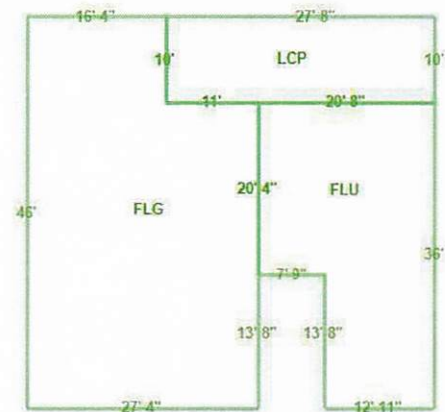


Photo Date: February of 2024

Building Footprint



Taxing Authorities

Generated on 11/13/2024 7:04 AM

TOWN OF FT MYERS BEACH / 032

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
FORT MYERS BEACH FIRE CONTROL DIST / 032	Independent District	FORT MYERS BEACH FIRE CONTROL DIST 100 VOORHIS ST FORT MYERS BEACH FL 33931
FORT MYERS BEACH MOSQUITO CONTROL / 035	Independent District	FORT MYERS BEACH MOSQUITO CONTROL PO BOX 2837 FORT MYERS BEACH FL 33932-2837

FORT MYERS BEACH PUBLIC LIBRARY DIST / 033	Independent District	FORT MYERS BEACH PUBLIC LIBRARY DIST 2755 ESTERO BLVD FORT MYERS BEACH FL 33931
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
TOWN OF FORT MYERS BEACH FLORIDA / 118	Municipal	TOWN OF FORT MYERS BEACH 2523 ESTERO BLVD FORT MYERS BEACH FL 33931
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
GREEN CORRIDOR PACE / 363	Special District	
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions ⓘ

Generated on 11/13/2024 7:04 AM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
0.00	01/01/1900	445/536			

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

Use the above link to do a search on the Lee County Clerk of Courts website, using **1** and **58** 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 11/13/2024 7:04 AM

Permit Number	Permit Type	Date
233718	Demolition	05/30/2023
233719	Mobile Home	05/01/2023
225290	Electric	12/28/2022
201723	Residential	12/04/2020
FIR17-0017	Fire	11/30/2017
ROF17-0020	Roof	03/27/2017
FNC17-0003	Fence	02/27/2017
MEC16-0058	AC New / Change out	03/07/2016
COM15-0233	Building Remodel / Repair	06/23/2015
FIR15-0026	Fire	06/03/2015
COM11-0105	Building Remodel / Repair	06/29/2011

RES2007-05722	Building New Construction	08/23/2007
FNC2007-01393	Fence	07/20/2007
COM2007-01412	Building Remodel / Repair	05/02/2007
ROF2004-07734	Roof	11/24/2004
199307092	Commercial	07/30/1993
199203894	Commercial	04/30/1992
503695	Commercial	03/25/1985

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 11/13/2024 7:04 AM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
29-46-24-01-00051.0010	N/A	Reserved for Renumber ONLY	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 11/13/2024 7:04 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	C - Commercial Category	B	2529	47.74
Collection Days				
Garbage	Recycling	Horticulture		
Thursday	Thursday	Thursday		

Flood and Storm Information

Generated on 11/13/2024 7:04 AM

Community	Flood Insurance	Find my flood zone	Date	Evacuation Zone
071C	Panel	Version	11/17/2022	A
	0558	G		

Alternate Address Information

Generated on 11/13/2024 7:04 AM

Alternate Address			
120 CONNECTICUT ST	130 CONNECTICUT ST	134 CONNECTICUT ST	138 CONNECTICUT ST

Generated on 11/13/2024 7:04 AM

 Property Data

STRAP: 29-46-24-W1-00151.001A Folio ID: 10632321

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

Generated on 4/23/2025 9:44 AM

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



FIRST BAPTIST
CHURCH OF FORT M
130 CONNECTICUT
ST
FORT MYERS BEACH
FL 33931

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



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

Site Address

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

134/138
CONNECTICUT ST
FORT MYERS BEACH
FL 33931

Image of Structure



◀ Photo Date December of 2024 ▶ ☐ View other photos

Last Inspection Date:
12/13/2024

**ALTERNATE ADDRESS
INFORMATION:**

138 CONNECTICUT ST

Property Description

Do not use for legal documents!



A LOT OR PARCEL OF
LAND LYING IN LOT 51

CASE SUBD PB 1 PG
58 DESCRIBED AS
PARCEL 2 IN LDO 110-
138 20240266

**Attributes and
Location Details**

Total Bedrooms / 0
Bathrooms
1st Year Building on N/A
Tax Roll 
Historic Designation No

Township	Range	Section	Block	Lot
46	24E	29		
Municipality	Latitude	Longitude		
Town of Fort Myers Beach				

[View Parcel on Google
Maps](#)

Property Values / Exemptions / TRIM Notices

Generated on 4/23/2025 9:44 AM

Exemption	Amount
Religious Property*	0.00

***Exemption has been approved, amount
pending**

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 9:44 AM

Land			
Land Tracts			
Use Code	Use Code Description	Number of Units	Unit of Measure
1000	Commercial, Vacant	1.00	Units



Property Details (2024 Tax Roll)



Taxing Authorities

Generated on 4/23/2025 9:44 AM

TOWN OF FT MYERS BEACH / 032

Name / Code

Category

Mailing Address

LEE CO GENERAL
REVENUE / 044

County

LEE COUNTY
OFFICE OF
MGMT &
BUDGET
PO BOX 398
FORT MYERS
FL 33902-
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
33932-2837

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 - Public
BY STATE LAW / 013 Schools

LEE COUNTY
SCHOOL BOARD
BUDGET
DEPARTMENT
2855
COLONIAL
BLVD
FORT MYERS
FL 33966

GREEN CORRIDOR Special
PACE / 363 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 9:44 AM

Sale Price

Date

Clerk
File Number

Type

Notes

Vacant/
Improved

Not a Sale

Parcel has been split or combined at the request of the property owner.

[Click Here for staff assistance.](#)

0.00 11/25/2024 20241120176SP

There are 1 additional parcel(s) with this document (may have been split after the transaction date)...

[29-46-24-W1-00151.0010](#)

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 9:44 AM

Permit Number

Permit Type

Date

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

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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 ⓘ

This parcel was recently involved in a split or combination.

Generated on 4/23/2025 9:44 AM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
29-46-24-W1-00151.0010	10229238	Split (From another Parcel)	11/25/2024
29-46-24-W1-00151.0010	10632320	Split (From another Parcel)	11/25/2024

Solid Waste (Garbage) Roll Data

Generated on 4/23/2025 9:44 AM

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

Flood and Storm Information

Generated on 4/23/2025 9:44 AM

Community	Panel	Version	Date	Evacuation Zone
071C	0558	G	11/17/2022	A

Generated on 4/23/2025 9:44 AM



Lee County Tax Collector

Noelle Branning

Account Number:
29-46-24-W1-00151.0010
Alternate Key:
2100535274
Millage Code:
032

Site Address/Legal Description:
110-138 CONNECTICUT ST
CASE SUBD PB 1 PG 58 PT LOT 51

Ad Valorem Taxes and Non-Ad Valorem Assessments for Lee County, Florida

2024 Real Estate Tax Notice



SCAN
THIS CODE
to pay online
or visit
LeeTC.com/pay-online

Exemptions/Values	
Market Value	9,040,764
Assessed Value	9,040,764
Taxable Value	6,433,317
Wholly Exempt Exemption	6,433,317
Wholly Exempt School	9,040,764
Senior Wholly Exempt Exemption	6,433,317
Senior Wholly Exempt Exemption	6,433,317
Wholly Tax Value Exemption	6,433,317

★ See message below.

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH, FL 33931

Paid 11/12/2024 INT-00-02759660 \$45.83

Ad Valorem Taxes Levying Authority

	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	6,433,317	6,433,317	0	0.00
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	9,040,764	9,040,764	0	0.00
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0380	9,040,764	9,040,764	0	0.00
TOWN OF FORT MYERS BEACH	239-765-0202	0.9900	6,433,317	6,433,317	0	0.00
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	6,433,317	6,433,317	0	0.00
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	6,433,317	6,433,317	0	0.00
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	6,433,317	6,433,317	0	0.00
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.8000	6,433,317	6,433,317	0	0.00
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	6,433,317	6,433,317	0	0.00
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	6,433,317	6,433,317	0	0.00
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0200	6,433,317	6,433,317	0	0.00
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	6,433,317	6,433,317	0	0.00

Non-Ad Valorem Assessments Levying Authority

	Telephone	Rate	Basis	Amount
LEE COUNTY SOLID WASTE ASSESSMENT	239-533-8000		ACTL LEVY	47.74

2024 Combined Total Ad Valorem and Non-Ad Valorem:

\$47.74

2024 Real Estate Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Nov 30, 2024
- ☐
- ☐
- ☐
- ☐

Amount Due:

\$0.00

Phone/Email Contact: _____

For payment options and instructions, refer to the back of this notice.

Paid 11/12/2024 INT-00-02759660 \$45.83

Account: 29-46-24-W1-00151.0010

Site Address: 110-138 CONNECTICUT ST

Alternate Key: 2100535274

★ If the address below is not correct, visit [LeePA.org](#) to update your address.

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH, FL 33931

Make check payable to:
LEE COUNTY TAX COLLECTOR
PO BOX 1609
FORT MYERS, FL 33902-1609





IMPORTANT INSTRUCTIONS AND INFORMATION - PLEASE READ

Ad Valorem Taxes cover the period January 1 through December 31 of the tax year indicated on the front of this notice. Tax notices are mailed on or about November 1 and become delinquent April 1. Failure to receive a tax notice does not extend discounts or excuse taxpayers' responsibilities to pay taxes and applicable penalties for late payments. Installment tax notices are mailed in June, September, December and March. Installment payment discounts are: June (6%), September (4.5%) and December (3%).

Governmental Office Responsibilities



Lee County Tax Collector

The Tax Collector prints, mails, and collects payments based on the tax rolls certified by the Property Appraiser and Levying Authorities.

Contact the Tax Collector to:

- Pay your current or delinquent property taxes
- Learn about Partial Payment, Installment Payment, and Homestead
- Tax Deferral plans
- Print your tax bills and receipts

Phone: 239-533-6000 • Website: **LeeTC.com**



Lee County Property Appraiser

The Property Appraiser values properties and prepares and certifies the tax roll. This includes assessed values, exemptions, legal descriptions, owner(s) and mailing address.

Contact the Property Appraiser to:

- Ask questions about the assessed value or exemption of your property
- Change your mailing address
- File or check on Homestead and other exemptions

Phone: 239-533-6100 • Website: **LeePA.org**



Lee County Levying Authorities

Lee County Levying Authorities establish millage rates and assessments based on revenue needed for operating expenses.

Call your Levying Authority with direct questions regarding services provided or rates charged.

A list of Levying Authorities and phone numbers may appear on the front of this notice or can be found on your property tax bill.

Visit **LeeTC.com/property-taxes** for instructions on viewing your bill.

Payment Options



Pay Online: **LeeTC.com/pay-online**



Kiosk: Payment kiosks are located in all service centers: **LeeTC.com/locations**



Mail: PO Box 1609, Ft Myers, FL 33902-1609 (check or money order)



Phone: (239) 533-6000



In Person: visit **LeeTC.com** to make an appointment

eChecks, checks, cash and money orders are FREE. All other payment types are subject to a convenience fee. The Tax Collector does not keep any portion of these fees.

Note: If using your bank's online bill pay, make sure you allow for processing time so payment arrives by the received date listed on the front of this notice.

Delinquent Taxes

eChecks, personal checks, and business checks are not acceptable forms of payment for delinquent taxes. The amount due is determined by the date payment is received in our office. Failure to pay delinquent taxes could result in the loss of your property. On April 1 the following charges are imposed by Florida Law:

Real Estate: 3% minimum interest and advertising costs. A tax certificate sale is held on or before June 1 resulting in additional charges. **Tangible Personal Property:** 18% interest annually, cost of advertising, and fees. Tax warrants will be issued on all unpaid personal property taxes on or about June 1.

Confirm Payment and Print Receipt

Confirm receipt of your payment online at our official website **LeeTC.com**. Your taxes are not considered paid until your payment clears our bank and is applied to your tax account.

You can print a receipt in three easy steps:

- 1 Visit **LeeTC.com/pay-online** and click property taxes.
- 2 Enter your name or address in the search field and select your record.
- 3 Find your annual bill, then click Print (PDF) for a receipt.

Discounts

The amounts indicated on the front of this notice represent the total taxes and assessments due (if applicable) less discounts allowed for early payment. When the discount period ends on a weekend or holiday, the discount is extended to the next business day. Taxes are due by March 31 of each year.

4% if paid in **NOVEMBER**

3% if paid in **DECEMBER**

2% if paid in **JANUARY**

1% if paid in **FEBRUARY**

Property Sold: forward this notice to the new owner(s).

Have you met Edison?

Edison is our automated chatbot that can answer many of your questions relating to property taxes and much more. Available 24/7, you can find Edison at the bottom of our website, **LeeTC.com**.

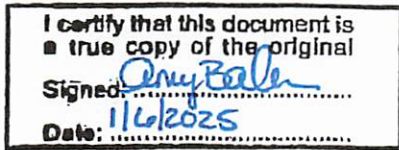


NOTICE: Pursuant to Florida Statute 590.125(5), be advised that the Florida Forest Service may be performing prescribed burning and/or other treatments in a project area that includes your property in Lee County, Florida. These efforts are to reduce fuel loads and threat of wildfires. These projects are planned to occur from the date of this notice until the same date the following year. This service is provided at no cost to the affected landowner(s). Contact the Florida Forest Service if you have questions regarding this service at: 10941 Palm Beach Blvd., Fort Myers, FL 33905, or 239.690.8001.

Our Mission: Deliver 5-Star service quickly and efficiently through an organizational culture that values customers, team, and community.

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.

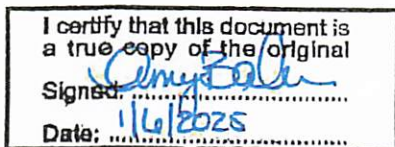
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

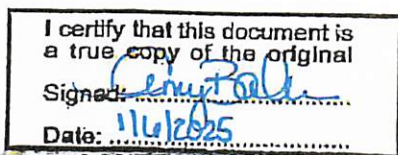


Robert D. Samaan
Regional Administrator

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.

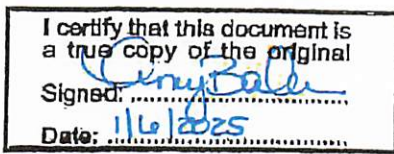
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.



- Y 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.
- Y Failure to keep records of permits, certifications, and variance actions. 44 CFR 59.22(a)(9)(iii).
- Y 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.
- Y 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.

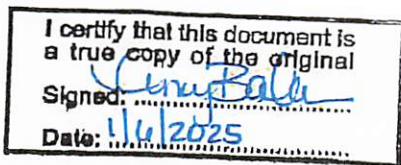
Complete – FEMA needs no further information regarding the specific address.

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

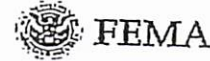
5. Documentation on the Finding Report and Site list:

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

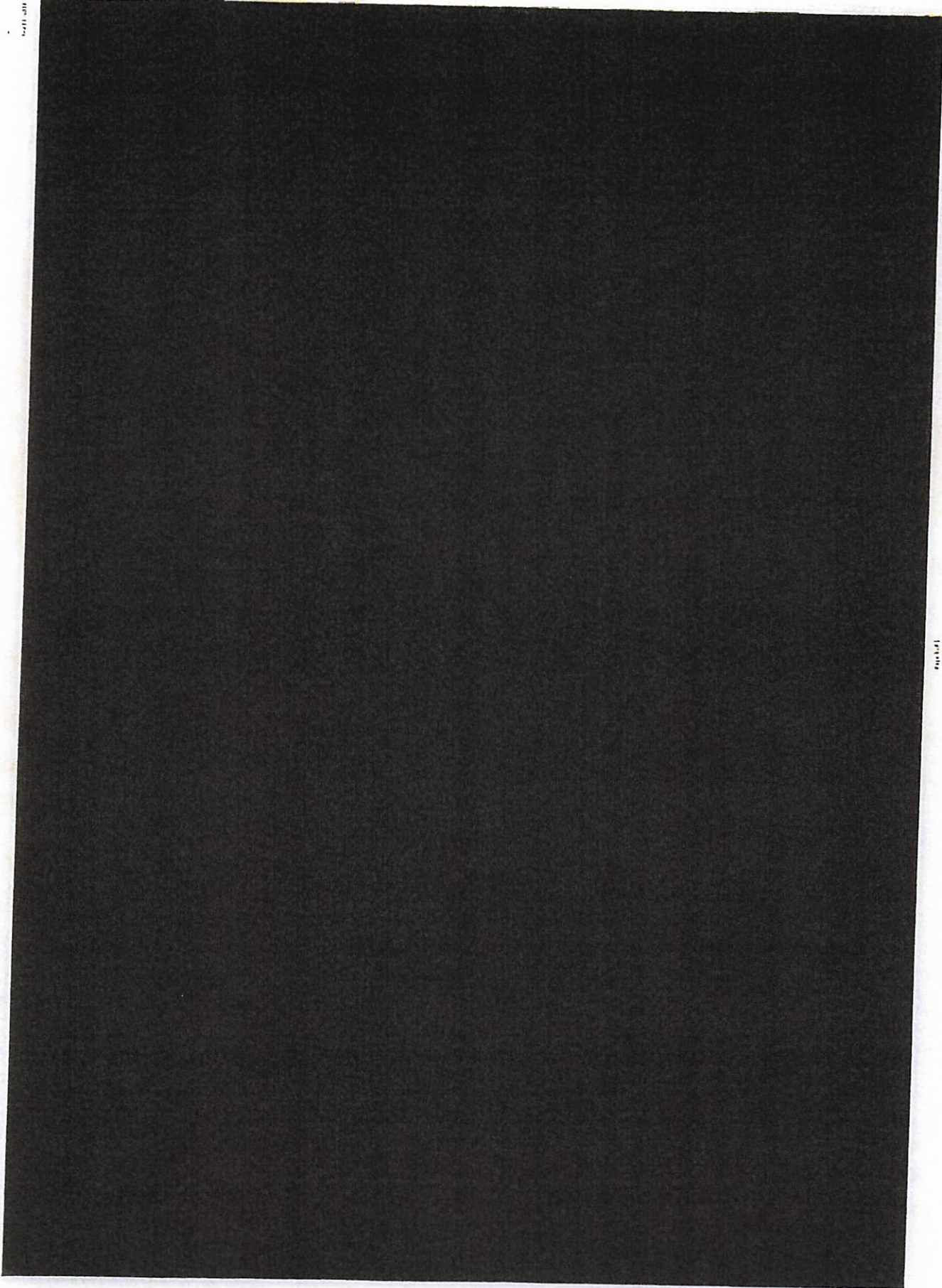
Signed: Crystal

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

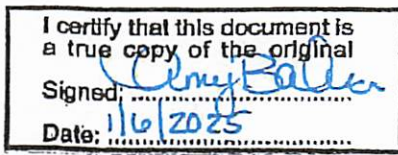
Dear Mr. Samaan,

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.

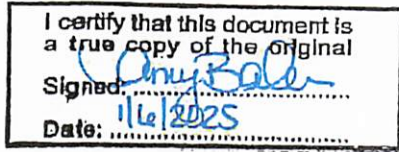
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist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

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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

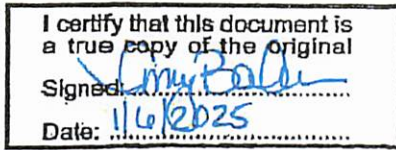
P. 239-765-0202 | F. 239-765-0909 | 2731 Oak Street, Fort Myers Beach, FL 33931

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

Signed:

Date:

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.

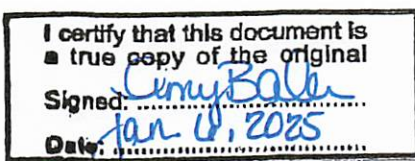
Sincerely,



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.

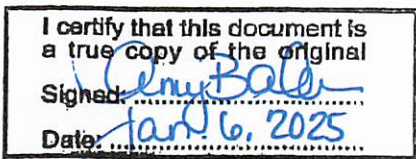
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

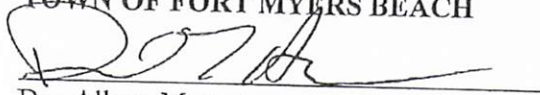
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

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:	20241086
Certified Mail:	9589071052700183636017
Regular Mail	

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 110-138 CONNECTICUT ST
PARCEL STRAP NO: 294624W1001510010

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



Oct 28, 2024 1:34:59 PM



Oct 28, 2024 1:35:06 PM



Oct 28, 2024 1:35:14 PM



Oct 28, 2024 1:35:18 PM



Oct 28, 2024 1:35:37 PM



TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

First Baptist Church of Fort M
130 Connecticut St
Fort Myers Beach, FL 33931

Respondent,

FMB Case Number:	20241086
Certified Mail:	
Regular Mail:	
DOAH Case Number:	[Not Applicable]

Site Address: 110-138 Connecticut St,
Fort Myers Beach, FL 33931
Parcel Strap No. 294624W1001510010

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA

COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Thomas Yozzo, who is the Code Compliance Coordinator for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding case #20241086 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 110-138 Connecticut St, 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. First Baptist Church of Fort M
130 Connecticut St
Fort Myers Beach, FL 33931
Certified Mail No. 294624W1001510010
(Property Owner)

Copies of the certified mailing receipts are attached as evidence.

- 2. I posted a copy of the Notice at 110-138 Connecticut, 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

9589 0710 5270 0183 6360 17

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

\$

Postmark Here

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH FL 33931

PS Form 3800, January 2023 PSN 7530-02-000-9002 See Reverse for Instructions

Town of Fort Myers Beach

Sent by:

2024 1086

110-132-Connecticut

SENDER: COMPLETE THIS SECTION

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

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH FL 33931



9590 9402 8344 3094 9286 20

2. Article Number (Transfer from carrier label)

9589 0710 5270 0183 6360 17

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *157 Barty*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

11/16/20

Delivery address different from item 1? ☐ Yes
 If Yes, enter delivery address below: ☐ No

26241086

110-138 Connecticut St

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☐ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®

☐ Registered Mail™

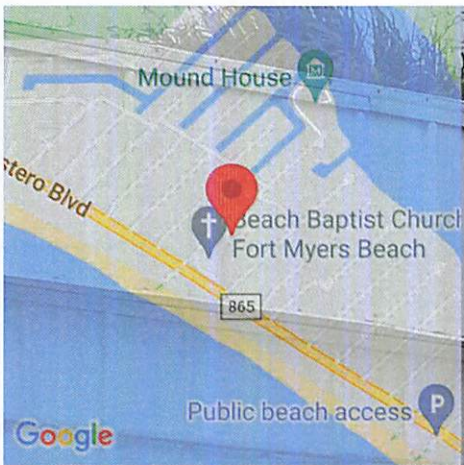
☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

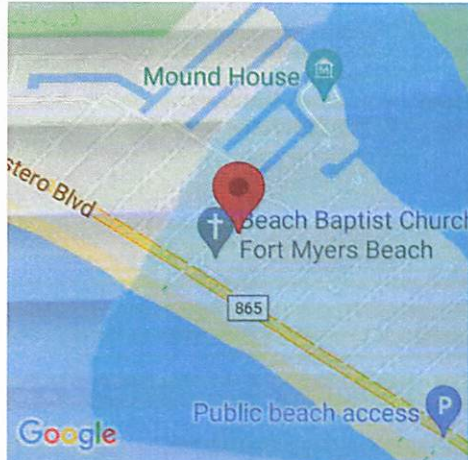
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Nov 13, 2024 4:02:24 PM
Fort Myers Beach



Nov 13, 2024 4:01:58 PM
Fort Myers Beach



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

11/13/2024

Case Number:	20241086
Certified Mail:	9589071052700183636017
Regular Mail	

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 110-138 CONNECTICUT ST
PARCEL STRAP NO: 294624W1001510010

NOTICE OF VIOLATION

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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.

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COMPLIANCE:

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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:	20241086
Certified Mail:	9588071052700183636017
Regular Mail:	

FIRST BAPTIST CHURCH OF FORT M
130 CONNECTICUT ST
FORT MYERS BEACH, FL 33931

SITE ADDRESS: 110-138 CONNECTICUT ST
PARCEL STRAP NO: 294624W1001510010

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

Nov 13, 2024 3:06:05 PM

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.

First Baptist Church of Fort M
Respondent.

Case Number:	20241086
Certified Mail:	
Regular Mail:	

Site Address: 134/138 Connecticut St
Parcel Strap No.: 294624W100151001A

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, First Baptist Church of Fort M (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 134/138 Connecticut St, Fort Myers Beach, FL 33931 ("Subject Property").



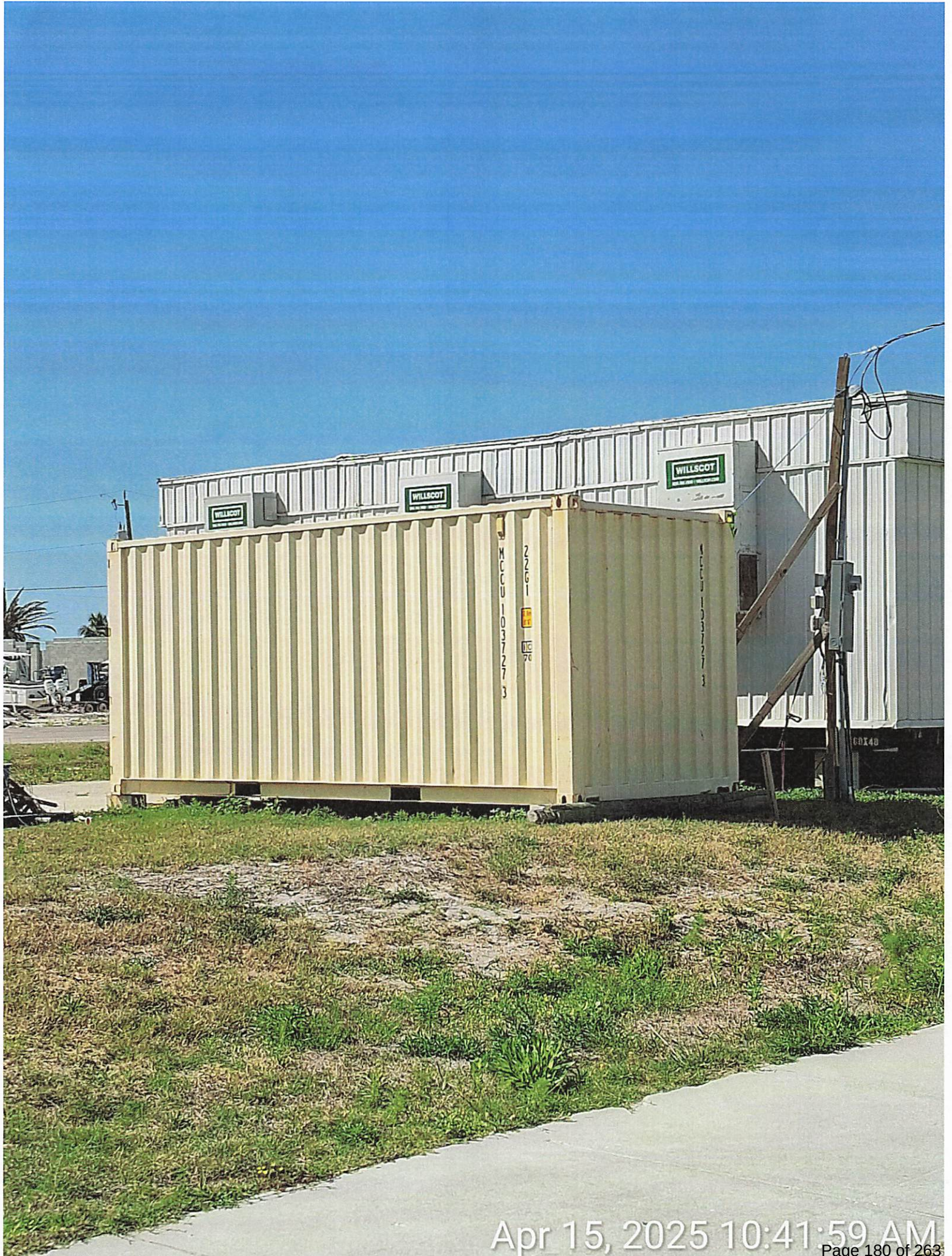
Apr 15, 2025 10:42:14 AM



Apr 15, 2025 10:42:19 AM



Apr 15, 2025 10:41:55 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.

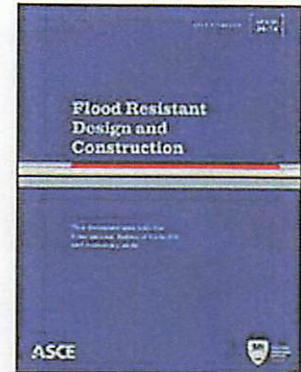
All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, must:

- (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: September 2, 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 Order of Continuance Signed
2. 20240994_Notice of Hearing Continued to August 5, 2025
3. Attachment to Continued Hearing Notice (FMB 20240994 2815 Estero Blvd. Himmelstein - Order Continuing Hearing Dated 06.04.2025
4. 20240994_Notice of June 3, 2025 Hearing
5. 20240994_Hearing Exhibit A: Affidavit of Notice and Posting of the June 3, 2025 Hearing
6. 20240994_Hearing Exhibit B_FEMA and Related Ordinances
7. 20240994_Hearing Exhibit C: Affidavit of Compliance (May 5, 2025)
8. 20240994_Hearing Exhibit C-1 - Photo of Compliance
9. 20240994_Hearing Exhibit C-2: Affidavit of Non-Compliance & Lien Certification (April 22, 2025)
10. 20240994_Hearing Exhibit C-3 Photo of Non-Compliance
11. 20240994_Hearing Exhibit C-4 Code Enforcement Order

Town Recommendations:

Town Approvals:

Thomas Yozzo, Emergency Services Director

Date: August 20, 2025



Traci Kohler, Deputy Town Manager

Date: August 21, 2025

nancy stuparich, Town Attorney

Date: August 22, 2025



Lizzette Roman, Town Clerk Administrative Coordinator

Date: August 22, 2025

Amy Baker, Town Clerk

Date: August 22, 2025

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

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

Petitioner,

vs.

FMB CASE NO. 20240994

HIMMELSTEIN ASSOCIATES, LLC.

Respondent.

ORDER OF CONTINUANCE

NOTICE IS HEREBY GIVEN THAT THE SPECIAL MAGISTRATE CONTINUES THE ABOVE ACTION, THE ORIGINAL HEARING DATE OF WHICH WAS SCHEDULED FOR AUGUST 5, 2025, WITHOUT ENTERING FINDINGS OF FACT. FURTHER PROCEEDINGS IN THIS MATTER WILL BE HELD ON: **SEPTEMBER 2, 2025, at 9:00 A.M.**

The hearing will be held at the Town of Fort Myers Beach Town Hall, 2731 Oak Street, Fort Myers Beach, Lee County, Florida, unless notified that the chambers have moved before that time, and the Respondent is urged to be present if the violation has not been abated by that date.

DONE AND ORDERED this 13th day of August, 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 the Order was sent by U.S. Mail on the 14 day of August 2025 to:

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

Himmelstein Associates LLC
907 Hyacinth Drive
Delray Beach, FL 33483

BY: 
Town Clerk and Clerk to Special Magistrate

Dated: Aug. 14. 2025

**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.

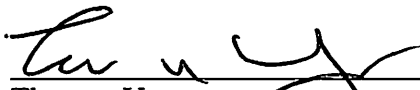
HIMMELSTEIN ASSOCIATES LLC

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.

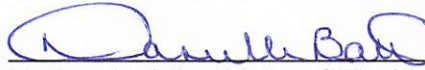
x 
Signature of Affiant

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

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☐ Adult Signature Restricted Delivery \$

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Total Postage and Fees \$11.82

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NOH 6/3/25 owner
20240994
2815 ESTERO

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

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

See Reverse for Instructions

7022 2410 0000 8470 1648

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

Sent by: _____

Postage \$
Total Postage and Fees \$11.82

Postmark Here

NOH 6/3/25 Agent
20240994
2815 ESTERO

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

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

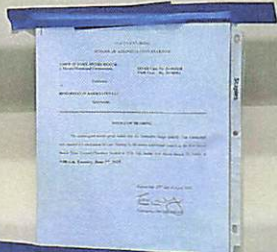
Registered Agent: Himmelstein, Richard B
907 Hyacinth Dr.
Delray Beach, FL 33483

Town of Fort Myers Beach
APR 29 2025

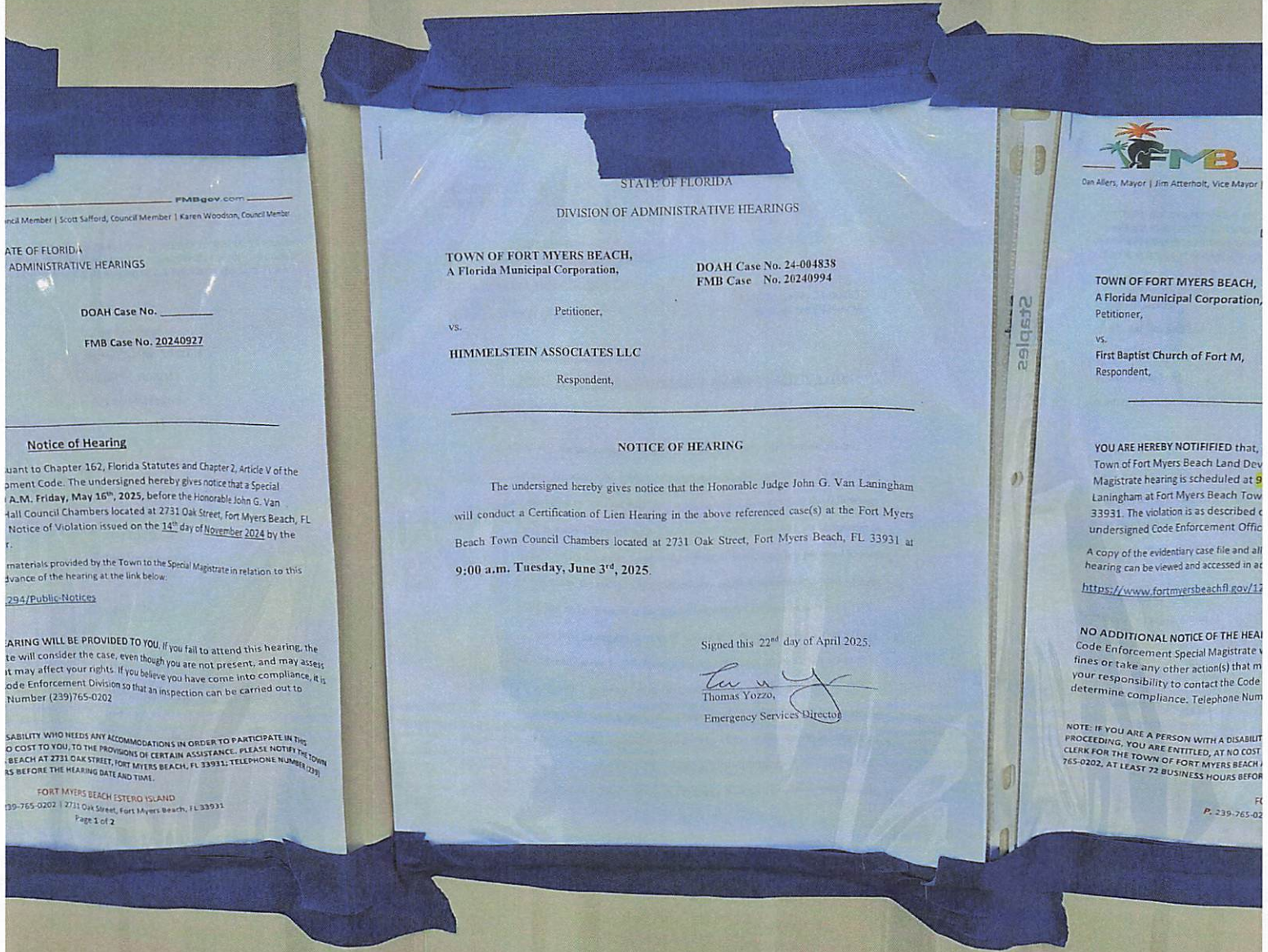
Sent by:



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.
[294/Public-Notices](#)

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 Office
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 DISABILITY
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

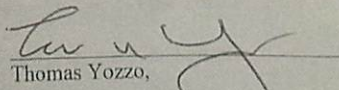
vs. Petitioner,

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](#)

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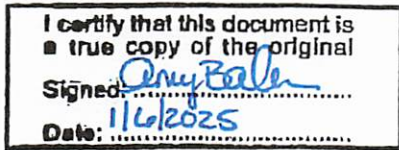
[10/15/2021 -- Florida Limited Liability](#)

[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.

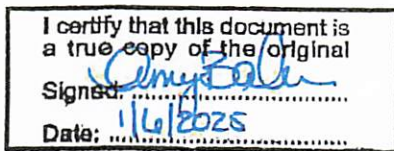
We acknowledge the work invested by your community has resulted in some improvements to meet minimum floodplain management standards. However, as the Town of Fort Myers Beach continues to recover from Hurricane Ian, FEMA finds that outstanding compliance issues remain. FEMA will not retrograde the town's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

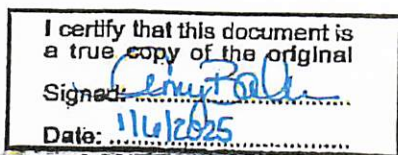


Robert D. Samaan
Regional Administrator

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.

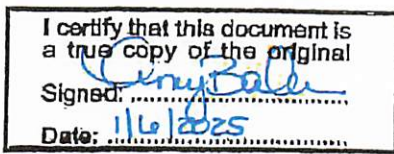
During the 60-day review period, the Town of Fort Myers Beach provided FEMA permit documentation for 105 sites. FEMA reviewed the submitted documentation, for the 105 sites as well as the Town of Fort Myers Beach's Narrative and supporting documentation.

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.

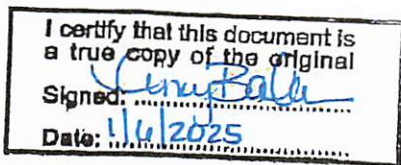
Complete – FEMA needs no further information regarding the specific address.

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: *[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: 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

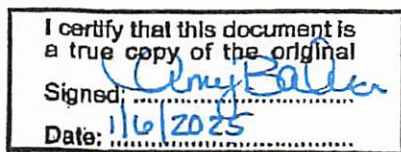
Dear Mr. Samaan,

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=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.

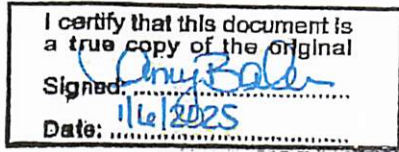
Moreover, as you are aware, the economy of a beach community such as Fort Myers Beach, is highly dependent on tourists, who visit the beach and support local businesses providing food service. In 2023-2024, the Town was awarded over \$1.5 million in tourist development dollars from the Lee County Tourist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

Date: 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 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.

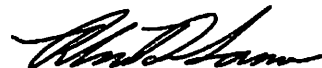
We acknowledge the work invested by you and your team has resulted in some improvements to meet minimum floodplain management standards. However, because of the outstanding compliance issues remaining, **the Town will be placed on probation with the National Flood Insurance Program effective November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

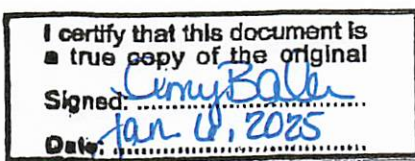
Sincerely,



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.

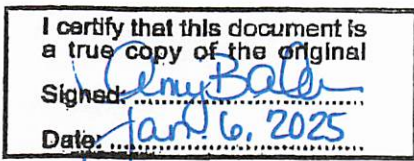
NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

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.

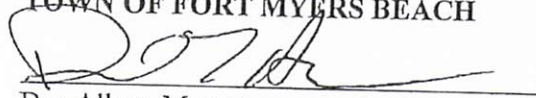
Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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.

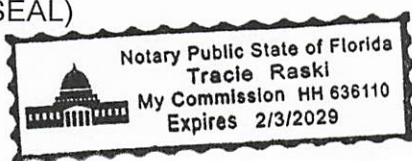
Signature of Affiant: 

**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 Balth, ☒ who is personally known to me OR J who has produced _____ as identification.

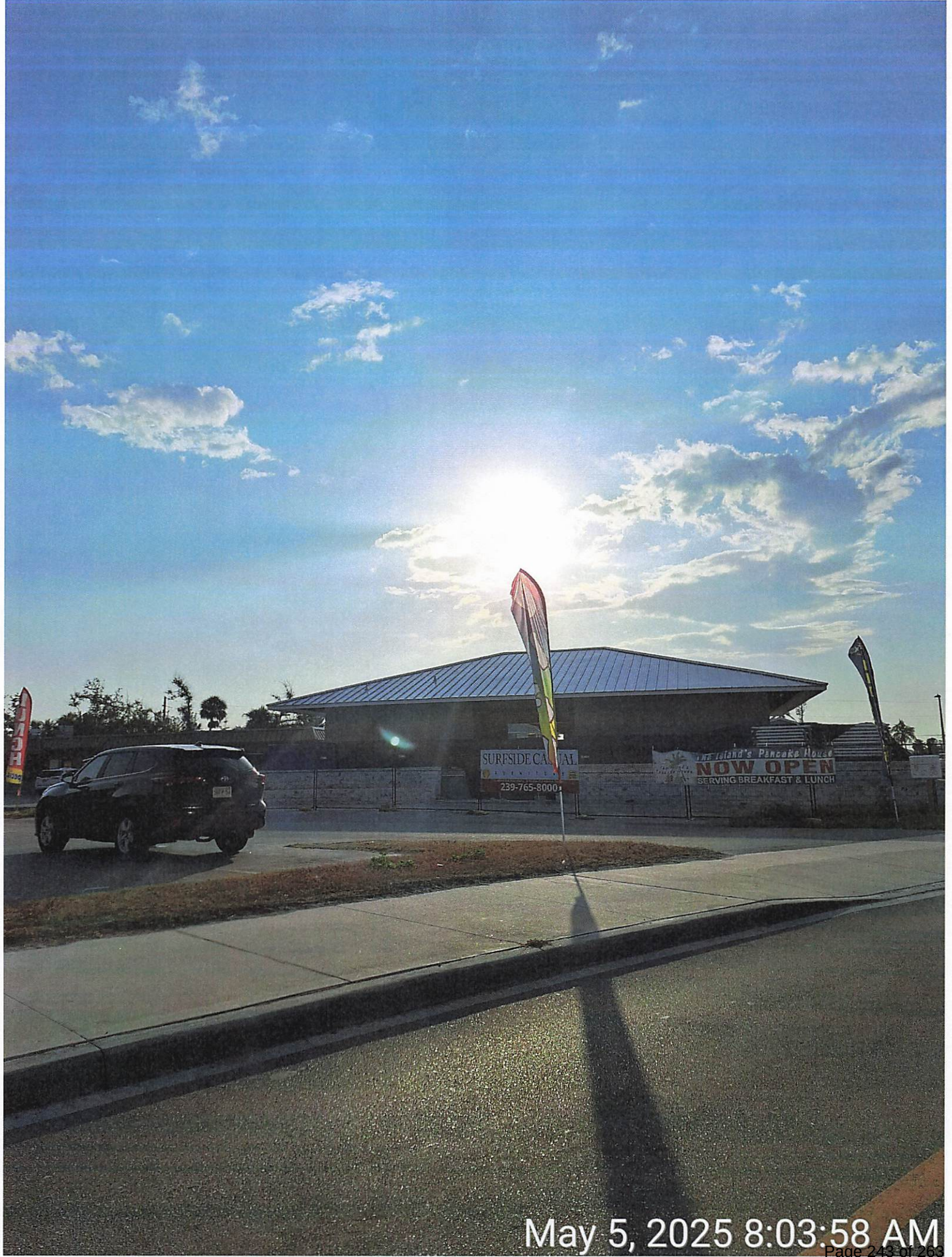
Notary Public Signature: 

(SEAL)



Hearing Exhibit

D2



May 5, 2025 8:03:58 AM



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.

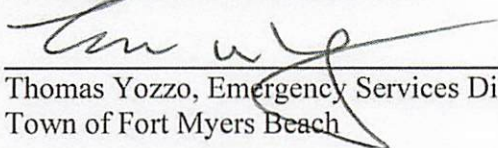
11. As of March 1, 2025, daily fines began to accrue in the amount of \$250.00 per day as specified in the Code Enforcement Order.

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.

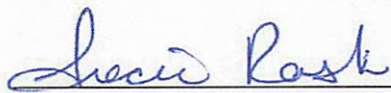
14. As of April 22, 2025 a fine in the amount of \$13,250.00 is due and owing to the Town.

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.



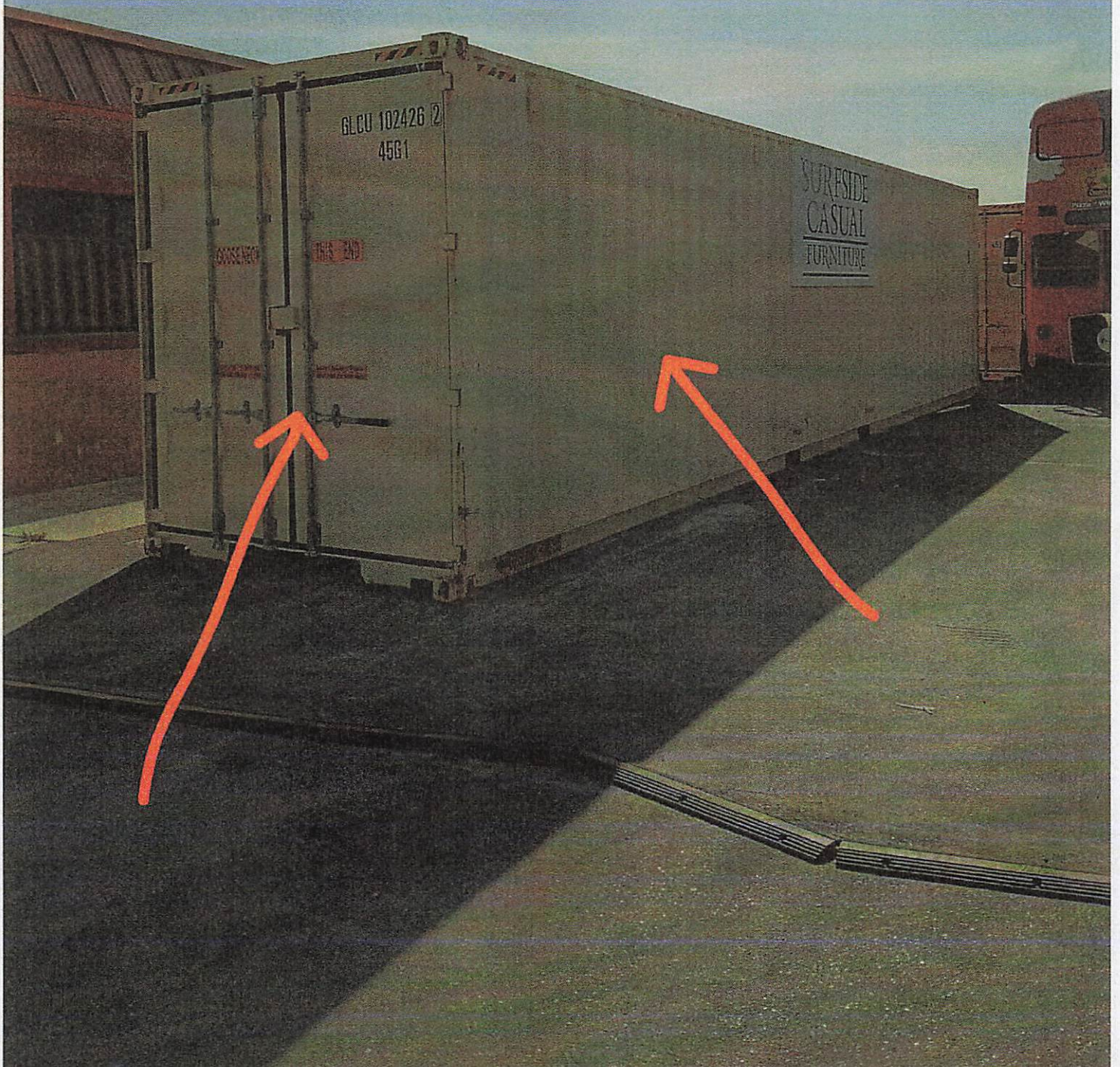

Notary Public, State of Florida
Print Name: Tracie Raski
My Commission Expires: 2/3/2029

Hearing Exhibit

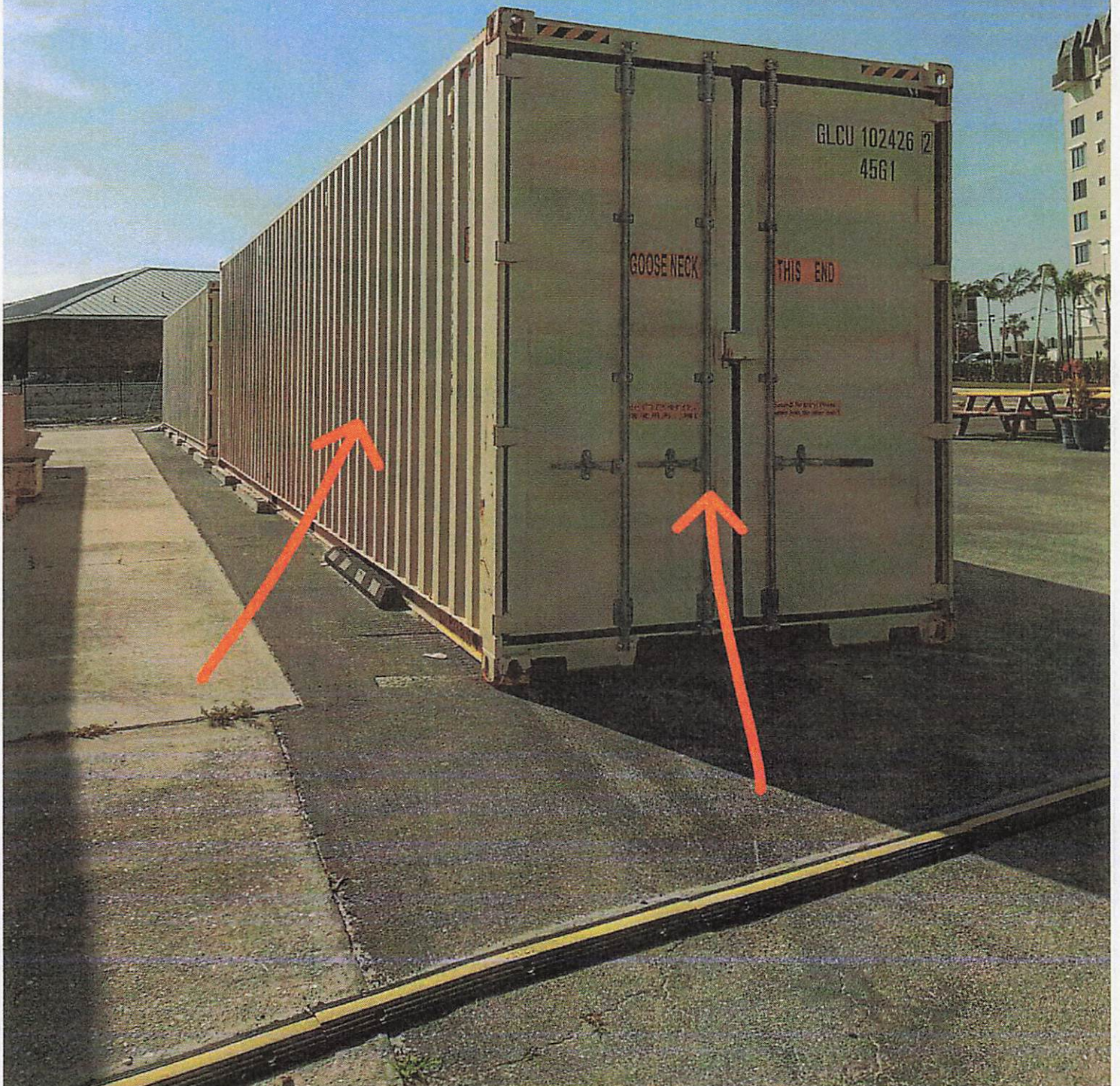
C4

- Photographs

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



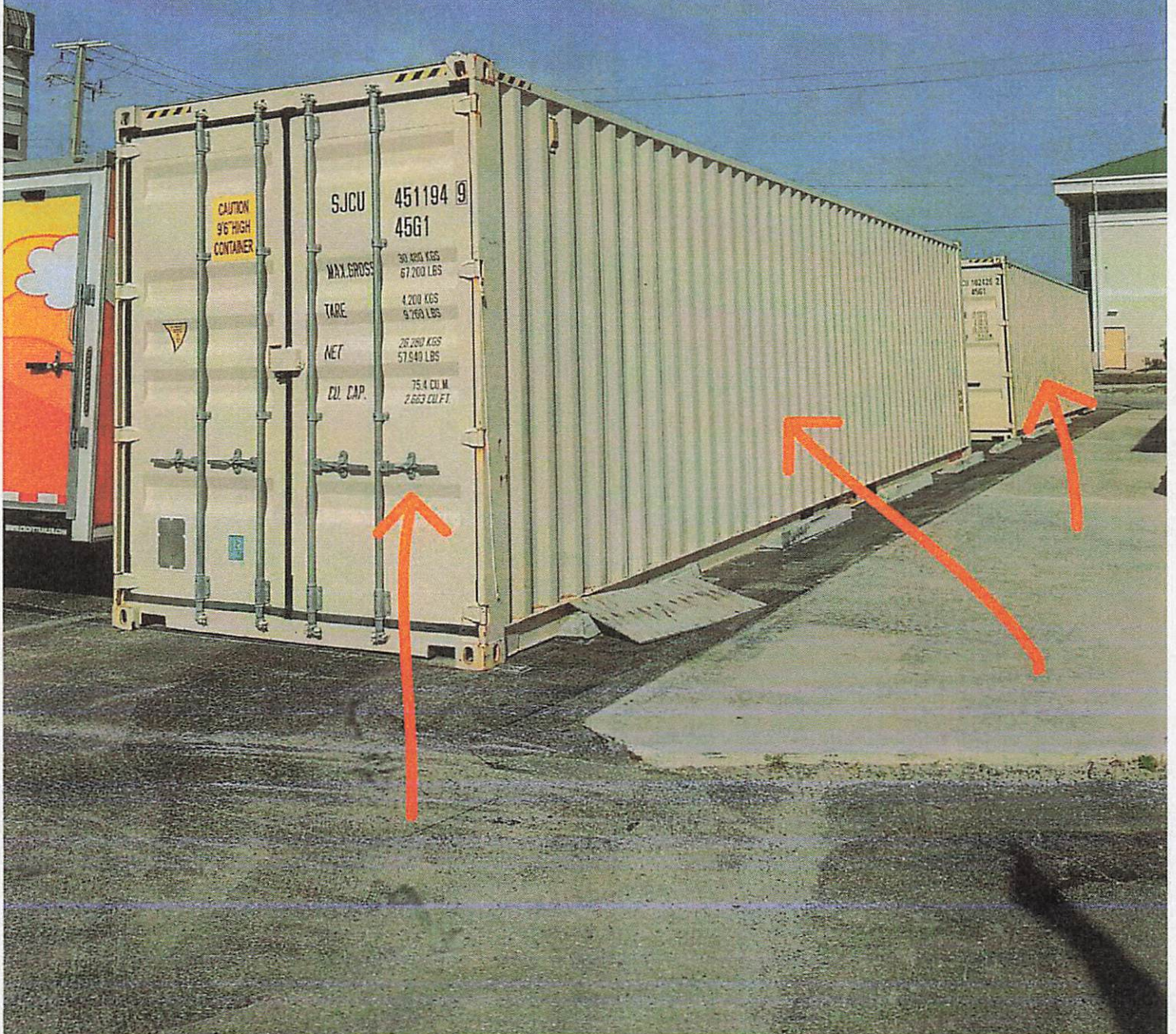
Apr 22, 2025 9:36:59 AM
Town of Fort Myers Beach



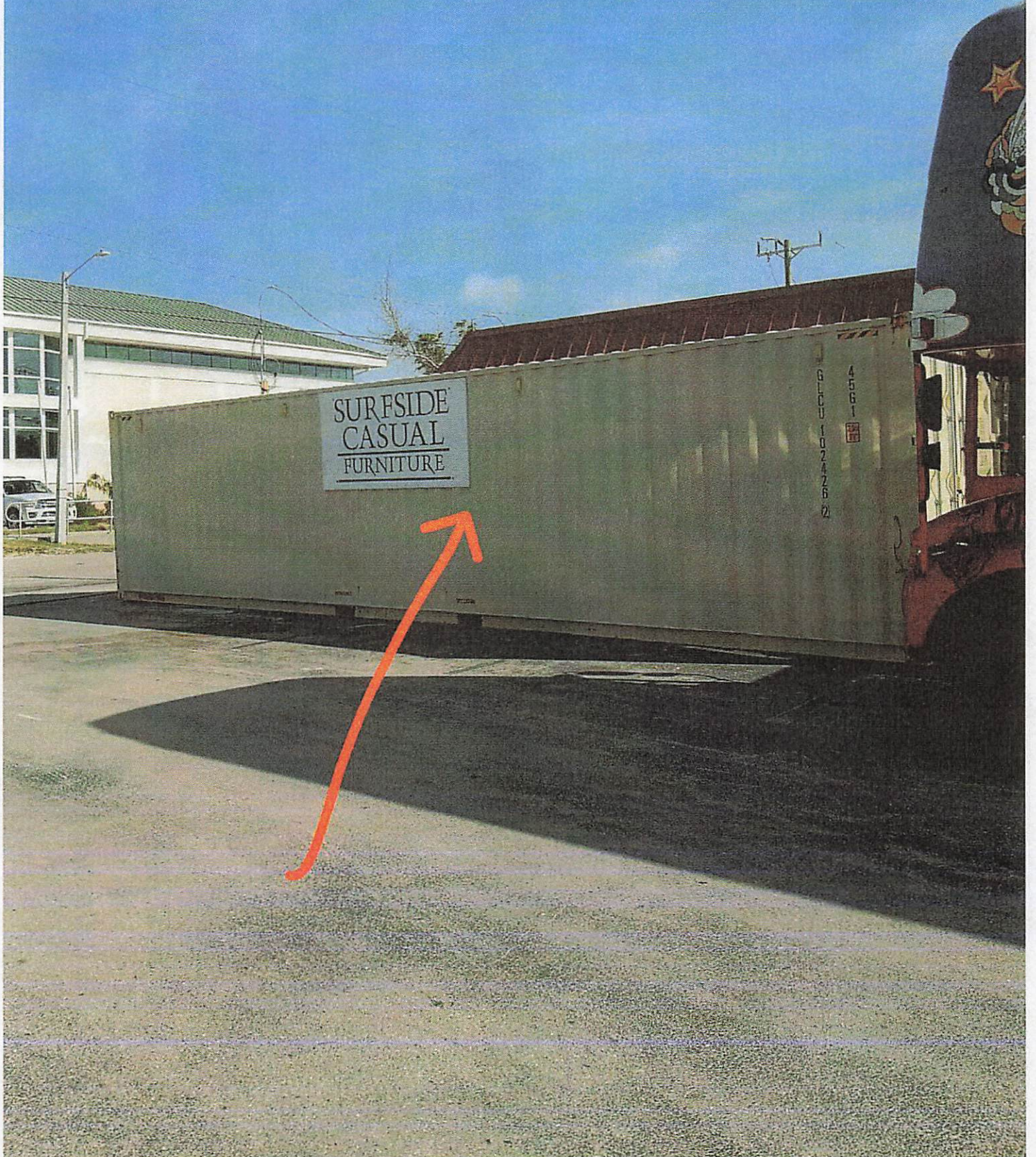
Apr 22, 2025 9:37:18 AM
Town of Fort Myers Beach

A photograph of a yellow shipping container and an orange school bus. The container is yellow with black text that reads "CAUTION 9'6\" HIGH CONTAINER" and "SJC 451194 9". The school bus is orange with yellow text that reads "Authentic Mexican Food" and "Music". Two red arrows point to the container's side and door. The container is parked on a paved surface next to the school bus.

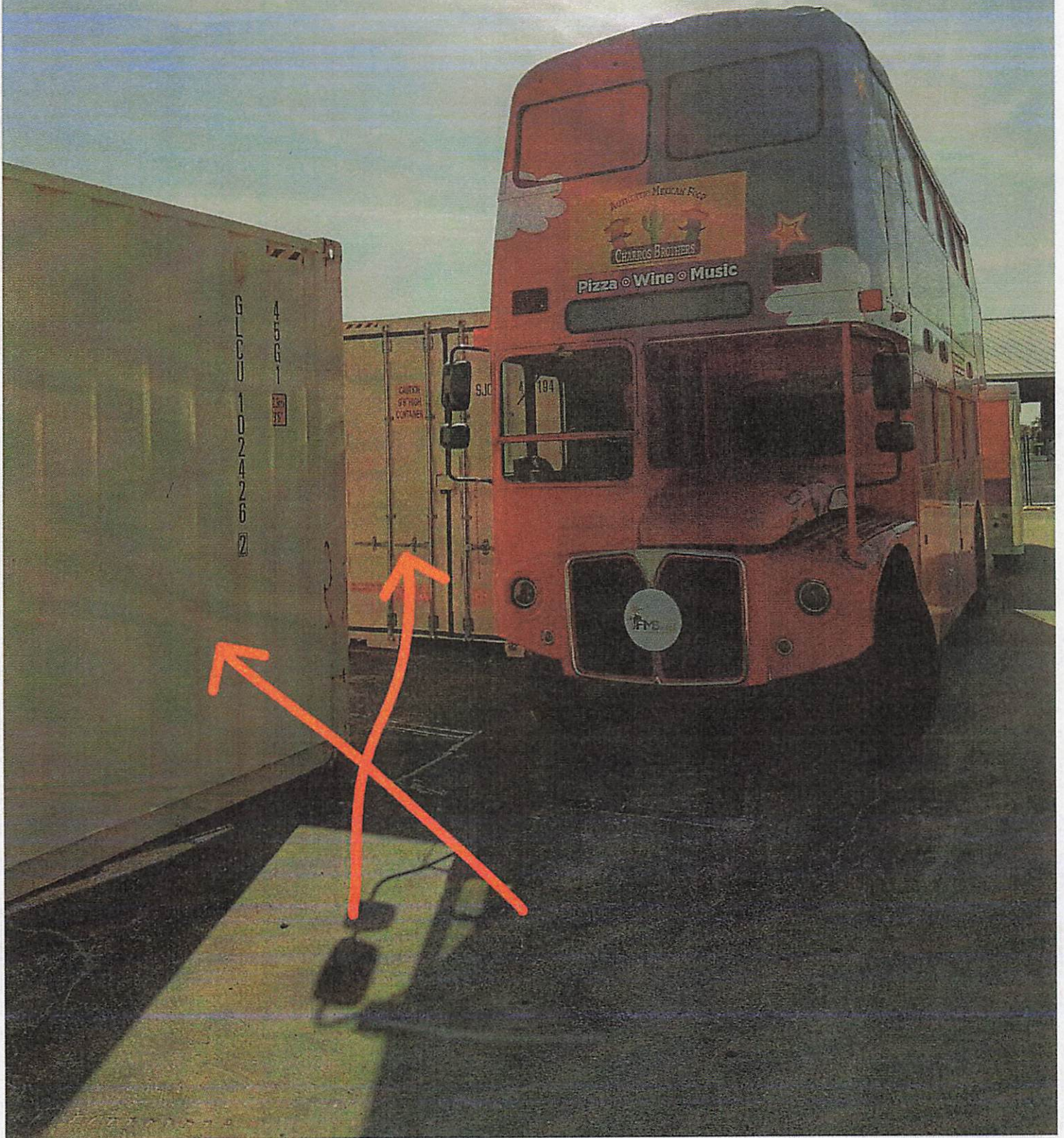
Apr 22, 2025 9:37:42 AM
Town of Fort Myers Beach



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