



Fort Myers Beach Special Magistrate Hearing

**Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931**

Agenda

Tuesday, April 7, 2026

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

II. APPROVAL OF MINUTES

A. March 3, 2026

III. ANNOUNCEMENTS

A. FMB Case No. 20251060

Public hearing to announce entry of Order and Denial of Motion for Rehearing

**FMB Case No. 20251060 – Danny Lewis Thomas & Carol Jean Thomas
151 Miramar St., Fort Myers Beach**

IV. VIOLATION CASES

A. FMB Case No. 20260177

Property Owner: Bhatnagr Piyush

Property Address: 3 Pepita Street

Status: Property Maintenance

Officer: T Hoffman

V. STATUS UPDATE (FINES ASSESMENTS)

A. FMB Case # 20251060

Property Owner: Danny Lewis & Carol Jean Thomas

Property Address: 151 Miramar St

Violation: Work without permits. Plumbing not in compliance with the code.

Officer: M Hauserman

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

VII. LIEN FORECLOSURE CASES

VIII. BUILDING OFFICIAL APPEALS

IX. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

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



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

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



Fort Myers Beach Special Magistrate Hearing

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931
Tuesday, March 3, 2026

Minutes

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Present: Code Enforcement Manager Michael Hauserman, Town Clerk Administrative Coordinator Lizzette Roman, and Special Magistrate John Van Laningham

II. APPROVAL OF MINUTES

- A. January 6, 2026
Special Magistrate John Van Laningham approved the minutes.

III. VIOLATION CASES

- A. FMB Case # 20240733
Property Owner: Midwest Decoration Co
FMB Case # 20240733
Property Address: 146 Hercules Dr
Violation: Interior and Exterior remodel exceeding the scope of the permit and expired permit 234613
Officer: M. Hauserman
Request to Continue to May 5, 2026 Hearings
Special Magistrate Van Laningham granted the request to continue the case to May 5, 2026.
- B. FMB Case # 20250800
Property Owner: B + B Properties of Fort Myers, LLC (The Beach Bar)
FMB Case # 20250800
Property Address: 1668 I Street
Violation: Lack of current valid building permit and building code deficiencies.
Officer: M. Hauserman
Request to Continue to May 5, 2026 Hearings (Working with Building Department)

Special Magistrate Van Laningham granted the request to continue the case to May 5, 2026.

C. FMB Case # 20250802

Property Owner: Bryan G & Christine Dawn Thomas

FMB Case # 20250802

Property Address: 263 Palermo Circle

Violation: Lack of current valid building permit and building code deficiencies.

Officer: M. Hauserman

Request to Continue to August 5, 2026 Hearings

Special Magistrate Van Laningham granted the request to continue the case to August 5, 2026.

IV. STATUS UPDATE (FINES ASSESMENTS)

A. FMB Case # 20250819

COMPLIANT

Property Owner: John Daniels

Property Address: 250/252 Bahia Via

Violation: Work without permits

Officer: M. Hauserman

Code Enforcement Manager Michael Hauserman stated that on October 29, 2025, the respondent was found in violation and was given until December 3, 2025, to come into compliance. A fine of \$250 per day and costs of \$250 were imposed on November 12, 2025, and an Affidavit of Non-Compliance was entered on December 18, 2025. A status hearing originally scheduled for January 6, 2026, was continued to March 3, 2026. He reported that compliance was achieved on January 12, 2026, and the \$250 costs were paid on February 9, 2026. He noted that the violation resulted in 38 days of noncompliance at \$250 per day, totaling \$9,500, and the Town requested that an order be entered for that amount with authorization to record a lien.

Special Magistrate John Van Laningham confirmed the paid costs and issued an order imposing the accrued fine of \$9,500 and authorized the order to be recorded as a lien.

B. FMB Case # 20250853

**COMPLIANT - ADMINISTRATIVE COSTS PAID
CASE CLOSED**

Property Owner: Adrienne Turner

Property Address: 12 Fairview Blvd

Violation: Work without permits

Officer: M. Hauserman

The property was verified to be in full compliance prior to the hearing, therefore, no further action was taken.

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

No liens.

VI. LIEN FORECLOSURE CASES

No cases.

VII. BUILDING OFFICIAL APPEALS

No appeals.

VIII. ADJOURNMENT

Special Magistrate Van Laningham adjourned the meeting at 9:08 a.m.

DRAFT

SPECIAL MAGISTRATE EVIDENCE INDEX/TIMELINE

151 Miramar St Case #20251060

- **Exhibit A** Affidavit of Notice and Posting – Rehearing Request
3/10/26
- **Exhibit B** Order Denying Motion for Rehearing dated 2/26/26
- **Exhibit C** Respondents Request for Rehearing, and Town’s Response
to Request for Rehearing, and attached exhibits.
- **Exhibit D** Order Denying Motion to Reopening Hearing and Service
dated 1/27/26
- **Exhibit E** Finding of Facts, Conclusion of Law, and Order from 1/6/26
dated 1/27/26
- **Exhibit F** Respondent’s Request for Reopening and Town Response
- **Exhibit G** Order of Continuance of the 12/4/25 hearing to the 1/6/26
hearing from 12/4/25 dated 12/18/25

HEARING EXHIBIT A

- Affidavit of Notice and Posting – Rehearing Request
 - Notice of Code Enforcement Rehearing Request dated 3/10/26
 - Certified Mail Receipts
 - Certified Mail Envelopes
 - Regular Mail Envelopes
 - Posting Photographs at 151 Miramar St
 - Posting Photographs at Town Hall
 - Lee County Property Appraisers Records



Town of Fort Myers Beach

6231 Estero Blvd, Florida 33931

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

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

**Petitioner,
vs.**

**THOMAS DANNY &
CAROL JEAN
Respondent.**

Case Number: 20251060

Certified Mail:

9589071052703142142154

9589071052703142142147

9589071052703142142130

Regular Mail:

USPS: 03/10/2026

AFFIDAVIT OF POSTING OF REHEARING REQUEST

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared **MICHAEL J HAUSERMAN**, who being duly sworn by me, on oath, deposes and says the following regarding that certain Notice of Violation and Notice of Hearing attached hereto as **Composite Exhibit A** ("the Notice"):

1. My name is **MICHAEL J HAUSERMAN**. 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.
2. I am employed as a Code Enforcement Manager for the Town of Fort Myers Beach ("Town").

3. On 03/10/2026, I personally mailed a copy of the Notice by Certified mail and first-class mail as follows:

- a. To the property owner at the address listed in the records of the Lee County Tax Collector and/or Lee County Property Appraiser for tax notices, which address is: **22067 565th Ave, Austin, MN 55912**. A true and correct copy of the property ownership and address information obtained from the Tax Collector/Property Appraiser is attached hereto as **Composite Exhibit A**. A copy of the Certified mail receipt is attached hereto as **Composite Exhibit A**.
- b. To the following additional address(es) reasonably believed to be valid for the property owner: **151 Miramar St, Fort Myers Beach, FL 33931**. A copy of the certified mail receipt is attached hereto as **Composite Exhibit A**.

4. On 03/10/2026, I posted a copy of the Notice at **151 Miramar St, Fort Myers, FL 33931** which is the property upon which the violation is alleged to exist. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Composite Exhibit A**.

5. On 03/10/2026, I posted a copy of the Notice at Town Hall, located at 6231 Estero Boulevard, Fort Myers Beach, FL 33931, which is the primary municipal government office for the Town of Fort Myers Beach. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Composite 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 of Fort Myers Beach Land Development Code and Section 162.12, Florida Statutes.

SWORN AND ATTESTED BY:



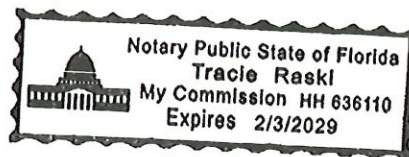
Signature of Affiant

Printed Name: Michael J Hauserman

Title: Code Enforcement Manager

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of ☒ physical presence / ☐ online notarization, this 10th day of March 2026, by Michael J Hauserman, who ☒ is personally known to me ☐ or has produced _____ as identification.


Notary Public, State of Florida
Printed Name: Tracie Raski
My Commission No.: HH636110
My Commission Expires: 2/3/2029



Composite Affidavit Exhibit A

- Copy of Notice/Order
- Certified Mail Receipts
- Certified Mail Envelopes
- Regular Mail Envelopes
- Posting Photographs at 151 Miramar St
- Posting Photographs at Town Hall
- Lee County Property Appraisers Records



Town of Fort Myers Beach

NOTICE OF CODE ENFORCEMENT

REHEARING REQUEST

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

3/10/2026

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

THOMAS DANNY & CAROL JEAN

Respondent.

Case Number:	20251060
Certified Mail:	9589071052703142142154, 9589071052703142142147, 9589071052703142142130
Regular Mail:	Standard 1 st Class

Site Address: 151 Miramar St, Fort Myers Beach, FL 33931
Mailing Address: 22067 565th Ave, Austin MN 55912
Attorney Address: Amy S. Thibaut, Esq., Roetzel & Andress, LPA,
2320 First St, Suite 1000, Fort Myers, FL 33901
Parcel Strap No.: 19-46-24-W4-0080B.0070

NOTICE OF CODE ENFORCEMENT REHEARING REQUEST

YOU ARE HEREBY NOTIFIED that, a public hearing has been scheduled before the Fort Myers Beach Special Magistrate on the **7th day of April 2026 at 9:00 AM, at 6231 Estero Blvd, Florida Myers Beach, FL 33931 (Town Hall)** as required by Section 2-428(a), of the Town of Fort Myers Beach Code of Ordinances ("Code").

Until a request for rehearing has been denied or otherwise disposed of, the order of the special magistrate is stayed and the time for taking an appeal, pursuant to Section 2-428(a) section of the Code, will not commence to run until the date upon which the special magistrate has finally disposed of the request for rehearing by denying the same, or otherwise.

Pursuant to Section 2-428(b) "[a] aggrieved party, including the town council, may appeal a final order of the special magistrate to the circuit court. Such an appeal will be limited to appellate review of the record created before the special magistrate and will not be a hearing de novo. An appeal must be filed within 30 days of the special magistrate's execution of the order being appealed. A copy of the notice of appeal must be provided to the special magistrate, the town attorney, and the town manager."

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 rehearing request, even though you are not present.

Michael J Hauserman

Code Enforcement Manager

Town of Fort Myers Beach

Michael.Hauserman@fmbgov.com

239-478-9363

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

9589 0710 5270 3142 1421 54

U.S. Postal Service™ 20251000
CERTIFIED MAIL® RECEIPT NOIL
 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	\$

3-10-26
 Postmark Here ML

Sent To: Danny & Carol Jean Thomas
 22067 565th Ave
 City: Austin MN 55912
 PS F for Instructions

9589 0710 5270 3142 1421 30

U.S. Postal Service™ 20251000
CERTIFIED MAIL® RECEIPT NOIL
 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	\$

3-10-26
 Postmark Here ML

Sent To: Amy S. Thibaut, Esq.
 Roetzel & Andress, LPA
 2320 First St, Suite 1000
 Fort Myers, FL 33901
 PS F See Reverse for Instructions

9589 0710 5270 3142 1421 47

U.S. Postal Service™ 20251000
CERTIFIED MAIL® RECEIPT NOIL
 Domestic Mail Only

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

OFFICIAL USE

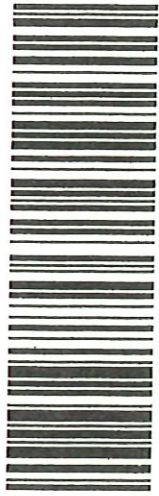
Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

3-10-26
 Postmark Here ML

Sent To: Danny & Carol Jean Thomas
 151 Miramar St
 City: Fort Myers Beach, FL 33931
 PS F for Instructions



CERTIFIED MAIL®



9589 0710 5270 3142 1421 30

Amy S. Thibaut, Esq.
Roetzel & Andress, LPA
2320 First St, Suite 1000
Fort Myers, FL 33901



OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL®



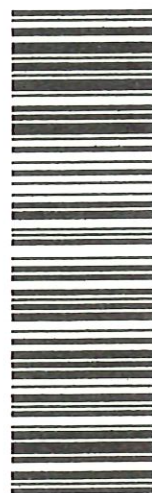
9589 0710 5270 3142 1421 47

Danny & Carol Jean Thomas
151 Miramar St
Fort Myers Beach, FL 33931

CERTIFIED MAIL



FORT MYERS BEACH • ESTERO ISLAND
6231 Estero Boulevard
Fort Myers Beach, FL 33931



9589 0710 5270 3142 1421 54

Danny & Carol Jean Thomas
22067 565th Ave
Austin MN 55912



FORT MYERS BEACH • ESTERO ISLAND
6231 Estero Boulevard
Fort Myers Beach, FL 33931



FORT MYERS BEACH • ESTERO ISLAND
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Amy S. Thibaut, Esq.
Roetzel & Andress, LPA
2320 First St, Suite 1000
Fort Myers, FL 33901

Danny & Carol Jean Thomas
151 Miramar St
Fort Myers Beach, FL 33931



Danny & Carol Jean Thomas
22067 565th Ave
Austin MN 55912





Town of Fort Myers Beach
NOTICE OF CODE ENFORCEMENT
REHEARING REQUEST
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone: (239) 765-0202

3/10/2026

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

THOMAS DANNY & CAROL JEAN

Respondent.

Site Address: 151 Miramar St, Fort Myers Beach, FL 33931
Mailing Address: 22067 565th Ave, Austin MN 55912
Attorney Address: Amy S. Thibaut, Esq., Rootzel & Andress, LPA,
2320 First St, Suite 1000, Fort Myers, FL 33901
Parcel Strap No.: 19-46-24-W4-0080B.0070

Case Number:	20251060
Certified Mail:	9589071052703142142154, 9589071052703142142147, 9589071052703142142130
Regular Mail:	Standard 1 st Class

NOTICE OF CODE ENFORCEMENT REHEARING REQUEST

YOU ARE HEREBY NOTIFIED that, a public hearing has been scheduled before the Fort Myers Beach Special Magistrate on the **7th day of April 2026 at 9:00 AM, at 6231 Estero Blvd, Florida Myers Beach, FL 33931 (Town Hall)** as required by Section 2-422(a), of the Town of Fort Myers Beach Code of Ordinances ("Code").

Until a request for rehearing has been denied or otherwise disposed of, the order of the special magistrate is stayed and the time for taking an appeal, pursuant to Section 2-426(a) section of the Code, will not commence to run until the date upon which the special magistrate has finally disposed of the request for rehearing by denying the same, or otherwise.

Page 1 of 2

Mar 10, 2026 3:30:48 PM
Fort Myers Beach





Town of Fort Myers Beach

NOTICE OF CODE ENFORCEMENT REHEARING REQUEST

6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

3/10/2026

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

THOMAS DANNY & CAROL JEAN

Respondent.

Case Number:	20251060
Certified Mail:	9589071052703142142154, 9589071052703142142147, 9589071052703142142130
Regular Mail:	Standard 1 st Class

Site Address: 151 Miramar St, Fort Myers Beach, FL 33931
Mailing Address: 22067 565th Ave, Austin MN 55912
Attorney Address: Amy S. Thibaut, Esq., Rootzel & Andress, LPA,
2320 First St, Suite 1000, Fort Myers, FL 33901
Parcel Strap No.: 19-46-24-W4-0080B.0070

NOTICE OF CODE ENFORCEMENT REHEARING REQUEST

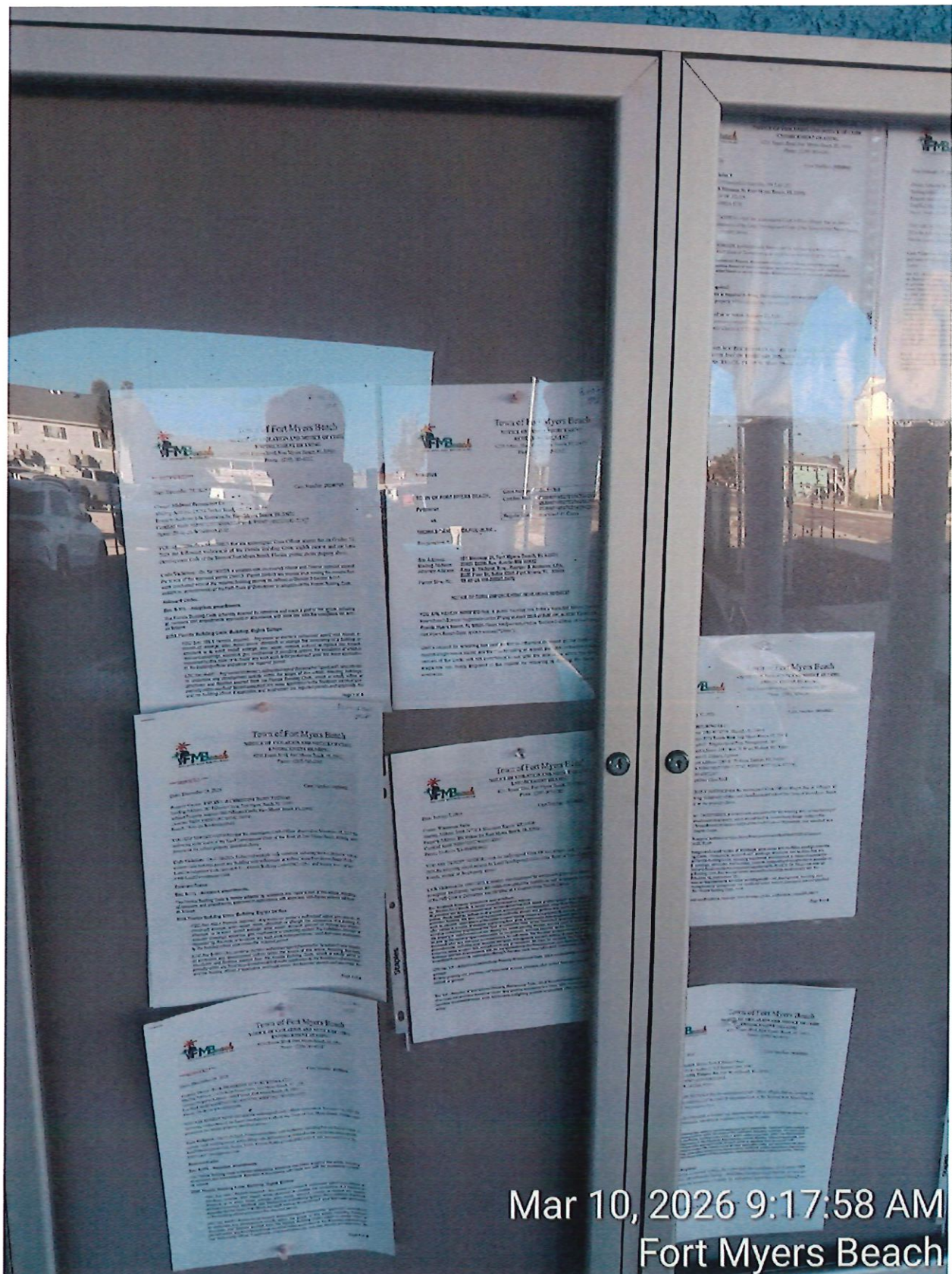
YOU ARE HEREBY NOTIFIED that, a public hearing has been scheduled before the Fort Myers Beach Special Magistrate on the 7th day of April 2026 at 9:00 AM, at 6231 Estero Blvd, Florida Myers Beach, FL 33931 (Town Hall) as required by Section 2-428(a), of the Town of Fort Myers Beach Code of Ordinances ("Code").

Until a request for rehearing has been denied or otherwise disposed of, the order of the special magistrate is stayed and the time for taking an appeal, pursuant to Section 2-428(a) section of the Code, will not commence to run until the date upon which the special magistrate has finally disposed of the request for rehearing by denying the same, or otherwise.

Page 1 of 2

Mar 10, 2026 9:17:50 AM

Town of Fort Myers Beach Fort Myers Beach



Mar 10, 2026 9:17:58 AM
Fort Myers Beach

Property Data

STRAP: 19-46-24-W4-0080B.0070 Folio ID: 10228228

Tax Roll Value Letter 2025 v

Generated on 1/29/2026 10:08 AM

Owner Of Record - Tenants by Entirety (Change Mailing Address)



THOMAS DANNY LEWIS &
THOMAS CAROL JEAN
22067 565TH AVE
AUSTIN MN 55912

Site Address

Site Address maintained by E911 Program Addressing

151 MIRAMAR ST
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



MIRAMAR BLK B PB 6 PG 31 LOT 7

View Recorded Plat at LeeClerk.org - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 6 and 31 for the book and page numbers.

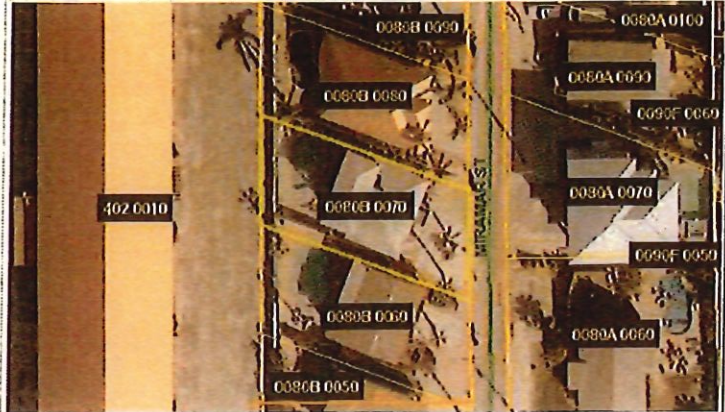
Attributes and Location Details

Total Bedrooms / Bathrooms	3 / 2.5
Gross Living Area	1,303
1st Year Building on Tax Roll	1971
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	19	0080B	0070
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.45168	-81.9487		

[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure



◀ Photo Date February of 2024 ▶ ☐ View other photos

Last Inspection Date: 02/07/2024

Property Values / Exemptions / TRIM Notices

Generated on 1/29/2026 10:08 AM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2025 / Additional Info	2025 (Final Value)	785,135	526,786	785,135	785,135	0	0	785,135
2024 / Additional Info	2024 (Final Value)	721,266	459,484	721,266	721,266	0	0	721,266
2023 / Additional Info	2023 (Final Value)	855,608	298,351	855,608	806,116	0	0	806,116
2022 / Additional Info	2022 (Final Value)	732,832	175,000	732,832	732,832	0	0	732,832
2021 / Additional Info	2021 (Final Value)	497,601	175,000	497,601	462,996	0	0	462,996

HEARING EXHIBIT B

- Order Denying Motion for Rehearing dated 2/26/2026

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS THOMAS &
CAROL JEAN THOMAS,

Respondents.

_____ /

ORDER DENYING MOTION FOR REHEARING

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the “Special Magistrate”) on Respondents’ Motion for Rehearing (the “Motion”), filed pursuant to Land Development Code section 2-248, seeking rehearing of the Code Enforcement Violation Findings of Fact, Conclusions of Law, and Order rendered January 27, 2026 (the “CVO”). The Town filed a written Response stating that it does not oppose the Motion, provided that, if rehearing were granted, the Town would be afforded an opportunity to address the arguments and evidence submitted by Respondents and to present additional evidence. Having reviewed the Motion, the Town’s Response, the attachments thereto, the CVO, and the record of the proceedings, and being otherwise fully advised, the Special Magistrate enters this Order.

The evidentiary hearing in this case was conducted on December 4, 2025, and continued to January 6, 2026, for receipt of additional evidence and argument. Respondents were afforded a full opportunity to present witnesses, documentary evidence, and argument, and the evidentiary record was closed at the conclusion of the continued hearing. The CVO was thereafter entered on January 27, 2026.

Although the Town does not oppose rehearing as a procedural matter, the absence of opposition does not require rehearing to be granted. The Special Magistrate retains an independent obligation to determine whether rehearing is warranted under the applicable standard and on the record presented.

Rehearing of a quasi-judicial code enforcement order is governed by Land Development Code section 2-248. Neither the Land Development Code nor chapter 162, Florida Statutes, prescribes the substantive standard for granting or denying such relief, but guidance is drawn by analogy from Florida Rule of Appellate Procedure 9.330, which requires a motion for rehearing to identify with particularity the points of law or fact that

the tribunal overlooked or misapprehended, and from Florida Rule of Civil Procedure 1.530, which contemplates reconsideration of the merits rather than reargument of positions already presented and considered. Applying those principles here, rehearing is appropriate where the movant identifies a specific point of law or fact that was overlooked or misapprehended in the order; it is not a mechanism for relitigating matters resolved at the evidentiary hearing or for supplementing the record with materials that could have been offered before the record closed.

I. “THE ORDER WAS CONTRARY TO THE EVIDENCE”

Respondents primarily argue that the CVO gave insufficient weight to historical evidence—such as affidavits, appraisal documents, permit file materials, and testimony—and incorrectly required demonstration of lawful authorization exclusively through a specific issued permit for the lower-level plumbing condition. However, neither argument raises any point of law or fact that the CVO overlooked or misunderstood.

The CVO did not hold that only a presently locatable, decades-old permit could ever establish lawful authorization or lawful nonconforming status. Rather, the CVO weighed the totality of the evidence and found that the materials on which Respondents relied—secondary descriptions, appraisal narratives, permit-file depictions, and informal alleged “acknowledgments”—did not constitute competent proof of lawful authorization for the specific condition charged in the Notice of Violation (“NOV”): the ground-floor plumbing fixtures and related lower-level interior improvements within the floodplain-regulated enclosure. The Motion largely reargues the weight of the evidence and asks for different inferences to be drawn from the same record. Rehearing is not warranted merely because the losing party disagrees with the factfinder’s weighing of the evidence.

Nor does the Motion demonstrate that the CVO ignored Respondents’ testimony that certain work involved replacement of fixtures (e.g., sink and toilet). The CVO expressly recognized Respondents’ position that the lower-level improvements had existed for many years and that their evidentiary presentation was directed to a lawful nonconformity defense—commonly referred to as “grandfathering.” The dispositive issue, as framed and resolved in the CVO, was not simply whether fixtures were replaced, but whether Respondents proved lawful authorization for the specific condition charged in the NOV and thereby established entitlement to nonconforming protection. The CVO found that they did not.

The Motion also asserts that there was “no evidence” that work required permits. That assertion is inconsistent with the record and the code provisions cited in the NOV and addressed in the CVO. The NOV charged violations under Town Code section 6-111 (including Florida Building Code section 105.1) and Land Development Code section 6-441. The CVO found, based on credited testimony and admitted evidence, that the ground-floor enclosure contained plumbing fixtures and related improvements within a special flood hazard area and that lawful authorization for their maintenance had not been proved. On this record, the Motion does not establish that the CVO was contrary to the evidence.

To the extent Respondents invoke *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957), the CVO is supported by competent substantial evidence. The CVO identifies the evidence credited, the conflicts resolved, and the reasons the nonconformity defense failed on this record. Rehearing is not a vehicle to reweigh evidence already considered.

II. “THE HEARING INVOLVED AN ERROR ON A RULING OF LAW”

Respondents argue that the CVO applied an incorrect legal standard by requiring proof of a permit that “cannot exist,” given the asserted timing of construction relative to the establishment of the Lee County Building Department; that the CVO improperly shifted the burden of proof to Respondents; and that the CVO is unsupported by competent substantial evidence.

None of these contentions identifies a point of law overlooked or misapprehended in the CVO, and none establishes grounds for rehearing.

The CVO did not adopt the legal proposition that Respondents were required to produce a specific 1970-1971 Lee County permit as the exclusive means of proving lawful nonconforming status. The CVO instead concluded that the evidence actually presented—including the historical and permit-related materials on which Respondents relied—did not persuasively establish lawful authorization for the unpermitted condition identified in the NOV. The legal analysis therefore turned on failure of proof on the affirmative defense as presented, not on an inflexible rule that only one form of proof could ever suffice.

The burden-shifting argument is likewise unpersuasive. The CVO recognized that the Town bore the burden to prove the violations alleged in the NOV and concluded that the Town met that burden. The CVO further addressed, in the alternative, that even if the Town also bore the burden to prove absence of lawful authorization for the cited condition, that burden was met through the credited testimony regarding the records review and the absence of proof of issued authorization for the disputed lower-level plumbing and related improvements. That Respondents bore the burden on their affirmative defense of lawful nonconforming status does not constitute an improper shifting of the Town’s burden on the charged violations; it reflects the ordinary allocation applicable to an affirmative defense premised on lawful prior authorization.

Nor does *Rollison v. City of Key West*, 875 So. 2d 659 (Fla. 3d DCA 2004), warrant a different result. *Rollison* involved proof of a lawful nonconforming use through evidence of an accepted administrative interpretation and the issuance of the required occupational license under that interpretation. This record discloses no comparable formal municipal interpretation or written authorization approving the lower-level plumbing condition alleged in the NOV. *Rollison* therefore does not establish error in the CVO.

Finally, *Vigue v. Shoar*, 494 F. Supp. 3d 1204, 1226 (M.D. Fla. 2020), does not assist Respondents. *Vigue* addresses a constitutional challenge to a permitting statute in the First Amendment context and, specifically, the absence of any procedure by which a permit could be obtained. This enforcement case does not present that circumstance. The issue

here is not whether a permitting process exists, but whether Respondents proved lawful authorization (or lawful nonconforming protection) for the specific condition charged in the NOV. *Vigue* is therefore inapposite.

III. EXHIBIT A AND POST-HEARING MATERIALS

The Motion also relies on Exhibit A—a Lee County public-records response—as post-hearing support.

Even assuming, without deciding, that the Exhibit A materials are properly considered for purposes of evaluating the Motion, they do not warrant rehearing and would not change the outcome.

Exhibit A tends to show that Lee County did not locate records responsive to a request for files from 1970-1971 because that period predated the establishment of the Lee County Building Department. That proposition, even if accepted as true, does not establish lawful authorization for the specific condition at issue. The absence of county records from that era does not constitute an issued permit, approval, or other governmental action authorizing the lower-level plumbing fixtures and related interior improvements at issue, nor does it transform secondary descriptions, permit-file depictions, or informal statements into competent proof of lawful authorization.

The same is true of Respondents' reliance on Permit No. 232518 and related completion documentation. As addressed in the CVO, even assuming *arguendo* that Permit No. 232518 was properly issued and closed after passing final inspection, the permit materials do not establish lawful authorization for the specific charged condition and therefore do not defeat the violations found.

To the extent the Motion may be construed as seeking relief based on newly discovered evidence, such relief is not established on this record. To obtain such relief, a movant must show, among other things, due diligence, materiality, and a probable effect on the outcome. See, e.g., *Hooks v. Quaintance*, 71 So. 3d 908, 911 (Fla. 1st DCA 2011); *Brown v. McMillian*, 737 So. 2d 570, 571 (Fla. 1st DCA 1999); *Junda v. Diez*, 848 So. 2d 457, 458 (Fla. 4th DCA 2003); *E.I. DuPont de Nemours v. Native Hammock Nursery, Inc.*, 698 So. 2d 267, 269 (Fla. 3d DCA 1997). The Exhibit A materials do not satisfy the materiality and outcome-changing components, because they do not establish lawful authorization for the NOV-charged condition and therefore would not alter the merits disposition.

The Motion identifies no point of law or fact overlooked or misapprehended in the CVO, no controlling legal principle misapplied in a manner warranting rehearing, and no post-hearing material that would probably change the result. Instead, it largely reargues the evidentiary weight and legal positions previously presented and rejected in the CVO. For the foregoing reasons, the Motion is denied, and it is

ORDERED that Respondents' Motion for Rehearing is DENIED.

DONE AND ORDERED this 26th day of February, 2026, at the Division of Administrative Hearings, Tallahassee, Florida.


John G. Van Laningham,
FMB Special Magistrate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished by U.S. mail on the 27 day of February, 2026, to:

Danny Lewis & Carol Jean Thomas
151 Miramar St, Fort Myers Beach, Florida 33931
dcthomasaugust1978@gmail.com

FMB Code Enforcement Officer Michael Hauserman,
6231 Estero Boulevard,
Fort Myers Beach, Florida 33931
Michael.Hauserman@fmbgov.com

Amy S. Thibaut, Esquire
Roetzel & Andress, LPA
2320 First Street, Suite 1000
Fort Myers, FL 33901
athibaut@ralaw.com

Nancy Stuparich, Town Attorney
Town of Fort Myers Beach
6231 Estero Boulevard
Fort Myers Beach, FL 33931



Amy Baker (Feb 27, 2026 11:04:01 EST)
Town Clerk and Clerk to Special Magistrate

From: [Lizzette Roman](#)
To: [Carol and Dan Thomas](#); [Thibaut, Amy](#); [Nancy Stuparich](#); [Michael Hauserman](#)
Cc: [Thomas Yozzo](#); [Amy Baker](#); [Will McKannay](#)
Subject: E-Service Order Denying Motion for Rehearing FMB Case No. 20251060 - Danny Lewis Thomas & Carol Jean Thomas
Date: Monday, March 2, 2026 11:39:00 AM
Attachments: [20251060 Order Denying Motion for Rehearing 02.26.2026 Signed.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Good morning,

Attached please find a copy of the **Order Denying Motion for Rehearing** in the above-captioned matter. A hard copy is forthcoming.

Respectfully,

Lizzette Roman

*Town Clerk Administrative
Coordinator*

Town of Fort Myers Beach
6231 Estero Blvd

Fort Myers Beach, FL 33931

Phone: (239) 765-0202 x1904

Direct: (239) 955-3039



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/>

HEARING EXHIBIT C

151 Miramar St Case #20251060

- Town of Fort Myers Beach Code Section
- Respondents Request for Rehearing
- Town's Response to Request for Rehearing

Sec. 2-428. - Request for rehearing and appeals.

- (a) Either the town or the violator may request a rehearing of the decision of the special magistrate. A request for rehearing will be made, in writing, and will be filed with the clerk within ten business days of the special magistrate's execution of the order. A request for rehearing will be based only on the grounds that the decision was contrary to the evidence or that the hearing involved an error on a ruling of law that was fundamental to the decision of the special magistrate. The written request for rehearing will specify the precise reasons therefor. The special magistrate will make a determination as to whether or not to rehear the matter and his/her decision will be made at a public hearing. If the special magistrate determines that he or she will grant a rehearing, he/she may:
- (1) Schedule a hearing where the parties will be given the opportunity to present evidence or argument limited to the specific reasons for which the rehearing was granted; or
 - (2) Modify or reverse the prior order, without receiving further evidence, providing the change is based on a finding that the prior decision of the special magistrate resulted from a ruling on a question of law which the special magistrate has been informed was an erroneous ruling.

Until a request for rehearing has been denied or otherwise disposed of, the order of the special magistrate will be stayed and the time for taking an appeal, pursuant to this section, will not commence to run until the date upon which the special magistrate has finally disposed of the request for rehearing by denying the same, or otherwise.

- (b) An aggrieved party, including the town council, may appeal a final order of the special magistrate to the circuit court. Such an appeal will be limited to appellate review of the record created before the special magistrate and will not be a hearing de novo. An appeal must be filed within 30 days of the special magistrate's execution of the order being appealed. A copy of the notice of appeal must be provided to the special magistrate, the town attorney, and the town manager.

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

TOWN OF FORT MYERS BEACH, a Florida) municipal corporation)) Petitioner,))	Case No.: 20251060
vs.)	
DANNY LEWIS THOMAS AND CAROL)	
JEAN THOMAS,)	

Respondents.

MOTION FOR REHEARING

COMES NOW the Respondents, DANNY LEWIS THOMAS and CAROL JEAN THOMAS ("Respondents"), by and through undersigned counsel, and pursuant to the Town of Fort Myers Beach Land Development Code 2-248 governing requests for rehearing, respectfully move for rehearing of the Code Enforcement Violation Findings of Fact, Conclusions of Law, and Order rendered January 27, 2026, and state as follows:

1. Respondents, Danny Lewis Thomas and Carol Jean Thomas (collectively, "Respondents"), are the owners of the real property located at 151 Miramar Street, Fort Myers Beach, Florida 33931 (Parcel/STRAP No. 19-46-24W-40080B.0070) (the "Subject Property").
2. This enforcement proceeding has been initiated by the Town of Fort Myers Beach (the "Town") pursuant to chapter 162, Florida Statutes, and the Town's Code of Ordinances and Land Development Code.
3. On October 20, 2025, the Town issued the NOV alleging that the foregoing conditions constituted violations of Town Code section 6-111 (incorporating by reference Florida Building Code section 105.1, permits required) and Land Development Code section 6-441 (floodplain

development permits). The NOV also referenced special flood hazard areas as defined in Town Code section 6-494.

4. A code enforcement hearing was convened on December 4, 2025, and was continued to January 6, 2026.

5. At the January 2026 hearing, the Town presented the testimony of its Floodplain Manager, Kelli DeFedericis, and documentary evidence. Respondents presented testimony on their own behalf and from their witnesses, Helen and James Crumbie and Patty Smyth (via Zoom), and documentary evidence, including affidavits, appraisal excerpts, historical materials, and permit-related documents. It was undisputed that the Structure is a “pre-Firm structure,” or anything constructed before 1984.

8. The Order issued January 27, 2026, determined that the Subject Property contains a ground-floor enclosure containing plumbing fixtures and related improvements, including a sink. It also held that such plumbing and related improvements were not authorized absent compliance with applicable floodplain and building-code requirements and the issuance of required permits and approvals. The dispute presented was not whether the ground-floor enclosure and plumbing are within a special flood hazard area and therefore subject to floodplain regulation, but whether the cited condition was lawfully authorized and therefore entitled to be maintained as a lawful nonconforming condition, i.e., “grandfathered.” Further, there was dispute as to whether a decades-old permit was required to demonstrate such status.

7. Subsequent to the hearings, Lee County responded to Respondents’ public records request, stating that the Structure was constructed prior to the establishment of the Lee County Building Department. See Exhibit “A.”

ARGUMENT

I. THE ORDER WAS CONTRARY TO THE EVIDENCE

8. The Order was contrary to the evidence on the grounds that Respondents failed to establish lawful authorization for the ground-floor enclosure and plumbing, because the record contains competent, unrebutted evidence demonstrating the longstanding existence of the ground-floor bathroom facilities and plumbing, including historical permit-file materials, affidavits, appraisal records, and witness testimony establishing that the lower-level improvements pre-dated current floodplain regulations and were treated as lawful for decades. The Order improperly discounted this evidence by requiring proof in the form of a specific issued permit authorizing the precise configuration of plumbing at issue, rather than accepting the unrebutted testimony of each party that the Property Appraiser’s Office are the standard for determining the home’s historical construction. Therefore, it was error to reject this evidence as insufficient to establish Respondents’ defense. Further, it was error to ignore that the Town failed to meet its evidentiary burden to rebut this evidence.

9. The Order was contrary to the evidence on the grounds that the only competent evidence of authorization must be a presently locatable issued permit, because Florida law does not require a property owner to produce a decades-old permit as the sole means of establishing lawful nonconforming status, particularly where municipal records are incomplete or unavailable through no fault of the owner. See *Rollison v. City Of Key West*, 875 So.2d 659 (2004). The Order failed to weigh the totality of the historical evidence presented, including permit-file drawings, secondary governmental records, and sworn testimony, all of which corroborated the existence and recognition of the ground-floor improvements long before the Town's current enforcement posture.

10. The Order ignores the testimony of Respondents stating that the work performed included replacement of fixtures such as a sink and toilet. The Order also ignores that there is no evidence on the record that any work involved required building permits.

II. THE HEARING INVOLVED AN ERROR ON A RULING OF LAW

11. The hearing involved an error on a ruling of law because the Order applied an incorrect legal standard for lawful nonconforming status by requiring proof of a specific issued permit rather than determining whether the condition was lawful when established or later rendered lawful through governmental action. The Structure is not only a Pre-FIRM structure; it was also constructed in 1971, prior to Town incorporation. Thus, it is undisputed the permitting authority was Lee County. However, the Structure was also built prior to the establishment of the Lee County Building Department. This misapplication of law – e.g. requiring proof of a permit that cannot exist - materially affected the outcome. See *Vigue v. Shoar*, 494 F.Supp.3d 1204, 1226 (M.D. Fla. 2020) ("neither the State, St. Johns County, nor Sheriff Shoar have ever created a process by which a person can obtain a permit under § 337.406(1), and the statute does not require them to do so. Thus, there is literally no way for Mr. Vigue to comply with the permitting requirement, even if he wanted to").

12. The hearing involved an error on a ruling of law because the Order improperly shifted the burden of proof to Respondents, contrary to Chapter 162, Florida Statutes, which requires the enforcing authority to prove the existence of a code violation by competent substantial evidence. The Town failed to demonstrate that the pre-FIRM Structure was noncompliant. All of the evidence presented corroborates Respondents' argument at hearing that the ground-floor plumbing facilities were lawfully constructed at the time the remainder of the Structure was constructed. Put another way, there is no evidence to the contrary. A reasonable mind could not accept this evidence as adequate to support the conclusion reached that any violation of the LDC has occurred, and therefore the Order is unsupported by competent substantial evidence. See *De Groot v. Sheffield*, 95 So.2d 912, 916 (Fla. 1957). Therefore, the Order involved an error on a ruling of law because it was unsupported by competent substantial evidence.

REQUEST FOR RELIEF

WHEREFORE, Respondents respectfully request that the Special Magistrate grant rehearing, reconsider the Findings of Fact and Conclusions of Law contained in the January 27, 2026 Order, and enter an amended order consistent with the evidence and governing law, together with such other relief as is just and proper.

Respectfully submitted,



AMY S. THIBAUT
1013569
athibaut@ralaw.com
Roetzel & Andress, LPA
2320 First Street, Suite 1000
Fort Myers, FL 33901
239.337.3850
239.337.0970

Attorneys for Respondents

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS &
CAROL JEAN THOMAS,

Respondents.

_____ /

RESPONSE TO MOTION FOR REHEARING

The Town of Fort Myers Beach files this Response to Motion for Rehearing submitted to the Special Magistrate for the Town of Fort Myers Beach ("Special Magistrate"), and states the Town does not oppose the Motion with the understanding that if granted, the Town reserves the right to address the arguments raised therein and new evidence submitted as well as an opportunity to also present additional evidence and testimony.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Response has been furnished by email to Amy Thibaut, Esquire, at athibaut@ralaw.com.

/Signed/ 
Nancy Stuparich, Town Attorney

HEARING EXHIBIT D

- Affidavit of Service
 - Order Denying Motion to Reopen Hearing dated 1/27/2026
 - Certified Mail Receipts
 - Certified Mail Envelopes
 - Posting Photographs at 151 Miramar St
 - Posting Photographs at Town Hall
 - Lee County Property Appraisers Records



Town of Fort Myers Beach

6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

TOWN OF FORT MYERS BEACH,
FLORIDA,

Petitioner,
vs.

Certified Mail:	9589071052703142142215
	9589071052703142142161
Regular Mail:	USPS 01/27/2025

DANNY LEWIS THOMAS & CAROL
JEAN THOMAS,
Respondent.

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Michael J Hauserman, who being duly sworn by me, on oath, deposes and says the following regarding that certain Orden denying Motion to Reopen Hearing and Code Enforcement Violation Findings of Fact, Conclusions of Law, and Order attached hereto as **Composite Exhibit A** ("the Notice"):

1. My name is Michael J Hauserman 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.

2. I am employed as the Code Compliance Manager for the Town of Fort Myers Beach ("Town").

3. On January 29, 2026, I personally mailed a copy of the Notice by certified mail and first-class mail as follows:

- a. To the property owner at the address listed in the records of the Lee County Tax Collector and/or Lee County Property Appraiser for tax notices, which address is: 22067 565TH Ave, Austin, MN 55912. A true and correct copy of the property ownership and address information obtained from the Tax

Collector/Property Appraiser is attached hereto as **Composite Exhibit A**. A copy of the certified mail receipt is attached hereto as **Composite Exhibit A**.

- b. [If applicable] To the following additional address(es) reasonably believed to be valid for the property owner: 151 Miramar St, Fort Myers Beach, FL 33931. A copy of the certified mail receipt is attached hereto as **Composite Exhibit A**.
- c. [For business entity/corporate owner only] The property is owned by _____ (business entity name), a business entity registered in the State of Florida. I mailed a copy of the Notice by certified mail and first-class mail to the business entity's Registered Agent, _____ [name], at the following address: _____. A copy of the certified mail receipt is attached hereto as **Exhibit A**. A true and correct copy of the Florida Division of Corporations record for the entity, identifying its Registered Agent, is attached hereto as **Exhibit A**.

4. One January 28, 2026, I posted a copy of the Notice at 151 Miramar St, Fort Myers Beach, FL 33931, which is the property upon which the violation is alleged to exist. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Composite Exhibit A**.

5. On January 28, 2026, I posted a copy of the Notice at Town Hall, located at 6231 Estero Boulevard, Fort Myers Beach, FL 33931, which is the primary municipal government office for the Town of Fort Myers Beach. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Composite 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 of Fort Myers Beach Land Development Code and Section 162.12, Florida Statutes.

SWORN AND ATTESTED BY:

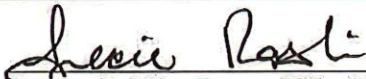


Signature of Affiant

Printed Name: Michael J Hauserman

Title: Code Compliance Manager

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of ☒ physical presence / ☐ online notarization, this 29th day of January, 2026, by Michael J Hauserman, who ☒ is personally known to me ☐ or has produced _____ as identification.



Notary Public, State of Florida

Printed Name: Tracie Raski

My Commission No.: HH636110

My Commission Expires: 2/3/2029



Composite Affidavit Exhibit A

- Copy of Notice/Order
- Certified Mail Receipts
- Certified Mail Envelopes
- Regular Mail Envelopes
- Posting Photographs at 151 Miramar St
- Posting Photographs at Town Hall
- Lee County Property Appraisers Records

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS THOMAS &
CAROL JEAN THOMAS,

Respondents.

ORDER DENYING MOTION TO REOPEN HEARING

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the "Special Magistrate") on Respondents' Motion to Reopen the Hearing and Supplement the Record (the "Motion"), filed January 15, 2026. The Town filed a written objection opposing the Motion (the "Objection"). Having reviewed the Motion and Objection, the attachments thereto, and the record of the proceedings, and being otherwise fully advised, the Special Magistrate enters the following Findings of Fact, Conclusions of Law, and Order.

An evidentiary code enforcement hearing was convened on December 4, 2025, and was continued to January 6, 2026, for receipt of additional evidence. At the continued hearing on January 6, 2026, Respondents offered additional documentary materials, including permit-related records, and were afforded a full opportunity to present evidence and argument in support of their defenses. At the conclusion of the January 6, 2026, hearing, the evidentiary portion of the proceeding was closed.

On January 15, 2026, Respondents filed the Motion invoking Florida Rule of Civil Procedure 1.540(b)(2) and asserting that the hearing should be reopened to admit "recently discovered evidence" that purportedly could not have been presented earlier. As reflected in Respondents' affidavit, the proffered materials relate to Building Permit No. 232518, including a Certificate of Completion dated February 8, 2024, and permit-status printouts. These include a description of the scope of work, namely, "Add Lower Level repair like for like - Upper level - Replace windows s4s, front door, vinyl siding, soffit, fascia & gutters."

The Motion asserts that, at hearing, the Town's Floodplain Manager, Kelli DeFedericis, testified in a manner understood by Respondents to suggest that the foregoing permit had

been rescinded, changed, or never approved, and the Motion contends that the proffered documents demonstrate otherwise.

In the Objection, the Town opposes supplementation of the record after the close of evidence and contends that post-hearing submission of documents would deny the Town an opportunity to question Respondents regarding authenticity, relevance, and meaning.

Code enforcement proceedings are quasi-judicial in nature. The Special Magistrate retains discretion to reopen the evidentiary record upon an adequate showing consistent with due process and the orderly administration of code enforcement proceedings.

Motions predicated on “newly discovered evidence” are disfavored and are to be granted sparingly. A party seeking relief on that basis bears the burden to demonstrate, at minimum, that: (a) the evidence was discovered after the hearing; (b) the evidence could not have been discovered earlier by the exercise of due diligence; (c) the evidence is material and not merely cumulative or impeaching; and (d) the evidence is of such a nature that it would probably change the outcome. See Fla. R. Civ. P. 1.540(b)(2); *Hooks v. Quaintance*, 71 So. 3d 908, 911 (Fla. 1st DCA 2011); *Brown v. McMillian*, 737 So. 2d 570, 571 (Fla. 1st DCA 1999); *Junda v. Diez*, 848 So. 2d 457, 458 (Fla. 4th DCA 2003); *E.I. DuPont de Nemours v. Native Hammock Nursery, Inc.*, 698 So. 2d 267, 269 (Fla. 3d DCA 1997).

The Motion does not satisfy the due diligence component of the newly-discovered-evidence standard. The proffered materials consist of permit records and a completion certificate generated in connection with a permit issued in 2023 and finalized in 2024; such materials were either in Respondents’ possession, reasonably available to Respondents from permitting records, or reasonably obtainable through ordinary diligence prior to, or during, the continuation period between the December 4, 2025, hearing and the January 6, 2026, continued hearing. Where a party had time and notice to gather and present evidence, post-hearing supplementation is not warranted to cure omissions that could have been avoided through diligence. See *Brown*, 737 So. 2d at 571; *Junda*, 848 So. 2d at 458.

Moreover, the proffered materials, i.e., Building Permit No. 232518, the Certificate of Completion, and related permit printouts, do not establish lawful authorization for the condition charged in the Notice of Violation in this case. The permit scope is limited to work relating to windows, front door, soffit, fascia, gutters, and vinyl siding, and was, it appears, revised to authorize “like for like” repairs to the lower level. The proffered materials do not purport to authorize the plumbing, interior build-out, or other lower-level improvements that are the focus of the enforcement proceeding. A certificate of completion reflects completion of permitted work and does not, without more, confer after-the-fact authorization for unpermitted conditions or operate as a waiver of applicable code requirements. Accordingly, the proffered materials would not change the outcome of the enforcement proceeding. See *DuPont*, 698 So. 2d at 269.

For the foregoing reasons, the Motion is denied, and it is

ORDERED that the evidentiary record remains closed.

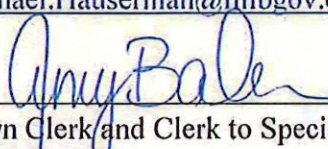
DONE AND ORDERED this 27th day of January, 2026, at the Division of Administrative Hearings, Tallahassee, Florida.


John G. Van Laningham,
FMB Special Magistrate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished by U.S. mail on the 27 day of January, 2026, to:
Danny Lewis & Carol Jean Thomas
151 Miramar St, Fort Myers Beach, Florida 33931
dcthomasaugust1978@gmail.com

FMB Code Enforcement Officer Michael Hauserman,
6231 Estero Boulevard,
Fort Myers Beach, Florida 33931
Michael.Hauserman@fmbgov.com


Town Clerk and Clerk to Special Magistrate

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS THOMAS &
CAROL JEAN THOMAS,

Respondents.

ORDER DENYING MOTION TO REOPEN HEARING

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the "Special Magistrate") on Respondents' Motion to Reopen the Hearing and Supplement the Record (the "Motion"), filed January 15, 2026. The Town filed a written objection opposing the Motion (the "Objection"). Having reviewed the Motion and Objection, the attachments thereto, and the record of the proceedings, and being otherwise fully advised, the Special Magistrate enters the following Findings of Fact, Conclusions of Law, and Order.

An evidentiary code enforcement hearing was convened on December 4, 2025, and was continued to January 6, 2026, for receipt of additional evidence. At the continued hearing on January 6, 2026, Respondents offered additional documentary materials, including permit-related records, and were afforded a full opportunity to present evidence and argument in support of their defenses. At the conclusion of the January 6, 2026, hearing, the evidentiary portion of the proceeding was closed.

On January 15, 2026, Respondents filed the Motion invoking Florida Rule of Civil Procedure 1.540(b)(2) and asserting that the hearing should be reopened to admit "recently discovered evidence" that purportedly could not have been presented earlier. As reflected in Respondents' affidavit, the proffered materials relate to Building Permit No. 232518, including a Certificate of Completion dated February 8, 2024, and permit-status printouts. These include a description of the scope of work, namely, "Add Lower Level repair like for like - Upper level - Replace windows s4s, front door, vinyl siding, soffit, fascia & gutters."

The Motion asserts that, at hearing, the Town's Floodplain Manager, Kelli DeFedericis, testified in a manner understood by Respondents to suggest that the foregoing permit had

been rescinded, changed, or never approved, and the Motion contends that the proffered documents demonstrate otherwise.

In the Objection, the Town opposes supplementation of the record after the close of evidence and contends that post-hearing submission of documents would deny the Town an opportunity to question Respondents regarding authenticity, relevance, and meaning.

Code enforcement proceedings are quasi-judicial in nature. The Special Magistrate retains discretion to reopen the evidentiary record upon an adequate showing consistent with due process and the orderly administration of code enforcement proceedings.

Motions predicated on “newly discovered evidence” are disfavored and are to be granted sparingly. A party seeking relief on that basis bears the burden to demonstrate, at minimum, that: (a) the evidence was discovered after the hearing; (b) the evidence could not have been discovered earlier by the exercise of due diligence; (c) the evidence is material and not merely cumulative or impeaching; and (d) the evidence is of such a nature that it would probably change the outcome. See Fla. R. Civ. P. 1.540(b)(2); *Hooks v. Quaintance*, 71 So. 3d 908, 911 (Fla. 1st DCA 2011); *Brown v. McMillian*, 737 So. 2d 570, 571 (Fla. 1st DCA 1999); *Junda v. Diez*, 848 So. 2d 457, 458 (Fla. 4th DCA 2003); *E.I. DuPont de Nemours v. Native Hammock Nursery, Inc.*, 698 So. 2d 267, 269 (Fla. 3d DCA 1997).

The Motion does not satisfy the due diligence component of the newly-discovered-evidence standard. The proffered materials consist of permit records and a completion certificate generated in connection with a permit issued in 2023 and finalized in 2024; such materials were either in Respondents’ possession, reasonably available to Respondents from permitting records, or reasonably obtainable through ordinary diligence prior to, or during, the continuation period between the December 4, 2025, hearing and the January 6, 2026, continued hearing. Where a party had time and notice to gather and present evidence, post-hearing supplementation is not warranted to cure omissions that could have been avoided through diligence. See *Brown*, 737 So. 2d at 571; *Junda*, 848 So. 2d at 458.

Moreover, the proffered materials, i.e., Building Permit No. 232518, the Certificate of Completion, and related permit printouts, do not establish lawful authorization for the condition charged in the Notice of Violation in this case. The permit scope is limited to work relating to windows, front door, soffit, fascia, gutters, and vinyl siding, and was, it appears, revised to authorize “like for like” repairs to the lower level. The proffered materials do not purport to authorize the plumbing, interior build-out, or other lower-level improvements that are the focus of the enforcement proceeding. A certificate of completion reflects completion of permitted work and does not, without more, confer after-the-fact authorization for unpermitted conditions or operate as a waiver of applicable code requirements. Accordingly, the proffered materials would not change the outcome of the enforcement proceeding. See *DuPont*, 698 So. 2d at 269.

For the foregoing reasons, the Motion is denied, and it is

ORDERED that the evidentiary record remains closed.

DONE AND ORDERED this 27th day of January, 2026, at the Division of Administrative Hearings, Tallahassee, Florida.



John G. Van Laningham,
FMB Special Magistrate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished by U.S. mail on the 27 day of January, 2026, to:

Danny Lewis & Carol Jean Thomas
151 Miramar St, Fort Myers Beach, Florida 33931
dcthomasaugust1978@gmail.com

FMB Code Enforcement Officer Michael Hauserman,
6231 Estero Boulevard,
Fort Myers Beach, Florida 33931
Michael.Hauserman@fmbgov.com



Town Clerk and Clerk to Special Magistrate

9589 0710 5270 3142 1421 61

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 \$ _____	1-29-26 Postmark Here 
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	
Danny Lewis Thomas & Carol Jean Thomas 22067 565th Ave Austin, MN 55912	

9589 0710 5270 3142 1422 15

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 \$ _____	1-29-26 Postmark Here 
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	
Danny Lewis Thomas & Carol Jean Thomas 151 MiramarSt Fort Myers Beach, FL 33931	



Danny Lewis Thomas & Carol Jean Thomas
22067 565th Ave
Austin, MN 55912

CERTIFIED MAIL®



9589 0710 5270 3142 1422 15

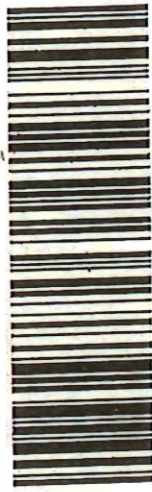


Danny Lewis Thomas & Carol Jean Thomas
151 MiramarSt
Fort Myers Beach, FL 33931



Danny Lewis Thomas & Carol Jean Thomas
151 MiramarSt
Fort Myers Beach, FL 33931

CERTIFIED MAIL®



9589 0710 5270 3142 1421 61



Danny Lewis Thomas & Carol Jean Thomas
22067 565th Ave
Austin, MN 55912

TOWN OF FORT MYERS, FLA.
Hatchery - 1900

1



POSTER NO. 2426

DANNY LESTER THOMAS
 CASE 1:17-cr-00001

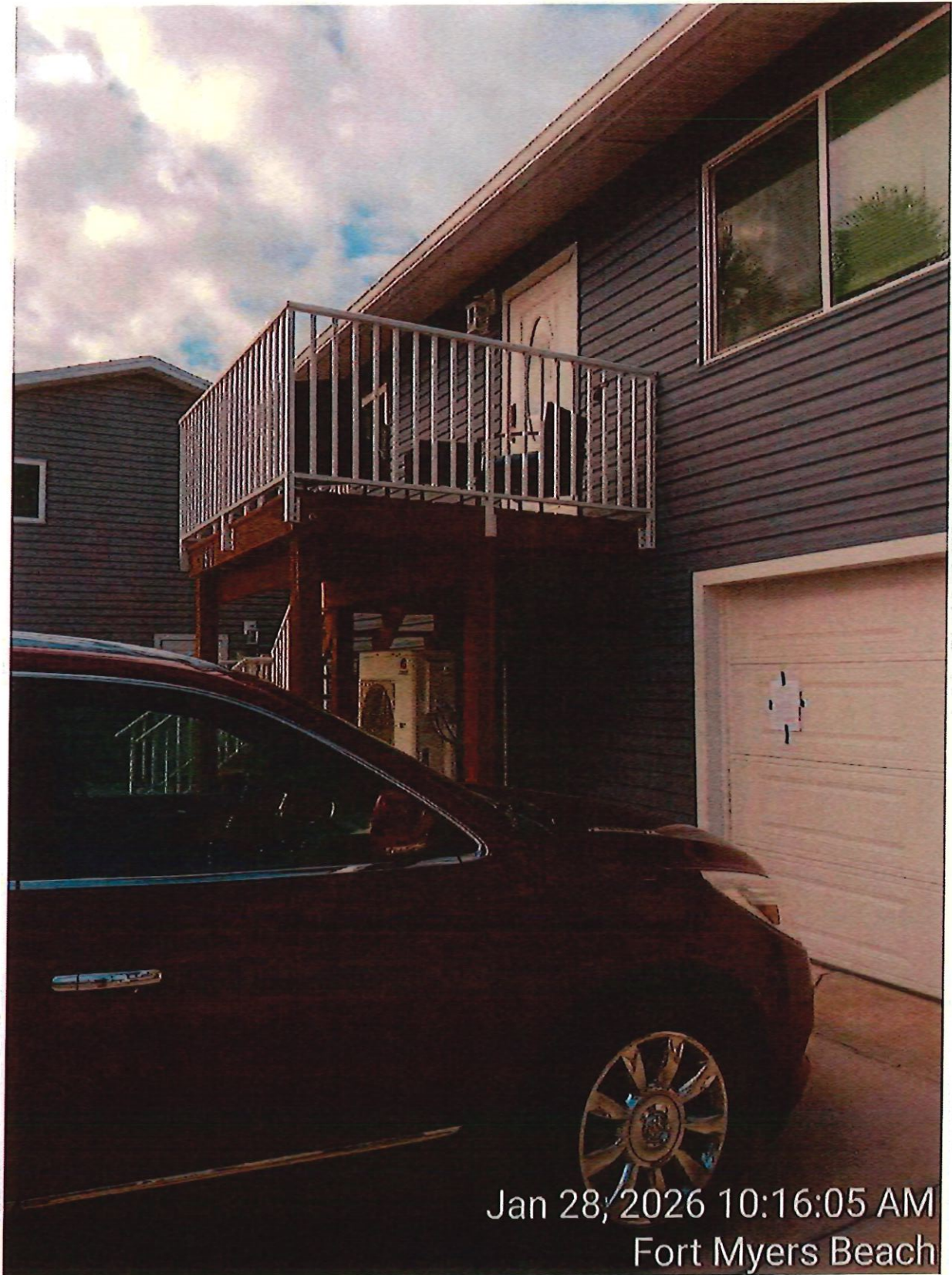
DESAI also spoke before the subcommittee on the National Defense Education Act. He said that the "Special Education Act" was a very short measure. It ignored the existing law and procedure for training the "handicapped" children. He said that the House had a serious difficulty regarding the measure, and "Congress's failure" ignored the historic and traditional educational services and the needs of the handicapped, and being interested only in the financial aspects of the bill. He said that the House should not ignore the historical and traditional services of the Federal Government in this field.

At the beginning of the independence movement in December 1945, and the formation of the *Comité de Liberación Nacional* (CLN), all the movements, having no history of being organized, were united and became a movement, reflecting political and ideological differences, although all with a common goal: freedom and democracy for the people of Cuba. The CLN had the support of the United States and the United Nations, and the support of the Cuban people. The CLN was the first step towards the formation of the Cuban government, and the first step towards the formation of the Cuban government.

On January 11, 1992, respondents that the African smoking ban is a part of anti-protectionism, anti-trade liberalization and anti-globalization. The respondents also strongly disagree with the statement that the African smoking ban is a protectionist measure designed to protect the domestic market from foreign competition. In fact, respondents are more likely to agree with the statement that the African smoking ban is a protectionist measure designed to protect the domestic market from foreign competition than they are to agree with the statement that the African smoking ban is a protectionist measure designed to protect the domestic market from foreign competition.

The above information is being furnished to you for your information only. It is not intended to be used for any other purpose. The information is being furnished to you for your information only. It is not intended to be used for any other purpose.

Jan 28, 2026 10:15:56 AM
Fort Myers Beach



Jan 28, 2026 10:16:05 AM
Fort Myers Beach

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

TOWN OF FORT MYERS BEACH,
Florida municipal corporation

Petitioner,

FMB CASE NO. 20251060

JOHN LUIS THOMAS &
JOEL JEAN THOMAS,

Respondents.

ORDER DENYING MOTION TO REOPEN HEARING

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the "Special Magistrate") on Respondents' Motion to Reopen the Hearing and Supplement the Record (the "Motion"), filed January 15, 2026. The Town filed a written objection opposing the Motion (the "Objection"). Having read the Motion and Objection, the attachments thereto, and the record of the proceedings, and being otherwise fully advised, the Special Magistrate orders the following:
Findings of Fact, Conclusions of Law, and Order.

An evidentiary code enforcement hearing was convened on December 4, 2024, and on January 6, 2026, for receipt of additional evidence. At the continued hearing on January 6, 2026, Respondents offered additional documentary evidence, including photographs, records, and were afforded a full opportunity to present evidence and argument in support of their defenses. At the conclusion of the January 6, 2026, hearing, the evidentiary portion of the proceeding was closed.

On January 15, 2026, Respondents filed the Motion invoking Florida Rule of Civil Procedure 1.540(b)(2) and asserting that the hearing should be reopened to receive evidence that purportedly could not have been presented earlier. As reflected in Respondents' affidavit, the proffered materials relate to Building Permit No. 232518, for a Certificate of Completion dated February 8, 2024, and permit-status printouts, including a description of the scope of work, namely, "Add Lower Level repair like Upper level - Replace windows 44s, front door, vinyl siding, soffit, fascia & roof."

The Motion asserts that, at hearing, the Town's Floodplain Manager, Kelli DeFedeirats, acted in a manner understood by Respondents to suggest that the foregoing permit had

Date: 1/28/26

Owner:
Mailing:
Property:
Certificate:
Parcel:

YOU A
2025 th
Florida

CONFIDENTIAL

ASCE
14 fig

Sec. 6
Florida
exempt
damag
with th
from th
require
Sec. 6
made d
in this

(1) Be
collapse

Jan 28, 2026 10:01:26 AM
Fort Myers Beach



Jan 28, 2026 10:01:33 AM
Fort Myers Beach



Property Data

STRAP: 19-46-24-W4-0080B.0070 Folio ID: 10228228

Tax Roll Value Letter 2025 ✓

Generated on 1/29/2026 10:08 AM

Owner Of Record - Tenants by Entirety (Change Mailing Address)



THOMAS DANNY LEWIS &
THOMAS CAROL JEAN
22067 565TH AVE
AUSTIN MN 55912

Site Address

Site Address maintained by E911 Program Addressing

151 MIRAMAR ST
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



MIRAMAR BLK B PB 6 PG 31 LOT 7

View Recorded Plat at [LeeClerk.org](https://www.leeclerk.org) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 6 and 31 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	3 / 2.5
Gross Living Area	1,303
1st Year Building on Tax Roll	1971
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	19	0080B	0070
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.45168	-81.9487		

[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure



◀ Photo Date February of 2024 ▶ ☐ View other photos

Last Inspection Date: 02/07/2024

Property Values / Exemptions / TRIM Notices

Generated on 1/29/2026 10:08 AM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2025 / Additional Info	2025 (Final Value)	785,135	526,786	785,135	785,135	0	0	785,135
2024 / Additional Info	2024 (Final Value)	721,266	459,484	721,266	721,266	0	0	721,266
2023 / Additional Info	2023 (Final Value)	855,608	298,351	855,608	806,115	0	0	806,115
2022 / Additional Info	2022 (Final Value)	732,832	175,000	732,832	732,832	0	0	732,832
2021 / Additional Info	2021 (Final Value)	497,601	175,000	497,601	462,996	0	0	462,996

HEARING EXHIBIT E

- Code Enforcement Violation Order from Hearing 1/6/2026 Dated 1/27/2026

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS THOMAS &
CAROL JEAN THOMAS,

Respondents.

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

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the “Special Magistrate”) at duly noticed public hearings conducted on December 4, 2025, and January 6, 2026, for adjudication of the violations alleged in the Notice of Violation and Notice of Code Enforcement Hearing dated October 20, 2025 (the “NOV”). Based upon the sworn testimony received, the documentary evidence admitted, the arguments of the parties, and the entire record, and being otherwise fully advised in the premises, the Special Magistrate enters the following Findings of Fact, Conclusions of Law, and Order.

A. FINDINGS OF FACT

1. Respondents, Danny Lewis Thomas and Carol Jean Thomas (collectively, “Respondents”), are the owners of the real property located at 151 Miramar Street, Fort Myers Beach, Florida 33931 (Parcel/STRAP No. 19-46-24W-40080B.0070) (the “Subject Property”).

2. This enforcement proceeding has been initiated by the Town of Fort Myers Beach (the “Town”) pursuant to chapter 162, Florida Statutes, and the Town’s Code of Ordinances and Land Development Code. Jurisdiction has been invoked, and notice has been provided, in accordance with applicable law.

3. On or about October 15, 2025, Town staff inspected the Subject Property and observed conditions consisting of the keeping and/or maintaining of a noncompliant portion of the structure, including but not limited to a sink and related plumbing within the ground-floor enclosure, and interior and/or exterior construction without the required building permits, which the Town alleged to be inconsistent with applicable floodplain and building-code requirements in special flood hazard areas referenced in Town Code section 6-494.

4. On October 20, 2025, the Town issued the NOV alleging that the foregoing conditions constituted violations of Town Code section 6-111 (incorporating by reference Florida Building Code section 105.1, permits required) and Land Development Code section 6-441 (floodplain development permits). The NOV also referenced special flood hazard areas as defined in Town Code section 6-494. The NOV directed Respondents to bring the Subject Property into compliance by obtaining required permits for unpermitted construction or by restoring the structure to its original permitted condition, and it set a compliance date of November 17, 2025.

5. The record shows that the NOV and notice of hearing were served and posted in the manner required by law, and that Respondents were afforded notice of the allegations and an opportunity to be heard at both hearings. Respondents appeared at both hearings and presented testimony, argument, and documentary materials.

6. A code enforcement hearing was convened on December 4, 2025, and was continued to January 6, 2026, for receipt of additional evidence and argument, including on Respondents' contention that the ground-floor enclosure and related plumbing were lawfully established and therefore protected as a lawful nonconforming condition.

7. At the hearings, the Town presented the testimony of its Floodplain Manager, Kelli DeFedericis, together with documentary evidence, including the NOV and supporting materials. Respondents presented testimony and documentary evidence, including affidavits, appraisal excerpts, historical materials, and permit-related documents, and called witnesses in support of their position, including Helen and James Crumbie and Patty Smyth (via Zoom).

8. Based upon the greater weight of the competent substantial evidence, including the testimony of the Town's Floodplain Manager, it is found that the Subject Property contains

a ground-floor enclosure located within a special flood hazard area subject to the Town's floodplain regulations, and that the enclosure contains plumbing fixtures and related improvements, including a sink. It is further found that the presence and/or maintenance of such plumbing and related improvements within the ground-floor enclosure is not authorized absent compliance with applicable floodplain and building-code requirements and the issuance of required permits and approvals. The dispute presented was not whether the ground-floor enclosure and plumbing are within a special flood hazard area and therefore subject to floodplain regulation, but whether the cited condition was lawfully authorized and therefore entitled to be maintained as a lawful nonconforming condition, i.e., "grandfathered."

9. At the continued hearing, Ms. DeFedericis testified that FEMA had identified the Subject Property as among a group of structures for which FEMA requested compliance-verification records; that FEMA requested proof regarding whether the ground-floor enclosure could be converted to habitable space in compliance with applicable floodplain requirements; and that, absent documentation demonstrating lawful authorization and compliance, the Town remained unable to provide FEMA the requested proof. No written FEMA correspondence was offered into evidence; however, this testimony was found credible and was not rebutted.

10. The credible evidence establishes that, as of the dates of the hearings, Respondents had not obtained permits authorizing the sink and related plumbing and had not obtained permits authorizing any associated interior and/or exterior work encompassed by the NOV. Respondents did not present an elevation certificate, engineering reports, or other documentary evidence establishing that the ground-floor plumbing and related improvements satisfy current floodplain design and elevation criteria. Instead, Respondents' evidentiary presentation was directed to establishing that the ground-floor improvements have existed for decades and should be "grandfathered."

11. It was acknowledged at hearing that the ground-floor plumbing has been present for many years. The Town's theory of enforcement is that post-Hurricane Ian repair and associated permitting activity triggered the requirement that the ground-floor features be lawfully verified and, if maintained, brought into compliance with applicable floodplain and building-code permitting requirements.

12. Respondents asserted, in defense, that the ground-floor enclosure and related plumbing and bathroom facilities should be allowed to remain as a lawful nonconforming condition. This defense requires Respondents to show, by competent evidence, that the condition was lawful when created or was later legalized through valid approvals and permits, because unlawful or unpermitted conditions are not entitled to nonconforming protection.

13. Ms. DeFedericis, the Town's Floodplain Manager, testified that the Town relies on Town records, Lee County records, and Lee County Property Appraiser data to verify authorized ground-floor use and fixtures in elevated structures within special flood hazard areas, and that a review of these sources did not disclose records establishing lawful authorization for the ground-floor plumbing and related improvements at the Subject Property.

14. Ms. DeFedericis testified that a permit was issued in 2023 (Permit No. 232518) for repair of doors and windows with a revision in 2024 for repairs to the ground level that was not approved. She specifically testified that the revision to include the ground level construction was not approved. In her opinion, the lack of an approved revision means that any work that was performed on the ground level was performed without proper permitting. Ms. DeFedericis testimony is credited to the extent that it corroborates the permit record, which reflects that Permit No. 232518, as revised, addressed work relating to windows, front door, soffit, fascia, gutters, and vinyl siding, not ground-floor plumbing fixtures and associated interior improvements.

15. In support of their contention that the ground-floor enclosure and associated plumbing fixtures are "grandfathered" because the Town previously "acknowledged" or "approved" a lower-level bathroom and plumbing through prior permitting activity, Respondents rely in part upon: (a) historical property appraiser materials referencing a "finished lower level" and/or containing narrative statements characterizing a lower-level efficiency and bath as "grandfathered"; (b) permit-file materials from approximately 2007-2008 that, according to Respondents, depict a lower-level bathroom and plumbing layout; (c) Respondents' recollection of an alleged zoning-related statement or "acknowledgment" by Town personnel; and (d) Permit No. 232518 and a related completion certificate, which Respondents contend constitutes an approval of lower-level work.

16. The evidence credited by the Special Magistrate establishes that the existence of historical descriptions of a “finished lower level,” and/or the inclusion of “grandfathered” language within private appraisal narratives, affidavits, listings, or other secondary descriptions, does not constitute a governmental determination that the ground-floor plumbing fixtures and associated interior improvements were lawfully established or are presently authorized under the Florida Building Code or the Town’s floodplain development regulations, nor does such constitute an issued permit or approval authorizing the conditions alleged in the NOV to exist at the Subject Property.

17. With respect to the 2007-2008 permit-file materials, the credible evidence does not establish that any drawings, notations, or depictions within the file operated as an issuance of a permit approving, legalizing, or otherwise authorizing the ground-floor plumbing fixtures and interior improvements at issue, as distinct from proposed work, background descriptions, or permit activity limited to the scope of work actually reviewed, approved, and inspected. The record further supports the finding that plan review and inspections are confined to the scope of work included within the issued permit, and that the presence of depictions or references within a file is not, standing alone, proof of lawful authorization for the nonconforming structure or use.

18. As for Respondents’ references to zoning-related “acknowledgments” or statements attributed to Town personnel, the record does not contain competent evidence of an issued development order, variance, written nonconformity determination, written interpretation, or other formal action that constitutes an approval of the ground-floor plumbing fixtures and interior improvements in the special flood hazard area, and no such informal statement, even if made, would constitute the building or floodplain authorization required by the cited code provisions.

19. Respondents contend that Permit No. 232518 and the related completion certificate demonstrate approval of lower-level work. The record, however, supports the finding that the permit documentation, even when considered in the light most favorable to Respondents, is limited by its stated scope and does not constitute a permit or approval specifically authorizing the ground-floor plumbing fixtures and interior improvements that are the subject of the NOV in this enforcement case.

20. Accordingly, it is found that Respondents did not carry their burden to prove that the ground-floor enclosure and related plumbing constitute a lawful nonconforming condition. The condition is therefore found to be unpermitted and unlawful. Because lawful authorization has not been established, determinations concerning substantial improvement and/or substantial damage thresholds are not necessary to the disposition of the charged violations in this enforcement case.

21. Respondents have requested that enforcement be stayed for ninety (90) days. This request is not supported by competent evidence demonstrating a legal basis for a stay, and the compliance framework set forth herein, including a defined compliance deadline and a scheduled status review, provides an orderly mechanism to monitor compliance without impairing the enforceability of this Order.

B. CONCLUSIONS OF LAW

22. Code enforcement proceedings are quasi-judicial in nature. Basic due process is satisfied where the parties are provided notice and an opportunity to be heard, and the decision is supported by competent substantial evidence. *See, e.g., Verdi v. Metro. Dade Cnty.*, 684 So. 2d 870 (Fla. 3d DCA 1996); *Lee Cnty. v. 4 Sunbelt Equities, II, Ltd. P'ship*, 619 So. 2d 996 (Fla. 2d DCA 1993); *Dep't of High. Saf. & Motor Veh. v. Hofer*, 5 So. 3d 766 (Fla. 2d DCA 2009).

23. The Town bore the burden to prove, by competent substantial evidence, the violations alleged in the NOV. For the reasons set forth in the Findings of Fact, the Town met its burden. Even assuming, *arguendo*, that the Town also bore the burden to prove the absence of lawful authorization for the cited condition, that burden was met through the Floodplain Manager's testimony regarding the records review conducted and the absence of any issued permit or approval authorizing the disputed ground-floor plumbing and related improvements.

24. Town Code section 6-111 adopts the Florida Building Code section 105.1, which provides, in material part, as follows:

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to install, enlarge, alter, repair, remove, convert, or replace any

plumbing system regulated by the Code, shall first make application to the building official and obtain the required permit.

25. The NOV also cited Land Development Code section 6-441, which requires that an owner or owner's authorized agent who intends to undertake development activity within the scope of the Town's floodplain regulations, wholly within or partially within any flood hazard area, must first make application to the floodplain administrator (and the building official, if applicable) and obtain required permits and approvals.

26. Respondents argued that the existence of the ground-floor enclosure and plumbing should be treated as a lawful nonconforming condition. The Town, in its proposed order, asserted that the Special Magistrate should make no ruling on "grandfathered" status and that such a determination is outside the Special Magistrate's authority in a chapter 162 proceeding. That position is rejected to the extent it is construed as precluding the Special Magistrate from resolving, for purposes of this enforcement case, whether Respondents have established lawful authorization for the cited condition.

27. Chapter 162 authorizes the Special Magistrate to hear and determine alleged code violations, to make findings of fact and conclusions of law, and to enter orders requiring compliance and imposing lawful penalties. Where a respondent asserts, as an affirmative defense to enforcement, that the cited condition was lawful when established and thus is protected as a lawful nonconforming condition, the Special Magistrate is authorized to determine whether competent evidence of lawful establishment has been produced, unless local law vests exclusive jurisdiction over such issue to a different decision-maker, which is not the case here. Such a determination is integral to adjudicating whether a violation exists and what compliance is required. This nonconformity analysis is undertaken solely to resolve Respondents' affirmative defense to the violations charged in the NOV on this record and is not intended to confer, deny, or otherwise adjudicate nonconforming status for all purposes or in any separate administrative, land-use, or permitting proceeding.

28. Generalized references in property appraiser records, private appraisals, listings, or similar secondary descriptions to a "finished lower level," an "efficiency," or a "grandfathered" condition do not, without more than has been shown here, constitute persuasive proof of lawful establishment or continuing lawful authorization under the

Florida Building Code, as adopted by Town Code section 6-111, or Land Development Code section 6-441 (floodplain development permitting requirements). Thus, Respondents have not met their burden of producing persuasive evidence of a lawful nonconforming structure or use.

29. Likewise, the existence of drawings, notations, or depictions within a historical permit file does not, standing alone, establish that the depicted condition was reviewed and approved within the scope of an issued permit authorizing the ground-floor plumbing fixtures and interior improvements at issue; rather, lawful authorization requires proof of an issued permit and approvals that encompass the particular work or condition for which compliance is ordered. The evidence in this record does not establish such authorization for violations charged in the NOV.

30. To the extent Respondents contend that zoning-related “acknowledgments” or informal statements by Town personnel operate as approval or legalization of the ground-floor enclosure and related plumbing fixtures, that contention is rejected. Informal statements or generalized zoning discussions are not a substitute for the building and floodplain permits and approvals required by the cited provisions, and the record does not contain competent evidence of a formal written determination conferring lawful nonconforming status or authorizing the ground-floor plumbing fixtures and interior improvements at issue.

31. Permit No. 232518 appears to have been properly issued and finalized; a related completion certificate reflects a close-out status for the permitted scope. These facts, however, are not dispositive because the permit materials fail to establish lawful authorization for the specific nonconforming structure or use at issue, namely, the ground-floor plumbing fixtures and associated interior improvements within the lower enclosure in the floodplain.

32. Because the Town proved the cited violations and Respondents did not prove lawful authorization for the ground-floor plumbing and related improvements, a finding of violation is required, and an order compelling compliance is appropriate.

33. Respondents’ request for a ninety (90) day stay is denied. A stay is not warranted on this record, and the compliance and status-review structure set forth in this Order constitutes a reasonable, orderly, and enforceable framework for achieving compliance

while preserving the Town's ability to enforce its code requirements absent a written stay entered by the Special Magistrate or a court of competent jurisdiction.

C. ORDER

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

1. Violation Found. Respondents are found to be in violation of Town Code section 6-111 and Land Development Code section 6-441, as alleged in the NOV.
2. Compliance Deadline and Methods. Respondents shall bring the Subject Property into compliance no later than sixty (60) days from the date of this Order (the "Compliance Deadline"), by either: (a) obtaining all required building and floodplain permits for the unpermitted construction and, thereafter, achieving final approval/close-out in full compliance with applicable floodplain and building-code requirements; or (b) restoring the structure to its last lawfully permitted condition, which shall include, at minimum, removal and/or permanent abandonment of all unpermitted plumbing fixtures and related improvements within the ground-floor enclosure, including capping and disconnecting any water supply and sanitary drainage lines serving such fixtures, and otherwise limiting the enclosure to uses permitted by applicable floodplain regulations (including, as applicable, parking, building access, and storage), as verified for compliance purposes by the Town's building official and floodplain administrator.
3. Status Review Hearing; Substantial Compliance. A status review hearing is set for April 7, 2026, to assess the status of compliance. It is recognized that Respondents may seek administrative or permitting determinations relevant to obtaining after-the-fact permits; accordingly, evidence of substantial compliance or substantial efforts toward compliance may be considered at the status review hearing in determining whether to extend deadlines, to impose or defer penalties, or to enter such further orders as may be appropriate.
4. Daily Fine. If compliance is not achieved by the Compliance Deadline, a fine of \$250.00 per day shall be imposed for each day the violation continues thereafter, subject to any written order entered by the Special Magistrate deferring, modifying, or otherwise addressing the accrual of fines based upon the evidence presented at the status review hearing.

5. Administrative Costs. Pursuant to section 162.07(2), Florida Statutes, Respondents shall pay \$250.00 as an administrative cost assessment associated with this enforcement action.
6. Abatement Authorization. If Respondents fail to achieve compliance by the Compliance Deadline and do not demonstrate substantial progress at the status review hearing, then, as an alternative means of attaining compliance, the Town is authorized to initiate abatement of the violation, including removal of noncompliant portions of the structure, to the extent permitted by law. All abatement costs shall be assessed as a lien against the Subject Property, enforceable under applicable Florida law.
7. No Stay by Administrative Request. This Order is entered without prejudice to Respondents' pursuit of any administrative or permitting relief otherwise available by law; however, absent a written stay entered by the Special Magistrate or a court of competent jurisdiction, the filing or pendency of any such request shall not operate as a stay of this Order.

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 27th day of January, 2026, at the Division of Administrative Hearings, Tallahassee, Florida.

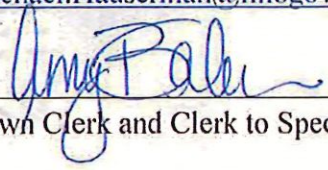

John G. Van Laningham,
FMB Special Magistrate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished by U.S. mail on the 27 day of January, 2026, to:

Danny Lewis & Carol Jean Thomas
151 Miramar St, Fort Myers Beach, Florida 33931
dethomasaugust1978@gmail.com

FMB Code Enforcement Officer Michael Hauserman,
6231 Estero Boulevard,
Fort Myers Beach, Florida 33931
Michael.Hauserman@fmbgov.com



Town Clerk and Clerk to Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS, LIENS, OR FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mail to:

Town of Fort Myers Beach
Attention: Code Enforcement
6231 Estero Boulevard
Fort Myers Beach, FL 33931

HEARING EXHIBIT F

151 Miramar St Case #20251060

- Respondent's Request for Reopening and Town's Response.

STATE OF FLORIDA

ADMINISTRATIVE ENFORCEMENT

COUNTY OF LEE

Town of Fort Myers Beach,

Petitioner,

v.

Danny Lewis Thomas,
Carol Jean Thomas,

Respondent.

**NOTICE OF MOTION
AND MOTION
Pursuant to Rule 1.540
Subd. (B) (2)**

COURT FILE NO: 20251060

TO: THE PETITIONER ABOVE-NAMED, Town of Fort Myers Beach,

PLEASE TAKE NOTICE, that on the 20th day of January, 2026 from the Fort Myers Beach Town Hall Council Chambers, the Respondent named above will move the Court for the following relief:

1. For an order of the Court pursuant to Florida Rules of Civil Procedures Rule 1.54 Subdivision (b) (2) to reopen the hearing in this matter due to recently discovered evidence that could not have been discovered in time to present at the prior hearing due to the testimony of the Petitioner.

2. For such other and further relief as the Court deems just.

Said Motion will be made on the attached affidavit of Respondent, on all the files records, and proceedings herein, and on the statutes of the state of Florida.

All responsive pleadings shall be served and mailed to or filed with the Court Administrator no later than five (5) days prior to the scheduled hearing. The court may, in its discretion, disregarding any responsive pleadings served or filed with the Court Administrator less than five (5) days prior to such hearing and ruling on the Motion or matter in question.

This Motion will be based upon all of the files, records, and proceedings herein, including the attached Affidavit.

Dated: JANUARY 15th, 2026

By Carol Thomas
Carol Thomas Respondent
151 Miramar Street
Fort Myers, FL
507-219-0450

STATE OF FLORIDA

ADMINISTRATIVE ENFORCEMENT

COUNTY OF LEE

Town of Fort Myers Beach,

Petitioner,

ORDER

v.

Danny Lewis Thomas,
Carol Jean Thomas,

Respondent.

COURT FILE NO: 20251060

The above-entitled matter come on before the Court on the 20th day of January, 2026, from the Fort Myers Beach Town Hall Council Chambers. The Petitioner was represented by

. The Respondent was represented by Carol Thomas of Austin, Minnesota.

Based upon the files, records, proceedings herein, and the arguments of Counsel, IT
IS HEREBY ORDERED:

1. That the hearing in this matter shall be reopened and further testimony shall be heard on March , 2026 at ____ a.m..
2. For such other and further relief as seems just, fair, and equitable to the Court.

Dated: _____

Honorable John G. Van Laningham

STATE OF FLORIDA

ADMINISTRATIVE ENFORCEMENT

COUNTY OF LEE

Town of Fort Myers Beach,

Petitioner,

**AFFIDAVIT OF
CAROL THOMAS**

v.

Danny Lewis Thomas,
Carol Jean Thomas,

Respondent.

COURT FILE NO: 20251060

STATE OF FLORIDA)
)ss.
COUNTY OF LEE)

Carol Thomas, being first duly sworn deposes and states as follows:

1. That your affiant is the respondent in the above-entitled matter and I make this Affidavit in Support of our Motion to Reopen the Hearing in this matter due to recently discovered evidence that could not have been available at the time of trial based upon the testimony of the petitioners witness, Kelli DeFedericis
2. At the close of the testimony in the hearing, Ms. DeFedericis testified that our permit, permit number 232518 had been rescinded, changed or was never approved. Obviously, we expressed surprise at this as we had never received this information. In fact I was sure it had been permitted.
3. Upon returning home, and reviewing my file, I have attached the following permit which was received by us. It is clear that Ms. DeFedericis misrepresented the procedural posture to the Court because our permit was granted as is contained herein. Not only is it granted but there is the attachment from Joe Specht indicating that the permit was approved for the lower level, like for like improvements.
4. As such, the Court should hear this evidence as the representations by the petitioner were a the least, false testimony to the Court.
5. Further, after reviewing our permit and this I went to the County website and the

Completion Certificate had been removed from the website.

6. I do not know why or under what conditions it was removed but obviously this is very disconcerting to myself and should be to the Court as well as anyone associated with the Town of Fort Myers Beach.

Further your affiant sayeth not.

Carol Thomas
Carol Thomas

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation,

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS &
CAROL JEAN THOMAS,

Respondents.

OBJECTION TO REQUEST TO SUPPLEMENT THE RECORD OF THE
FORT MYERS BEACH JANUARY 6, 2026 CODE ENFORCEMENT HEARING

The Town of Fort Myers Beach Code Enforcement Department was notified yesterday by the Town Clerk that the Respondents have requested the transmission of additional documents to the Special Magistrate in this case.

The Town objects to the Respondents' request since it is made following the completion of the January 6, 2026 code enforcement hearing and denies the Town the opportunity to cross-examine and question the Respondents regarding the validity and relevance of the documents.



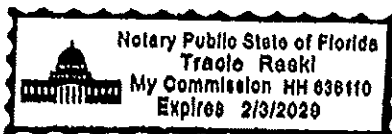
Michael Hauserman, Code Enforcement Manager

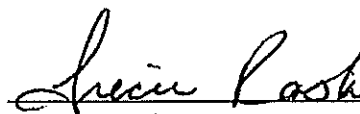
STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments, personally appeared Michael Hauserman to me known to be the Town of Fort Myers Beach Code Enforcement Manager that he acknowledged executing the same, freely and voluntarily, and who ☒ is personally known to me, or ☐ produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16 day of
January 2026.

(NOTARY SEAL)




Signature of Notary
Print Name: Tracie Raskl

HEARING EXHIBIT G

151 Miramar St Case #20251060

- Order of Continuance of the 12/4/25 Hearing to the 1/6/26 Hearing from 12/4/25 dated 12/18/25.

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

TOWN OF FORT MYERS BEACH, FLORIDA,

Petitioner,

vs.

FMB CASE NO. 20251060

**DANNY LEWIS & CAROL JEAN
THOMAS,**

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 DECEMBER 4, 2025, WITHOUT ENTERING FINDINGS OF FACT. FURTHER PROCEEDINGS IN THIS MATTER WILL BE HELD ON: **JANUARY 6, 2026, at 9:00 A.M.**

The hearing will be held at the Fort Myers Beach Town Hall Council Chambers, 6231 Estero Blvd, Fort Myers Beach, Lee County, Florida 33931, and the Respondents are urged to be present if the violation has not been abated by that date.

DONE AND ORDERED this 18th day of December, 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 18 day of December, 2025 to:

Danny Lewis & Carol Jean Thomas
22067 565th Ave
Austin, MN 55912

Danny Lewis & Carol Jean Thomas
151 Miramar Street
Fort Myers Beach, FL, 33931

BY: 

Town Clerk and Clerk to Special Magistrate

Dated: Dec. 18, 2025

Property Address and Owner:

Hearing Date: April 7, 2026

Property Owner: Bhatnagr Piyush
Property Address: 3 Pepita Street
Status: Property Maintenance
Officer: T Hoffman

Subject:

Code Section:

Reference Number:

Strap Number:

Officer:

Narrative:

Owner in contact with Officer. Agreement reached to gain compliance prior to next hearing.
Requesting postponement to May 5, 2026 hearing.

Attachments:

1. 20260177_3 Pepita St_Exhibit A_Notice Affidavit Service Ownership
2. 20260177_3 Pepita St_Draft Continuance Order

Town Recommendations:

Town Approvals:

Michael Hauserman, Code Compliance Manager

Date: March 26, 2026

Thomas Yozzo, Emergency Services Director

Date: March 30, 2026



Traci Kohler, Deputy Town Manager

Date: March 30, 2026

nancy stuparich, Town Attorney

Date: March 30, 2026

Lizzette Roman, Town Clerk Administrative Coordinator

Date: March 31, 2026

Amy Baker, Town Clerk

Date: March 31, 2026

HEARING EXHIBIT A

- Affidavit of Service
- Notice of Violation & Hearing
- Proof of Mailing (Cert/Reg)
- Photos of Posting
- LCPA
- TRIM
- Deed
- First Inspection Photos



Town of Fort Myers Beach

6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

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

**Petitioner,
vs.**

**BHATNAGR PIYUSH
Respondent.**

Case Number: 20260177

**Certified Mail:
9589071052703142172229**

Regular Mail: USPS: 03/10/2026

AFFIDAVIT OF NOTICE AND POSTING

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared T. Hoffman, who being duly sworn by me, on oath, deposes and says the following regarding that certain Notice of Violation and Notice of Hearing attached hereto as **Exhibit A** ("the Notice"):

1. My name is T. Hoffman. 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.
2. I am employed as a Code Enforcement Officer for the Town of Fort Myers Beach ("Town").

3. On 03/10/2026, I personally mailed a copy of the Notice by Certified mail and first-class mail as follows:

- a. To the property owner at the address listed in the records of the Lee County Tax Collector and/or Lee County Property Appraiser for tax notices, which address is: **1675 Flowers Crossing DR NE Grand Rapids, MI 49525** A true and correct copy of the property ownership and address information obtained from the Tax Collector/Property Appraiser is attached hereto as **Exhibit A**. A copy of the Certified mail receipt is attached hereto as **Exhibit A**.
- b. To the following additional address(es) reasonably believed to be valid for the property owner: **(N/A)** A copy of the certified mail receipt is attached hereto as **Exhibit A**.
- c. The property is owned by **(N/A)**, a business entity registered in the State of Florida. I mailed a copy of the Notice by certified mail and first-class mail to the business entity's Registered Agents at the following address: **(N/A)** A copy of the certified mail receipt is attached hereto as **Exhibit A**. A true and correct copy of the Florida Division of Corporations of record for the entity, identifying its Registered Agent, is attached hereto as **Exhibit A**.

4. On 03/10/2026, I posted a copy of the Notice at 3 Pepita St, Fort Myers Beach, FL 33931 which is the property upon which the violation is alleged to exist. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Exhibit A**.

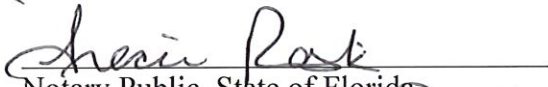
5. On 03/10/2026, I posted a copy of the Notice at Town Hall, located at 6231 Estero Boulevard, Fort Myers Beach, FL 33931, which is the primary municipal government office for the Town of Fort Myers Beach. Photographs of the posted Notice, taken by me on that date, are attached hereto as **Exhibit A**.

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 of Fort Myers Beach Land Development Code and Section 162.12, Florida Statutes.

SWORN AND ATTESTED BY:


Signature of Affiant
Printed Name: T. Hoffman
Title: Code Enforcement Officer

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of
☒ physical presence / ☐ online notarization, this **10th day of March 2026**, by **T. Hoffman**, who
☒ is personally known to me ☐ or has produced _____ as identification.


Notary Public, State of Florida
Printed Name: Tracie Raski
My Commission No.: HH 636110
My Commission Expires: 2/3/2029



Composite Affidavit Exhibit A

- Copy of Notice/Order
- Certified Mail Receipts
- Photos of Posting at 3 Pepita St
- Photos of Posting at Town Hall
- LCPA
- TRIM
- Deed



Town of Fort Myers Beach

NOTICE OF VIOLATION AND NOTICE OF CODE ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

Date: March 10, 2026

Case Number: **20260177**

Owner: **BHATNAGR PIYUSH**

Mailing Address: 1675 Flowers Crossing Dr NE Grand Rapids, MI 49525

Property Address: 3 Pepita St Fort Myers Beach, FL 33931

Certified Mail: 9589071052703142172229

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on March 5, 2026 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violations: On 03/05/2026, Violations were discovered. For the pool on property not being properly secured with approved fencing causing safety concerns to the General Public. For the walkway along the seawall being in disrepair and unsafe condition causing safety concerns to the General Public. All are identified as violations of the Town's Codes:

Sec. 34-1176 (C,1) In-ground Swimming Pools: In-ground swimming pools, hot tubs and spas. Every swimming pool, hot tub, spa, or similar facility shall be enclosed by a fence, wall, screen enclosure or other structure, not less than four feet in height, constructed or installed so as to prevent unauthorized access to the pool by persons not residing on the property. For purposes of this subsection, the height of the structure shall be measured from the ground level outside of the area so enclosed. The enclosure may be permitted to contain gates, provided they are self-closing and self-latching.

Sec. 6-1, - Adoption of International Property Maintenance Code; 301.3 Vacant Structures and land: Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

Corrective Action Required:

The following actions are required to bring the violation(s) into compliance. (1) Properly Secure the pool on property per Town Code Requirements in order to correct safety concerns to the General Public. NOTE: Temporary Orange Construction Fencing no longer satisfies the

requirement for properly securing a pool on property. (2) Repair or replace missing or damaged boards along the seawall walkway in order to correct safety concerns to the General Public. (3) Contact FMB Permitting at 239-492-1415 (Shanette Thomas – Permitting Coordinator) to obtain any required permits (4) Provide any and all documentation required for the permit. (5) Apply for said permits and follow process through to issuance.

Compliance is required on or before: March 25, 2026

If the referenced violations are corrected from the date of issuance of this notice, you must contact the Code Enforcement Officer at (239) 765-0202.

A HEARING FOR THIS MATTER HAS BEEN SET BY THE SPECIAL MAGISTRATE CLERK FOR THE 7th DAY OF APRIL 2026, AT 9:00 AM, AT 6231 ESTERO BLVD, FORT MYERS BEACH, FL 33931. (Fort Myers Beach Town Hall Council Chambers)

☐ Should all violations not be corrected and approved by the undersigned Code Enforcement Officer within the date and time specified above, you will be required to appear at the prosecution of this matter before the Town's Special Magistrate for Code Compliance, pursuant to Division 2 of Article V of Chapter 2 of the Town Land Development Code and Chapter 162, Florida Statutes. **THIS HEARING, REQUIRING YOU TO BE PRESENT, WILL BE HELD IF THE VIOLATION(S) HAVE NOT BEEN BROUGHT INTO COMPLIANCE AND APPROVED BY THE CODE ENFORCEMENT DEPARTMENT BY Wednesday, March 25, 2026 AS EVIDENCED BY THE ISSUANCE OF AN AFFIDAVIT OF COMPLIANCE BY THE CODE ENFORCEMENT OFFICER.** If a violation is corrected and then recurs, or if a violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the Special Magistrate even if the violation has been corrected prior to the board hearing.

☐ The Code Officer has reason to believe that the violation(s) or the condition causing the violation(s) presents a serious threat to the public health, safety, and welfare or is irreparable or irreversible in nature, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the violation(s) have been corrected prior to the hearing.

☐ The Code Officer has reason to believe that repeat violations have been found, and therefore, no compliance date has been provided. This case may be presented to the Special Magistrate even if the repeat violation(s) have been corrected prior to the hearing. The purpose of this Hearing is for the Special Magistrate to make "Findings of Fact" and "Conclusions of Law" relating to the violation(s) specified in the attached Violation detail and to issue an appropriate Order. The Hearing is also your opportunity to present evidence and/or contest the alleged violations, should you wish to do so. If a violation is found, the Order may require you

to correct the violation(s) by a specified date. In addition, the Order may impose daily fines as per Florida Statutes Section 162.09(2)(a) of the following:

- \$250/ day per violation
- \$500/day for repeat offenses
- \$5,000 for irreversible or irreparable violations

Additionally, administrative fines may be imposed to recover all costs incurred by the Town in prosecuting this matter. If all violations are not corrected prior to the Hearing date, you may be assessed any such costs. **THE IMPOSITION OF FINES AND/OR COSTS MAY RESULT IN A LIEN AGAINST YOU AND YOUR PROPERTY.**

You should be aware that if the alleged violation(s) is/are corrected prior to the Hearing and recurs within five (5) years from the date of the original Notice of Violation, the case may be presented to the Special Magistrate as a Recurring Violation even if the violation is subsequently corrected.

You have the right to be represented by an attorney and to respond and present evidence and witnesses at the Hearing. If you wish to be represented by an attorney, your attorney **MUST** notify the Special Magistrate's Clerk in writing at least five (5) working days before the Hearing.

You may also have other rights which are set forth in Division 2 of Article V of Chapter 2 of the Town Land Development Code. If a person decides to appeal any decision with respect to any matter considered at this Hearing, such person will need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based (Section 286.0105, Florida Statutes).

For additional HEARING information, contact the Town of Fort Myers Beach Special Magistrate Clerk at (239) 765-0202 x 1351.

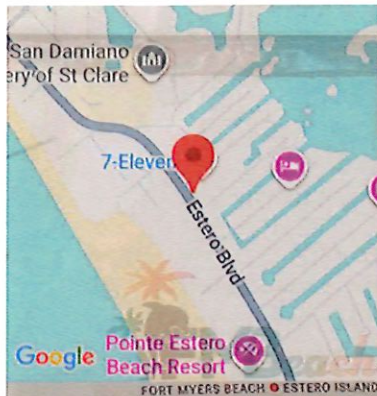
T. Hoffman

Signature

Code Enforcement Officer
Fort Myers Beach, Florida

9589 0710 5270 3142 1722 29

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	\$ 20260177
Extra Services & Fees (check boxes and fees apply)	
☐ Return Receipt (hardcopy)	\$
☐ Return Receipt (electronic)	\$
☐ Certified Mail Restricted Delivery	\$ MAR 10 2026
☐ Adult Signature Required	\$
☐ Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	
\$ 3 PEPITA ST.	
BHATNAGR PIYUSH	
1675 FLOWERS CROSSING DR NE	
GRAND RAPIDS, MI 49525	
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions	



Mar 10, 2026 1:00:32 PM
Fort Myers Beach

Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: March 10, 2026

Case Number: 20260177

Owner: BHATNAGR PIYUSH

Mailing Address: 1675 Flowers Crossing Dr NE Grand Rapids, MI 49525

Property Address: 3 Pepita St Fort Myers Beach, FL 33931

Certified Mail: 9589071052703142172229

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on March 5, 2026 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

Code Violations: On 03/05/2026, Violations were discovered. For the pool on property not being properly secured with approved fencing causing safety concerns to the General Public. For the walkway along the seawall being in disrepair and unsafe condition causing safety concerns to the General Public. All are identified as violations of the Town's Codes:

Sec. 34-1176 (C.1) In-ground Swimming Pools: In-ground swimming pools, hot tubs and spas. Every swimming pool, hot tub, spa, or similar facility shall be enclosed by a fence, wall, screen enclosure or other structure, not less than four feet in height, constructed or installed so as to prevent unauthorized access to the pool by persons not residing on the property. For purposes of this subsection, the height of the structure shall be measured from the ground level outside of the area so enclosed. The enclosure may be permitted to contain gates, provided they are self-closing and self-latching.

Sec. 6-1, - Adoption of International Property Maintenance Code; 301.3 Vacant Structures and land: Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

Corrective Action Required:

The following actions are required to bring the violation(s) into compliance. (1) Properly Secure the pool on property per Town Code Requirements in order to correct safety concerns to the General Public. NOTE: Temporary Orange Construction Fencing no longer satisfies the

Page 1 of 3



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

Date: March 10, 2026

Case Number: 20260177

Owner: BHATNAGR PIYUSH

Mailing Address: 1675 Flowers Crossing Dr NE Grand Rapids, MI 49525

Property Address: 3 Pepita St Fort Myers Beach, FL 33931

Certified Mail: 9589071052703142172229

Parcel: Standard First Class Mail

YOU ARE HEREBY NOTIFIED that the undersigned Code Officer alleges that on March 5, 2026 the following violation(s) of the Land Development Code of the Town of Fort Myers Beach, Florida, existed on the property above:

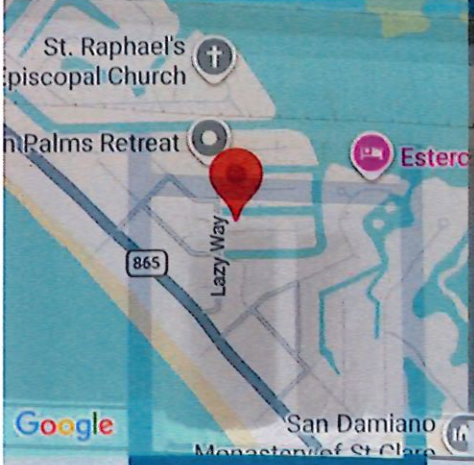
Code Violations: On 03/05/2026, Violations were discovered. For the pool on property not being properly secured with approved fencing causing safety concerns to the General Public. For the walkway along the seawall being in disrepair and unsafe condition causing safety concerns to the General Public. All are identified as violations of the Town's Codes:

Sec. 34-1176 (C,1) In-ground Swimming Pools: In-ground swimming pools, hot tubs and spas. Every swimming pool, hot tub, spa, or similar facility shall be enclosed by a fence, wall, screen enclosure or other structure, not less than four feet in height, constructed or installed so as to prevent unauthorized access to the pool by persons not residing on the property. For purposes of this subsection, the height of the structure shall be measured from the ground level outside of the area so enclosed. The enclosure may be permitted to contain gates, provided they are self-closing and self-latching.

Sec. 6-1, - Adoption of International Property Maintenance Code; 301.3 Vacant Structures and land: Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

Corrective Action Required:

The following actions are required to bring the violation(s) into compliance. (1) Properly Secure the pool on property per Town Code Requirements in order to correct safety concerns to the General Public. NOTE: Temporary Orange Construction Fencing no longer satisfies the



Mar 10, 2026 12:54:54 PM
Fort Myers Beach





Property Data

STRAP: 33-46-24-W2-0090B.0020 Folio ID: 10230503

Tax Roll Value Letter 2025 ▼

Generated on 2/10/2026 11:54 AM

Owner Of Record - Sole Owner [Change Mailing Address]



BHATNAGR PIYUSH
1675 FLOWERS CROSSING DR NE
GRAND RAPIDS MI 49525

Site Address

Site Address maintained by **E911 Program Addressing**

3 PEPITA ST
FORT MYERS BEACH FL 33931

Property Description

Do not use for legal documents!



EL SOL BLKS B-C-D UNREC BLK B OR 85 PG 603 LOT 2

[View Recorded Plat at LeeClerk.org](#) - Use this link to do an Official Records search on the Lee County Clerk of Courts website, using 85 and 603 for the book and page numbers.

Attributes and Location Details

Total Bedrooms / Bathrooms	4 / 3.0
Gross Living Area	1,176
1st Year Building on Tax Roll	1978
Historic Designation	No

Township	Range	Section	Block	Lot
46	24E	33	0090B	0020
Municipality	Latitude	Longitude		
Town of Fort Myers Beach	26.43171	-81.91166		

[View Parcel on Google Maps](#)

[Tax Map Viewer] [View Comparables]



[Pictometry Aerial Viewer]

Image of Structure



◀ Photo Date August of 2025 ▶ ☐ View other photos

Last Inspection Date: 08/22/2025

Property Values / Exemptions / TRIM Notices

Generated on 2/10/2026 11:54 AM

No existing exemptions found for this property.

TRIM Notices	Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Classified Use	Taxable
2025 / Additional Info	2025 (Final Value)	609,649	609,639	609,649	609,649	0	0	609,649
2024 / Additional Info	2024 (Final Value)	616,644	616,634	616,644	616,644	0	0	616,644
2023 / Additional Info	2023 (Final Value)	1,162,155	443,884	1,162,155	763,093	0	0	763,093
2022 / Additional Info	2022 (Final Value)	988,992	316,525	988,992	693,721	0	0	693,721

2021 / Additional Info	2021 (Final Value)	666,187	316,525	666,187	630,655	0	0	630,655
2020 / Additional Info	2020 (Final Value)	573,323	346,525	573,323	573,323	0	0	573,323
2019 / Additional Info	2019 (Final Value)	557,168	333,200	557,168	557,168	0	0	557,168
2018 / Additional Info	2018 (Final Value)	548,294	333,200	548,294	548,294	0	0	548,294
2017 / Additional Info	2017 (Final Value)	558,779	238,000	558,779	542,561	0	0	542,561
2016	2016 (Final Value)	556,369	238,000	556,369	493,237	0	0	493,237
2015	2015 (Final Value)	510,298	238,000	510,298	448,397	0	0	448,397
2014	2014 (Final Value)	465,000	238,000	465,000	407,634	0	0	407,634
2013	2013 (Final Value)	359,951	191,700	359,951	359,951	0	0	359,951
2012	2012 (Final Value)	302,909	215,000	302,909	302,909	0	0	302,909
2011	2011 (Final Value)	339,965	240,000	339,965	339,965	0	0	339,965
2010	2010 (Final Value)	356,090	240,000	356,090	356,090	0	0	356,090
	2009 (Final Value)	415,590	315,000	415,590	415,590	0	0	415,590
	2008 (Final Value)	446,790	303,020	446,790	446,790	0	0	446,790
	2007 (Final Value)	583,810	448,020	0	583,810	0	0	583,810
	2006 (Final Value)	572,680	428,020	0	572,680	0	0	572,680
	2005 (Final Value)	437,820	310,000	0	392,610	25,000	0	367,610
	2004 (Final Value)	381,170	285,000	0	381,170	25,000	0	356,170
	2003 (Final Value)	333,230	206,160	0	333,230	0	0	333,230
	2002 (Final Value)	269,120	135,750	0	269,120	0	0	269,120
	2001 (Final Value)	205,070	105,750	0	205,070	0	0	205,070
	2000 (Final Value)	186,590	88,500	0	186,590	0	0	186,590
	1999 (Final Value)	162,790	73,000	0	162,790	0	0	162,790
	1998 (Final Value)	164,110	73,000	0	164,110	0	0	164,110
	1997 (Final Value)	154,800	73,000	0	154,800	0	0	154,800
	1996 (Final Value)	148,670	73,000	0	148,670	0	0	148,670
	1995 (Final Value)	155,070	73,000	0	155,070	0	0	155,070
	1994 (Final Value)	150,920	70,130	0	150,920	0	0	150,920
	1993 (Final Value)	165,590	70,130	0	165,590	0	0	165,590
	1992 (Final Value)	155,000	70,130	0	155,000	0	0	155,000

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 2/9/2026)

Generated on 2/10/2026 11:54 AM

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	Units
-------------	------------	-------

DOCK - BOAT - WOODEN	1978	138
SLAB - CONCRETE	1978	240
SEAWALL - CONCRETE	1978	75
IRRIGATION SYSTEM LAWN	2006	1
FENCE - ALUM/VINYL - 4 FEET	2013	39

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
4	3.0	1978	1998

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	1,176
FLL - FINISHED LOWER LEVEL	N	680
FLU - FINISHED LOWER UTILITY	N	48
FOP - FINISHED OPEN PORCH	N	336
LCP - LOWER CARPORT / OPEN PORCH	N	712
PLR - POOL RESIDENTIAL	N	450
PPT - POOL PATIO	N	42
PPT - POOL PATIO	N	988
STP - STOOP	N	28

Building Features

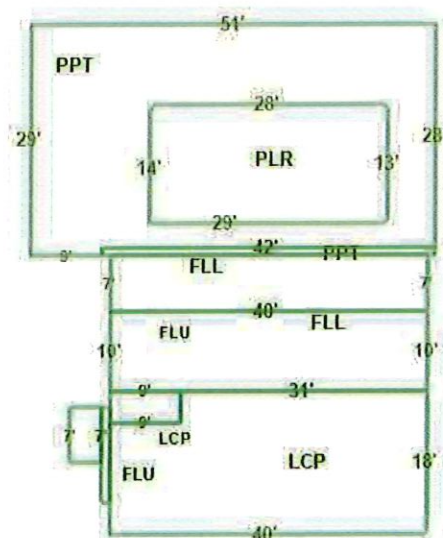
Description	Year Added	Units
POOL - RESIDENTIAL	1978	450
BOAT HOUSE - OPEN	1978	288
A/C-POOL HEATERS	2006	1
PATIO - BRICK AND TILE	2013	987

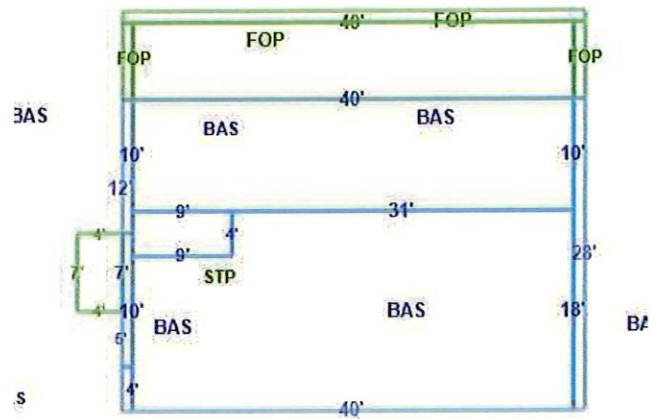
Building Front Photo



Photo Date: August of 2025

Building Footprint





Property Details (2025 Tax Roll)



Generated on 2/10/2026 11:54 AM

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	Units
DOCK - BOAT - WOODEN	1978	138
SLAB - CONCRETE	1978	240
SEAWALL - CONCRETE	1978	75
IRRIGATION SYSTEM LAWN	2006	1
FENCE - ALUM/VINYL - 4 FEET	2013	39

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
4	3.0	1978	1997

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	1,176
FLL - FINISHED LOWER LEVEL	N	680
FLU - FINISHED LOWER UTILITY	N	76
FOP - FINISHED OPEN PORCH	N	336
FST - FINISHED UTILITY	N	44
LCP - LOWER CARPORT / OPEN PORCH	N	684
PLR - POOL RESIDENTIAL	N	450

PPT - POOL PATIO
PPT - POOL PATIO
STP - STOOP

N	42
N	988
N	28

Building Features

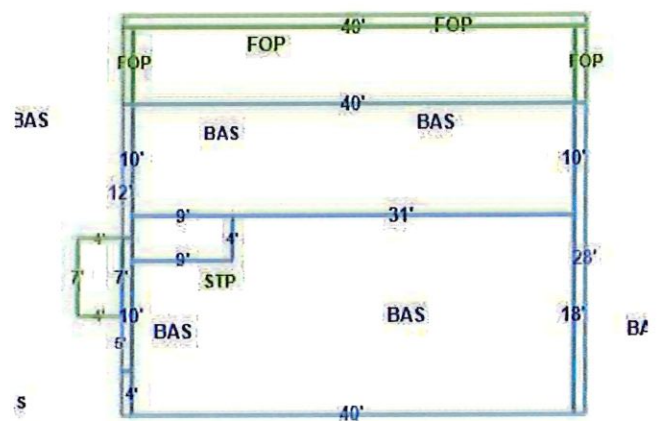
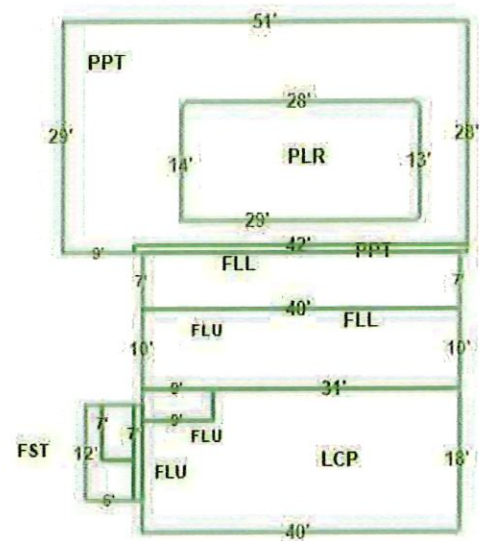
Description	Year Added	Units
POOL - RESIDENTIAL	1978	450
BOAT HOUSE - OPEN	1978	288
A/C-POOL HEATERS	2006	1
PATIO - BRICK AND TILE	2013	987

Building Front Photo



Photo Date: August of 2025

Building Footprint



Taxing Authorities

Generated on 2/10/2026 11:54 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 2/10/2026 11:54 AM

Sale Price	Date	Clerk File Number	Type	Notes	Vacant/ Improved
285,000.00	06/06/2012	2012000127000	38		I
750,000.00	07/22/2005	4812/3410	06		I
137,000.00	12/01/1987	1958/3785	06		I
17,500.00	04/01/1977	1200/2011	06		V

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

Use the above link to do a search on the Lee County Clerk of Courts website, using 85 and 603 for the book and page numbers and **Official Records** 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 2/10/2026 11:54 AM

Permit Number	Permit Type	Date
234132	Building Remodel / Repair	08/11/2023
231003	Building Remodel / Repair	01/28/2023
220935	Roof	06/16/2022
FNC13-0051	Fence	07/22/2013
BLD13-0040	Building Window / Door Replacement	03/28/2013
PLB13-0002	Plumbing	01/08/2013
ELE13-0003	Electric	01/07/2013
BLD12-0209	Building Remodel / Repair	12/04/2012
MEC12-0195	AC New / Change out	10/12/2012

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 2/10/2026 11:54 AM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
33-46-24-09-0000B.0020	N/A	Reserved for Renumber ONLY	01/12/1995

Solid Waste (Garbage) Roll Data

Generated on 2/10/2026 11:54 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
001 - Service Area 1	R - Residential Category		1	358.45
Collection Days				
Garbage	Recycling	Horticulture		
Thursday	Thursday	Thursday		

Flood and Storm Information

Generated on 2/10/2026 11:54 AM

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

Generated on 2/10/2026 11:54 AM



Lee County Tax Collector

Noelle Branning

Account Number:
33-46-24-W2-0090B.0020
Alternate Key:
2100593812
Millage Code:
032

Site Address/Legal Description:
3 PEPITA ST
EL SOL BLKS B-C-D UNREC BLK B OR 85 PG 603
LOT 2

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

2025 Real Estate Tax Notice



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

Exemptions/Values
Market Value 609,649
Assessed Value 609,649
Taxable Value 609,649

★ See message below.

BHATNAGR PIYUSH
1675 FLOWERS CROSSING DR NE
GRAND RAPIDS, MI 49525

Paid 11/17/2025 DP-00-03986716 \$8,205.89

Ad Valorem Taxes Levying Authority

	Telephone	Mill Rate	Assessed	Exemption	Taxable	Amount
LEE COUNTY GENERAL REVENUE	239-533-2221	3.7623	609,649	0	609,649	2,293.68
PUBLIC SCHOOL - BY LOCAL BOARD	239-337-8215	2.2480	609,649	0	609,649	1,370.49
PUBLIC SCHOOL - BY STATE LAW	239-337-8215	3.0710	609,649	0	609,649	1,872.23
TOWN OF FORT MYERS BEACH	239-765-0202	1.0294	609,649	0	609,649	627.57
SFL WATER MGMT-DISTRICT LEVY	561-686-8800	0.0948	609,649	0	609,649	57.79
SFL WATER MGMT-EVERGLADE CONST	561-686-8800	0.0327	609,649	0	609,649	19.94
SFL WATER MGMT-OKEECHOBEE LEVY	561-686-8800	0.1026	609,649	0	609,649	62.55
FORT MYERS BEACH FIRE CONTROL DISTRICT	239-590-4200	2.7600	609,649	0	609,649	1,682.63
FORT MYERS BEACH MOSQUITO	239-247-1205	0.1123	609,649	0	609,649	68.46
FORT MYERS BEACH LIBRARY	239-463-9691	0.1612	609,649	0	609,649	98.28
LEE COUNTY HYACINTH CONTROL	239-694-2174	0.0192	609,649	0	609,649	11.71
WEST COAST INLAND NAVIGATION DISTRICT	941-485-9402	0.0394	609,649	0	609,649	24.02

Non-Ad Valorem Assessments Levying Authority

LEE COUNTY SOLID WASTE ASSESSMENT

Telephone 239-533-8000 Rate

Basis
ACTL LEVY

Amount
358.45

2025 Combined Total Ad Valorem and Non-Ad Valorem:

\$8,547.80

2025 Real Estate Tax Notice

PAY ONLY ONE AMOUNT

If Received By:

- ☐ Nov 30, 2025
- ☐
- ☐
- ☐
- ☐

Amount Due:

\$0.00

Phone/Email Contact: _____

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

Account: 33-46-24-W2-0090B.0020

Site Address: 3 PEPITA ST

Alternate Key: 2100593812

★ If the address below is not correct, visit LeePA.org to update your address.

BHATNAGR PIYUSH
1675 FLOWERS CROSSING DR NE
GRAND RAPIDS, MI 49525

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



Paid 11/17/2025 DP-00-03986716 \$8,205.89

This instrument prepared by:
KEVIN F. JURSINSKI
KEVIN F. JURSINSKI, P.A.
15701 S. Tamiami Trail
Ft. Myers, Florida 33908

Property Appraisers Parcel ID Number(s): 33-46-24-W2-0090B.0020

WARRANTY DEED

THIS INDENTURE, Made this 6th day of June, 2012.

BETWEEN Scott M. Oppenheimer, an unmarried person, whose address is 4 20th
Avenue, Apt. 201, Venice, CA 90291, Grantor, and Piyush Bhatnagr, a married person,
whose mailing address is:

11675 Flowers Crossing Dr. NE
Grand Rapids, MI 49525

Grantee.

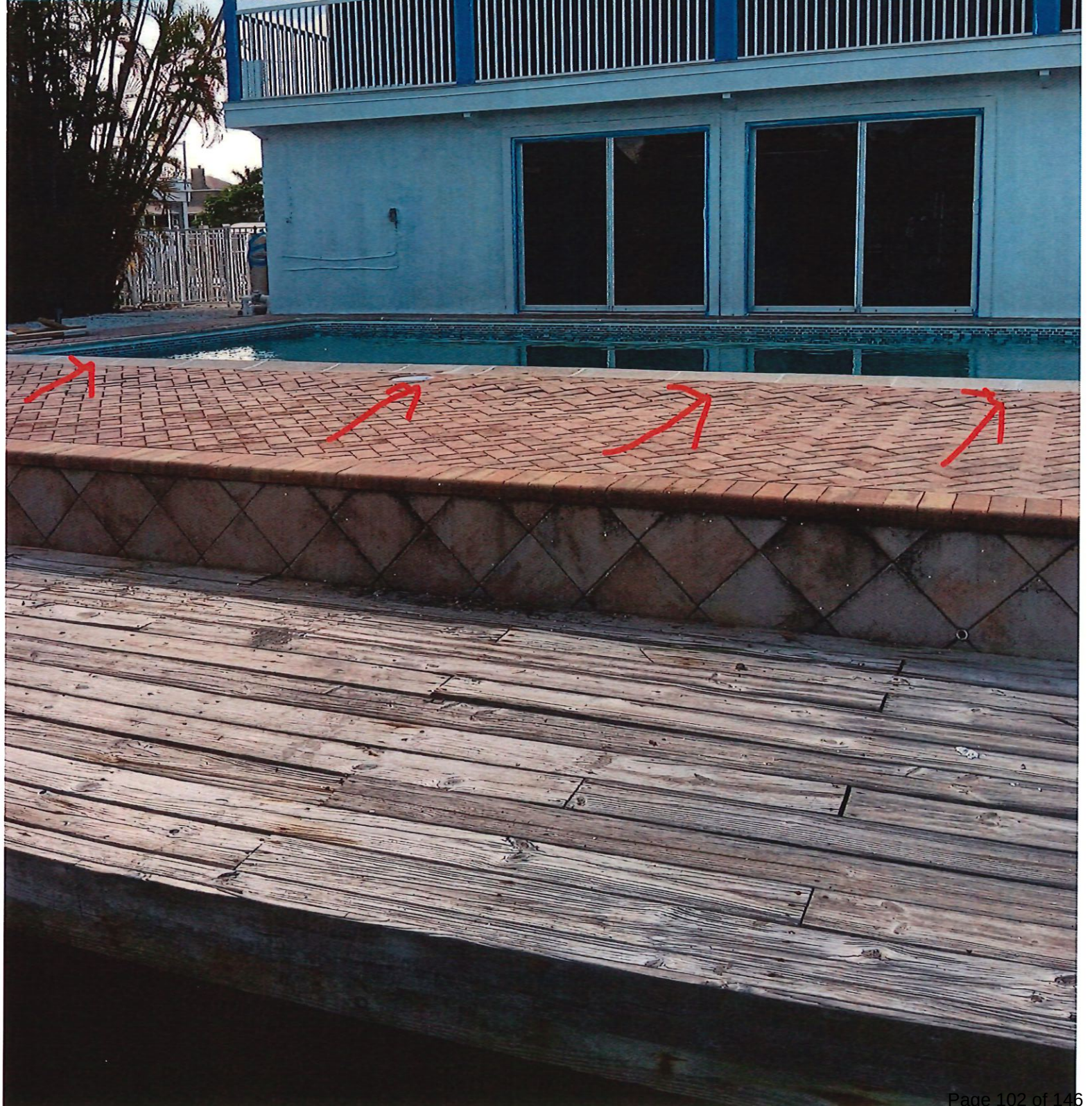
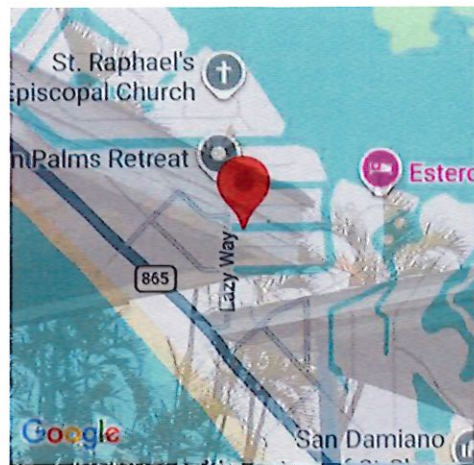
WITNESSETH, That the Grantor, for and in consideration of the sum of TEN
DOLLARS and 00/XX (\$10.00), to it in hand paid by the Grantee, the receipt whereof is
hereby acknowledged, has granted, bargained, and sold to the Grantee, their heirs and assigns
forever, the following described land, situate, and being in the County of Lee, State of Florida,
to-wit:

Lot 2, Block B, El Sol Subdivision, Unit No. 2, according to the map or plat
thereof as recorded in O.R. Book 85, Page 601, Public Records of Lee
County, Florida.

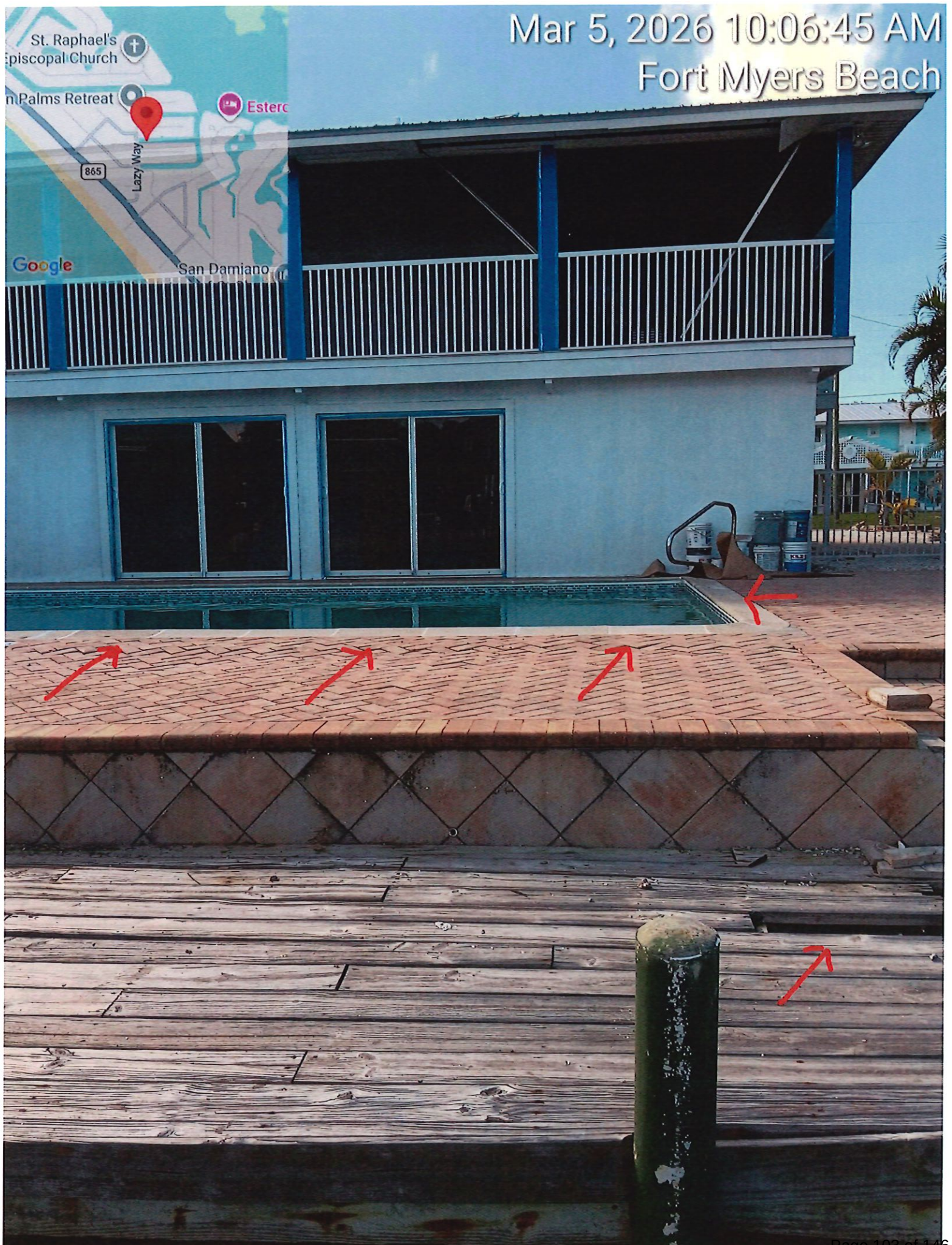
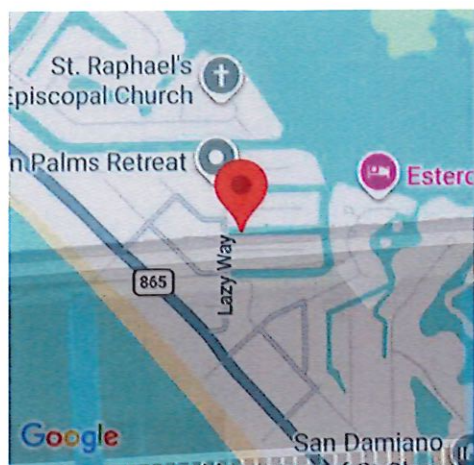
And the Grantor does hereby fully warrant the title to said land, and will defend the
same against the lawful claims of all persons whomsoever.

The property is not the homestead of the Grantor; it does not adjoin the homestead of the
Grantor; no member of the Grantor's family resides therein.

Mar 5, 2026 10:06:43 AM
Fort Myers Beach



Mar 5, 2026 10:06:45 AM
Fort Myers Beach

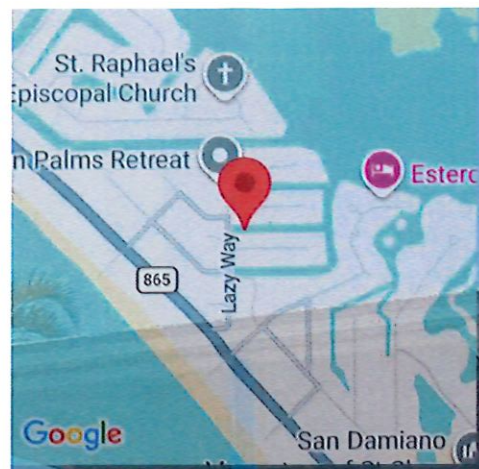




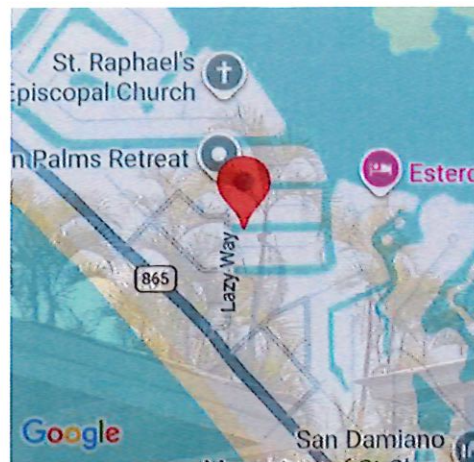
Mar 5, 2026 10:06:26 AM
Fort Myers Beach



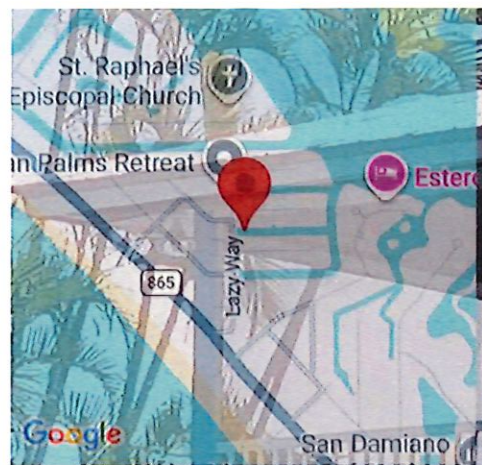
Mar 5, 2026 10:07:00 AM
Fort Myers Beach



Mar 5, 2026 10:06:58 AM
Fort Myers Beach



Mar 5, 2026 10:05:50 AM
Fort Myers Beach



Mar 5, 2026 10:07:06 AM

Fort Myers Beach



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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation,

Petitioner,

vs.

FMB CASE NO. 20260177

BHATNAGR PIYUSH

Respondent.

_____ /

ORDER OF CONTINUANCE

IT IS HEREBY ORDERED that FMB CASE NO. 20260177, which was properly noticed for a code enforcement hearing on April 7, 2026, hearing before the undersigned, is continued and will be heard on Tuesday, May 5, 2026, at 9:00 a.m. at the Town of Fort Myers Beach Town Hall Chambers located at 6231 Estero Boulevard, Fort Myers Beach, Lee County, Florida.

ORDERED this 7th day of April, 2026.

John G. Van Laningham,
Special Magistrate

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of this Order was sent by U.S. Mail on the ____ day of _____, 2026, to:

BHATNAGR PIYUSH
1675 Flowers Crossing Dr NE
Grand Rapids, MI 49525

BHATNAGR PIYUSH
3 Pepita Street
Fort Myers Beach, FL 33931

Nancy Stuparich: nstuparich@voselaw.com
Michael Hauserman: Michael.Hauserman@fmbgov.com
Amy Baker: amy@fmbgov.com
Thomas Yozzo: tyozzo@fmbgov.com

I certify this document to be a true and correct copy of the original on file in Town Hall, Fort Myers Beach, State of Florida, County of Lee.

BY: _____
Town Clerk and Clerk to the Special Magistrate

DATED: _____

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS, LIENS OR FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mail to:

Town of Fort Myers Beach
Attention: Code Enforcement
6231 Estero Boulevard
Fort Myers Beach, FL 33931

EXHIBIT A

151 Miramar St Case #20251060

- Special Magistrate Order from 1/6/2026 Dated 1/27/2026

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS THOMAS &
CAROL JEAN THOMAS,

Respondents.

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

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the "Special Magistrate") at duly noticed public hearings conducted on December 4, 2025, and January 6, 2026, for adjudication of the violations alleged in the Notice of Violation and Notice of Code Enforcement Hearing dated October 20, 2025 (the "NOV"). Based upon the sworn testimony received, the documentary evidence admitted, the arguments of the parties, and the entire record, and being otherwise fully advised in the premises, the Special Magistrate enters the following Findings of Fact, Conclusions of Law, and Order.

A. FINDINGS OF FACT

1. Respondents, Danny Lewis Thomas and Carol Jean Thomas (collectively, "Respondents"), are the owners of the real property located at 151 Miramar Street, Fort Myers Beach, Florida 33931 (Parcel/STRAP No. 19-46-24W-40080B.0070) (the "Subject Property").

2. This enforcement proceeding has been initiated by the Town of Fort Myers Beach (the "Town") pursuant to chapter 162, Florida Statutes, and the Town's Code of Ordinances and Land Development Code. Jurisdiction has been invoked, and notice has been provided, in accordance with applicable law.

3. On or about October 15, 2025, Town staff inspected the Subject Property and observed conditions consisting of the keeping and/or maintaining of a noncompliant portion of the structure, including but not limited to a sink and related plumbing within the ground-floor enclosure, and interior and/or exterior construction without the required building permits, which the Town alleged to be inconsistent with applicable floodplain and building-code requirements in special flood hazard areas referenced in Town Code section 6-494.

4. On October 20, 2025, the Town issued the NOV alleging that the foregoing conditions constituted violations of Town Code section 6-111 (incorporating by reference Florida Building Code section 105.1, permits required) and Land Development Code section 6-441 (floodplain development permits). The NOV also referenced special flood hazard areas as defined in Town Code section 6-494. The NOV directed Respondents to bring the Subject Property into compliance by obtaining required permits for unpermitted construction or by restoring the structure to its original permitted condition, and it set a compliance date of November 17, 2025.

5. The record shows that the NOV and notice of hearing were served and posted in the manner required by law, and that Respondents were afforded notice of the allegations and an opportunity to be heard at both hearings. Respondents appeared at both hearings and presented testimony, argument, and documentary materials.

6. A code enforcement hearing was convened on December 4, 2025, and was continued to January 6, 2026, for receipt of additional evidence and argument, including on Respondents' contention that the ground-floor enclosure and related plumbing were lawfully established and therefore protected as a lawful nonconforming condition.

7. At the hearings, the Town presented the testimony of its Floodplain Manager, Kelli DeFedericis, together with documentary evidence, including the NOV and supporting materials. Respondents presented testimony and documentary evidence, including affidavits, appraisal excerpts, historical materials, and permit-related documents, and called witnesses in support of their position, including Helen and James Crumbie and Patty Smyth (via Zoom).

8. Based upon the greater weight of the competent substantial evidence, including the testimony of the Town's Floodplain Manager, it is found that the Subject Property contains

a ground-floor enclosure located within a special flood hazard area subject to the Town's floodplain regulations, and that the enclosure contains plumbing fixtures and related improvements, including a sink. It is further found that the presence and/or maintenance of such plumbing and related improvements within the ground-floor enclosure is not authorized absent compliance with applicable floodplain and building-code requirements and the issuance of required permits and approvals. The dispute presented was not whether the ground-floor enclosure and plumbing are within a special flood hazard area and therefore subject to floodplain regulation, but whether the cited condition was lawfully authorized and therefore entitled to be maintained as a lawful nonconforming condition, i.e., "grandfathered."

9. At the continued hearing, Ms. DeFedericis testified that FEMA had identified the Subject Property as among a group of structures for which FEMA requested compliance-verification records; that FEMA requested proof regarding whether the ground-floor enclosure could be converted to habitable space in compliance with applicable floodplain requirements; and that, absent documentation demonstrating lawful authorization and compliance, the Town remained unable to provide FEMA the requested proof. No written FEMA correspondence was offered into evidence; however, this testimony was found credible and was not rebutted.

10. The credible evidence establishes that, as of the dates of the hearings, Respondents had not obtained permits authorizing the sink and related plumbing and had not obtained permits authorizing any associated interior and/or exterior work encompassed by the NOV. Respondents did not present an elevation certificate, engineering reports, or other documentary evidence establishing that the ground-floor plumbing and related improvements satisfy current floodplain design and elevation criteria. Instead, Respondents' evidentiary presentation was directed to establishing that the ground-floor improvements have existed for decades and should be "grandfathered."

11. It was acknowledged at hearing that the ground-floor plumbing has been present for many years. The Town's theory of enforcement is that post-Hurricane Ian repair and associated permitting activity triggered the requirement that the ground-floor features be lawfully verified and, if maintained, brought into compliance with applicable floodplain and building-code permitting requirements.

12. Respondents asserted, in defense, that the ground-floor enclosure and related plumbing and bathroom facilities should be allowed to remain as a lawful nonconforming condition. This defense requires Respondents to show, by competent evidence, that the condition was lawful when created or was later legalized through valid approvals and permits, because unlawful or unpermitted conditions are not entitled to nonconforming protection.

13. Ms. DeFedericis, the Town's Floodplain Manager, testified that the Town relies on Town records, Lee County records, and Lee County Property Appraiser data to verify authorized ground-floor use and fixtures in elevated structures within special flood hazard areas, and that a review of these sources did not disclose records establishing lawful authorization for the ground-floor plumbing and related improvements at the Subject Property.

14. Ms. DeFedericis testified that a permit was issued in 2023 (Permit No. 232518) for repair of doors and windows with a revision in 2024 for repairs to the ground level that was not approved. She specifically testified that the revision to include the ground level construction was not approved. In her opinion, the lack of an approved revision means that any work that was performed on the ground level was performed without proper permitting. Ms. DeFedericis testimony is credited to the extent that it corroborates the permit record, which reflects that Permit No. 232518, as revised, addressed work relating to windows, front door, soffit, fascia, gutters, and vinyl siding, not ground-floor plumbing fixtures and associated interior improvements.

15. In support of their contention that the ground-floor enclosure and associated plumbing fixtures are "grandfathered" because the Town previously "acknowledged" or "approved" a lower-level bathroom and plumbing through prior permitting activity, Respondents rely in part upon: (a) historical property appraiser materials referencing a "finished lower level" and/or containing narrative statements characterizing a lower-level efficiency and bath as "grandfathered"; (b) permit-file materials from approximately 2007-2008 that, according to Respondents, depict a lower-level bathroom and plumbing layout; (c) Respondents' recollection of an alleged zoning-related statement or "acknowledgment" by Town personnel; and (d) Permit No. 232518 and a related completion certificate, which Respondents contend constitutes an approval of lower-level work.

16. The evidence credited by the Special Magistrate establishes that the existence of historical descriptions of a “finished lower level,” and/or the inclusion of “grandfathered” language within private appraisal narratives, affidavits, listings, or other secondary descriptions, does not constitute a governmental determination that the ground-floor plumbing fixtures and associated interior improvements were lawfully established or are presently authorized under the Florida Building Code or the Town’s floodplain development regulations, nor does such constitute an issued permit or approval authorizing the conditions alleged in the NOV to exist at the Subject Property.

17. With respect to the 2007-2008 permit-file materials, the credible evidence does not establish that any drawings, notations, or depictions within the file operated as an issuance of a permit approving, legalizing, or otherwise authorizing the ground-floor plumbing fixtures and interior improvements at issue, as distinct from proposed work, background descriptions, or permit activity limited to the scope of work actually reviewed, approved, and inspected. The record further supports the finding that plan review and inspections are confined to the scope of work included within the issued permit, and that the presence of depictions or references within a file is not, standing alone, proof of lawful authorization for the nonconforming structure or use.

18. As for Respondents’ references to zoning-related “acknowledgments” or statements attributed to Town personnel, the record does not contain competent evidence of an issued development order, variance, written nonconformity determination, written interpretation, or other formal action that constitutes an approval of the ground-floor plumbing fixtures and interior improvements in the special flood hazard area, and no such informal statement, even if made, would constitute the building or floodplain authorization required by the cited code provisions.

19. Respondents contend that Permit No. 232518 and the related completion certificate demonstrate approval of lower-level work. The record, however, supports the finding that the permit documentation, even when considered in the light most favorable to Respondents, is limited by its stated scope and does not constitute a permit or approval specifically authorizing the ground-floor plumbing fixtures and interior improvements that are the subject of the NOV in this enforcement case.

20. Accordingly, it is found that Respondents did not carry their burden to prove that the ground-floor enclosure and related plumbing constitute a lawful nonconforming condition. The condition is therefore found to be unpermitted and unlawful. Because lawful authorization has not been established, determinations concerning substantial improvement and/or substantial damage thresholds are not necessary to the disposition of the charged violations in this enforcement case.

21. Respondents have requested that enforcement be stayed for ninety (90) days. This request is not supported by competent evidence demonstrating a legal basis for a stay, and the compliance framework set forth herein, including a defined compliance deadline and a scheduled status review, provides an orderly mechanism to monitor compliance without impairing the enforceability of this Order.

B. CONCLUSIONS OF LAW

22. Code enforcement proceedings are quasi-judicial in nature. Basic due process is satisfied where the parties are provided notice and an opportunity to be heard, and the decision is supported by competent substantial evidence. *See, e.g., Verdi v. Metro. Dade Cnty.*, 684 So. 2d 870 (Fla. 3d DCA 1996); *Lee Cnty. v. 4 Sunbelt Equities, II, Ltd. P'ship*, 619 So. 2d 996 (Fla. 2d DCA 1993); *Dep't of High. Saf. & Motor Veh. v. Hofer*, 5 So. 3d 766 (Fla. 2d DCA 2009).

23. The Town bore the burden to prove, by competent substantial evidence, the violations alleged in the NOV. For the reasons set forth in the Findings of Fact, the Town met its burden. Even assuming, arguendo, that the Town also bore the burden to prove the absence of lawful authorization for the cited condition, that burden was met through the Floodplain Manager's testimony regarding the records review conducted and the absence of any issued permit or approval authorizing the disputed ground-floor plumbing and related improvements.

24. Town Code section 6-111 adopts the Florida Building Code section 105.1, which provides, in material part, as follows:

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to install, enlarge, alter, repair, remove, convert, or replace any

plumbing system regulated by the Code, shall first make application to the building official and obtain the required permit.

25. The NOV also cited Land Development Code section 6-44 I, which requires that an owner or owner's authorized agent who intends to undertake development activity within the scope of the Town's floodplain regulations, wholly within or partially within any flood hazard area, must first make application to the floodplain administrator (and the building official, if applicable) and obtain required permits and approvals.

26. Respondents argued that the existence of the ground-floor enclosure and plumbing should be treated as a lawful nonconforming condition. The Town, in its proposed order, asserted that the Special Magistrate should make no ruling on "grandfathered" status and that such a determination is outside the Special Magistrate's authority in a chapter 162 proceeding. That position is rejected to the extent it is construed as precluding the Special Magistrate from resolving, for purposes of this enforcement case, whether Respondents have established lawful authorization for the cited condition.

27. Chapter 162 authorizes the Special Magistrate to hear and determine alleged code violations, to make findings of fact and conclusions of law, and to enter orders requiring compliance and imposing lawful penalties. Where a respondent asserts, as an affirmative defense to enforcement, that the cited condition was lawful when established and thus is protected as a lawful nonconforming condition, the Special Magistrate is authorized to determine whether competent evidence of lawful establishment has been produced, unless local law vests exclusive jurisdiction over such issue to a different decision-maker, which is not the case here. Such a determination is integral to adjudicating whether a violation exists and what compliance is required. This nonconformity analysis is undertaken solely to resolve Respondents' affirmative defense to the violations charged in the NOV on this record and is not intended to confer, deny, or otherwise adjudicate nonconforming status for all purposes or in any separate administrative, land-use, or permitting proceeding.

28. Generalized references in property appraiser records, private appraisals, listings, or similar secondary descriptions to a "finished lower level," an "efficiency," or a "grandfathered" condition do not, without more than has been shown here, constitute persuasive proof of lawful establishment or continuing lawful authorization under the

Florida Building Code, as adopted by Town Code section 6-111, or Land Development Code section 6-441 (floodplain development permitting requirements). Thus, Respondents have not met their burden of producing persuasive evidence of a lawful nonconforming structure or use.

29. Likewise, the existence of drawings, notations, or depictions within a historical permit file does not, standing alone, establish that the depicted condition was reviewed and approved within the scope of an issued permit authorizing the ground-floor plumbing fixtures and interior improvements at issue; rather, lawful authorization requires proof of an issued permit and approvals that encompass the particular work or condition for which compliance is ordered. The evidence in this record does not establish such authorization for violations charged in the NOV.

30. To the extent Respondents contend that zoning-related “acknowledgments” or informal statements by Town personnel operate as approval or legalization of the ground-floor enclosure and related plumbing fixtures, that contention is rejected. Informal statements or generalized zoning discussions are not a substitute for the building and floodplain permits and approvals required by the cited provisions, and the record does not contain competent evidence of a formal written determination conferring lawful nonconforming status or authorizing the ground-floor plumbing fixtures and interior improvements at issue.

31. Permit No. 232518 appears to have been properly issued and finalized; a related completion certificate reflects a close-out status for the permitted scope. These facts, however, are not dispositive because the permit materials fail to establish lawful authorization for the specific nonconforming structure or use at issue, namely, the ground-floor plumbing fixtures and associated interior improvements within the lower enclosure in the floodplain.

32. Because the Town proved the cited violations and Respondents did not prove lawful authorization for the ground-floor plumbing and related improvements, a finding of violation is required, and an order compelling compliance is appropriate.

33. Respondents’ request for a ninety (90) day stay is denied. A stay is not warranted on this record, and the compliance and status-review structure set forth in this Order constitutes a reasonable, orderly, and enforceable framework for achieving compliance

while preserving the Town's ability to enforce its code requirements absent a written stay entered by the Special Magistrate or a court of competent jurisdiction.

C. ORDER

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

1. Violation Found. Respondents are found to be in violation of Town Code section 6-111 and Land Development Code section 6-441, as alleged in the NOV.
2. Compliance Deadline and Methods. Respondents shall bring the Subject Property into compliance no later than sixty (60) days from the date of this Order (the "Compliance Deadline"), by either: (a) obtaining all required building and floodplain permits for the unpermitted construction and, thereafter, achieving final approval/close-out in full compliance with applicable floodplain and building-code requirements; or (b) restoring the structure to its last lawfully permitted condition, which shall include, at minimum, removal and/or permanent abandonment of all unpermitted plumbing fixtures and related improvements within the ground-floor enclosure, including capping and disconnecting any water supply and sanitary drainage lines serving such fixtures, and otherwise limiting the enclosure to uses permitted by applicable floodplain regulations (including, as applicable, parking, building access, and storage), as verified for compliance purposes by the Town's building official and floodplain administrator.
3. Status Review Hearing; Substantial Compliance. A status review hearing is set for April 7, 2026, to assess the status of compliance. It is recognized that Respondents may seek administrative or permitting determinations relevant to obtaining after-the-fact permits; accordingly, evidence of substantial compliance or substantial efforts toward compliance may be considered at the status review hearing in determining whether to extend deadlines, to impose or defer penalties, or to enter such further orders as may be appropriate.
4. Daily Fine. If compliance is not achieved by the Compliance Deadline, a fine of \$250.00 per day shall be imposed for each day the violation continues thereafter, subject to any written order entered by the Special Magistrate deferring, modifying, or otherwise addressing the accrual of fines based upon the evidence presented at the status review hearing.

5. Administrative Costs. Pursuant to section 162.07(2), Florida Statutes, Respondents shall pay \$250.00 as an administrative cost assessment associated with this enforcement action.
6. Abatement Authorization. If Respondents fail to achieve compliance by the Compliance Deadline and do not demonstrate substantial progress at the status review hearing, then, as an alternative means of attaining compliance, the Town is authorized to initiate abatement of the violation, including removal of noncompliant portions of the structure, to the extent permitted by law. All abatement costs shall be assessed as a lien against the Subject Property, enforceable under applicable Florida law.
7. No Stay by Administrative Request. This Order is entered without prejudice to Respondents' pursuit of any administrative or permitting relief otherwise available by law; however, absent a written stay entered by the Special Magistrate or a court of competent jurisdiction, the filing or pendency of any such request shall not operate as a stay of this Order.

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.

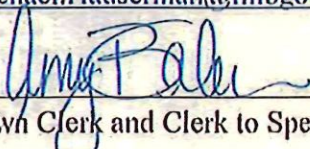
DONE AND ORDERED this 27th day of January, 2026, at the Division of Administrative Hearings, Tallahassee, Florida.


John G. Van Laningham,
FMB Special Magistrate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished by U.S. mail on the 27 day of January, 2026, to:
Danny Lewis & Carol Jean Thomas
151 Miramar St, Fort Myers Beach, Florida 33931
dcthomasaugust1978@gmail.com

FMB Code Enforcement Officer Michael Hauserman,
6231 Estero Boulevard,
Fort Myers Beach, Florida 33931
Michael.Hauserman@fmbgov.com



Town Clerk and Clerk to Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS, LIENS, OR FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mail to:

Town of Fort Myers Beach
Attention: Code Enforcement
6231 Estero Boulevard
Fort Myers Beach, FL 33931

EXHIBIT B

151 Miramar St Case #20251060

- Affidavit of non-compliance
- Photographs of exterior of 151 Miramar St 3/30/26
- Affidavit of permit status



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING
6231 Estero Blvd, Fort Myers Beach, FL 33931
Phone : (239) 765-0202

TOWN OF FORT MYERS BEACH,

Petitioner,

vs.

THOMAS DANNY LEWIS & CAROL JEAN
22067 565th Ave
Austin, MN 55912

Respondent.

Certified Mail: N/A
Regular Mail: N/A
Case # 20251060

Site Address: **151 Miramar St**, Fort Myers Beach, FL, 33931
Parcel Strap No. 19-46-24-W4-0080B.0070

AFFIDAVIT OF NON-COMPLIANCE

STATE OF FLORIDA)

COUNTY OF LEE)

BEFORE ME, the undersigned authority personally appeared **Michael J Hauserman** who is the Code Enforcement Manager for the Town of Fort Myers Beach, who was sworn and under oath, deposes and says the following regarding Code Enforcement Case **#20251060**.

1. That on **January 27, 2026**, A Code Enforcement Violation Finding of Fact, Conclusion of Law, and Order was issued in the above styled manner.
2. That, pursuant to said notice, the Respondent was to have taken certain corrective action or on or before **March 27, 2026**.
3. That an inspection was performed of the records and property on **March 30, 2026**. That the inspection revealed that the corrective action specified in the notice has not been taken as of this date.
4. I have attached photographs of the subject property, which I personally took, and which fairly represent the condition of the property at the time of my inspection. These photographs have not been altered in any way.



Town of Fort Myers Beach
NOTICE OF VIOLATION AND NOTICE OF CODE
ENFORCEMENT HEARING

6231 Estero Blvd, Fort Myers Beach, FL 33931

Phone : (239) 765-0202

5. I have attached permit affidavits related to the subject property, which fairly represent the permit status of the property at the time of the affidavit(s).
6. The Town of Fort Myers Beach hereby has requested a hearing before the Special Magistrate and that an order be issued affording the appropriate relief, including an order to access any and all fines, and administrative fees imposed by the Special Magistrate

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.

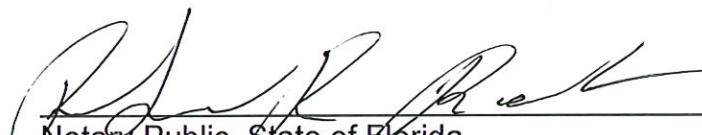
x 
Signature of Affiant

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 1 day of April, 2026, by **Michael J Hauserman**. He [☒] is personally known to me or [] has produced _____ as identification.

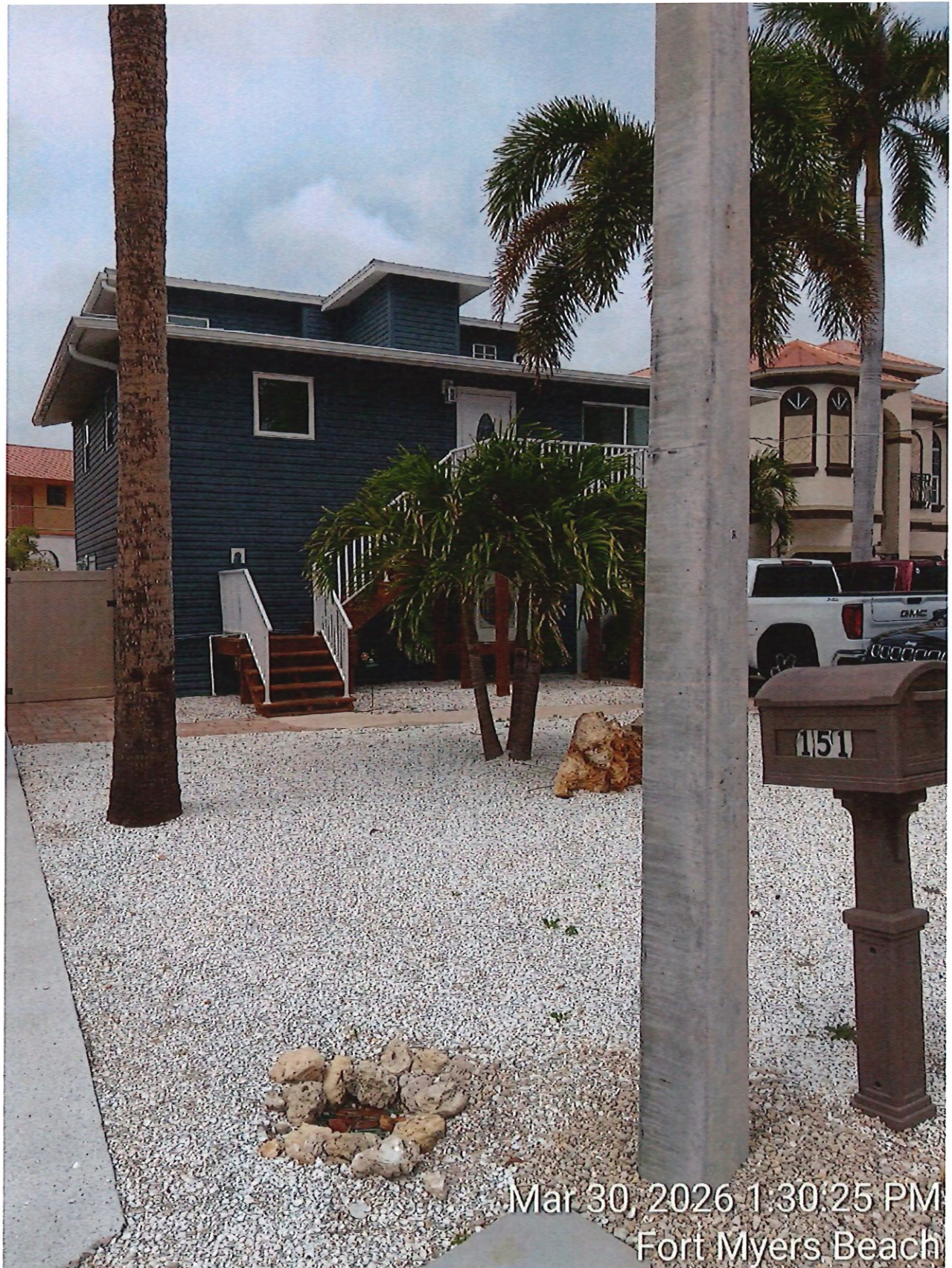


[Notary Seal]


Notary Public, State of Florida
Print Name: Raleigh R Baker
My Commission Expires: 2/5/2029



Mar 30, 2026 1:29:45 PM
Fort Myers Beach



Mar 30, 2026 1:30:25 PM
Fort Myers Beach



Mar 30, 2026 1:30:34 PM
Fort Myers Beach



Mar 30, 2026 1:30:45 PM
Fort Myers Beach



Mar 30, 2026 1:31:48 PM
Fort Myers Beach



Town of Fort Myers Beach

6231 Estero Blvd, Florida 33931
Phone: 239-765-0202 Fax: 239-765-0909

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

Petitioner,

CASE NO.: 20251060

vs.

**THOMAS DANNY & CAROL JEAN
Respondent.**

AFFIDAVIT OF PERMIT SEARCH

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared Georgina Cid, who being duly sworn by me, on oath, deposes and says the following:

1. My name is Georgina Cid. 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.

2. I am employed by the Town of Fort Myers Beach ("Town") Building Department as Assistant Community Development Director. In that capacity, I have access to and am familiar with the Town's records relating to building, mechanical, electrical, plumbing, roofing, and other permitting and inspection activities within the Town.

3. The Town of Fort Myers Beach Building Department maintains permit records (including applications, approvals/denials, inspections, and related documents) in the regular course of the Town's regularly conducted activity as a local government in the State of Florida.

4. On March 30, 2026, I personally conducted a search of the Building Department's permit records for:

[Last Rev. 10/23/25 CB]

a. Property address: **151 Miramar St, Fort Myers Beach, FL 33931**

b. Relevant date range: January 1, 2026 through present

5. Based on that search, I did not locate any permits covering the unpermitted construction on the ground floor including but not limited to the enclosure of the first floor, electrical installation, and plumbing installation in the Building Department's records for the work described at the above-described property for the date range searched.

6. Attached hereto as **Exhibit "A"** is a screenshot of the Town Building Department's records system reflecting the results of the search described above. **Exhibit "A"** is a true and correct depiction of those records as they appeared on **March 30, 2026**.

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.

SWORN AND ATTESTED BY:

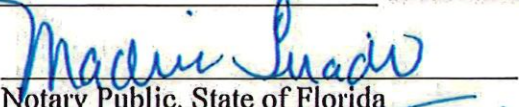


Signature of Affiant

Printed Name: Georgina Gid

Title: Asst. Comm. Dev. Director

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of
☐ physical presence / ☐ online notarization, this 30th day of March, 2026, by
Georgina Gid, who ☒ is personally known to me ☐ or has produced
as identification.

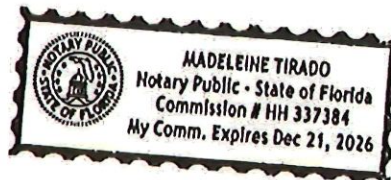


Notary Public, State of Florida

Printed Name: Madeleine Tirado

My Commission No.: HH 337384

My Commission Expires: 12/21/2024



[PERMIT GRAPHS](#)

[ADVANCED SEARCH RESULTS](#)

[Select View](#)

Selected	Permit Number	Permit Date	Permit Type	Property Address	Permit Type	Type of Construction	Type of Occupancy / Use	Scope of Work	Issued Date	Expiration Date	Final Date	Closed Date	Last Inspection Date	Status	Edit/View
☐	260087	01/20/2026		151 MIRAMAR ST	Residential	N/A	Residential	REV* Add Lower Level - repair like for like - Upper level - Replace windows sds, front door, vinyl siding, soffit, fascia & gutters	03/25/2023		02/08/2024			VOID	
☐	240718	03/12/2024		151 MIRAMAR ST	Residential	N/A	Residential	Repair/restore living space, exterior and interior walls, windows, door lower level.						VOID	
☐	236128	10/24/2023		151 MIRAMAR ST	Residential	N/A	Residential	replace panel and breakers	10/27/2023		11/08/2023			FINALED	
☐	232518	03/17/2023		151 MIRAMAR ST	Residential	N/A	Residential	REV* Add Lower Level - repair like for like - Upper level - Replace windows sds, front door, vinyl siding, soffit, fascia & gutters	03/25/2023		02/08/2024		02/07/2024	ISSUED	
☐	223775	11/18/2022		151 MIRAMAR ST	Temporary Use		Residential	42 Sundance 3600QB	11/18/2022			02/02/2024		CLOSED	
☐	222594	10/26/2022		151 MIRAMAR ST	ZOTC Electrical			New Electrical Panel, Breakers		04/24/2023				VOID	
☐	222251	10/22/2022		151 MIRAMAR ST	Structural / Electrical Insp. Letter		Residential	Hurricane Ian			10/25/2022			FINALED	
☐	222181	10/21/2022		151 MIRAMAR ST	ZOTC Electrical		Residential	New Electrical Panel, Breakers		04/19/2023				VOID	
☐	221025	06/21/2022		151 MIRAMAR ST	ZFence / Wall		Residential	NEW-6 VINYL FENCE W/GATES-Pool Barrier	07/26/2022		01/30/2024		01/30/2024	FINALED	
☐	211580	09/16/2021		151 MIRAMAR ST	ZPool		Residential	pool	12/22/2021		04/21/2023		04/20/2023	FINALED	
☐	211578	09/16/2021		151 MIRAMAR ST	Vegetation	N/A	Residential	See attached drawing with list of trees to be removed, installing a pool.	10/01/2021		02/23/2022		02/25/2022	FINALED	
☐	201083	08/21/2020		151 MIRAMAR ST	Residential	N/A	Residential	Rebuild front entry stairs and deck	09/11/2020		12/10/2020		12/10/2020	FINALED	

1 Records 1 to 12 (of 12)

1



Town of Fort Myers Beach

6231 Estero Blvd, Florida 33931

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

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

Petitioner,

CASE NO.: 20251060

vs.

**THOMAS DANNY & CAROL JEAN
Respondent.**

_____ /

AFFIDAVIT OF RECORDS SEARCH

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, personally appeared **Kelli DeFedericis** who being duly sworn by me, on oath, deposes and says the following:

1. My name is **Kelli DeFedericis**. 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.

2. I am employed by the Town of Fort Myers Beach ("Town") Building Department as **Floodplain Manager**. In that capacity, I have access to and am familiar with the Town's records relating to building, mechanical, electrical, plumbing, roofing, and other permitting and inspection activities within the Town.

3. The Town of Fort Myers Beach Building Department and Floodplain Manager maintains records (including applications, approvals/denials, inspections, and related documents) in the regular course of the Town's regularly conducted activity as a local government in the State of Florida.

4. On March 30, 2026, I personally conducted a search of my communications and records for the following:

- a. Property address: **151 Miramar St, Fort Myers Beach, FL 33931**
- b. Relevant date range: January 1, 2026, through present

5. Based on that search, I did not locate any records or communications that would comply with the Special Magistrate's Order signed on January 27, 2026. Order is attached as **Affidavit 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 of Fort Myers Beach Land Development Code and Section 162.12, Florida Statutes.

SWORN AND ATTESTED BY:



Signature of Affiant
Printed Name: Kelli Defedericis
Title: Floodplain

The foregoing instrument was sworn to, subscribed and acknowledged before me by means of ☒ physical presence / ☐ online notarization, this 30th day of March, 2026, by _____, who ☒ is personally known to me ☐ or has produced _____ as identification.



Notary Public, State of Florida
Printed Name: Madeleine Tirado
My Commission No.: HH 337384
My Commission Expires: 2/21/2026



Affidavit Exhibit A

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

TOWN OF FORT MYERS BEACH,
a Florida municipal corporation

Petitioner,

vs.

FMB CASE NO. 20251060

DANNY LEWIS THOMAS &
CAROL JEAN THOMAS,

Respondents.

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

THIS CAUSE came before the undersigned Code Compliance Special Magistrate for the Town of Fort Myers Beach (the "Special Magistrate") at duly noticed public hearings conducted on December 4, 2025, and January 6, 2026, for adjudication of the violations alleged in the Notice of Violation and Notice of Code Enforcement Hearing dated October 20, 2025 (the "NOV"). Based upon the sworn testimony received, the documentary evidence admitted, the arguments of the parties, and the entire record, and being otherwise fully advised in the premises, the Special Magistrate enters the following Findings of Fact, Conclusions of Law, and Order.

A. FINDINGS OF FACT

1. Respondents, Danny Lewis Thomas and Carol Jean Thomas (collectively, "Respondents"), are the owners of the real property located at 151 Miramar Street, Fort Myers Beach, Florida 33931 (Parcel/STRAP No. 19-46-24W-40080B.0070) (the "Subject Property").

2. This enforcement proceeding has been initiated by the Town of Fort Myers Beach (the "Town") pursuant to chapter 162, Florida Statutes, and the Town's Code of Ordinances and Land Development Code. Jurisdiction has been invoked, and notice has been provided, in accordance with applicable law.

3. On or about October 15, 2025, Town staff inspected the Subject Property and observed conditions consisting of the keeping and/or maintaining of a noncompliant portion of the structure, including but not limited to a sink and related plumbing within the ground-floor enclosure, and interior and/or exterior construction without the required building permits, which the Town alleged to be inconsistent with applicable floodplain and building-code requirements in special flood hazard areas referenced in Town Code section 6-494.

4. On October 20, 2025, the Town issued the NOV alleging that the foregoing conditions constituted violations of Town Code section 6-111 (incorporating by reference Florida Building Code section 105.1, permits required) and Land Development Code section 6-441 (floodplain development permits). The NOV also referenced special flood hazard areas as defined in Town Code section 6-494. The NOV directed Respondents to bring the Subject Property into compliance by obtaining required permits for unpermitted construction or by restoring the structure to its original permitted condition, and it set a compliance date of November 17, 2025.

5. The record shows that the NOV and notice of hearing were served and posted in the manner required by law, and that Respondents were afforded notice of the allegations and an opportunity to be heard at both hearings. Respondents appeared at both hearings and presented testimony, argument, and documentary materials.

6. A code enforcement hearing was convened on December 4, 2025, and was continued to January 6, 2026, for receipt of additional evidence and argument, including on Respondents' contention that the ground-floor enclosure and related plumbing were lawfully established and therefore protected as a lawful nonconforming condition.

7. At the hearings, the Town presented the testimony of its Floodplain Manager, Kelli DeFedericis, together with documentary evidence, including the NOV and supporting materials. Respondents presented testimony and documentary evidence, including affidavits, appraisal excerpts, historical materials, and permit-related documents, and called witnesses in support of their position, including Helen and James Crumie and Patty Smyth (via Zoom).

8. Based upon the greater weight of the competent substantial evidence, including the testimony of the Town's Floodplain Manager, it is found that the Subject Property contains

a ground-floor enclosure located within a special flood hazard area subject to the Town's floodplain regulations, and that the enclosure contains plumbing fixtures and related improvements, including a sink. It is further found that the presence and/or maintenance of such plumbing and related improvements within the ground-floor enclosure is not authorized absent compliance with applicable floodplain and building-code requirements and the issuance of required permits and approvals. The dispute presented was not whether the ground-floor enclosure and plumbing are within a special flood hazard area and therefore subject to floodplain regulation, but whether the cited condition was lawfully authorized and therefore entitled to be maintained as a lawful nonconforming condition, i.e., "grandfathered."

9. At the continued hearing, Ms. DeFedericis testified that FEMA had identified the Subject Property as among a group of structures for which FEMA requested compliance-verification records; that FEMA requested proof regarding whether the ground-floor enclosure could be converted to habitable space in compliance with applicable floodplain requirements; and that, absent documentation demonstrating lawful authorization and compliance, the Town remained unable to provide FEMA the requested proof. No written FEMA correspondence was offered into evidence; however, this testimony was found credible and was not rebutted.

10. The credible evidence establishes that, as of the dates of the hearings, Respondents had not obtained permits authorizing the sink and related plumbing and had not obtained permits authorizing any associated interior and/or exterior work encompassed by the NOV. Respondents did not present an elevation certificate, engineering reports, or other documentary evidence establishing that the ground-floor plumbing and related improvements satisfy current floodplain design and elevation criteria. Instead, Respondents' evidentiary presentation was directed to establishing that the ground-floor improvements have existed for decades and should be "grandfathered."

11. It was acknowledged at hearing that the ground-floor plumbing has been present for many years. The Town's theory of enforcement is that post-Hurricane Ian repair and associated permitting activity triggered the requirement that the ground-floor features be lawfully verified and, if maintained, brought into compliance with applicable floodplain and building-code permitting requirements.

12. Respondents asserted, in defense, that the ground-floor enclosure and related plumbing and bathroom facilities should be allowed to remain as a lawful nonconforming condition. This defense requires Respondents to show, by competent evidence, that the condition was lawful when created or was later legalized through valid approvals and permits, because unlawful or unpermitted conditions are not entitled to nonconforming protection.

13. Ms. DeFedericis, the Town's Floodplain Manager, testified that the Town relies on Town records, Lee County records, and Lee County Property Appraiser data to verify authorized ground-floor use and fixtures in elevated structures within special flood hazard areas, and that a review of these sources did not disclose records establishing lawful authorization for the ground-floor plumbing and related improvements at the Subject Property.

14. Ms. DeFedericis testified that a permit was issued in 2023 (Permit No. 232518) for repair of doors and windows with a revision in 2024 for repairs to the ground level that was not approved. She specifically testified that the revision to include the ground level construction was not approved. In her opinion, the lack of an approved revision means that any work that was performed on the ground level was performed without proper permitting. Ms. DeFedericis testimony is credited to the extent that it corroborates the permit record, which reflects that Permit No. 232518, as revised, addressed work relating to windows, front door, soffit, fascia, gutters, and vinyl siding, not ground-floor plumbing fixtures and associated interior improvements.

15. In support of their contention that the ground-floor enclosure and associated plumbing fixtures are "grandfathered" because the Town previously "acknowledged" or "approved" a lower-level bathroom and plumbing through prior permitting activity, Respondents rely in part upon: (a) historical property appraiser materials referencing a "finished lower level" and/or containing narrative statements characterizing a lower-level efficiency and bath as "grandfathered"; (b) permit-file materials from approximately 2007-2008 that, according to Respondents, depict a lower-level bathroom and plumbing layout; (c) Respondents' recollection of an alleged zoning-related statement or "acknowledgment" by Town personnel; and (d) Permit No. 232518 and a related completion certificate, which Respondents contend constitutes an approval of lower-level work.

16. The evidence credited by the Special Magistrate establishes that the existence of historical descriptions of a “finished lower level,” and/or the inclusion of “grandfathered” language within private appraisal narratives, affidavits, listings, or other secondary descriptions, does not constitute a governmental determination that the ground-floor plumbing fixtures and associated interior improvements were lawfully established or are presently authorized under the Florida Building Code or the Town’s floodplain development regulations, nor does such constitute an issued permit or approval authorizing the conditions alleged in the NOV to exist at the Subject Property.

17. With respect to the 2007-2008 permit-file materials, the credible evidence does not establish that any drawings, notations, or depictions within the file operated as an issuance of a permit approving, legalizing, or otherwise authorizing the ground-floor plumbing fixtures and interior improvements at issue, as distinct from proposed work, background descriptions, or permit activity limited to the scope of work actually reviewed, approved, and inspected. The record further supports the finding that plan review and inspections are confined to the scope of work included within the issued permit, and that the presence of depictions or references within a file is not, standing alone, proof of lawful authorization for the nonconforming structure or use.

18. As for Respondents’ references to zoning-related “acknowledgments” or statements attributed to Town personnel, the record does not contain competent evidence of an issued development order, variance, written nonconformity determination, written interpretation, or other formal action that constitutes an approval of the ground-floor plumbing fixtures and interior improvements in the special flood hazard area, and no such informal statement, even if made, would constitute the building or floodplain authorization required by the cited code provisions.

19. Respondents contend that Permit No. 232518 and the related completion certificate demonstrate approval of lower-level work. The record, however, supports the finding that the permit documentation, even when considered in the light most favorable to Respondents, is limited by its stated scope and does not constitute a permit or approval specifically authorizing the ground-floor plumbing fixtures and interior improvements that are the subject of the NOV in this enforcement case.

20. Accordingly, it is found that Respondents did not carry their burden to prove that the ground-floor enclosure and related plumbing constitute a lawful nonconforming condition. The condition is therefore found to be unpermitted and unlawful. Because lawful authorization has not been established, determinations concerning substantial improvement and/or substantial damage thresholds are not necessary to the disposition of the charged violations in this enforcement case.

21. Respondents have requested that enforcement be stayed for ninety (90) days. This request is not supported by competent evidence demonstrating a legal basis for a stay, and the compliance framework set forth herein, including a defined compliance deadline and a scheduled status review, provides an orderly mechanism to monitor compliance without impairing the enforceability of this Order.

B. CONCLUSIONS OF LAW

22. Code enforcement proceedings are quasi-judicial in nature. Basic due process is satisfied where the parties are provided notice and an opportunity to be heard, and the decision is supported by competent substantial evidence. *See, e.g., Verdi v. Metro. Dade Cnty.*, 684 So. 2d 870 (Fla. 3d DCA 1996); *Lee Cnty. v. 4 Sunbelt Equities, II, Ltd. P'ship*, 619 So. 2d 996 (Fla. 2d DCA 1993); *Dep't of High. Saf. & Motor Veh. v. Hofer*, 5 So. 3d 766 (Fla. 2d DCA 2009).

23. The Town bore the burden to prove, by competent substantial evidence, the violations alleged in the NOV. For the reasons set forth in the Findings of Fact, the Town met its burden. Even assuming, arguendo, that the Town also bore the burden to prove the absence of lawful authorization for the cited condition, that burden was met through the Floodplain Manager's testimony regarding the records review conducted and the absence of any issued permit or approval authorizing the disputed ground-floor plumbing and related improvements.

24. Town Code section 6-111 adopts the Florida Building Code section 105.1, which provides, in material part, as follows:

Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to install, enlarge, alter, repair, remove, convert, or replace any

plumbing system regulated by the Code, shall first make application to the building official and obtain the required permit.

25. The NOV also cited Land Development Code section 6-441, which requires that an owner or owner's authorized agent who intends to undertake development activity within the scope of the Town's floodplain regulations, wholly within or partially within any flood hazard area, must first make application to the floodplain administrator (and the building official, if applicable) and obtain required permits and approvals.

26. Respondents argued that the existence of the ground-floor enclosure and plumbing should be treated as a lawful nonconforming condition. The Town, in its proposed order, asserted that the Special Magistrate should make no ruling on "grandfathered" status and that such a determination is outside the Special Magistrate's authority in a chapter 162 proceeding. That position is rejected to the extent it is construed as precluding the Special Magistrate from resolving, for purposes of this enforcement case, whether Respondents have established lawful authorization for the cited condition.

27. Chapter 162 authorizes the Special Magistrate to hear and determine alleged code violations, to make findings of fact and conclusions of law, and to enter orders requiring compliance and imposing lawful penalties. Where a respondent asserts, as an affirmative defense to enforcement, that the cited condition was lawful when established and thus is protected as a lawful nonconforming condition, the Special Magistrate is authorized to determine whether competent evidence of lawful establishment has been produced, unless local law vests exclusive jurisdiction over such issue to a different decision-maker, which is not the case here. Such a determination is integral to adjudicating whether a violation exists and what compliance is required. This nonconformity analysis is undertaken solely to resolve Respondents' affirmative defense to the violations charged in the NOV on this record and is not intended to confer, deny, or otherwise adjudicate nonconforming status for all purposes or in any separate administrative, land-use, or permitting proceeding.

28. Generalized references in property appraiser records, private appraisals, listings, or similar secondary descriptions to a "finished lower level," an "efficiency," or a "grandfathered" condition do not, without more than has been shown here, constitute persuasive proof of lawful establishment or continuing lawful authorization under the

Florida Building Code, as adopted by Town Code section 6-111, or Land Development Code section 6-441 (floodplain development permitting requirements). Thus, Respondents have not met their burden of producing persuasive evidence of a lawful nonconforming structure or use.

29. Likewise, the existence of drawings, notations, or depictions within a historical permit file does not, standing alone, establish that the depicted condition was reviewed and approved within the scope of an issued permit authorizing the ground-floor plumbing fixtures and interior improvements at issue; rather, lawful authorization requires proof of an issued permit and approvals that encompass the particular work or condition for which compliance is ordered. The evidence in this record does not establish such authorization for violations charged in the NOV.

30. To the extent Respondents contend that zoning-related “acknowledgments” or informal statements by Town personnel operate as approval or legalization of the ground-floor enclosure and related plumbing fixtures, that contention is rejected. Informal statements or generalized zoning discussions are not a substitute for the building and floodplain permits and approvals required by the cited provisions, and the record does not contain competent evidence of a formal written determination conferring lawful nonconforming status or authorizing the ground-floor plumbing fixtures and interior improvements at issue.

31. Permit No. 232518 appears to have been properly issued and finalized; a related completion certificate reflects a close-out status for the permitted scope. These facts, however, are not dispositive because the permit materials fail to establish lawful authorization for the specific nonconforming structure or use at issue, namely, the ground-floor plumbing fixtures and associated interior improvements within the lower enclosure in the floodplain.

32. Because the Town proved the cited violations and Respondents did not prove lawful authorization for the ground-floor plumbing and related improvements, a finding of violation is required, and an order compelling compliance is appropriate.

33. Respondents’ request for a ninety (90) day stay is denied. A stay is not warranted on this record, and the compliance and status-review structure set forth in this Order constitutes a reasonable, orderly, and enforceable framework for achieving compliance

while preserving the Town's ability to enforce its code requirements absent a written stay entered by the Special Magistrate or a court of competent jurisdiction.

C. ORDER

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

1. Violation Found. Respondents are found to be in violation of Town Code section 6-111 and Land Development Code section 6-441, as alleged in the NOV.
2. Compliance Deadline and Methods. Respondents shall bring the Subject Property into compliance no later than sixty (60) days from the date of this Order (the "Compliance Deadline"), by either: (a) obtaining all required building and floodplain permits for the unpermitted construction and, thereafter, achieving final approval/close-out in full compliance with applicable floodplain and building-code requirements; or (b) restoring the structure to its last lawfully permitted condition, which shall include, at minimum, removal and/or permanent abandonment of all unpermitted plumbing fixtures and related improvements within the ground-floor enclosure, including capping and disconnecting any water supply and sanitary drainage lines serving such fixtures, and otherwise limiting the enclosure to uses permitted by applicable floodplain regulations (including, as applicable, parking, building access, and storage), as verified for compliance purposes by the Town's building official and floodplain administrator.
3. Status Review Hearing; Substantial Compliance. A status review hearing is set for April 7, 2026, to assess the status of compliance. It is recognized that Respondents may seek administrative or permitting determinations relevant to obtaining after-the-fact permits; accordingly, evidence of substantial compliance or substantial efforts toward compliance may be considered at the status review hearing in determining whether to extend deadlines, to impose or defer penalties, or to enter such further orders as may be appropriate.
4. Daily Fine. If compliance is not achieved by the Compliance Deadline, a fine of \$250.00 per day shall be imposed for each day the violation continues thereafter, subject to any written order entered by the Special Magistrate deferring, modifying, or otherwise addressing the accrual of fines based upon the evidence presented at the status review hearing.

5. Administrative Costs. Pursuant to section 162.07(2), Florida Statutes, Respondents shall pay \$250.00 as an administrative cost assessment associated with this enforcement action.
6. Abatement Authorization. If Respondents fail to achieve compliance by the Compliance Deadline and do not demonstrate substantial progress at the status review hearing, then, as an alternative means of attaining compliance, the Town is authorized to initiate abatement of the violation, including removal of noncompliant portions of the structure, to the extent permitted by law. All abatement costs shall be assessed as a lien against the Subject Property, enforceable under applicable Florida law.
7. No Stay by Administrative Request. This Order is entered without prejudice to Respondents' pursuit of any administrative or permitting relief otherwise available by law; however, absent a written stay entered by the Special Magistrate or a court of competent jurisdiction, the filing or pendency of any such request shall not operate as a stay of this Order.

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 27th day of January, 2026, at the Division of Administrative Hearings, Tallahassee, Florida.

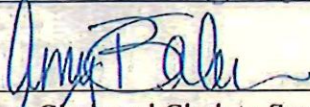

John G. Van Laningham,
FMB Special Magistrate

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished by U.S. mail on the 27 day of January, 2026, to:

Danny Lewis & Carol Jean Thomas
151 Miramar St, Fort Myers Beach, Florida 33931
dcthomasaugust1978@gmail.com

FMB Code Enforcement Officer Michael Hauserman,
6231 Estero Boulevard,
Fort Myers Beach, Florida 33931
Michael.Hauserman@fmbgov.com



Town Clerk and Clerk to Special Magistrate

APPEAL: An aggrieved party may appeal an Order of the Special Magistrate of the Town of Fort Myers Beach to the Lee County Circuit Court. The appeal shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

PAYMENT OF ADMINISTRATIVE COSTS, LIENS, OR FINES: Checks should be made payable to "Town of Fort Myers Beach," include the case number and mail to:

Town of Fort Myers Beach
Attention: Code Enforcement
6231 Estero Boulevard
Fort Myers Beach, FL 33931