



**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Lee R. Feldman, ICMA-CM, City Manager

**DATE:** April 21, 2015

**TITLE:** Quasi-Judicial - Compliance Determination for Resolution 14-44 Providing  
Dock Waiver at 704 NE 20 Avenue

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**Recommendation**

It is recommended that the City Commission render a finding of compliance or non-compliance with Resolution 14-44 associated with the property located at 704 NE 20 Avenue and determine appropriate action.

**Background**

Over the past several months, James Juranitch, property owner of 714 NE 20 Avenue, sent a series of complaints regarding potential code violations and potential violations of the conditions imposed by Resolution 14-44 taking place at the subject property, 720 NE 20 Avenue. Mr. Juranitch attests he observed the following issues: illegal land use, parking violations, excessive noise, habitation of vessel, garbage, and trash. City staff responded to the complaints by conducting a code enforcement investigation. The chronology and results of the investigation are outlined in this memorandum so the City Commission can determine as to whether these complaints violate the terms of Resolution 14-44, which granted a dock waiver for the property located at 720 NE 20 Avenue.

**Marine Advisory Board Approval**

On December 5<sup>th</sup>, 2013, the Marine Advisory Board (MAB) approved a dock waiver for non-homesteaded property located at 704 NE 20 Avenue and owned by Shawn and Jennifer Benyo (see Exhibit A). This approval allowed the replacement of the wood marginal dock with the construction of a concrete marginal dock, floating dock, and two Mediterranean style mooring slips, along with three sets of cluster piles spaced in 50' increments from the property line.

According to the meeting minutes, 11 neighbors provided letters of support, including Mr. and Mrs. Juranitch (see Exhibit B). As discussions ensued about the potential commercial use of the property, the MAB determined that the vessels moored at the

property must be owned by the homeowner or the tenant renting the house. The tenant was also allowed to provide quarters for the vessels' captain and crew.

On February 6, 2014, the MAB was presented with another application for review as recommended by City Commissioners Dean Trantalis and Bruce Roberts to reduce the extension of the pilings from 166.6' to 125' and accommodate two vessels. The MAB also received confirmation that the property owner resides at the property and will operate both vessels. The dock waiver request was approved and permitted the 125' extension of the triple-pile clusters into the waterway (see Exhibit C).

#### City Commission Approval

On March 4, 2014, the City Commission adopted Resolution 14-44 (see Exhibit D) approving a dock waiver consistent with the MAB approval and in accordance with a prescribed lay out (see Exhibit E). Additionally, the Resolution stipulated the following provisions, to which the status of each is provided in italics below:

1. The applicant is required to comply with all applicable building and zoning regulations as well as any other Federal and State laws and permitting requirements including Broward County Environmental Protection and Growth Management Department, the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers.

*The property owner obtained approval from the Florida Department of Environmental Protection and the Broward County Environmental Protection and Growth Management Department (see Exhibit F and Exhibit G).*

2. As a general condition of approval, and in order to review for final consistency with construction of facilities in accord with this application and City building permits, the applicant is required to provide the City's Supervisor of Marine Facilities with copies of "As Built" drawings from a certified and licensed contractor.

*The required "As Built" plan or survey has not been submitted to the City, but is anticipated to be provided upon close out of the permit.*

3. The upland single family residence shall be occupied by either owners of the vessels moored at this location or representatives of the owners' vessels.

*According the Memorandum of Lease provided by the property owner, Dream Charters LLC is lessee (see Exhibit H) and owner of the vessels.*

4. The upland single family residence will be occupied by no more than six adults over the age of 18.

*There is no indication that more than six adults over the age of 18 are residing in the home. A neighbor provided photographs to support his allegation that the tenants are living aboard the vessel (see Exhibit I).*

5. Use of the upland single family residence and occupation thereof shall be in conformance with the City's Unified Land Development Regulations and other applicable municipal, county, state and federal rules, regulations, and ordinances, including, but not limited to City Codes, and the City's Minimum Housing Code, as same may be amended from time to time.

*There are outstanding permit issues associated with the property, including an expired permit related to the triple-cluster piles, elevation of grade associated with the pavers or pool renovation, and potential pervious area compliance issues pertaining to the driveway permit.*

6. In accordance with City Code Sec. 8-149, repair and/or maintenance of vessels moored at this location shall be permitted only when such repair or maintenance is routine or minor in nature and does not involve major exterior alteration, rebuilding, complete refinishing, and/or removal or machinery, or the use of tools and equipment in such repair or maintenance which would be in violation of City Code of Ordinances, Chapter 17, Noise Control. Repair or maintenance, whether major or minor, shall be permitted in residential areas if such necessary work is conducted wholly within the confines of a permanent enclosed structure, and so long as the work complies with all other applicable City ordinances.

*City staff, including marine patrol, was unable to observe any major work being performed on the vessels and unable to validate any noise claim. A neighbor provided pictures and video of individuals wearing Tyvek suits and respirators as well as fluid movement of these individuals to and from the dock and sitting on the sidewalk. An advertisement of the vessel was also provided and indicated the vessel is being refurbished and for sale (see Exhibits I and J).*

7. No more than six vehicles may be parked on the property. Parking on or within landscaped pervious areas is prohibited.

*City staff has been unable to observe more than six vehicles at the property. However, the neighbor provided photographs of vehicles and commercial trucks parked on the street, obstructing the sidewalk, and blocking ingress/egress (see Exhibit I).*

8. Vehicles owned by tenants of the residence or guests thereof may not be parked in the public right-of-way.

*City staff was unable to verify ownership of any vehicles parked at the site and observed one instance when a vehicle was parked on the driveway approach. The neighbor provided photographs of vehicles associated with the property (see Exhibit I).*

9. Violation of any of the foregoing conditions is unlawful and constitutes a violation of the City's Unified Land Development Regulations, specifically, Sec. 47-34.1.D.

*The submittal of the "As Built" plan and the reinstatement of an expired permit are outstanding requirements.*

10. A copy of the Resolution shall be attached to each and every lease agreement for the leasing of the subject property.

*According to the Memorandum of Lease provided by the property owner, condition number four (4) stipulates the premises is subject to the provisions specified in the Resolution 14-44 and refers to the Resolution as Exhibit "A".*

#### Prior History of Neighbor Complaints and Investigation

The earliest record of any issues concerning construction work without permits and compliance with the Resolution occurred on September 9, 2014, when a building inspector was alerted by another building inspector regarding a potential violation for a pool renovation and electrical panel installation. The building inspector opened code enforcement case number CE14090561, and worked with the property owner to obtain the proper permits for the work and closed the case on November 4, 2014.

Subsequently, city staff received neighbor complaints asserting the property owners are in violation of Resolution 14-44. More specifically, they claimed the property is being used as a commercial marina, the crew of approximately 10 people park vehicles in the public rights-of-way, public nuisance of the constant foot traffic created by the work crews moving constantly between the dock and the street, noise, environmental issues, habitation on the vessel, obstruction of sidewalk, garbage, and trash.

Thereafter, two code cases were opened: CE1412170 on December 29, 2014 related to the missing center pilings and interior renovation of the house, including kitchen improvements; and CE14121739 on December 30, 2014 related to the marina rental, live-aboards, trash, parking, and landscaping. The building inspector and code officer were unable to conduct an inspection since no one answered the door at the time of their visit on December 30, 2014. However, the code officer observed there were no trash containers on the city sidewalk, forwarded the tree removal issue to the City's landscape inspector for follow up, and forwarded the alleged sewage leakage into the canal to the environmental section for investigation.

On January 14, 2015, a city team comprising of building inspectors, code officers and environmental inspectors visited the site and the property owner, Shawn Benyo, was present during the inspection. The findings of this inspection are bulleted below:

- **Interior renovation:** No work in progress and the improvements completed required no building permits.
- **Environmental Inspection:** There were no signs of sewer discharge from the boat into the waterway. The two drain pipes are enveloped within the original seawall and concrete dock and the rain gutters around the house are connected to these pipes. A test was performed with a garden hose, pouring water into the roof gutters and the water drained out of these pipes into the waterway. The inspectors were told that these pipes were part of the original construction of the house and were grandfathered into the property and thus there is no violation.

However, the property owner was advised to install a backflow preventer for the water supply lines connected to the pedestals.

- **Panels for dock:** Permit 14020322 (Electrical) was issued, inspected, passed and closed.
- **Dock pedestals:** Permit 14020322 (Electrical) was issued, inspected, passed and closed.
- **Dock and seawall:** Permit 14021909 (Structural) for a dock and seawall repair was issued and the plan revised
- **Fence:** Permit 14091032 was issued, inspected, passed and closed. The job value of the work, estimated at \$200, may need to be examined.
- **Swimming pool, spa, and pool equipment:** After-the-fact permits were issued and assessed a double fee - Permit 14091964 (Master), 14091986 (Electrical), and 14091987 (Plumbing). The electrical permit was inspected, passed and closed. The plumbing and the structural for the pool are still open and require final inspection. The grade in the back yard may have been raised in connection with this job.
- **Pool deck:** After-the-fact permits were obtained for the pool remodel and two the permits are still active as shown above. The French drain system that was installed to accommodate the water run-off from the pool deck and the pool deck appeared to be sloped to divert water towards the drain; therefore preventing any puddle of water to form on the property or on the neighboring properties.
- **Floodplain:** Permit 14100516 was issued as a subsidiary permit to Permit 14091964 (Master) to elevate the pool heater equipment. This permit is active and open at this time. This work may have required raising the grade 8" to 10" in the back yard.
- **Paving:** Permit 14101752 was issued and is active. There have been no inspections scheduled under this permit. This permit may include the French drain system to accommodate the grade that was raised in the back yard. The scope of work needs to be verified.
- **Drainage pipe:** Permit 14101755 (Plumbing) was applied for, failed review, and was not issued. It is being reviewed as an after-the-fact permit if the work was already completed before application submittal and a double permit fee may apply.
- **Temporary power:** Permit 14102453 (Electrical) was issued, inspected, passed and closed.

- **Paving:** Permit 15010148 was issued and still active for the installation of a 1200 square foot driveway. Since the back yard is already covered with pavers, the work detail may need to be examined more closely to ensure green space and pervious area requirements are met.

The status of each permit referenced above is provided in the chart below:

Permit #	Description	Applied	Issued	Final	Status
14020322	INSTALL 2 PEDESTALS	2/5/14	2/13/14	11/18/14	Closed
14021909	DOCK AND SEAWALL REPAIR: 60 FT	2/26/14	3/10/14		Expired
14091032	REPLACE CHAIN LINK FENCE W/WOOD TOTAL 15.9 LF (16)	9/15/14	9/15/14	12/24/14	Closed
14091964	A.T.F. MOVE SPA EQUIPMENT RAISE POOL HEATER & ADD BENCH	9/24/14	10/14/14		Open
14091986	A.T.F. ELECTRICAL FOR SPA EQUIPMENT BP#14091964	9/24/14	10/14/14	12/24/14	Closed
14091987	A.T.F. PLUMBING FOR SPA EQUIPMENT BP14091964	9/24/14	10/14/14		Open
14100516	FLOOD PLAIN BP14091964	10/8/14	10/14/14		Open
14101752	INSTALL PAVERS ON SITE	10/22/14	11/4/14		Open
14101755	DRAINAGE PIPING	10/22/14			
14102453	TEMP POWER FOR TEST	10/31/14	11/4/14	11/5/14	Closed
15010148	INSTALL 1200 SQ FT ONSITE PAVER DRIVEWAY	1/5/15	2/2/15		Open

On January 15, 2015, the City Manager received a letter from Brady J. Cobb, Esq. indicating he is representing James Juranitch as legal counsel to resolve the many of the issues referenced above. The correspondence and supporting documentation to support the Juranitch's complaints are attached as Exhibit K.

The Code Compliance Manager spoke to the property owner and the boat captain, Drew Samtmann, on January 16, 2015. Mr. Benyo provided a copy of the Memorandum of Lease showing Dream Charters LLC as the tenant and stated there are three individuals, which includes the boat captain, occupying the residence. The boat captain mentioned he lived on the vessel for one week in December to make sure no damage occurred while being moored. He also stated there are up to ten people working on the interior of the vessel and the deck, and they leave the premises at 4:00 pm. He expected to complete the work and release the workers by the end of the month. The boat captain was cautioned about the prohibition on living aboard the vessel and conducting major repairs.

Starting January 30, 2015 to date, the Code Compliance Division has been monitoring the vehicular parking. As documented in Exhibit L, there were two instances when a vehicle was parked across the sidewalk or approach. At no time have there been more than six vehicles parked at the location.

On February 24, 2015, Commission Romney Rogers, the City Manager, and City staff along with Mr. and Mrs. Benyo met regarding the complaints, status of the investigation, and course of action related to the triple-cluster pilings. The meeting concluded with the property owners agreeing to contact the neighbor's attorney in an attempt to resolve their dispute and to submit revised drawings for the new configuration of the cluster pilings in order to reinstate the dock permit.

A compliance determination hearing was scheduled on March 17, 2015. The City Commission granted a continuance to preside over the case on April 21, 2015 and further stipulated that all activity in the rear of the property must cease, the barge removed, and the completion of the permitted paving work in the front continue. During the continuance period, no complaints have been received by the Code Compliance and the Building Services Divisions.

### **Resource Impact**

There is no fiscal impact other than the collection of required permit fees. However, the Department of Sustainable Development has dedicated substantial human resources to monitor the property and conduct investigations on a repeated basis to respond to complaints related to the subject property. The result of these actions may result in the issuance of code violations and the assessment of liens on the property.

### **Strategic Connections:**

This item is a *Commission Annual Action Plan* priority, included within the Management Agenda, advancing the Code Compliance Process Improvement effort.

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Neighborhood Enhancement Cylinder of Excellence, specifically advancing:

- Goal 5: Be a community of strong, beautiful, and healthy neighborhoods.
- Objective 2: Enhance the beauty, aesthetics, and environmental quality of neighborhoods.
- Initiative 4: Implement the finding from the Code Compliance Process Improvement.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*.

#### Attachment:

Exhibit A – Marine Advisory Board Meeting Minutes of December 5, 2013

Exhibit B – Letters of Support for Dock Waiver (7)

Exhibit C – Marine Advisory Board Meeting Minutes of February 6, 2014

Exhibit D – Resolution 14-44

Exhibit E – Proposed Conditions

Exhibit F – Florida Department of Environmental Protection Authorization

Exhibit G – Broward County Environmental Protection Mooring Reconfiguration License

Exhibit H – Memorandum of Lease

Exhibit I – Photographs from Neighbor

Exhibit J – Advertisement for Vessel

Exhibit K – Letter from Neighbor's Attorney, Supporting Documents, and Advertisement

Exhibit L – Code Compliance Inspection Photographs

Exhibit M – Request for Deferment by Counsel for Property Owner dated March 11,

2015  
Exhibit N – Broward County Notice of Violation

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