

COBB • EDDY | PLLC

A LAW FIRM

BRADY J. COBB
(954) 527 4111
bcobb@cobbgeddy.com

January 27, 2015

Via Email

Lee Feldman
City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

RE: 704 N.E. 20th Avenue, Fort Lauderdale, 33304 (“Property”)
Violation of Resolution No. 14-44

Dear Lee:

It was a pleasure to speak with you last week in regards to the above referenced matter. As I relayed to you, I have been retained to represent James Juranitch in regards to the above referenced Property. As you know, Mr. Juranitch (and his wife Priscilla) own and occupy a home (since 2006) located at 714 N.E. 20th Avenue, Fort Lauderdale, Florida 33304 which is directly next door the Property at issue.

The Property is owned by Shawn and Jennifer Benyo, and was acquired by them in October of 2013. The Property is zoned “ROA” on the City’s zoning map, which is a residential office limited zoning designation. Pursuant to section 47-5.60(E)(2), it is important to note that trade services are not a permitted use in ROA properties. As you know, the Property is on the middle river and had existing dock and piling structures that were utilized to moor vessels.

After the Benyo’s purchase the Property, Shawn Benyo reached out to the neighbors and sought their support for their application for dock waiver that was filed with the City of Fort Lauderdale (“City”) in November of 2013. When Mr. Benyo met with my client, he assured him that he (Benyo) was going to reside at the Property, and that his vessels would be moored at the Property. In reliance upon these statements, my client agreed to the dock waiver request and executed a letter of support that was submitted by the City’s Marine Advisory Board. The City’s Marine Advisory Board voted to approve the Benyo’s dock waiver request in February of 2014, and the dock waiver request proceeded to the City Commission for a vote on March 4, 2014. At the March 4, 2014 City Commission meeting, the City Commission approved the Benyo’s dock waiver request by way of Resolution 14-44 (hereinafter the “Resolution”), a copy of which is enclosed for your review.

Pursuant to section 1 of the Resolution, the City Commission waived the limitations of ULDR Section 47-19.3.D to allow the Benyo's to construct and maintain a total of nine (9) cluster mooring pilings into the waters of the adjacent Middle River, and the clusters were all to be "triple pile clusters," subject to the permitting requirements of section 8-91(b) of the City's Code requires a permit for any construction of docks or slips. Section 2 of the Resolution delineated that the waiver noted above was subject to the additional conditions (10 total) which were to be performed by the Benyo's, which include among other things:

- applicant was required to comply with all applicable building and zoning regulations as well as any other Federal and State laws and permitting requirements;
- applicant was required to provide the City's Supervisor of Marine Facilities with copies of "As Built" drawings from a certified and licensed contractor;
- in accordance with section 8-149 of the City Code, 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 of machinery, or the use of tools and equipment in such repair or maintenance which would be in violation of the City's noise ordinance. The repairs 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;
- applicant's violation of the conditions is unlawful and constitutes a violation of the City's Unified Land Development Regulations, specifically, Sec. 47-34.1.D.

A few weeks prior to the Resolution being passed, Mr. Benyo filed a permit application with the City's Building Department to perform "dock and seawall repair," and shortly after the Resolution was passed, the permit application was approved on March 10, 2014. Unfortunately, aside from the filing of the aforementioned permit application, the Mr. Benyo's conduct has been violative of almost every condition of the Resolution, a litany of City code provisions, and the rules and regulations of the Florida Department of Environmental Protection.

In essence, Mr. Benyo lobbied for and received approval of the Resolution to allegedly moor vessels at the Property, while his true intent has manifested itself subsequent to the Resolutions approval, namely his desire to operate a de facto commercial marina at the Property without having to purchase properly zoned property and/or obtain the requisite licenses and permits. Now his neighbors, including my client, have the pleasure of having a fully operational commercial marina next door to their homes, complete with trade workers performing major refits to the interior and exterior of vessels on a daily basis. To that end, attached for your review is a detailed summary of the

unlawful activities that have been persistently occurring at the Property, inclusive of pictures of both the unlawful activity and of Mr. Benyo visiting the Property while the unlawful activities are ongoing. Additionally, while the Resolution approved triple pile clusters, the Benyos' have instead constructed larger 4 pole cluster pilings, which patently violate the express terms of the Resolution. (pictures from this weekend are attached).

Furthermore, Mr. Benyo's operation of the de facto marina is not the product of my client being the proverbial "annoying neighbor," and is instead documented by the sales listing for one of the yachts that is undergoing a refit at the Property. Specifically, I have included a link to the listing for the luxury 145' yacht "Island Heiress" which is currently moored at the Property. As the listing denotes, the yacht is undergoing a "2 year refit" in Fort Lauderdale, all of which has been occurring (and still is as of this letter being sent) at the Property. Of particular import are the photographs that depict workers in hazmat suits painting the exterior of the vessel while it in the water, the various mechanical and electrical trade workers who stream in and out of the vessel and the Property on a daily basis (parking in the street and right of way and/or blocking my client's driveway), the use of heavy machinery which violates the City's noise ordinance (I have previously provided videos evidencing the same), and the dumping of marine machinery and waste (from live aboard crew) into the water. By way of example, on January 26, 2015, some twenty-four (24) different trade workers entered and exited the Property to perform substantial refit work on the yacht(s), and my client sent you pictures confirming as much earlier this morning.

Most importantly, the attachments (in addition to the daily reports that my client has sent you directly) plainly evidence the fact that all of these major refit operations to vessels at the Property **are not occurring within the confines of a permanent enclosed structure**, as the Resolution (and the Code) require, and are instead being performed while the vessel is in the water and out in the open, which is plainly unlawful and violative of the Resolution. Simply stated, Mr. Benyo is operating an unlicensed, non-inspected, un-approved and un-permitted commercial marina at his residentially zoned property, and is doing so while violating the express terms of the Resolution. Lastly, while Mr. Benyo applied for an initial permit in March of 2014, to date he has not closed out said permit and it still remains open, which again evidences his laissez faire mentality in regards to complying with City's code and/or his contractual obligations with the City under the Resolution.

My client and his wife purchased their property and made Fort Lauderdale their home for the same reason that so many people have done so, to enjoy the waterfront lifestyle that is the hallmark of our beloved town. Instead of being afforded the opportunity to enjoy the beauty of the middle river in Fort Lauderdale, my client and his wife have been forced to endure the operations of a commercial marina in their back yard, complete with trade workers illegally parking and coming and going at all hours, loud machinery, crew members sexual interludes on the vessels that are visible from my client's back porch, and environmental contamination. All of the aforementioned actions not only violate the law, but they also contravene the very essence of residentially zoned water front property

in Fort Lauderdale as well as the letter and spirit of the City's Unified Land Development Regulations.

Condition number 9 of the Resolution addresses a violation(s) of Resolution, and states that a violation of the conditions of the Resolution is "unlawful and constitutes a violation of the City's Unified Land Development Regulations, specifically, Sec. 47-34.1.D." Section 47-34.2 delineates the enforcement provisions for violations of the City's code and/or resolutions, and said penalties (pursuant to section 1-6 of the City's code include: (a) a fine of \$500.00 per day until the violation no longer occurs, and authorizes the City to revoke and/or suspend a license or permit (such as the Resolution and/or the permit for dock construction). Therefore, in light of the foregoing my client respectfully requests that pursuant to section 2-61(1) and (4) of the City code, you:

- (a) immediately notify the City Commission of the Benyos' violation of the City code and the Resolution vis a vie their operation of a commercial marina at the Property;
- (b) set this matter for the next available (with due process being afforded to all parties) City Commission meeting and recommend that the City Commission pass a resolution that revokes the Resolution, revokes the permit issuance for the dock repair and/or impose fines and administrative penalties against the Benyos' for their unlawful conduct.

Should you have any questions or if you wish to discuss this matter further, please do not hesitate to contact me at your earliest convenience. My client and I stand ready, willing and able to work with the City to rectify this problem, and/or engage in thoughtful discourse to discuss potential solutions this issue and others in the neighborhood. Have a great evening.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brady J. Cobb', with a stylized flourish at the end.

Brady J. Cobb, Esquire
FOR THE FIRM

De Facto Marina

Benyo – 704 NE 20th Ave

Actions Taken By 714 Residence Thus Far

- Engaged City Manager providing a dozen emails over as many days including photos demonstrating the actions of the inhabitants and trade workers operating at 704.
- Met with both the head of Victoria Park Civic Association, Catherine Maus, and her associate responsible for traffic in the neighborhood, Bob Oelke, as well as kept them up to date including them on City Manager emails.
- Ongoing identification of violations and documenting them through the use of time stamped and dated camera and video recordings.

Note that all images depicted in this presentation come from an original time stamped and dated video or photo that can be enhanced for positive identification of the claim being made.

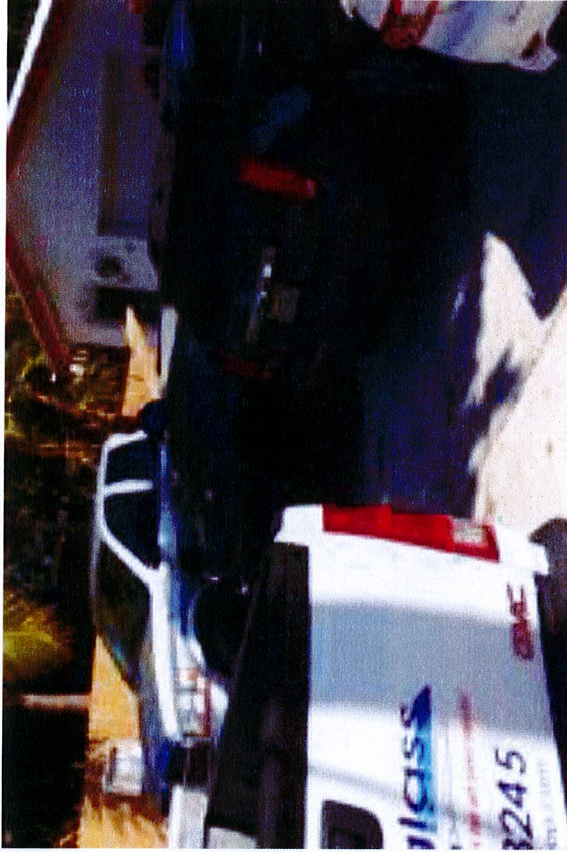
Photos have been categorized into various types of infractions however, note that most of the infractions being highlighted in this presentation could also qualify for multiple categories of violations.

Only a few of a multitude of photos and videos have been provided that exist showing the infractions being committed on a daily basis, and in fact since the day the yacht arrived.

Owner Onsite Often and Aware of De Facto Marina Activities



Cleaning pool



In the de facto marina parking lot w/
Illegally parked cars

Owners Co-Habitating on 704 Property With Crew

December 31st



There are multiple photos showing Benyo & wife co-habitating on the property w/crew while boats at dock. When called on it, Mr Benyo indicated it was warranted because he (a banker) had been hired as crew and his wife (an insurance salesman) as captain. However later Benyo rescinded the statement when pressed. Mr Benyo & wife have since moved out after approximately 2 weeks of co-habitation.

January 2nd 8:38AM



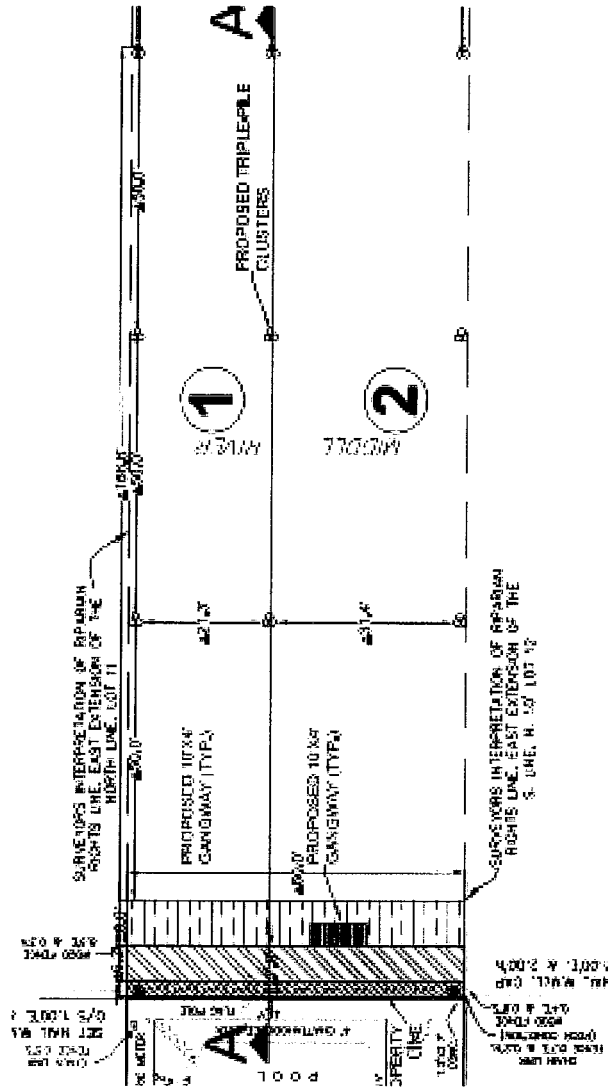
De Facto Marina Timeline

- 10/18/13 - Shawn & Jennifer Benyo buy 704 NE 20th Ave
- November 2013 – Shawn Benyo requests Jim (Juranitch) sign waiver stating that they (Shawn and Jennifer) plan on living at the house
- 11/13/13 - City's Marine Advisory Board approves application, which during the meeting Shawn states that he will be renting out the house
- 2/6/14 - City's Marine Advisory Board approves application for dock waiver based on revised application
- 2/28/14 - engages Lovell Marine to perform dock and seawall repair
- 3/17/14 – City of Fort Lauderdale approves resolution to put in place 9 triple-pile clusters extending off a marginal dock a maximum distance of 125' from property line, subject to terms & conditions
- 7/20/14 - **Benyo installs excessive pile structure in violation of the approved application and resolution (quad piles instead of triple piles and extra clusters of piles), still no center pile clusters in place**
- 7/29/14 – Jim (Juranitch) communicates with City Manager regarding Benyo's excessive pile structure, City makes Benyo change the cluster size back to what was approved, still no center pile clusters in place
- 9/24/14 – Benyo engages contractor to begin pool work
- 12/21/14 – 145' yacht Island Heiress docks at house (smaller 56' boat already in place), no center pile clusters in place

De Facto Marina Resolution Summary

1. required to comply with building and zoning regulations and Federal & State laws including Broward County Environmental protection and Growth Management Dept, the DEP & US Army Corps of Engineers
2. required to provide the City's Supervisor of Marine Facilities with copies of "As Built" drawings from a contractor.
3. property must be occupied by either owners of vessels or representatives of the owners of the vessel
4. single family residence will be occupied by no more than 6 adults
5. use shall conform to regulations and ordinances, etc
6. repair and/or maintenance of vessels are 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... work is conducted wholly within the confines of a permanent enclosed structure
7. no more than 6 vehicles may be parked on the property, parking on or within landscaped pervious areas is prohibited
8. vehicles owned by tenants of the residence or guests thereof may not be parked in the public right of way
9. violation of any of the foregoing conditions is unlawful and constitutes a violation of the City's Unified Land Development Regulations

Approved Plans



Island Heiress Yacht

Beam 28' 10"



For sale "Price: 12,900,000 USD"
"exhaustive 2 year yacht refit at Lauderdale
Marine Center"

Note:

- In speaking with the trades working on the yacht, the refit is still in play and will not be done for a number of months
- largest width of pile rows approved by city is 31' 4" which was to be established on the south side of the property, middle pile row is still not in place, the yacht would not have fit if the middle piles were in place

Totally re manufactured 2014 model 145' TRI DECK . Originally built as the "SeaShaw" in 1996 delivered in Hong Kong. Projected refit completion date December 31, 2014.

- HULL COMPLETELY REBUILT & STRENGTHENED
- ENTIRE YACHT RESTYLED & REPAINTED IN DURABLE IMRON
- ALL NEW 1800HP CATERPILLAR MAIN ENGINES AND 75KW GENERATORS
- ALL NEW SYSTEMS, TANKS, PASSERELLE, SEA CRANE, ETC.
- NEW 75KVH ATLAS SHORE POWER CONVERTER
- DRAFT REDUCED TO 6.5 FEET & BOW FORTIFIED FOR ICE
- STATE OF THE ART ELECTRONICS & AV ENTERTAINMENT & HD SAT SYSTEMS
- NEW TOP DECK SEATING ARRANGEMENTS AND CUSTOM RADAR ARCH & MAST
- NEW WORLDWIDE COMMUNICATIONS SYSTEMS
- 28 COMPUTERIZED OCEAN LED UNDERWATER LIGHTING
- EXTERIOR STYLING BY TALBOT FREEMAN & ASSOCIATES, INC.
- NEW INTERIOR AND CREW QUARTERS TOTALLY REBUILT

De Facto Marina Infractions

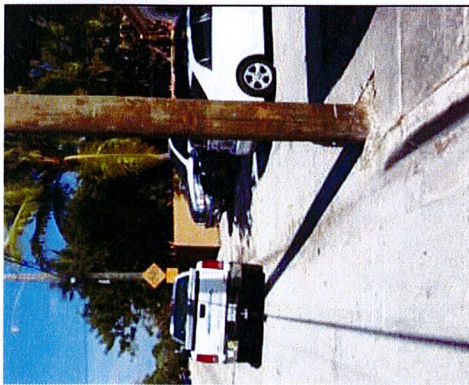
- Traffic Violations
- Code Violations
- Traffic & Safety Violations
- Resolution Violations
- Environmental Issues
- Public Nuisance
- Private Nuisance
- Degradation of Area & Property Value

* As previously noted, infractions occur multiple times a day, 7 days per week

Traffic & Safety Violations

- Cars, trucks, & vans parked perpendicular to the de facto marina parking lot in the street
- Truck & Vans parked overhanging the sidewalk
- Trucks & Vans overhanging neighbor's driveways
- Truck with wood plank jutting out across sidewalk at neck level
- Garbage containers left out in the way of traffic

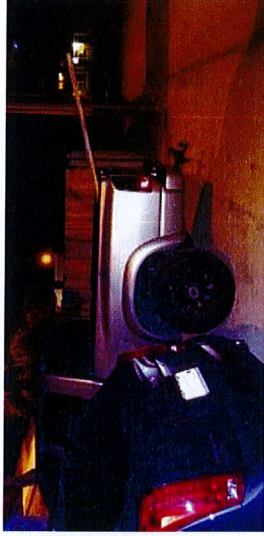
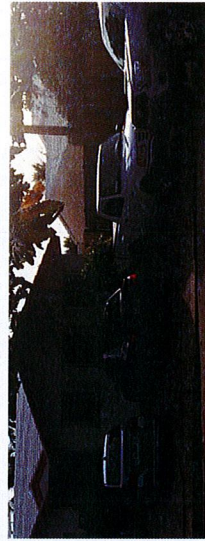
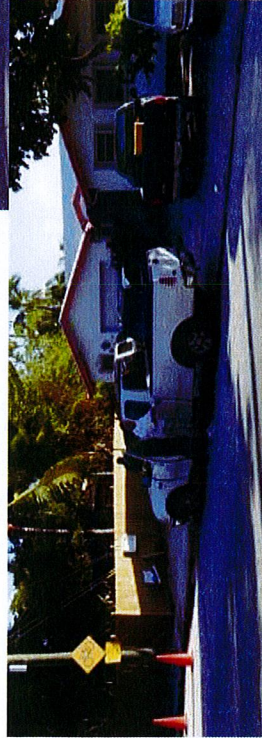
Traffic & Safety Violations Photos



Trade truck parked in front of de facto marina parking lot



Trade truck parked in front of de facto marina parking lot and on street in areas with no parking spaces

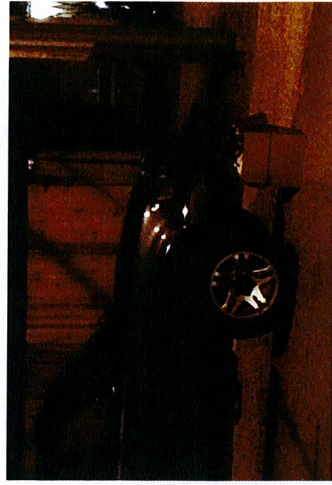


Plywood jutting out from back of truck at neck/head level from night until morning, note other cars have changed and safety issue ignored

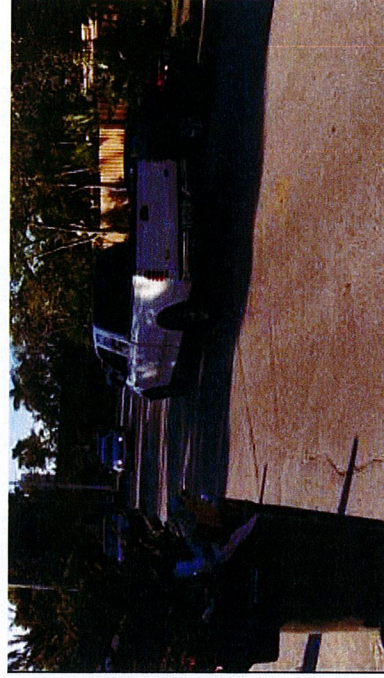
Traffic & Safety Violations Photos



Car swerving to miss trash can out in street



Box abandoned in parking lot/on sidewalk



Traffic issues caused by trades attempting to find parking (see black car on right being cut off)

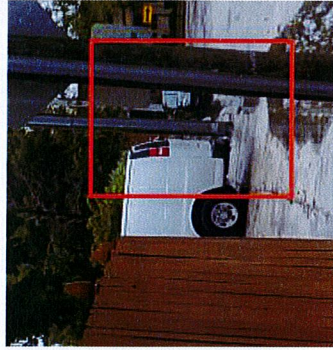
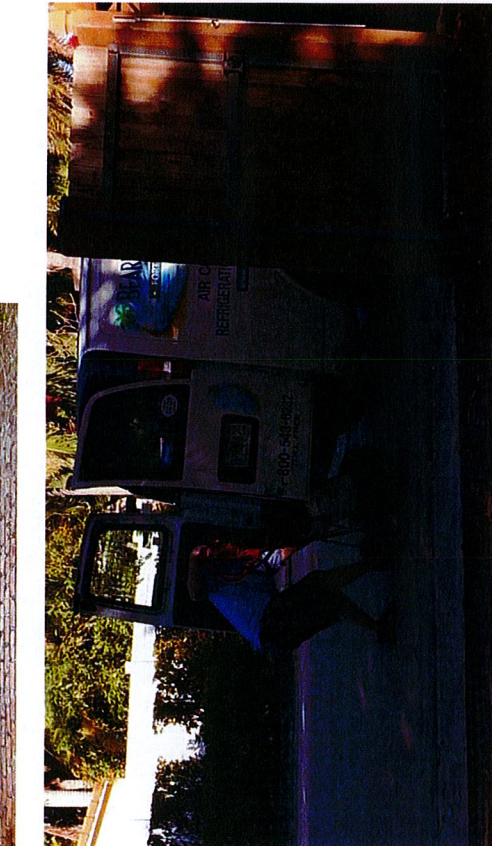
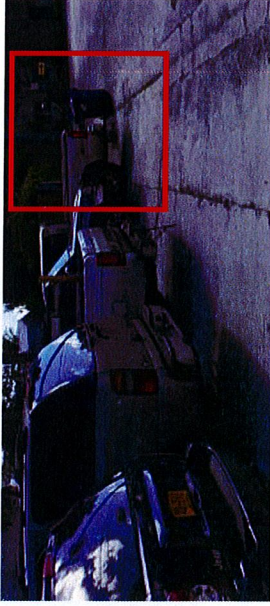
Traffic & Safety Violations Photos

Vehicles blocking neighbor's driveway



Putting "yacht" cones out possibly in an attempt to prevent their trades from parking in front of their parking lot

Trucks overhanging sidewalk

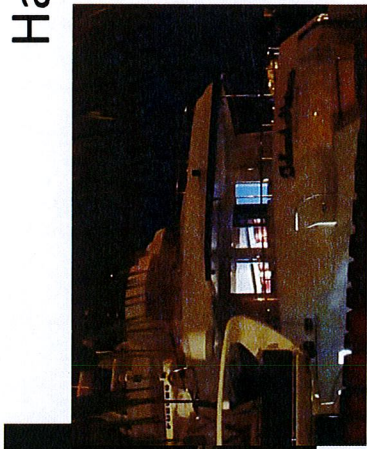


General Code Violations

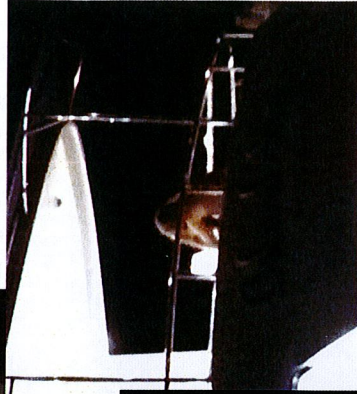
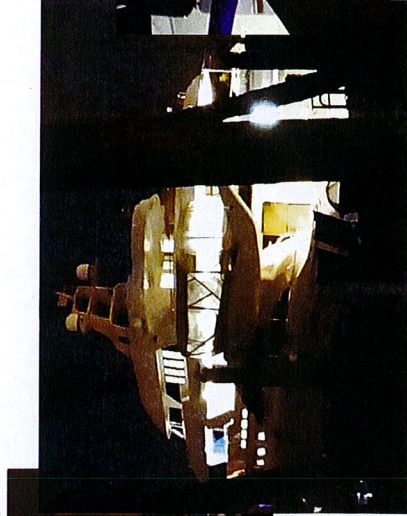
- Habitating on Boat & Yacht
- Garbage cans on street on non-pickup days/continuous days

General Code Violations Photos

Habitating



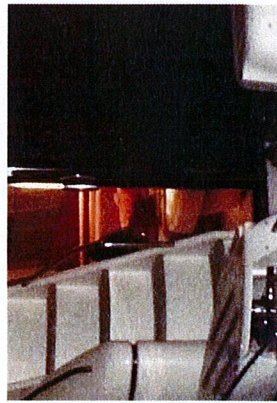
Multiple photos exist of lights on the boats (and often none on in the house), early evening, late evening, and late night.



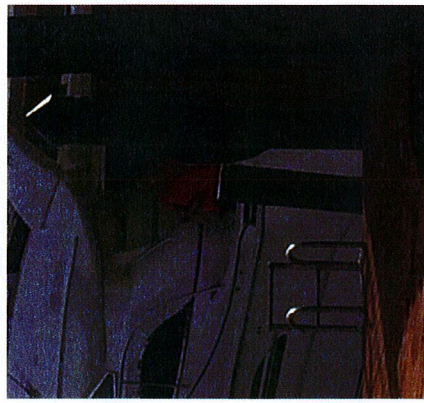
General Code Violations Photos

Habitating on Boat on 714 property line

Lazing on sofa – Jan 2nd
note that door is open,
no concerns



Waking up – Jan 3rd



The night of – Jan 12th, next day
Code Enforcement arrives and
indicates that there is no evidence
of habitation (photo in association
with photo and explanation on the
right)



Jan 13th, Photo of the morning after is taken from a video recording which the full recording shows: 2 individuals going into boat, then having an intimate encounter outside on the back deck in full view for 11 minutes, the female eventually going back inside the boat turning off lights, spending night, and coming out the next AM



1996 145' Cheoy Lee Motor Yacht For Sale - Island Heiress



[Contact Us For More Info »](#)

Yacht Overview

Year: 1996
Boat Name: Island Heiress
Current Price: \$12,900,000
Location: FORT LAUDERDALE, FL US

Yachtworld ID:2780372

2014 Model 145' Cheoy Lee Global Series Long Range Tri Deck

- EXHAUSTIVE 2 YEAR YACHT REFIT AT LAUDERDALE MARINE CENTER.
- ESTIMATED FINAL COMPLETION DECEMBER 31, 2014.
- CHARTER AVAILABILITY LATE JANUARY 2015.

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