

**A Special Magistrate Hearing was held on December 4, 2024.
The hearing was called to order at 9:32 AM, Adjourned at
11:05A.M.**

Code Enforcement and City Representatives Present:

Kevin Wagner, Special Magistrate
Lawonda Warren, Assistant City Attorney
Danise Cleckley, Assistant Neighborhood & Community Services Assistant Director
Enrique Fernandez, Code Enforcement Administrator
Henry Thompson, Clean & Safe Administrator
Amy Alvarez, Assistant Development Services Director
Jose Campa, Code Enforcement Officer
Alberto Angulo, Lead Code Enforcement Officer
Erik Lichter, Attorney for Jo Jo Realty
Rodney Mayo, Property Owner of 302 N.E. 6th Ave.
Cheyenne Morch, Employee of 302 N.E. 6th Ave.
Daniel Rose, Complainant for 302 N.E. 6th Ave.

Owners and/or Respondents Present:

Owners and Attorneys were present for both cases.

Changes to the agenda:

Compliance, Closed and Postponed Cases are as follows: 24-11633; 24-11738

Case 1 - 24-12257
Owners Name: Jo Jo Realty
R/A: Frank Caniglia
Address: 505 E. Atlantic Ave. Delray Beach, Fl.
Presented by: Jose Campa, Code Enforcement Officer

Erik Lichter the attorney on behalf of Jo Jo Realty testified to his name and address.
Lawonda Warren Assistant City Attorney requested to have the clerk correct the name of the officer from Jorge Campa to Jose Campa for the record, the clerk corrected the name for the record.

Special Magistrate Kevin Wagner questions Mr. Lichter who is Jo Jo Realty? Mr. Lichter responded indicating that that Jo Jo Realty he believes is the owner of the property and the landlord.

Mr. Wagner questions Mr. Lichter does the owner of the property know that you are here on behalf of the renter who the violator.

Mr. Lichter responds yes.

Mr. Wagner questions Ms. Lawonda Warren Assistant City Attorney if there are any objections from the city as to his representation on behalf of the owner, Ms. Warren responds there are no objections from the city to the representation of Mr. Lichter on behalf of the owner.

Code Officer Jose Campa testified regarding the existing case violations which is a violation of the city code ordinance 00010 4.3.3 (DD) Drug Paraphernalia and 00020 2.4.6. (C) Zoning Certificate of Use still exist, on October 21, 2024 he inspected the property at 505 E. Atlantic Ave. where he observed these violations which included pipes, water bongs and water pipes, he issued a notice of violation to the property owner to attend a special magistrate hearing and noting in the violation that the compliance date prior to the hearing was November 5, 2024, he reinspected the property on November 8, 2024 and found there was still no compliance.

Lawonda Warren questions Officer Campa if he was the code officer for this area, Officer Campa responded correct, Lawonda questioned Officer Campa if he was familiar with the case and if he viewed all the exhibits? Officer Campa responded yes, Lawonda speaks to Officer Campa that were here on two violations for drug paraphernalia and the property owners zoning certificate of use, Officer Campa responds correct, he is aware why they are all here.

Lawonda questions Officer Campa on the city 10 exhibits and what each one depicts, Officer Campa goes through each of the exhibits and describes what they all depict within his training as a code enforcement officer and is knowledgeable as to what the drug paraphernalia look like and what they are used for and that he visited the Department of Justice website and reviewed these same items that are in the exhibits and printed the examples for this case.

Assistant City Attorney Lawonda Warren questioned Officer Campa that the legal description of drug paraphernalia statue on the Department of Justice website indicates that it is described as “any equipment, product or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body, Officer Campa agrees this is what the definition is of drug paraphernalia and in his opinion that is what all these items inside of Jo Jo Realty’s tenants store called Bernie’s are used for.

Lawonda Warren wanted to introduce these 10 exhibits into evidence after questioning each one of them with Officer Campa and what each one depicted without objection and had no further questions for Officer Campa at this time.

Mr. Lichter speaks out and asked Officer Campa, “did you happen to inspect any other smoke shops or other stores, retail like this one, meaning Burnie’s in the downtown area?”

Lawonda Warren objected to this question, no relevance as to whether Officer Campa inspected any other stores in the downtown area.

Special Magistrate Kevin Wagner responded to the objection to both Lawonda and Mr. Lichter to clarify the objection and that it was not relevant to this case.

Mr. Lichter questioned Officer Campa are there any exemptions to the drug paraphernalia statute that he is aware of, Officer Campa responded he believes there is, and Mr. Lichter said what is it? Officer Campa responded he didn't have that code before him to read.

Mr. Lichter replied to Officer Jose Campa "if you want, I will read it to you, and you can confirm if you agree or disagree" which reads "Exemption to this section will not apply to"

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

Ten photographs were presented as evidence, they were introduced as City Exhibit 1-10 without objection, an additional exhibit of the zoning certificate of use was admitted into evidence without objection.

Kevin Wagner, Magistrate, ruled that the two violations exist and ruled that the property owner has 7 days to remove the drug paraphernalia to come into compliance or a \$250.00 daily fine will commence, and that a code officer will walk with the owner to his shop and show him exactly what needs to be removed to come into compliance before the 7 days.

Case 24-13362

Owners Name: 302 N.E. 6th Ave. LLC (Subculture Coffee)

R/A: Law Offices of Paul A Krasker

Address: 302 N.E. 6th Ave. Delray Beach, Fl.

Presented: Alberto Angulo, Lead Code Enforcement Officer

Code Officer Alberto Angulo testified regarding the existing case violation which is a violation of the city code ordinance 00010 101.32 Assemblies and Special Events still exist. Three photographs were presented as evidence and acknowledged that they were taken by the complainant, they were introduced as City Exhibit 1-3 without objection.

Assistant City Attorney Lawonda Warren called to testify Henry Thompson.

Henry Thompson Clean and Safe Administrator testified his name and title and that he sits on the CTAC committee which is the special events technical advisory committee.

Lawonda questioned Mr. Thompson about his role on the committee and does he review applications from businesses that would like to host special events within the City of Delray Beach, Mr. Thompson replied yes, he is part of the committee that reviews the applications.

Lawonda continues to question Mr. Thompson on the case and if he is familiar with the Subculture Coffee business here is Delray Beach whose address is 302 N.E. 6th Ave, Mr. Thompson responded yes only because of the recent violation.

Lawonda questioned Mr. Thompson about the special Subculture Art Bazaar event that allegedly occurred on October 22, 2024, and how long he has participated on the CTAC committee, in which he responded three years, and questioned Mr. Thompson's of his recollection and from his research of the records did Subculture Coffee submit a special event application to host this event? Mr. Thompson responded not to his knowledge.

Lawonda continued to question Mr. Thompson as to one of the sections of the codes as to when your considering applying for a special event is to consider how the event would impact the surrounding neighborhood and if the closing of the streets is something that would go before the CTAC committee for review. Mr. Thompson responded yes there are multiple considerations on road closures and the safety of the surrounding neighborhoods. There is a representative on the CTAC committee from every department in the city that reviews the special events applications to determine the different variables that could occur during the special events.

Owner of Subculture Coffee business and property located at 302 N.E. 6th Ave. Rodney Mayo is present along with his employee Cheyenne Morch testified that they both worked together on the artists coming into his business on this day in question of this special event.

Mr. Wagner questioned Mr. Mayo of his phone number and mailing address which is 520 Clematis St, W.P.B., Fl 33401 and his phone # is 561-714-2382 and if he had any questions he wanted to ask Henry Thompson.

Mr. Rodney Mayo questioned Clean and Safe Administrator Henry Thompson about the possible impact on the city and the definition of a special event and did his business need any of the services that are listed in the definition? Mr. Thompson responded he couldn't testify to that since he didn't witness the event, Mr. Mayo questioned, was anyone there from the city? Mr. Mayo continued to question what impact his gathering had on the city and that he also pays \$1000.00 a month in lieu of parking fees and pays the city for any overflow parking.

Mr. Wagner addressed Mr. Mayo, saying that he understands that he is trying to ask Mr. Thompson all sorts of questions that Mr. Thompson can't answer since he was not present during this event or witnessed anything so that he should reframe from questioning Mr. Thompson at this time. Mr. Mayo responded to Mr. Wagner that he was confused as to what the city is basing these allegations on since nobody from the city was there to witness or complain about his gathering to determine whether it was a special event or not.

Assistant City Attorney responded to Mr. Mayo saying that we have more witnesses that can address his questions.

Lawonda Warran called to testify Mr. Daniel Rose the complainant to the stand.

Mr. Wagner stated to Mr. Mayo, can you state your name and address.

Mr. Daniel Rose responded that his address is 323 N.E. 6th Ave., Delray Beach Fl and phone # is 561-212-0918?? And said he was familiar with the Subculture Coffee and that his office building which he owns is directly across from it and has a great advantage point of view to the Subculture Coffee.

Attorney Lawonda Warren questioned Mr. Rose if he was familiar with an event that occurred by the name of Subculture Art Bazaar on October 27, 2024? Mr. Rose responded yes, he is familiar with this, and he is the one who witnessed the event and called in the complaint to the city and provided photos of the event and of the parking lot which was blocked off with cones. Lawonda questions Mr. Rose on each of the photos and what each one depicts, and he acknowledges each photo and testifies that he took all of them.

Cheyenne Morch, an employee for Subculture Coffee, testified that she organized the event and was unaware that it was against the city ordinance and to please not penalize the owner for her mistake and that she is very apologetic and will not make this mistake again.

Amy Alvarez testified that the Subculture Art Bazaar is an event that needs to be reviewed by the CTAC committee and explained the definition of a special event to Mr. Mayo to clear up the confusion as to what constitutes as a special event.

Lawonda Warren, Assistant City Attorney asked to submit the exhibits into evidence, all were submitted without objections.

Officer Alberto Angulo suggested in his review of this case that a fine of \$5,000.00 would be the recommendation of the city because this event was done without the proper approvals and that is the max allowed, and the location played a role because the location of Subculture Coffee is near Federal Highway and there are a lot of businesses that could be affected by this. and ultimately that the decision would be based on the Special Magistrate's discretion.

Special Magistrate Kevin Wagner questioned why the fine is so high.

Kevin Wagner, Magistrate, ruled that the violations exist and ruled that the property owner is guilty and will be given a one-time fine in the amount of \$2,500.00.

Meeting Adjourned 11:05 AM

Special Magistrate Hearing
December 4, 2024
Meeting Minutes

The undersigned is the Magistrate of the Special Magistrate Hearing, and the information provided herein is the minutes of the meeting of said Special Magistrate on December 4, 2024, which minutes were formally approved and adopted by the Special Magistrate on February 5, 2025.

ATTEST:



SPECIAL MAGISTRATE

NOTE TO READER: If the minutes you have received are not completed as indicated above, this means they are not the official minutes of the (Board Name). They will become official minutes only after review and approval, which may involve some amendments, additions, or deletions.