

TAB 2



516 8th Avenue West
P.O. Box 1209
Palmetto, Florida 34220-1209
Phone (941) 723-4570
Fax: (941) 723-4576
Suncom: 516-0829
E-mail: chgeneral@palmettofl.org
Web: www.palmettofl.org

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

CITY OF PALMETTO CODE ENFORCEMENT BOARD

CITY OF PALMETTO
A political subdivision of the
State of Florida

Petitioner,

vs.

Case No. CEB 08-03

Consortium Waterfront Properties, Inc.
11009 Gatewood Dr., Suite D-1
Bradenton, FL 34211

Respondent.

NOTICE OF HEARING

**Address of Violation:
1008 Riviera Dunes Way
Palmetto, Florida 34221**

Pursuant to Chapter 162, Florida Statutes, and City of Palmetto Code of Ordinances, Chapter 2, you are hereby called upon to take notice that a Public Hearing will be conducted before the City of Palmetto Code Enforcement Board (CEB) on the 29th day of April, 2008 at 6:00 P.M. in the Commission Chambers at City Hall, which is located at 516 8th Avenue West, Palmetto, Florida. The purpose of the hearing is to determine whether the City of Palmetto Code of Ordinances is being violated as set forth in the Notice of Violation dated January 31, 2008, and previously provided to you by Certified Mail/Return Receipt Requested on January 31, 2008, and a Supplemental Notice of Violation dated March 14, 2008, and provided to you by Certified Mail/Return Receipt Requested on March 14, 2008. Copies of the Notices of Violation are attached to this Notice of Hearing as Exhibits A and B.

The CEB will receive testimony and evidence at said Public Hearing and shall make such findings of fact and conclusions of law as are supported by the testimony and evidence pertaining to the matters alleged in the attached Notices of Violation. **If you are found to be in violation, a fine may be assessed against you, as provided by law.** The purpose of the hearing shall be to conduct proceedings regarding the Notices of Violation attached hereto as Exhibits A and B.

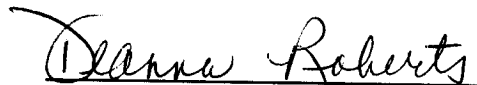
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is to be based. The hearing may be continued from time to time as deemed warranted and appropriate by the CEB. This case may be presented to the CEB even if the violation or repeat violation has been corrected prior to the hearing.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATE STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CODE ENFORCEMENT BOARD CLERK FOR ASSISTANCE AT LEAST THREE BUSINESS DAYS PRIOR TO THE MEETING AT (941) 723-4570.

PLEASE GOVERN YOURSELF ACCORDINGLY.

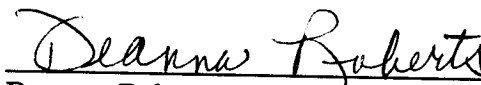
DATED: March 27, 2008

**CODE ENFORCEMENT BOARD OF THE
CITY OF PALMETTO, FLORIDA**



Deanna Roberts
Clerk of the Board

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Hearing has been furnished by Certified Mail/Return Receipt Requested and by Regular Mail to the Respondent this 27th day of March, 2008.



Deanna Roberts
Clerk of the Board

cc: Michele S. Hall, City Attorney
David P. Persson, Code Enforcement Board Attorney



"EXHIBIT A"

516 8th Avenue West
P.O. Box 1209
Palmetto, Florida 34220-1209
Phone (941) 723-4570
Fax: (941) 723-4576
Suncom: 516-0829
E-mail: chgeneral@palmettofl.org
Web: www.palmettofl.org

CODE ENFORCEMENT

NOTICE OF VIOLATION

CERTIFIED MAIL/RETURN RECEIPT REQUESTED
CERTIFIED MAIL NO.7006 010 006 2638 7044

Consortium Waterfront Properties Inc.
1401 Manatee Ave.W. 1100
Bradenton, Florida 34205

RE: City of Palmetto, Petitioner, v. Consortium Waterfront Properties Inc.

Address of Violation: 1008 Riviera Dunes Way, Palmetto, Florida 34221
Legal Description: LOT 26 ISLAND AT RIVIERA DUNES; TOGETHER
WITH PRIVATE SLIP #26 PI#25817.0680/9

Consortium Waterfront Properties Inc.

The purpose of this letter is to provide you with notice that based upon investigation of alleged violations of City Code, and upon inspection by the undersigned, it has been determined that a violation of the City Code is occurring at the above-referenced property. The Code provisions that are in violation and the nature of the violations are as follows:

Palmetto Code of Ordinances, Chapter 16, Article II, Nuisances, Section 16-26, Section 16-26(3), 16-26(5) and Section 16-27(a) & (b);

- Sec. 16-26. Nuisances defined.
- Sec. 16-26(3). The existence of excessive accumulation or untended growth of weeds and undergrowth.
- Sec. 16-26(5). The accumulation or maintenance of lumber, stone, concrete, sand or any other building or construction material.
- Sec. 16-27(a) & (b). Nuisances are prohibited and may be enforced against any violator.

DESCRIPTION OF VIOLATION:

- The above noted property contains untended growth of weeds and brush.
- There is lumber, stone, concrete, sand and other construction material on an inactive construction site.
- The silt fence surrounding this site is deteriorated.

TO REMEDY THESE VIOLATIONS, you must accomplish the following action within fifteen (15) days of receipt of this Notice. The corrective action necessary is as follows:

- You must mow, trim and maintain this lot.
- Remove construction material.
- Owner must restore the silt fence.

THIS IS NOTICE that a failure to accomplish corrective action and remedy the violations above within the time provided will result in referral of this matter to the City's Code Enforcement Board for a hearing. If, after the hearing by the Code Enforcement Board, violations are determined, such violations may be punishable by a fine not to exceed Two Hundred and Fifty Dollars (\$250.00) per day for a first violation and a fine not to exceed Five Hundred Dollars (\$500.00) per day for a repeat violation, in addition to and including, all costs incurred by the City as a result of such enforcement action.

If you have any specific questions regarding the violations please contact me at Palmetto City Hall either in person or by telephone at (941) 723-4570 ext. 124.

PLEASE GOVERN YOURSELF ACCORDINGLY.

DATED, this 31th day of January 2008

CITY OF PALMETTO, FLORIDA



Jeff Hale
Code Enforcement Officer

"EXHIBIT B"



PALMETTO

516 8th Avenue West
P.O. Box 1209
Palmetto, Florida 34220-1209
Phone (941) 723-4570
Fax: (941) 723-4576
Suncom: 516-0829
E-mail: chgeneral@palmettofl.org
Web: www.palmettofl.org

CODE ENFORCEMENT

NOTICE OF VIOLATION - SUPPLEMENTAL

CERTIFIED MAIL/RETURN RECEIPT REQUESTED
CERTIFIED MAIL NO.7006 0100 0006 2638 7150

Consortium Waterfront Properties Inc.
1401 Manatee Avenue West 1100
Bradenton, Florida 34205

RE: City of Palmetto, Petitioner, v. Consortium Waterfront Properties Inc.

Address of Violation: 1008 Riviera Dunes Way, Palmetto, Florida 34221
Legal Description: LOT 26 ISLAND AT RIVIERA DUNES; TOGETHER
WITH PRIVATE SLIP #26 PI#25817.0680/9

Consortium Waterfront Properties Inc.

The purpose of this letter is to provide you with notice that based upon investigation of alleged violations of City Code, and upon inspection by the undersigned, it has been determined that a violation of the City Code is occurring at the above-referenced property. The additional conditions that are in violation and the nature of the violations are as follows:

Palmetto Code of Ordinances, Chapter 16, Article II, Nuisances, Section 16-26(12); and Chapter 7, Section 7-153.

- Sec. 16-26(12). Any activity or condition that is declared elsewhere in this Code of Ordinances or other applicable law to be a nuisance.
- Sec. 7-153. Unfit or unsafe dwellings or structures declared nuisance.

DESCRIPTION OF VIOLATION:

- The above noted property contains a partially constructed house that has been condemned by the City of Palmetto Building Official.

TO REMEDY THESE VIOLATIONS, you must accomplish the following action within ten (10) days of receipt of this Notice. The corrective action necessary is as follows:

- You must demolish this structure, clear the debris and bring this lot into compliance with this City's ordinance governing minimum maintenance standards for vacant lots.

THIS IS NOTICE that a failure to accomplish corrective action and remedy the violations above within the time provided will result in referral of this matter to the City's Code Enforcement Board for a hearing. If, after the hearing by the Code Enforcement Board, violations are determined, such violations may be punishable by a fine not to exceed Two Hundred and Fifty Dollars (\$250.00) per day for a first violation and a fine not to exceed Five Hundred Dollars (\$500.00) per day for a repeat violation, in addition to and including, all costs incurred by the City as a result of such enforcement action.

If you have any specific questions regarding the violations please contact me at Palmetto City Hall either in person or by telephone at (941) 723-4570 ext. 105.

PLEASE GOVERN YOURSELF ACCORDINGLY.

DATED, this 14th day of March 2008

CITY OF PALMETTO, FLORIDA



Bill Stollo
Code Enforcement Director

POINT PAPER
CODE ENFORCEMENT BOARD HEARINGS
MARCH 25, 2008

Consortium Waterfront Properties, Inc., 1401 Manatee Avenue West, Suite 1100, Bradenton, Florida:

The property that is the subject of this code enforcement action is located at 1008 Riviera Dunes Way, Palmetto, Florida, Parcel ID # 2581706809.

The Respondent, Consortium Waterfront Properties Inc., is identified as the owner of this property through the Manatee County Property Appraiser's and Manatee County Tax Collector's Web sites.

The property is the site of a partially constructed, new house; there has been no active construction at this location for an extended period of time, and the original building permit expired on January 29, 2008. The Building Official, Roger Titus, advised me that the owner had thirty days from the expiration of the original permit to obtain a new permit (\$5,000 – 6,000 permit fee plus new plans), or the building must be demolished. In addition to the partially constructed house, the work site was overgrown, the silt fence was deteriorated and construction debris remained at the location.

On January 31, 2008 a Notice of Violation was forwarded to the Respondent (certified and regular mail) charging violations of City of Palmetto codes:

Chapter 16 Health and Sanitation, Article II, Nuisances

Section 16-26. Definition, enumeration of unlawful conditions or acts.

Every condition, substance or activity within the city which exists or occurs in such manner and to such extent as to threaten or endanger the public health, safety or welfare, or adversely affect and impair the economic welfare of adjacent property, is hereby declared to be a nuisance. Without in any way limiting the foregoing definition, the following conditions, substances and activities are hereby specifically declared to be a nuisance within the intent and meaning of this section:

(3) The existence of excessive accumulation or untended growth of weeds, undergrowth or other dead or living plant life upon any body of water, lot, tract or parcel of land, improved or unimproved, within one hundred (100) feet of the boundary line of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become infested or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for mosquitoes, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or is likely to adversely affect and impair the economic welfare of adjacent property.

(5) The unauthorized accumulation or maintenance of lumber, stone, concrete, sand or any other building or construction material on a lot, tract or parcel when construction activity is not actively taking place on the property, in such manner and to the extent as to threaten or endanger the public health, safety or welfare.

Section 16-27. Prohibition and enforcement. (a) Nuisances are hereby prohibited. It shall be unlawful for any person to cause such nuisance to come into existence anywhere within the city, or to permit the same to exist on property owned, leased, occupied or otherwise under the control of such person.

(b) This article may be enforced against any violator, which may include the owner of the premises on which a nuisance exists, or the person or persons generating the nuisance.

The Respondent was required to bring the property into compliance within fifteen days of receipt of this Notice of Violation. On March 10, 2008, a Notice of Hearing was forwarded to the Respondent scheduling this case before the Code Enforcement Board on March 25, 2008. This document was sent certified and regular mail.

The property has remained unimproved since first cited through the Notice of Violation. In addition, the partially constructed building has been condemned by the Building Official. Following a case review with the City Attorney, Michele Hall, additional violations were charged under a Notice of Violation – Supplemental dated March 14, 2008; this document accompanied a Supplemental Notice of Hearing of the same date that was forwarded to the Respondent by certified and regular. *(Proofs of service for the Notice of Violation, the Notice of Violation Supplemental, the Notice of Hearing and the Supplemental Notice of Hearing are submitted for the record.)*

The additional violations included the following:

Chapter 16, Section 16-26(12). Any activity or condition that is declared elsewhere in this Code of Ordinances or other applicable law to be a nuisance.

Chapter 7 Buildings and Building Regulations, Article VII Dangerous and Unsafe Buildings, Section 7-153. Unfit or unsafe dwellings or structures, declared nuisance.

(a) When a dwelling or other structure, or any portion thereof, including accessory buildings, is found unfit for human habitation, or may imperil the health, safety, welfare and morals of the occupants thereof or of the surrounding areas, upon inspection by the administrative official of the land use and development regulations, or his designee, such official shall require the repair, securing, demolition or removal thereof.

(b) The term "unfit or unsafe dwelling or structure or portion thereof, including accessory buildings," shall include:

- (1) Dwellings or structures, or portions thereof, including accessory buildings, that are structurally unsafe, unstable, unsanitary, inadequately provided with exit facilities;
- (2) Any structure not provided with permanent means of adequately securing all openings against unauthorized entry;
- (3) Constituting a fire hazard;
- (4) Unsuitable or improper for the use of occupancy for which they are intended;
- (5) Constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment;
- (6) Dangerous to life or property; or

- (7) Otherwise in violation of the Standard Housing Code, the Standard Building Code, the National Electrical Code, the Standard Plumbing Code, the Standard Mechanical Code, the National Fire Prevention Code and Standard Gas Code.
- (c) Such structures are further declared a nuisance or unsafe dwelling or structure.

To date, the property remains in the same condition as initially noted through inspection on January 23, 2008.

On March 20, 2008 I received a telephone call from the owner of Consortium, Dale Saxton, who provided a new mailing address for his business – 11009 Gatewood Drive, Suite D-1, Bradenton, Florida, 34211. (*e-mail Dale.Saxtondev.com; phone (941)962-7142*) Mr. Saxton feels he should be able to complete this house once he closes on his refinancing on March 31, 2008; he does not believe the existing structure needs to be demolished. I advised Mr. Saxton that this is an issue he must resolve with the Building Official. If he is issued a building permit, maintains the property and renews construction on this house, I would issue a Report of Compliance.

Recommendation:

It is recommended the Respondents be found in violation of City of Palmetto Code of Ordinances, and that Consortium Waterfront Builders Inc. be directed to bring the property into full compliance within ten (10) days. It is further recommended that the City's administrative costs for processing this case, plus any applicable recording fees, be assessed against the Respondent.

Total costs to City as of March 18, 2008:

Code Enforcement Officers	Nine hours @ \$40.00/hour = \$ 360.00
Administration costs	Two hours @ \$35.00/hour = <u>70.00</u>
Total Costs	\$ 430.00