

TAB 3



516 8th Avenue West
P.O. Box 1209
Palmetto, Florida 34220-1209
Phone (941) 723-4570
Fax: (941) 723-4576
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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 08-04

Bella Tramonto I LLC
14 Creek Bluff Run
Flagler Beach, Florida 32136

Bella Tramonto I LLC
130 Riviera Dunes Way, Unit 1003
Palmetto, Florida 34221

Respondent.

NOTICE OF HEARING

**Address of Violation:
98 US 41 North
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 March 20, 2008, and previously provided to you by Certified Mail/Return Receipt Requested on March 20, 2008. A copy of the Notice of Violation is attached to this Notice of Hearing as Exhibit A. 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 Notice 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 attached Notice of Violation attached hereto as Exhibit A.

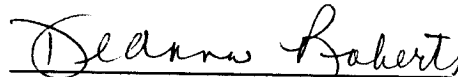
If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is 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: April 10, 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 10th day of April, 2008.



Deanna Roberts
Clerk of the Board

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

CODE ENFORCEMENT

NOTICE OF VIOLATION

CERTIFIED MAIL/RETURN RECEIPT REQUESTED
CERTIFIED MAIL NO.7006 0100 0006 2638 7167, 7006 0100 0006 2638 7174 AND
REGULAR MAIL

Bella Tramonto I LLC (7167)
14 Creek Bluff Run
Flagler Beach, Florida 32136

Bella Tramonto I LLC (7174)
130 Riviera Dunes Way, Unit 1003
Palmetto, Florida 34221

RE: City of Palmetto, Petitioner, v. Bella Tramonto I LLC

Address of Violation: 98 US 41 North, Palmetto, Florida 34221.

Legal Description:

A TRACT OF LAND LYING IN SEC 24 TWN 34S, RNG 17E, AND DESC AS FOLLOWS:
COM AT THE SW COR OF TRACT "H" OF THE PLAT OF THE NORTHSORE AT
RIVIERA DUNES PHASE 1-A, ACCORDING TO THE MAP OR PLAT THEREOF, AS REC
IN PLAT BK 35, P 19, OF THE PRMCF; TH S 00 DEG 00 MIN 00 SEC E, A DIST OF 98.69
FT; TH S 26 DEG 33 MIN 54 SEC E, A DIST OF 30.66 FT TO THE PC OF A CURVE TO
THE RIGHT HAVING A RAD OF 44.00 FT AND A C/A OF 26 DEG 33 MIN 54 SEC; TH
SLY ALG THE ARC OF SD CURVE, AN ARC LENGTH OF 20.40 FT TO THE P.T. OF SD
CURVE; TH S 00 DEG 00 MIN 00 SEC E, A DIST OF 232.00 FT TO THE PT OF
CURVATURE OF A CURVE TO THE RIGHT HAVING A RAD OF 166.00 FT AND A C/A
OF 90 DEG 01 MIN 28 SEC; TH SWLY ALG THE ARC OF SD CURVE, AN ARC LENGTH
OF 260.82 FT TO THE P.T. OF SD CURVE; TH N 89 DEG 58 MIN 32 SEC W, A DIST OF
549.45 FT; TH S 00 DEG 13 MIN 04 SEC E; A DIST OF 454.75 FT; TH S 89 DEG 46 MIN 56
SEC W, A DIST OF 500.00 FT; TH S 00 DEG 13 MIN 04 SEC E, A DIST OF 30.00 FT; TH S
89 DEG 46 MIN 56 SEC W, A DIST OF 257.73 FT TO THE POB; TH S 00 DEG 13 MIN 04
SEC E, A DIST OF 293.60 FT; TH S 90 DEG 00 MIN 00 SEC W, A DIST OF 121.37 FT; TH
S 20 DEG 11 MIN 38 SEC W, A DIST OF 222.78 FT; TH N 40 DEG 44 MIN 44 SEC W, A
DIST OF 143.01 FT TO THE ELY R/W OF STATE RD 55 (US HIGHWAY 41 AND US
HIGHWAY 301); TH N 00 DEG 11 MIN 35 SEC W, ALG SD ELY R/W, A DIST OF 393.23
FT; TH N 89 DEG 46 MIN 56 SEC E, LEAVING SD ELY R/W, A DIST OF 291.83 FT TO
THE POB; TOGETHER WITH A NON-EXCLUSIVE EASMT FOR INGRESS, EGRESS
AND UTILITIES AS REC IN OR BK 1652/2365 & 1677/1381, PRMCF, BEING MORE
PARTICULARLY DESC AS FOLLOWS: COM AT SW COR OF TRACT "H" OF PLAT OF
NORTHSORE AT RIVIERA DUNES, PH 1-A, ACCORDING TO MAP OR PLAT AS REC
IN PB 35, P 19, PRMCF; TH S 00 DEG 00 MIN 00 SEC E, A DIST OF 98.69 FT; TH S 26
DEG 33 MIN 54 SEC E, A DIST OF 30.66 FT TO PT OF CURVATURE OF A CURVE TO

RIGHT, HAVING A RAD OF 44.00 FT AND A C/A OF 26 DEG 33 MIN 54 SEC; A CHORD OF 20.22 FT WHICH BEARS S 13 DEG 16 MIN 57 SEC E, FOR A DIST OF 20.40 FT; TH S FOR A DIST OF 232.00 FT TO START OF A TANGENT CURVE TO RIGHT TH ALG ARC OF SD CURVE, HAVING A RAD OF 166.00 FT, A C/A OF 90 DEG 01 MIN 28 SEC, A CHORD OF 234.81 FT WHICH BEARS S 45 DEG 00 MIN 44 SEC W, FOR A DIST OF 260.82 FT; TH N 89 DEG 58 MIN 32 SEC W, A DIST OF 549.45 FT; TH S 00 DEG 13 MIN 04 SEC E, FOR A DIST OF 454.75 FT; TH S 89 DEG 46 MIN 56 SEC W, FOR A DIST OF 500.00 FT TO POB; TH S 00 DEG 13 MIN 04 SEC E, FOR A DIST OF 30.00 FT; TH S 89 DEG 46 MIN 56 SEC W FOR A DIST OF 549.46 FT TO E R/W OF SR 55 (US HWY 41 & US HWY 301); TH ALG SD E R/W N 00 DEG 11 MIN 35 SEC W, FOR A DIST OF 60.00 FT; TH LEAVING SD E R/W N 89 DEG 46 MIN 56 SEC E, A DIST OF 549.53 FT; TH S 00 DEG 13 MIN 04 SEC E, A DIST OF 30.00 FT TO POB. (2164/0949) **PI#25816.0036/9**

Bella Tramonto I LLC:

The purpose of this letter is to provide you with notice that based upon investigation of alleged violations of the 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) & (12), and Section 16-27(a) & (b); and Chapter 21, Mobile Homes, Section 21-8(a-g).

- Sec. 16-26. Nuisances defined.
- Sec. 16-26(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 100 feet of the boundary line of any improved property within the City.
- 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. 16-27(a) & (b). Nuisances are prohibited and may be enforced against any violator.
- Sec. 21-8(a-g). One manufactured building may be used in any zoning district as a temporary office or sales office incidental to construction of the premises upon which the mobile home is located. Any manufactured building or mobile home use allowed by this section shall be limited to the time period during which an active building permit is in place. This Ordinance shall be enforced as provided by Florida law, including but not limited to enforcement mechanisms provided for in the Florida Building Code, referral or citation to the Code Enforcement Board, issuance of a Notice of Nuisance as may be provided for by City ordinance, or the filing of an action in a court of competent jurisdiction to obtain civil remedies.

DESCRIPTION OF VIOLATION:

- This parcel is overgrown.
- A manufactured home is located on this undeveloped property functioning as a sales office. No building permit was granted for this use at this location.

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 mow and trim the overgrowth on this parcel.
- You must remove this manufactured home from this location and cease operation of the sales office until proper permitting has been secured from the City of Palmetto.

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 20th day of March 2008

CITY OF PALMETTO, FLORIDA

Bill Strollo
Code Enforcement Director

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MANATEE COUNTY
PROPERTY APPRAISER

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PARID: 2581600369
BELLA TRAMONTO I LLC

98 US 41 N

C

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- Commercial
- Out Buildings
- Permits
- Land
- Agriculture
- Sketch
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Manatee County
Last GIS Data Update: 1-Apr-2008

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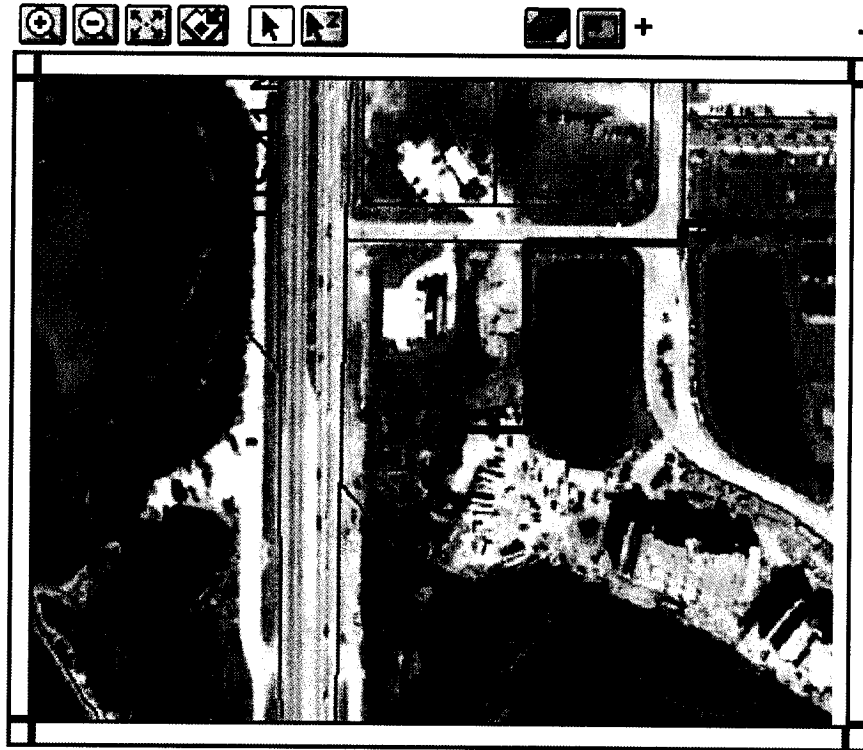
MANATEE COUNTY PROPERTY APPRAISER

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Manatee County
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PI # 2581600389

**POINT PAPER
CODE ENFORCEMENT BOARD HEARINGS
APRIL 29, 2008**

CEB – 08-04

**Bella Tramonto I LLC, 130 Riviera Dunes Way, Unit 1003, Palmetto, Florida; and
14 Creek Bluff Run, Flagler Beach, Florida:**

The property that is the subject of this code enforcement action is located at 98 US 41 North, Palmetto, Florida, Parcel ID # 25816.0036/9.

The Respondent, Bella Tramonto I, LLC, is identified as the owner of this property through the Manatee County Property Appraiser's and Manatee County Tax Collector's web sites; the current corporate address was obtained through the State of Florida, Division of Corporations.

The property is an undeveloped parcel in the Riviera Dunes development. The property does not have a current site plan approved by the City of Palmetto and building permits have not been issued for this property; however, the Respondent has opened a sales office on the parcel without a building permit in violation of City Ordinance 08-959 that amended Chapter 21, Mobile Homes, Section 21-8. *Temporary uses*. This Ordinance was approved and adopted by the City Commission of the City of Palmetto on February 18, 2008 and subsequently signed by Mayor Bustle. Section 21-8, subsections (a) through (g) read as follows:

Sec. 21-8. *Temporary uses*.

- (a) One manufactured building may be used in any zoning district as a temporary office or sales office incidental to construction of the premises upon which the mobile home is located where the valuation on the face of the building permit which applies to the premises exceeds five hundred thousand dollars (\$500,000.00). One manufactured building may also be used as a temporary residence for a watchman guarding such a construction site during construction, but no such residential use shall be allowed until a water and sewer hookup has been obtained for the manufactured building. A mobile home may be utilized for the purposes set forth herein in those zoning districts that permit mobile homes. Any manufactured building or mobile home use allowed by this section shall be limited to the time period during which an active building permit is in place.
- (b) The building contractor of the project shall apply to the city's building department for a permit for mobile homes or manufactured buildings regulated by this section.
- (c) In no event shall the use continue for more than 180 days without the approval of the Building Official, who may grant extensions upon finding that the requirements of this ordinance are met.
- (d) This section shall also allow for contractor's construction of a

manufactured building where such building is to be utilized for the purposes set forth in this ordinance. A valid building permit shall serve as the contractor's permit for the construction of such manufactured building.

(e) Any and all mobile homes or manufactured buildings regulated by this section must be maintained in good condition and must comply with all other codes, ordinances and statutes applicable thereto.

(f) Any and all mobile homes or manufactured buildings regulated by this section shall be removed from the construction site no later than fifteen (15) days after completion of the project or the expiration of a valid building permit, whichever occurs first.

(g) This Ordinance shall be enforced as provided for by Florida law, including but not limited to enforcement mechanisms provided for in the Florida Building Code, referral or citation to the Code Enforcement Board, issuance of a Notice of Nuisance as may be provided for by City ordinance, or the filing of an action in a court of competent jurisdiction to obtain civil remedies. Any enumeration of enforcement mechanisms set forth herein is supplemental and not exclusive. The City shall be entitled to collect reasonable attorney's fees, costs of enforcement and other costs or fees reasonably related to obtaining compliance with this Code.

This property also abuts the improved property offered for sale as the Laguna condominiums, and the Respondent's property violates Chapter 16, Health and Sanitation, Article II Nuisances, Section 16-26. Every condition, substance or activity within the City that threatens or endangers the public health, safety or welfare, or adversely affects and impairs the economic welfare of adjacent property, is declared to be a nuisance. The Respondents property is overgrown with the excessive accumulation and untended growth of weeds in violation of Section 16-26(3). As noted previously, the Respondent has moved a sales trailer to this property without the requisite building permits, and this violation is addressable by Notice of Nuisance under Chapter 21. Under Chapter 16, the presence of this manufactured home violates 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.

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.

Notices of Violation dated March 20, 2008 were forwarded to the Respondent, certified and regular mail, at the addresses provided on the Manatee County web sites and the State of Florida, Division of Corporations web site. Notices of Hearing were forwarded

certified and regular mail on April 10, 2008. (*Proofs of service for the Notices of Violation and Notices of Hearing are submitted for the record.*)

As of April 18, 2008, the manufactured home remained on this parcel, a building permit had not been issued for this site, and the property remained overgrown.

Recommendation:

It is recommended the Respondent be found in violation of City of Palmetto Code of Ordinances, and that Bella Tramonto be directed to bring this property into compliance within ten (10) days by removing the manufactured home, removing all advertising, terminating all real estate sales and business operations at this location, and clearing the property of overgrowth. It is further recommended that the City's costs for processing this case, plus any applicable recording fees, be assessed against the Respondent.

Total costs to City as of April 22, 2008:

Code Enforcement Officers	Six hours @ \$40.00/hour = \$ 240.00
Administration costs	One hour @ \$35.00/hour = <u>35.00</u>
Total Costs	\$ 275.00