

CITY OF FORT PIERCE

1635 Thumb Point Drive
Condemnation & Demolition
Hearing



Condemnation Process

- ▶ The City Charter provides the authority of the City Commission to declare a building or structure as a nuisance and order its abatement and/or removal and destruction if any of the following conditions apply
 - ▶ Is a menace to the business, health or safety of the community
 - ▶ Is a fire hazard
 - ▶ Is unsightly
 - ▶ Does not conform in architecture to adjacent or surrounding buildings
 - ▶ Any other thing that the City Commission determines constitute a nuisance

Condemnation Process

- ▶ In November 2017, the City Commission adopted Resolution No. 17-R38 - Rules of Procedure for Condemnation and Demolition to regulate how the provision for demolition as provided in the City Charter would be administered.
 - ▶ Section I & II of the Rules of Procedure are based upon unsafe buildings as defined in the International Property Maintenance Code, which was adopted by the City Commission in January 2017.
 - ▶ Section III of the Rules of Procedure are based upon the Commission's authority to declare a structure a nuisance if certain conditions exist.
 - ▶ "Such conditions include, but are not limited to, abandonment, repetitive calls to FPPD for illegal activities and/or complaints from local residents and businesses"
- ▶ When condemning a structure due to it being a nuisance (Section III), City Ordinance 16-49, which provides the procedures to be followed, is applicable.
 - ▶ Notice is to be sent by certified mail and the property must be posted
 - ▶ Both the notice and the posting include language advising the owner of their right to appeal.

History

- ▶ The structure was damaged by the twin hurricanes in 2004.
- ▶ June 2005, the structure was condemned by Building Official John Alcorn.
- ▶ March 2009, due to no action by the owner, a 2nd condemnation order was signed by Building Official Marc Meyers.
- ▶ April 2009, a permit to rehabilitate the structure was submitted to the City. It expired without the work being completed.
- ▶ April 2010, a permit to rehabilitate the structure was submitted to the City. It expired without the work being completed.
- ▶ February 2014, the structure was demolished.
- ▶ March 2014, a permit to rehabilitate the structure was submitted to the City. This permit remains active today and will not expire until July 2018.

History

- ▶ July 2015, a petition signed by forty-five (45) neighbors was submitted to the City.
- ▶ February 2016, the City and Mr. Culverhouse signed an agreement with an action plan for the completion of the project with the stipulation that failure to comply with the timeframe would result in the revocation of the permit, the condemnation of the structure and the demolition of all the structural elements.**
- ▶ January 2018, condemnation procedures were initiated against the property due to the continued nuisance conditions that have existed and the multiple complaints received from the neighbors.
- ▶ April 2018, at the request of Mr. Culverhouse, the nuisance condition was appealed and heard before Special Magistrate Ross. Special Magistrate Ross determined the property was a nuisance and forwarded the matter to the City Commission for a final determination.

History

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 - ▶ At the hearing on April 18, 2018, Mr. Culverhouse testified that this agreement was voided when his bankruptcy was approved.
 - ▶ At the hearing on June 13, 2018, Mr. Culverhouse presented testimony from Building Official Paul Thomas that he was given an informal opinion from the City Attorney that the agreement was not enforceable as it was not signed by the Mayor.
 - ▶ The City presented testimony from the Code Compliance Manager that she did not become aware of the informal opinion regarding the agreement until after the hearing on April 18, 2018.
 - ▶ Additionally, as this was an informal opinion, there is no written document to include with the file.
- ▶ Staff asserts that the agreement, enforceable or not, is part of a pattern of broken promises and unreasonable delays in the completion of this project, ultimately subjecting the neighbors to continued exposure to nuisance conditions.

Current Status

- ▶ August 22, 2014, building permit # 14-0607 was issued. Between the time of issuance and today, approximately four (4) years, the concrete block walls have been erected.
- ▶ Damage was sustained from Hurricane Irma and the walls were repaired.
- ▶ No additional work has been completed.





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Notice

- ▶ The Notice of Nuisance Condition was sent certified mail and a signed return receipt was received.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete Items 1, 2, and 3.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature </p> <p><input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
1. John B Culverhouse Sr John B Culverhouse Jr 1635 Thumb Point Dr Fort Pierce, FL 34949	B. Received by (Printed Name)	C. Date of Delivery
REF:1635 Thumb Point Dr. Case#18-139 COND mailed: 19-Jan-2018	<p>RECEIVED 2/6-18</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p> <p>FEB 09 2018</p> <p>CODE ENFORCEMENT CITY OF FT. PIERCE</p>	
 9590 9402 2610 6336 2666 63	3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
2. Article Number (Transfer from service label) 7015 1730 0000 9361 1963 Restricted Delivery		
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt

Response from owner

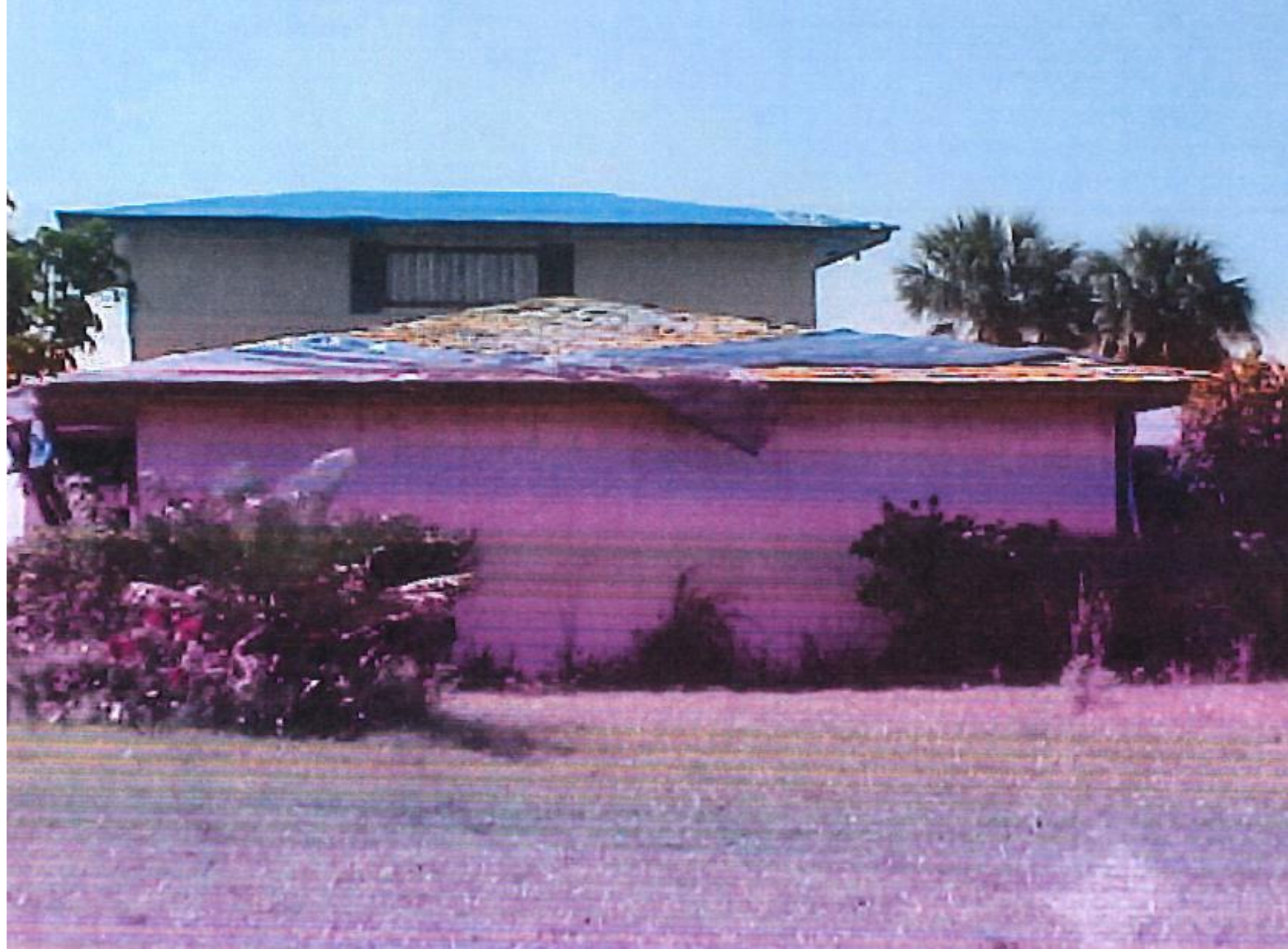
- ▶ Mr. Culverhouse appealed the Notice of Nuisance Condition.
 - ▶ Mr. Culverhouse argued that the property cannot be declared a nuisance due to the fact that he has a valid building permit.
 - ▶ Staff provided a copy of the Rules of Procedure which clearly state that the condemnation procedure MAY be halted with the issuance of a permit.
 - ▶ The condemnation procedure has not been initiated under either Section I or Section II, which take into account the IPMC. This action is based strictly on Section III, which considers the impact on the community and complaints from neighbors.
- ▶ Following the determination of the Special Magistrate, Mr. Culverhouse filed a Motion for Re-hearing.
 - ▶ Hearing to consider the motion was held on June 13, 2018 and June 14, 2018. The Special Magistrate ruled that Mr. Culverhouse did not present sufficient new evidence or justification for a re-hearing and confirmed her recommendation that the matter be heard and decided by the City Commission.

Response from owner

- ▶ Mr. Culverhouse has requested staff consider settling the matter with a stipulated agreement.
 - ▶ Mr. Culverhouse signed a previous agreement, which did not produce any substantial improvement to the site. In fact, Mr. Culverhouse has provided numerous reasons why the agreement was invalid.
 - ▶ Additionally, throughout the entire process, we have documentation of thirteen (13) requests for extensions from Mr. Culverhouse, which were all granted.
- ▶ Staff has been gone above and beyond in working with Mr. Culverhouse, making every effort to accommodate his requests, to no avail and to the detriment of the neighborhood. Therefore, staff denied Mr. Culverhouse's request for a stipulated agreement and moved the matter forward to the City Commission for review and determination.

Property Status Statement

Description	Status	Notes:
Homestead Status	Non-homesteaded	Confirmed with Property Appraiser and Tax Collector on 06/12/2018.
Occupancy	Not occupied – partially built structure	
Prior attempts by owner to remedy violation	Pending	Permit has been active since 2014. To date, the exterior walls have been erected only.
Additional code enforcement activity at the property	Nothing active or current	
Historic Property	No	
Utilities	Active	
Title Search Completed	Yes	No new parties identified.





03/06/2007



02.09.2016 11:19



Feb 8, 2018 10:49:53 AM
Fort Pierce



Legend

📍 1635 Thumb Point Dr

FL Beach & Golf
Retreats LLC

M / M Sowerby

M / M Hodge

M / M Williams

M / M Wood

M / M Ambrozic

Margaret Glazner
(new owner)
John Wolsiefer
(prior owner)



Presentation of Witnesses

- ▶ Mr. Hodge
- ▶ Sylvia Krchnak
- ▶ David Sowerby
- ▶ Charlie Hayek
- ▶ Bruce Murray

Summary

- ▶ The property was damaged in 2004 and left in that condition for 10 years before being demolished in 2014.
- ▶ In 2014, a permit to rebuild was issued.
- ▶ In 2016, 2 years after the permit was issued, concrete walls only 3 blocks high were constructed.
- ▶ In 2017, 3 years after the permit was issued, the concrete walls were completed. However without a roof or other support structure, the walls were damaged during Hurricane Irma and had to be rebuilt again.
- ▶ The neighbors have been subjected to multiple nuisance conditions on this property for 13 years, only seeing minor relief in the most recent months.
- ▶ After considering all the testimony presented and evidence submitted, the Special Magistrate found the property was in fact a nuisance and forwarded the matter to the City Commission for final determination.

Action by the City Commission

- ▶ If sufficient evidence was presented by the City to support its recommendation to condemn the structure and order its removal, the Commission may adopt Resolution No. 18-R28.
- ▶ If the City Commission believes there is sufficient evidence to declare the property “condemned” but order its rehabilitation, the Commission may amend the Resolution and include a date by which the rehabilitation must be completed.
- ▶ If the City did not present sufficient evidence to support its recommendation to condemn the structure and order its removal, the Commission may choose not to adopt Resolution No. 18-R28.

This completes the City's presentation