



September 22, 2023

VIA ELECTRONIC MAIL

Wayne Bergman
Director, Planning, Building and Zoning Dept.
wbergman@townofpalmbeach.com

James Murphy, Zoning Administrator
jmurphy@townofpalmbeach.com

Re: Section 134-141, et. Seq. Administrative Appeal: Lot 2 of the Emerald Subdivision
(200 Emerald Beach Way)

Dear Messrs. Bergman and Murphy:

This Firm represents 100 Emerald Beach Way LC. Pursuant to Town of Palm Beach Code Section 134-141, *et. seq.*, this is an appeal of a decision of an administrative official regarding 200 Emerald Beach Way owned by John and Margaret Thornton (“Thornton Property.”) On June 26, 2023, undersigned counsel made a complaint to the Town regarding the construction of a fence or gate that was not on the approved site plan for the property located on the Thornton Property (see attached June 26, 2023 complaint attached). This is an appeal of the decision of Officer Moriarty to close the code enforcement complaint on August 25, 2023- not because there was no violation- but because the Thorntons hung a blue tarp in a tree on the Northeast corner of the property specifically to prevent code enforcement officers from seeing the blatant violation (see attached Code Enforcement notes). This obvious and intentional interference with Town code enforcement makes a mockery of the Town code and enforcement officers and cannot be permitted by the Town Council.

The fence that is the subject of the complaint was installed by the Thorntons to segregate multiple dogs so far away from the residence at 1236 South Ocean Boulevard that the Thorntons cannot see or hear their dogs from their residence. Unfortunately, the unattended and lonely dogs left in the fenced area do what unattended and lonely dogs do- bark incessantly to the great injury of the residents and visitors of 100 Emerald Beach Way. In other words, the Thorntons constructed a fence to house their dogs outdoors and unattended immediately adjacent to the front door of the residence at 100 Emerald Beach Way, and as far as possible from their own residence located at 1236 South Ocean Boulevard.

The fence is illegal because (a) it is not included on the governing site plan (attached); and (b) there is no building permit for the fence. The subject fence is within the front setback, and is governed by Section 134-1666 et. Seq.- the zoning regulations regarding fences. Since there is no building permit or other evidence that the fence is approved, there is no evidence that the fence can even comply with Section 134-1666, et. Seq.

Undersigned counsel's complaint was made June 26, 2023. Upon learning of the complaint, the Thorntons hung a giant blue tarp in a tree specifically to obstruct the view of the fence (see attached picture of tarp hanging in tree). Therefore, when Town code enforcement officers went to view the fence as a follow up to the complaint of undersigned counsel, the officer could not see the fence because the Thorntons intentionally obstructed the view of the illegal fence with a blue tarp hung in the tree on the Northeast corner of the property.

This blatant act to obstruct Town code enforcement cannot be tolerated by the Town. How is the Town going to enforce its code on most of the large lots in the Town if an owner can just hang a tarp in front of the offense with the implication "there is nothing to see here?" Furthermore, the Town cannot permit an owner to hang a blue tarp in a tree in the front setback of the property. See e.g. Section 134-1548.¹ The Town of Palm Beach has some of the strictest zoning regulations in Florida, and is particularly specific about what is permitted in the front setback. An ugly blue tarp hanging in a tree certainly is not on the list of things permitted in the front setback in the Town of Palm Beach.

100 Emerald Beach Way respectfully requests that the Town reopen CE 23-1280, require the removal of the tarp from the tree, and properly investigate the complaint of undersigned counsel regarding the illegal fence. 100 Emerald Beach Way has a pending public records request, P001341-090623. Therefore, 100 Emerald Beach Way LC reserves all rights and remedies, and specifically reserves the right to supplement and/or amend this appeal. Please govern yourselves accordingly.

By: /s/ Amanda Quirke Hand, Esq.

Cc: Skip Randolph, jrandolph@jonesfoster.com
Joanne O'Connor, Esq., joconnor@jonesfoster.com
Town Clerk, townclerk@townofpalmbeach.com

¹ Every part of a required front, side and rear yard must be open to the sky, unobstructed, except for accessory buildings in a rear or side yard, garden walls and fences, **as permitted**, and except for the ordinary projections of first floor first floor entry ramps, landings, open terraces, unenclosed porches, balconies, steps, sills, belt courses, cornices and for ornamental features as identified in sections 134-795, 134-845, 134-895, 134-950, 134-951, 134-1006, 134-1007, 134-1061, 134-1062, 134-1114, 134-1164, 134-1213, 134-1263, 134-1308, 134-1576, 134-1577 and division 5 of article VIII of this chapter. (emphasis supplied)