

CITY OF NORTH PORT
SARASOTA COUNTY, FLORIDA
4970 City Hall Boulevard North Port, FL 34286

CODE ENFORCEMENT DIVISION

CITY OF NORTH PORT, FLORIDA,

Petitioner,

v.

NGUYEN MINH
6510 76TH AVENUE NORTH
PINELLAS PARK, FL 33781

Respondent,

ADDRESS OF VIOLATION:
5000 S. Chamberlain Boulevard
North Port, FL 34286
Parcel ID: 1006008624

Case Nos. CECASE-24-4292 and

ADDRESS OF VIOLATION:
5200 S. Chamberlain Boulevard
North Port, FL 34286
Parcel ID: 1006008623

Case No. CECASE-24-4293

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MOTION TO DISMISS

Respondent Nguyen Minh and Lincoln Capital Acquisition LLC, by and through their undersigned counsel, hereby move to dismiss the above-referenced municipal code violations initiated by the Notices of Mandatory Hearing dated April 17, 2025, issued by the City of North Port, Florida (“City”), and in support state as follows:

1. The Code Enforcement Special Magistrate should dismiss these actions because all notices are unconstitutionally void for vagueness and do not put the violator on notice of the violation(s) as issue.

2. The City of North Port issued Affidavits of Violation and Notices of Mandatory Hearing for May 22, 2025, regarding the above-referenced properties. Pursuant to the Contract for Purchase and Sale of Real Property dated September 8, 2023, between Minh B. Nguyen (Owner/Seller) and Lincoln Capital Acquisition LLC (Buyer), Lincoln Capital Acquisition LLC has an equitable and legal interest in the subject properties as a contract purchaser under Florida law (collectively, the “Movants”).

3. A core principle of due process is the right to be informed of the specific charges alleged by the government. *Cole v. Arkansas*, 333 U.S. 196, 201 S. Ct. 514 (1948)(“No principle of procedural due process is more clearly established than that notice of the specific charge”); *In re Oliver*, 333 U.S. 257, 273, 68 S. Ct. 499 (1948)(“A person’s reasonable right to fair notice of a charge against him [is] basic in our system of jurisprudence.”).

4. This is a code enforcement proceeding, but the City has failed to allege what specific code provision has been violated. Here, all of the Notices are unconstitutionally void for vagueness because they do not put the violator on notice of the alleged violation(s) as issue.

5. For example, the City’s November Site Inspection Report(s) fail to describe with reasonable particularity the code section(s) which the violator has allegedly violated and do not make specific reference to either a code enforcement case or case number. Further, there is no mention of a Natural Resources code section, rather just vague references to “unpermitted earth moving and vegetation removal activity.”

6. Without notice of the code section as issue, the violator cannot correct the alleged violation. Moreover, there is no remedy mentioned in the Site Inspection Report, and there is no Natural Resources contact information for the violator to contact to discuss the violation and/or compliance.

7. Likewise, the December Final Inspection Report(s) fail to describe with reasonable particularity the code section(s) which the violator has allegedly violated and do not make specific reference to either code enforcement case or case number.

8. Most importantly, the Affidavit(s) of Violation and Notice(s) of Mandatory Hearing fail to describe with reasonable particularity the code section(s) which the violator has violated. For the first time on April 17, 2025, the Notices and Affidavits make reference to two different code enforcement case(s) and case number(s) of which the violator had no prior notice.

9. Notice of the specific code sections the City alleges have been violated is a fundamental requirement of the Due Process Clause in the United States Constitution and Florida Constitution. Movants cannot adequately respond to alleged code violations that do not identify the code provisions that allegedly have been violated. Failure to provide such fundamental notice is a fatal flaw, requiring dismissal of the actions.

WHEREFORE, Respondent Nguyen Minh and Lincoln Capital Acquisition LLC respectfully request that the above-referenced code enforcement actions be dismissed.

Dated: May 21, 2025

Respectfully submitted,

/s/ Carl Roberts, Esq.

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