

**CITY OF OAKLAND PARK
CODE ENFORCEMENT DIVISION
5399 N. DIXIE HWY SUITE 3
OAKLAND PARK, FL 33334**

CODE ENFORCEMENT SPECIAL MAGISTRATE

**CITY OF OAKLAND PARK
STATE OF FLORIDA**

IN THE MATTER OF:

**CASE NO. 176622
SP MSTR NO. SP15-217R**

**ALL SAINTS CATHOLIC MISSION, INC.
3460 N.W. 9th AVENUE
OAKLAND PARK, FL 33309**

**ORDER OF
ENFORCEMENT**

This case having come before the Code Enforcement Special Magistrate of the City of Oakland Park, Florida, on February 16, 2016 on a violation hearing, and the Special Magistrate having heard the testimony of the respective parties present, the evidence presented, argument of counsel and supplemental briefing, does hereby make the following findings of fact, conclusions of law and imposes the following fine:

1. **FINDING OF FACT:**

- a. The City of Oakland Park (“City”) properly served All Saints Catholic Mission, Inc. (“All Saints”) with notice of these proceedings as required by law.
- b. The real property upon which the violation occurred is described as:
Lloyd Estates 25-47 B, Lot 16, Less W. 15 For Rd, Blk. 16; a/k/a 3460 NW 9th Avenue, Oakland Park, Florida 33309.
- c. A “soup kitchen” operated at the property between 1990 and 1995. Thereafter, the “soup kitchen” operation moved to a building located at 3350 N.W. 9th Avenue, where it operated from 1995 to September 2015. All Saints also owns the building at 3550 N.W. 9th Avenue.
- d. In 2014, the City rezoned the properties owned by All Saints, as part of a larger rezoning of what is known as the Powerline Road Zoning District. The rezoning made the “soup kitchen operation” at 3350 N.W. 9th Avenue a legal non-conforming use. For reasons not clear on the record, All Saints elected to discontinue the “soup kitchen” operation at the 3550 N.W. 9th Avenue location and move it the 3460 N.W. 9th Avenue location. No “soup kitchen” activity has taken place at the 3550 N.W. 9th Avenue location since September 2015.

- e. The City issued a Notice of Violation to All Saints alleging that All Saints was in violation of Section 24-58(A)(3) and Section 24-94(A) of the Code of Ordinances, City of Oakland Park, Florida (“Code”).¹ Specifically, the City alleged the “soup kitchen” use that taking place at 3460 N.W. 9th Avenue, was an illegal unpermitted use.
- f. Section 24-58(A)(3) of the Code, sets forth the list of permitted uses in the Powerline Road Zoning District. The un-contradicted testimony of the City’s Senior Planner, Mr. Proffitt, is that the ‘soup kitchen” use (or any similar type of use) is not a permitted use in the Powerline Road Zoning District. All Saints alleges the “soup kitchen” use now taking place at 3460 N.W. 9th Avenue is a grandfathered legal non-conforming use because from 1990 to 1995 that use took place at the address in question.
- g. All Saints argument lacks any factual or legal support. As pointed out by the City the “soup kitchen” use does not meet the legal non-conforming criteria for the Powerline Road Zoning District as set forth in Section 24-58(D)(2)(c) of the Code. Furthermore, based upon the un-contradicted testimony at the hearing the “soup kitchen” use at 3460 N.W. 9th Avenue was voluntarily abandoned or discontinued by All Saint in 1995, and know can’t be legally re-established absent an amendment to Section 24-58(A)(3) of the Code. *See, City of Miami Beach v. State ex rel. Parkway Co.*, 174 So. 443 (Fla. 1937) and *Hobbs v. Dep’t of Transp.*, 831 So.2d 745 (Fla. 5th DCA 2002).

2. CONCLUSION OF LAW:

- a. That All Saints did violate Section(s):

Section 24-58(A)(3) of the Code of Ordinance of the City of Oakland Park by virtue of the facts set forth above, and;

- b. That the Code Enforcement Special Magistrate of the City of Oakland Park has determined that this Order of Enforcement is warranted.

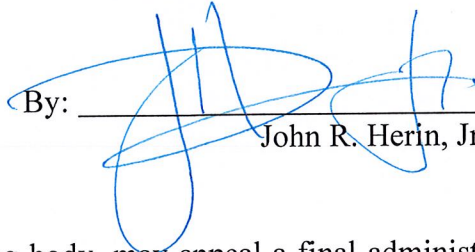
3. IMPOSITION OF FINE:

The Special Magistrate has considered the gravity of the violation(s), any actions taken by the violator to correct the violation(s), and any previous violations committed by the violator, and has determined that the aforementioned violation(s) occurred, and should it/they continue after **March 31, 2016, a fine of \$125 per day per violation from March 31, 2015** is hereby imposed. (Said fine subject to certification by the Special Magistrate.) **The violator is also ordered to contact the City of Oakland Park Code Enforcement Department to re-inspect the property to verify compliance.**

¹ The parties stipulated at the hearing that All Saints brought the violation of Section 24.94(A) of the Code into compliance, and therefore that violation is not part of this Order of Enforcement.

DONE AND ORDERED at OAKLAND PARK, BROWARD COUNTY, FLORIDA, THIS
MARCH 16, 2016.

CODE ENFORCEMENT SPECIAL
MAGISTRATE

By:  _____
John R. Herin, Jr.

An aggrieved party, including the local governing body, may appeal a final administrative order of the Special Magistrate of the City of Oakland Park. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

Certificate of Service

I HEREBY CERTIFY that a copy of this Order was mailed to the violator at the address stated above on this 17 day of March 2016.

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Recording Secretary