

**REGULAR MEETING
OF THE SPECIAL MAGISTRATE
TOWN OF LADY LAKE, FLORIDA**

February 25, 2014

The regular meeting of the Special Magistrate was held in the Town Hall Commission Chambers at 409 Fennell Blvd., Lady Lake, Florida. The meeting convened at 10:30 a.m.

TOWN STAFF PRESENT: Cindy Diemer, Senior Code Enforcement Officer; Donald Hoos, Code Enforcement Officer; and Julia Wolfe, Staff Assistant to the Town Clerk

Also Present:

CALL TO ORDER: Valerie Fuchs, Special Magistrate, called the meeting to order at 10:30 a.m.

Approval of January 28, 2014 Minutes

Special Magistrate Valerie Fuchs accepted the January 28, 2014 meeting minutes into the record as presented.

PLEDGE OF ALLEGIANCE: All present stood to recite the Pledge of Allegiance.

Explanation of Procedure

Special Magistrate Valerie Fuchs explained to the public that this is a quasi-judicial hearing, which means that she has not seen or heard any evidence or testimony from staff or outside parties, other than cases that have been continued from a public meeting, as this would be a violation of ex-parte rules. She stated that if any pictures or other evidence are presented this morning, the interested party will be able to review it in order to accept or refute it and be able to present their own evidence and testimony prior to the Special Magistrate making her ruling.

The Special Magistrate also explained that Code Enforcement staff would present their case and testimony, then the owner or interested party will be able to present their testimony or evidence. After that, staff will have the opportunity to rebut or refute any evidence that is presented. The Special Magistrate will then ask any questions that she deems appropriate and relevant during the testimony of each party before making her ruling. The order will be entered and the interested party will receive a copy of the order whether it is dismissed, or time granted in order to come into compliance, and whether a fine or lien will be imposed.

SWEARING IN: Special Magistrate Valerie Fuchs requested that anyone present who planned to speak at today's meeting stand and be sworn in.

Special Magistrate Valerie Fuchs asked staff if there are any changes to today's agenda.

Senior Code Enforcement Officer Cindy Diemer reported that one case on this morning's agenda has come into compliance prior to the meeting: Item #3, Case No. 13-4471.

OLD BUSINESS:

1. Case No. 13-4321 – 552 S. Hwy 27/441 – BBC Investments II LLC – Town of Lady Lake Code of Ordinances Ch. 7-47 – Fire and Safety Hazards

Please see below.

2. Case No. 13-4294 – 552 S. Hwy 27/441 – BBC Investments II LLC – Town of Lady Lake Land Development Regulations Ch. 13-1 through 13-11 – Sediment and Erosion Control; Land Development Regulations Ch. 13-51 through 13-56 – Storm Water Pollution Control

Senior Code Enforcement Officer Cindy Diemer requested that Item #1, Case No. 13-4321 and Item #2, Case No. 13-4294 be tabled. She stated staff is working on some inter-agency decisions.

Special Magistrate Valerie Fuchs asked if anyone present had any objections regarding the requested motion to table the two cases. As there were no objections, Ms. Fuchs granted the request to table Case No. 13-4321 and Case No. 13-4294 to the March 25, 2014 meeting at 10:30 a.m.

NEW BUSINESS:

3. Case No. 13-4471 – 732 S. Hwy 27/441 – Ronald B. Moussette Jr. Et al– Town of Lady Lake Land Development Regulations Ch. 17-2 – Sign Permit Required

This case has come into compliance.

4. Case No. 13-4517 – 720 S. Hwy 27/441 – Ronald B. Moussette Jr. Et al – Town of Lady Lake Code of Ordinances Ch. 8-200 (a) – False Alarm Fee Required, and Ch. 8-197 (a)1 – Notice of Alarm System

Code Enforcement Officer Donald Hoos presented the background on this case. He stated the tenant of the property was Realty Chef and Lake County records show that this property is owned by Ronald B. Moussette Jr. of Fruitland Park, Florida, and is registered as alternate key number 3808295. Mr. Hoos reported that the property is in violation of the Town of Lady Lake's Code of Ordinances Chapter 8-200 (a) for failure to respond within 30 minutes when notified of alarm system activation by Lady Lake Police for call No. 13-4517, and Chapter 8-197 (a) 1 for failure to notify the Police Department of the existence of alarm an system at that location.

Mr. Hoos reported that on October 17, 2013, he received a referral from the police department regarding this case, and a courtesy violation notice was mailed to the property owner on this same date. He stated the fine had not been paid as of October 25, 2013, and a Notice of Hearing was mailed via certified and first class mail to the property owner. The certified mail receipt was received on December 4, 2014 signed by Dr. Ronald Moussette.

The Special Magistrate asked if staff had any communication with the doctor.

Mr. Hoos replied he has spoken with Mr. Moussette twice and has explained that even though the alarm was in the tenant's name, the property owner is responsible for compliance and must pay the fine.

The Special Magistrate clarified that compliance in this instance was paying the fine. She also asked if the property owner/tenant is required to notify the Police Department of an existing alarm, and did not do that.

Mr. Hoos replied when an alarm is activated and the Police Department responds, they notify the person they have on their list to respond, but they were not informed there was an existing alarm system at that location. He stated the alarm company supposedly notified someone, but there was no response. The Special Magistrate stated she assumed the failure to notify has been met.

Mr. Hoos stated that part has been met because the tenant has moved out. He stated he informed Dr. Moussette he should have the alarm system removed or deactivated in order to not have any additional problems, and staff has not received any notification of any additional problems.

The Special Magistrate asked if there was anyone present to speak on this case. There was no one.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4517, she did find that the owner was in violation of the Town of Lady Lake's Code of Ordinances, Chapter 8-200 (a) false alarm fee required and Chapter 8-197 (a) 1 for notice of alarm system. The owner has 10 days to come into compliance for the 2013 violations and pay the fine of \$100.00. This order will be recorded as a lien if not paid. In addition, an administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

5. Case No. 13-4574 – 1607 E. Schwartz Blvd. – James & Lucille Davies – Town of Lady Lake Land Development Regulations Ch. 10-5 (a)(8) – Hat-Racked Tree

Code Enforcement Officer Donald Hoos presented the background on this case. He stated that Lake County records show the property is owned by James and Lucille Davies of the same address, and is registered as alternate key number 2933011. This property is in violation of the Town of Lady Lake's Land Development Regulations Chapter 10-5 (a) (8) for excessive tree pruning of an Oak Tree.

Mr. Hoos stated an inspection was conducted on November 25, 2013 based upon a citizen complaint, and he noticed a tree that was excessively pruned. A Notice of Hearing was mailed via certified and first class mail to the owner of record on November 25, 2013, and the certified mail receipt was returned signed by Luci Davies on December 4, 2013. The pictures were entered into evidence.

The Special Magistrate asked if there was anyone present to speak on this case.

Ms. Lucille Davies, property owner, stated they received a Notice of Violation regarding their Live Oak tree which had been planted in 1997 to provide shade. She stated they have been approached many times by tree companies to take care of the tree, and they were contacted by the part-owner of Gonzales's Common Tree Service on November 14, 2013. Ms. Davies stated he approached her husband looking for work, stating his employees needed money for the holidays, and he would give them a discounted price of \$1,000.00. She stated they thought it was a good idea; they could help

out the families during the holidays and take care of the problem they were having with the tree brushing the roof of the house and the lanai. She stated the tree is also undermining her home and cement pad of the lanai. Ms. Davies stated they were not trying to harm the tree; they were assured it would be alright, and were told by the tree specialist that they could stunt the growth so that it would not be a danger to the neighbors or themselves and he was sure their insurance company would agree with that. She stated the workers stopped trimming and she asked him to trim a branch that was still reaching toward her neighbor's home, and then he was finished. Ms. Davies stated the tree still needs be shaped and after mentioning that, the supervisor stated he has gotten into trouble cutting a tree too much in the past and felt he had cut enough. She stated they had squirrels climbing their lanai screen to jump on the tree and ruined one of their seven foot screens. Ms. Davies stated they have noticed several smaller trees in the area cut similarly. Mr. Davies gave some photos as evidence.

The Special Magistrate informed Ms. Davies the pictures would stay as part of the record.

Ms. Davies stated she called Gonzales Common Tree Service and they called her back and said they do have an arborist who will be coming to her house today.

The Special Magistrate asked why, and advised Ms. Davies not to let them cut any more of the tree. She asked if there was anyone else who would like to speak on this matter. The Special Magistrate stated these cases are mostly complaint driven and hat-racking is a hot topic right now. She stated the companies do know what they are doing and that most of the towns, cities, and counties have tree ordinances that specifically state what cannot be done and they are usually aware of that; and to the detriment of our residents, they do not adhere to it. She stated the homeowner is responsible for knowing the Codes since it is their property and if someone turns them in, Code Enforcement officers have to inspect after a complaint is made. The Special Magistrate stated if the tree has not come back after a year, it will need to be removed.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4574, she did find that the owner was in violation of the Town of Lady Lake Land Development Regulations Chapter 10-5(a)(8) for excessive pruning of a tree. A re-inspection to determine the condition of the tree will be completed in one year, by February 26, 2015. An administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

6. Case No. 14-4631 – 1869 W. Schwartz Blvd. – Ann Fraser – Town of Lady Lake Land Development Regulations Ch. 10-5 (a) (8) – Hat-Racked Tree

Code Enforcement Officer Donald Hoos presented the background on this case. He stated that Lake County records show the property is owned by Ann Fraser of the same address, and is registered as alternate key number 2847484. This property is in violation of the Town of Lady Lake's Land Development Regulations Chapter 10-5 (a) (8) for hat-racked tree.

Mr. Hoos stated an inspection was conducted on January 7, 2014 based upon a citizen complaint, and he noticed a tree that was excessively pruned. A Notice of Hearing was mailed via certified and first class mail to the owner of record on this same date, and the certified mail receipt was returned

unclaimed on February 3, 2014. The property was posted January 30, 2014, and photos were taken. The pictures were entered into evidence.

The Special Magistrate asked if there was anyone present to speak on this case.

Mr. Mark Schroeder, the tenant, stated he leases the house.

The Special Magistrate asked if he had spoken with the property owner.

Mr. Schroeder replied that he had and stated she was going to attend today but she had to work.

The Special Magistrate asked Mr. Schroeder if he had hired the tree trimming company.

Mr. Schroeder stated that unfortunately he did and it is the same company that the homeowners used in the previous case. He stated he was not there at the time, and when he returned, they had gone too far. He stated they tried to clean it up, and advised him it would help with the roots that are growing under the cement and would stunt the growth of the tree. He stated they were supposed to cut the branches hanging over the roof and the driveway, but they went a lot further.

The Special Magistrate stated she really wished there was a mechanism where they could go after the tree company.

Mr. Schroeder stated he told them about the problem, but has not seen them since. He stated another arborist came out last week, but he has not yet received the report.

The Special Magistrate stated staff checks to see if the tree has come back after a year.

Mr. Schroeder stated the arborist thinks it will grow and come back healthy.

The Special Magistrate asked if there was anyone else present to speak on this case. There was no one.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 14-4631, she did find that the owner was in violation of the Town of Lady Lake Land Development Regulations Chapter 10-5(a)(8) for excessive pruning of a tree. A re-inspection to determine the condition of the tree will be completed in one year, by February 26, 2015. An administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

7. Case No. 14-4669 – 116 West Hermosa St. – Bank of America (Roberto & Barbara M. Elias) – Town of Lady Lake Code of Ordinances Ch. 20-78 – Abandoned Property Registration Required

Code Enforcement Officer Donald Hoos presented the background on this case. He stated that the owner of the property is Bank of America in care of Van Ness Law Firm PLC of Deerfield Beach, Florida. The alternate key number is 2722533.

Mr. Hoos stated this property is in violation of the Town of Lady Lake's Code of Ordinances Chapter 20-78 for abandoned property registration for 2014 which has not been paid. He stated an initial inspection was done on January 27, 2014, and it was determined the lis pendens was filed by the plaintiff's attorney. Mr. Hoos reported the water has been shut off for this property since September of 2013 and the property is vacant.

Mr. Hoos stated a Notice of Hearing was mailed via certified and first class mail to Bank of America in care of the plaintiff's attorney on January 27, 2014, and the certified mail receipt was returned signed by Tony Jones on January 30, 2014. The property was posted January 28, 2014.

The Special Magistrate asked if Roberto and Barbara Elias were also sent notices, and if the property was properly posted.

Mr. Hoos replied affirmatively to both questions.

The Special Magistrate asked if there was anyone present to speak on this case. There was no one.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 14,4669, she did find that the owner was in violation of the Town of Lady Lake Code of Ordinances Chapter 20-78 for abandoned property not being registered as required. The owner has 10 days to come into compliance for the 2014 violation and pay the fee of \$150. This order will be recorded as a lien if not paid. In addition, an administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

ABATEMENT HEARING

8. Case No. 12-3773 – 201 Morningside Avenue – Pamela J. Turner – Town of Lady Lake Code of Ordinances Ch. 7-46 – Unlawful Storage of Junk and Debris, and Ch. 7-67 – High Grass

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated this case was heard by the Special Magistrate on October 30, 2012 for the violations of Chapter 7-46 for unlawful storage of junk and debris, and Chapter 7-67 for high grass. She stated the Order of Enforcement required compliance within 30 days or a fine of \$250.00 per day, plus an \$87.00 administrative fee would be assessed. She stated the property was not determined to be in full compliance until February 4, 2014. Ms. Diemer stated the lien has accrued to \$107,087, including the administrative fee. She stated the property owner's daughter was living at the property, and it has since been vacated. Ms. Diemer stated the code violations have been confirmed to be corrected and the property owner would like to seek a lien reduction.

The Special Magistrate asked how long it took to come into compliance after the 30 days, and if an effort was being made, or did it just sit there. She asked staff if they had a picture to refresh her memory.

Ms. Diemer replied there was no compliance for almost two years while the daughter lived there. She stated the property has been in compliance since February 4, 2014.

Code Enforcement Officer Donald Hoos confirmed for the record that he spoke with the property owner and she asked him to go by the property, and everything is in compliance.

The Special Magistrate asked staff if they had any photos of the compliance. Staff did not have photos with them at the hearing, but have them as evidence of compliance.

Ms. Pamela Turner, property owner, introduced herself.

The Special Magistrate asked if anyone currently resided at the property, if the utilities were shut off, and if it was boarded and locked up.

Ms. Turner replied the property is vacant and the utilities are shut off. She stated she had someone that is supposed to be buying it, but depending on the outcome of today's meeting, she may not be able to sell.

The Special Magistrate asked how long it had been since her daughter vacated the property and if she had to go through the eviction process. She asked if Ms. Turner had any concerns regarding her daughter coming back to the property.

Ms. Turner replied her daughter has been gone since February 4th, and has no intention of returning. She stated she did not go through the eviction process and that she let her daughter and five children move-in because they had nowhere else to go, and they have done nothing but cause her problems. She stated she does not even have a reliable vehicle, so she made them get out and she is supposed to be trading the trailer for a vehicle. She stated her brother went ahead and signed the vehicle over to her and then she found out about this.

The Special Magistrate asked Ms. Turner if she was aware of the code violations on the property.

Ms. Turner replied that she was not, and stated her daughter was getting the notices and not telling her about it, until the lien was put on the property in 2012. She stated she called Code Enforcement and they explained the situation and told her the case was going before the Special Magistrate.

The Special Magistrate asked if she or her daughter attended the hearing.

Ms. Turner replied that she did not because she did not know what it was, and her daughter said everything was taken care of. She stated she realized the lien was still on the property when she went to sell.

The Special Magistrate asked who did the actual clean-up of the property.

Ms. Turner replied she made her daughter clean up the property. She stated her daughter was in the process of getting another home, and in order for her to get her vehicle, everything had to be out of the house.

The Special Magistrate stated the Town Commission has the final say but usually factors in her recommendation. She stated she makes her decision based on all the evidence provided, and it

appears that the daughter was not providing her with the notices. She stated the property has been in compliance for 10 days, but she is concerned the daughter may come back.

Ms. Turner replied that her brother installed new locks, and her brother is supposed to be buying the property in exchange for a vehicle he gave her.

The Special Magistrate asked staff for their recommendation on the abatement amount.

Ms. Diemer stated she can understand the lien is not justifiable; it is a very old trailer and she does not have the assessed value. She stated the fact that the property is cleaned up now is a benefit to the community, and it was good that Ms. Turner was able to trade for something she needed. Ms. Diemer recommended abating the amount to \$1,000.00.

The Special Magistrate asked Ms. Turner how much time she would need to pay off the \$1,000.00, because the recommendation from staff is to reduce the \$100,000 lien down to a \$1,000.00 to cover the Town's expenses.

Ms. Turner replied she would like 60 days.

The Special Magistrate asked if staff or anyone else present would like to speak on this case. She stated the circumstances of this case do not warrant a reduction down to \$500.00, but she understands that there is a hardship and in light of the facts and evidence of this case, and staff's recommendation, she is recommending reducing the lien down to \$800.00, to be paid within 60 days of the Town Commission's decision. She advised Ms. Turner that she should attend the Town Commission meeting in case they have questions. She warned that if the property falls into disrepair again, it would be a repeat offense, and the fine could be as high as \$500.00 per day.

Special Magistrate Valerie Fuchs stated that she recommends abatement of this case's lien amount down to \$800.00. The abatement amount is to be paid within 60 days of the Town Commission's decision. She stated that although this is her recommendation, the case still has to go before the Town Commission at their regular meeting on March 17, 2014 at 6:00 p.m. The property owner will get a copy of the order.

ADJOURN

With no other business to discuss, the meeting was adjourned at 11:10 a.m.

Julia Wolfe
Staff Assistant to Town Clerk

Valerie Fuchs
Special Magistrate