

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

June 24, 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; Thad Carroll, Growth Management Director; Christie Gosneigh, Growth Management Technician; and Julia Wolfe, Staff Assistant to the Town Clerk

Also Present: Commissioner Dan Vincent

CALL TO ORDER: Valerie Fuchs, Special Magistrate, called the meeting to order at 10:40 a.m. (Ms. Fuchs stated for the record that no one from the public was there and left because the meeting started late.)

Approval of May 21, 2014 Minutes

Special Magistrate Valerie Fuchs accepted the May 21, 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 were 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 #4, Case No. 14-4759.

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 to the Special Magistrate meeting scheduled for July 16, 2014.

*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 July 16, 2014 meeting at 10:30 a.m. *Please see page 4 below.*

ABATEMENT

The Special Magistrate explained that the abatements have been recorded as a lien. She stated she no longer has jurisdiction to make the final decision regarding reducing, waiving or lowering the accrued fines or liens associated with them since they have been recorded as a lien. She stated that runs in favor of the Town and the Town has the ultimate decision whether or not to reduce, waive or eliminate any accrued fines or liens. Ms. Fuchs also stated since she is familiar with the case, she will hear testimony and evidence today and the Town will consider her recommendation seriously because she is familiar with the facts. She stated she will hear what they have to say and make a recommendation to consider their circumstances and potentially recommend reducing, waiving or eliminating the fine, but the final abatement amount will be determined by the Town Commission at a public meeting.

7. Case No. 09-1761 – 127 Hidden Oaks Drive – Letton K. & Chantal Herlong – Town of Lady Lake Code of Ordinance Ch. 8-26 (a) – Business Tax Receipt Required

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated this case was originally heard by the Special Magistrate on July 27, 2009 for the violation of operating a landscaping business called "Herlong and Sons, Inc." without a business tax receipt. She stated the Special Magistrate ordered that the business tax receipt be obtained within 30 days or a fine of \$150 per day would begin to accrue, plus a \$65.00 administrative fee.

Ms. Diemer stated a re-inspection showed evidence of the business still operating while the business tax receipt had not been obtained, nor the administrative fee paid. As a result, the Order of Enforcement was recorded as a lien on the property. She stated the business name was Herlong and Sons, Inc., and was documented by corporate documents to be in business since

June 2006. Ms. Diemer stated it was unknown if the business was operated at the residential location prior to this case being created in June 2009. She stated the lien had accrued on a daily basis until it was learned that the business had been dissolved according to State of Florida Sunbiz documents on September 23, 2011. As such, the lien was adjusted to reflect those dates, for a daily fee accrual of 757 days at \$150.00 per day adding up to \$113,550, plus the \$65.00 administrative fee, for a total of \$113,615.

Ms. Diemer stated the Town's lien was recorded prior to the notice of lis pendens recordation on December 23, 2009, so the lien has a valid standing. She reported the lien was recorded on September 9, 2009 in OR Book 3816, Pages 1052-1054.

Ms. Diemer stated that Federal National Mortgage Association (FNMA) obtained the Certificate of Title on December 5, 2013. She stated Melanie Romeyn from Arrow Realty is representing FNMA and has requested the abatement hearing on their behalf and is present at this meeting.

The Special Magistrate clarified that the property was taken over in 2013, and she asked when the Herlong's dissolved the company.

Ms. Diemer replied she did not know when the Herlong's dissolved the company.

Melanie Romeyn with Arrow Realty and Investments, on behalf of Fannie Mae, stated they received the asset on December 2013 as a foreclosure and the occupants were still there, but have now moved out.

The Special Magistrate asked if the occupants were the Herlong's.

Ms. Romeyn replied she believed it was the Herlong's, but was not sure. She stated their records show that the occupants vacated on March 3, 2014, and at that point, the bank had the house and yard cleaned up and the property should be in compliance at this point. She stated Fannie Mae asked that she represent them at this meeting and request that the fines be reduced.

The Special Magistrate clarified with staff that both properties are in compliance. She stated the goal is to have compliance with all the codes, regulations and ordinances, and that it appears that the property is in compliance from today's testimony. She stated the main issue is that it took a long time to come into compliance and there are incurred costs to the Town for inspections, paperwork, hearings and the notices. Ms. Fuchs asked for staff's recommendation.

Ms. Diemer replied the policy that the Town Commission has recommended would be \$5,000.00.

The Special Magistrate asked if that was a new policy, and asked what the policy was so she will know in the future.

Ms. Diemer replied that it is a new policy and staff will give her a copy of the policy. She stated the policy is for staff to recommend a reduction to an amount equivalent to 25% of the assessed property value, and in cases where that value exceeds \$5,000.00, the recommended reduction will be set at \$5,000.00. She stated that the Special Magistrate will retain authority to further reduce or increase this amount based upon the testimony of the property owner, and

subsequently, the Commission will have final determination at the Commission meeting to assign the final fee.

The Special Magistrate stated to keep in mind this was an abatement case and her jurisdiction is limited to making recommendations only.

Jim Romeyn with Arrow Realty and Investments asked why the issue does not follow the former owners since the case is so old and Fannie Mae had nothing to do with it in 2009.

The Special Magistrate replied the liens on the property are attached to the property and do not follow the owner. She stated you are subject to all the accrued liens when you purchase the property. Ms. Fuchs stated she appreciates Arrow Realty for taken ownership of the property and bringing the property into compliance immediately, and is recommending reducing the lien amount to \$5,000.00.

Ms. Diemer stated the Town Commission will hear this case on July 7, 2014 at 6:00 p.m.

Special Magistrate Valerie Fuchs stated that she recommends abatement of this case's lien amount down to \$5,000.00. The abatement amount is to be paid within 30 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 July 7, 2014 at 6:00 p.m. The property owner will get a copy of the order.

** Ms. Diemer asked that the Special Magistrate go back to Case No. 13-4321 and 13-4294 under Old Business that were tabled until July 16, 2014. She stated the attorney on the cases has a conflict with the date.*

Joseph Hanratty, Attorney for BBC Investments II, LLC, stated he has a case management conference in Fort Lauderdale that is going to trial on August 11th and he has to be present.

The Special Magistrate stated for the record that no one left or entered the building since the hearing opened, as she did not want there to be a Sunshine Law issue that perhaps the case was talked about again after it was closed. She also stated that the attorney for both cases has been in the hearing room the entire time and asked to be heard again. Ms. Fuchs postponed the two cases to August 26, 2014.

8. Case No. 09-1763 – 127 Hidden Oaks Drive – Letton K. & Chantal Herlong – Town of Lady Lake Code of Ordinance Ch. 7-26 (b) – Commercial Vehicle in a Residential Neighborhood

The Special Magistrate clarified that both abatement cases accrued a lien of \$113,615.

Ms. Diemer replied that was correct.

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated this case was originally heard by the Special Magistrate on July 27, 2009, for the violation of storing commercial vehicles and displaying business signs for “Herlong and Sons, Inc.” in a residential neighborhood. She stated the Special Magistrate ordered that the vehicles and signs

be removed within 30 days or a fine of \$150 per day, plus a \$65.00 administrative fee, would be assessed.

Ms. Diemer stated a re-inspection showed that the business signs and commercial vehicles were still evident and the administrative fee had not been paid. As a result, the Order of Enforcement was recorded as a lien on the property. She stated the business name of Herlong and Sons, Inc. was documented by corporate documents to be in business since June 2006. Ms. Diemer stated it was unknown if the business was operating at the residential location prior to this case being created in June 2009. She stated the lien had accrued on a daily basis until it was learned that the business had been dissolved according to State of Florida Sunbiz documents on September 23, 2011. As such, the lien was adjusted to reflect those dates, for a daily fee accrual of 757 days at \$150.00 per day adding up to \$113,550 plus the \$65.00 administrative fee, for a total of \$113,615.

Ms. Diemer stated the Town's lien was recorded prior to the notice of lis pendens recordation on December 23, 2009, so the lien has a valid standing. She reported the lien was recorded on September 9, 2009 in OR Book 3816, Pages 1144-1147.

Ms. Diemer stated staff would adjust the amount if there was information available that compliance occurred earlier than that. She stated staff's recommendation for abatement is \$5,000.00.

The Special Magistrate stated the abatement amount would probably still be \$5,000.00 if evidence show that compliance occurred a month or even a year earlier.

The Special Magistrate asked if there was anyone else present who would like to speak on this case. She stated for the record that the representative was present but chose not to speak on this case.

Special Magistrate Valerie Fuchs stated that she recommends abatement of this case's lien amount down to \$5,000.00. The abatement amount is to be paid within 30 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 July 7, 2014 at 6:00 p.m. The property owner will get a copy of the order.

The original agenda order was re-established.

NEW BUSINESS:

3. Case No. 13-4384 – 258 N. Clay Avenue – SPOO, Inc. – Town of Lady Lake Code of Ordinances Ch. 7-67 – High Grass; and Ch. 20-21 (a) – Unsafe Dwelling Needs to be Secured

Code Enforcement Officer Donald Hoos presented the background on this case. He stated Lake County records show the property is owned by SPOO, Inc of Orlando, Florida, and is registered as alternate key number 1279631. The property was found to be in violation of the Town of Lady Lake's Code of Ordinances Chapter 7-67 for overgrown vegetation making area inaccessible; and Chapter 20-21 (a) for vacant house and accessory buildings deteriorated and open to the public.

Mr. Hoos reported that the original inspection under the previous owner was conducted on August 1, 2013 based upon a citizen complaint, and the violations were noted. He stated that SPOO Inc., the new owners, acquired the property through a tax sale on January 29, 2014. A courtesy violation notice was sent to the new owner along with a letter regarding the two liens that are still active on the same property. A re-inspection done on March 3, 2014 showed no work had been done.

A Notice of Hearing was mailed March 4, 2014 via certified and first class mail to the property owner's registered agent, Thomas Cunningham, and the certified mail receipt was returned on March 11, 2014 signed by T. Cunningham. The property was posted on May 19, 2014. Photos were entered as evidence.

The Special Magistrate asked if there was anyone else present to speak on this case. There was no one. She asked staff were they looking for a statement that the property is a threat to the safety, health, and welfare so the Town could take action to secure, if necessary. She stated the Town cannot take action unless she makes the finding that the property is a threat to the life, safety and welfare of the residence, and if they do not do it, the Town then has the right to go in and do what they want.

Senior Code Enforcement Cindy Diemer stated the property is in an isolated area and is heavily vegetated, but staff has not done a complete inspection of the property. She stated that having open and unguarded windows and doors could be considered an unsafe condition. She stated staff can do another inspection to find out if it has become more of a threat if it is the Special Magistrate's desire.

The Special Magistrate stated that staff must be able to show that now for her to consider the case. She asked staff to bring the case back before her if the property is a threat to the life, safety, and welfare.

The Special Magistrate asked staff for their recommendation on the case.

Ms. Diemer recommended allowing 10 days to come into compliance or a fine of \$250.00 per day will begin to accrue.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4384, she did find that the owner was in violation of the Town of Lady Lake Code of Ordinances Ch. 7-67 – High Grass; and Ch. 20-21 (a) – Unsafe Dwelling Needs to be Secured. The owner has 10 days to come into compliance for the 2014 violations or a fine of \$250.00 per day will begin to accrue on the 11th day. 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.

4. Case No. 14-4759 – 708 Harper Place – Federal National Mortgage Assn., C/O Bank of America NA – Town of Lady Lake Code of Ordinances Ch. 20-20 (a) (1) – Mold and

Mildewed Exterior; Ch. 20-23 (a) (2) – Unsanitary, Stagnant Pool Water, and Florida Building Code 424.2.17 – Residential Swimming Pool Barrier Required

This case has come into compliance.

5. Case No. 14-4835 – 222 Skyline Drive – Steven L. Hammond – Town of Lady Lake Code of Ordinances Ch. 7-67 – High Grass

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated Lake County records show the property is owned by Steven L. Hammond of the same address, and is registered as alternate key number is 1439922. This property is in violation of the Town of Lady Lake's Code of Ordinances Chapter 7-67 for high grass, weeds, and junk and debris visible from the street.

Ms. Diemer reported that an initial inspection of the property was conducted on April 16, 2014 and the violations were noted. On this same date, a courtesy notice was mailed via certified and first class mail to the owner of record. A re-inspection done on April 29, 2014 showed no work had been done.

Ms. Diemer stated a Notice of Hearing was mailed via certified and first class mail to the owner of record on April 29, 2014. She reported Utilities provided another address for the owner at 37326 Hobby Way, Lady Lake, Florida. The property was posted on May 28, 2014. Photos were entered as evidence. She stated there has been no contact with the owners or their representatives.

The Special Magistrate asked if there was anyone else present who would like 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. 14-4835, she did find that the owner was in violation of the Town of Lady Lake's Code of Ordinances Ch. 7-67 – High Grass, Junk and Trash. The owner has 10 days to come into compliance for the 2014 violations or a fine of \$50.00 per day will begin to accrue on the 11th day. 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.

6. Case No. 14-4845 – 124 Brandy Court – Zabida & Sukhall Sidnauth – Town of Lady Lake Code of Ordinances Ch. 20-20 (a)(1) – Property Maintenance – Mildew; Ch. 20-19 (a)(1) 7 (2) – A/C Cover and Electrical Outlet Needs Repair/Replacement; Ch. 20-23 (a) 4 – Air Conditioner Exposed Wiring; and Ch. 7-110 (3) – Overflowing Dumpster

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated Lake County records show the property is owned by Zabida and Sukhall Sidnauth of

South Ozone Park, New York. The alternate key number is 1120926. This property is in violation of the Town of Lady Lake's Code of Ordinances Chapter 20-20 (a) (1) for property maintenance and mildew; Chapter 20-19 (a)(1) 7 (2) for A/C cover and electrical outlet needs repair/replacement; Chapter 20-23 (a) 4 for air conditioner exposed wiring; and Chapter 7-110 (3) for overflowing dumpster.

Ms. Diemer stated the address is a multi-family triplex and there are several buildings on the property. She stated the property address is 115 Brandy Court according to the property records, and the property has a long history with two different owners.

The Special Magistrate asked if there are tenants at the property.

Ms. Diemer replied that there are tenants.

Ms. Diemer stated an inspection was conducted on April 16, 2014 based upon a citizen complaint for 122, 124, and 128 Brandy Court, and a courtesy notice was mailed this same date. A re-inspection showed the septic problem has been corrected on June 2, 2014 by Leesburg Septic and was given the okay from Lake County Health Department, but the mold, AC and exterior property maintenance still had not been corrected. A re-inspection on June 3, 2014 showed the dumpster was good, but a re-inspection on June 4, 2014 and June 17, 2014 showed the dumpster was overflowing again and is an on-going issue. Photos were reviewed and entered as evidence.

Ms. Diemer reported that a Notice of Hearing was mailed via certified and first class mail to the owner of record on June 2, 2014. She stated she checked with the USPS and the certified mail receipt has not been picked up as it was unable to be delivered because no one was home. She stated the property manager and the owners have been contacted by phone, and the owner is aware of the issue and is working on correcting them. Ms. Diemer stated Leesburg for Rent, the property managers, resigned from taking care of the property within the last week because they could not get cooperation from the owners to get the work done. She stated staff has spoken with the owners and thought they would be at this meeting. Ms. Diemer stated she inspected the property today and the dumpster was empty, however, all the mattresses that have been there for weeks are still on the outside.

The Special Magistrate asked if 115 Brandy Court covered all the buildings.

Ms. Diemer replied it covers the entire property.

The Special Magistrate stated for the record that she arrived ten minutes late and confirmed that no one left prior to her arrival.

Ms. Diemer confirmed this.

The Special Magistrate confirmed that there was no one present who would like to speak on this case.

The Special Magistrate asked staff for their recommendation on the case.

Ms. Diemer recommended allowing 15 days to come into compliance and then a fine of \$50.00 per day.

The Special Magistrate stated according to Chapter 1-62, there is a maximum fine of \$250.00 per day for the first violation based on the gravity and cooperation factor.

Ms. Diemer replied the Town Commission voted that the fine should be \$50.00 per day for non-life safety and \$250.00 per day for life safety issues according to the new policy.

The Special Magistrate stated that she is changing the fine to \$150.00 per day because this is a landlord of commercial property who has residents living there and has known about the problems and is not cooperating.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 14-4845 she did find that the owner was in violation of the Town of Lady Lake's Code of Ordinances Ch. 20-20 (a)(1) – Property Maintenance – Mildew; Ch. 20-19 (a)(1) 7 (2) – A/C Cover and Electrical Outlet Needs Repair/Replacement; Ch. 20-23 (a) 4 – Air Conditioner Exposed Wiring; and Ch. 7-110 (3) – Overflowing Dumpster. The owner has 15 days to come into compliance for the 2014 violations or a fine of \$150.00 per day will begin to accrue on the 16th day. 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.

ADJOURN

With no other business to discuss, the meeting was adjourned at 11:23 a.m.

Julia Wolfe
Staff Assistant to Town Clerk

Valerie Fuchs
Special Magistrate

Transcribed by Julia Wolfe, Staff Assistant to Town Clerk