

**SPECIALMEETING
OF THE SPECIAL MAGISTRATE
TOWN OF LADY LAKE, FLORIDA**

December 18, 2013

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; and Julia Wolfe, Staff Assistant to the Town Clerk

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

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.

Approval of November 20, 2013 Minutes

Special Magistrate Valerie Fuchs accepted the November 20, 2013 meeting minutes into the record as presented.

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

Senior Code Enforcement Officer Cindy Diemer reported one case on this morning's agenda has been rescheduled for service: Item #3, Case No. 13-4486.

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 continued to the Special Magistrate meeting scheduled for January 28, 2014. She stated staff is working with the property owners and their attorney toward a solution.

Special Magistrate Valerie Fuchs asked if anyone present had any comments regarding the requested motion to continue for the two cases. As there were no comments, Ms. Fuchs granted the motion to continue Case No. 13-4321 and Case No. 13-4294 to the meeting on January 28, 2014 at 10:30 a.m.

NEW BUSINESS:

3. Case No. 13-4486 – 127 E. Lemon Street – Harnarine Poorun Et Al – Town of Lady Lake Code of Ordinances Ch. 7-67 – High Grass

This case has been rescheduled for service.

4. Case No. 13-4504 – 456 S. Old Dixie Hwy – Irvin A Spencer – Town of Lady Lake Land Development Regulations Ch. 5-4 – Zoning District Uses; Ch. 16-52 – Building Permit Required – Numerous Improvements; Ch. 9-2 (h)(1) – Outside Storage; Ch. 5-4 (a)(1)(F) – Accessory Structure Limitation; and Code of Ordinances Ch 7-67 – Junk and Trash; Ch. 20-20 (a)(2) – Painting Required; Ch. 20-19 (a)(1) 7(2) – General Maintenance Required; Ch. 20-17 (a) – Light/Window Requirements; Ch. 20-17 (b) – Outlets, Switches and Ceiling Fixture Requirements; Ch. 20-17 (f) – Window and Screen Requirements; and Ch. 20-20 (a)(1) – Exterior Maintenance Required – Mildew

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated that Lake County records show that this property is owned by Irvin A. and Mildred L. Spencer of Lady Lake. The alternate key number is 1809636. Ms. Diemer stated this property is in violation of the Town of Lady Lake's Land Development Regulations Chapter 5-4 for zoning district uses; Chapter 16-52 for building permit required for numerous improvements; Chapter 9-2 (h)(1) for outside storage; Chapter 5-4 (a)(1)(F) for accessory structure limitation; and Code of Ordinances Chapter 7-67 for junk and trash; Chapter 20-20 (a)(2) for painting required; Chapter 20-19 (a)(1)7(2) for general maintenance required; Chapter 20-17 (a) for light/window requirements; Chapter 20-17 (b) for outlets, switches and ceiling fixture requirements; Chapter 20-17 (f) for window and screen requirements; and Chapter 20-20 (a)(1) for exterior maintenance required for mildew.

Ms. Diemer reported that an inspection was conducted based upon a tenant's complaint and the violations were noted at that time. She stated two tenants granted access for the inspection to the two front units of the property. Ms. Diemer stated at the time of the inspection on October 2, 2013, numerous photos depicting the violations were taken. She stated staff has had contact with Mr. and Ms. Spencer, and Ms. Spencer stated she was going to attend the Special Magistrate hearing to testify. Ms. Diemer stated she received a call from Mr. Keown asking what was needed for compliance on October 14, 2013. She stated she checked with the Building Department, and there was no record of a permit obtained for the division of the single family residence into a quad-plex. A Notice of Violation was mailed via certified and first class mail to the owner of record on October 9, 2013, and the certified mail receipt was received signed by unreadable on November 16, 2013. A re-inspection was conducted on November 25, 2013, and no permits have been obtained and the quad-plex is still occupied.

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 received signed by Irvin Spencer on December 4, 2013. The Notice of Hearing was posted on the property on December 3, 2013.

Ms. Diemer stated the majority of the violations need to be corrected by a contractor. She stated there was an extension that was given that has since expired. She stated Mr. Spencer is present to speak on any corrections that have been made to the property that staff has not been given the opportunity to observe.

The Special Magistrate asked what the current zoning is and if there is the opportunity for re-zoning.

Ms. Diemer replied that it is zoned single family, and there is probably some Commission action that would need to occur for re-zoning.

The Special Magistrate asked if there were four meter boxes, and Ms. Diemer replied there was only one meter.

This agenda item was tabled for a short time while the photos were numbered for the record, and then resumed after the four First Offender Cases were resolved. The pictures of the violations were reviewed and entered as evidence, and the property owner was given the opportunity to review the pictures, as well.

Ms. Diemer stated that Ms. Spencer stopped by the office recently and stated that to her knowledge, there are two persons living in the house and it has not been opened up into a single family home. Staff has not been asked to verify any corrections. Ms. Spencer stated she is in the middle of a divorce, but is still the legal property owner. She was planning to testify today, but is not present.

Mr. Irvin Spencer of 456 S. Old Dixie Hwy introduced himself as the property owner. He stated he is divorcing Ms. Spencer and she wants to own all his property and see him in jail.

The Special Magistrate stated that both he and his wife as property owners are responsible for maintaining the property. She asked that he not get too personal in his comments, and asked if he is in agreement that there are violations.

Mr. Spencer agreed with most of the noted violations and stated he has repaired most of them and is working on the bathroom floor, but that he has been in the hospital twice since the notice of violations. In answer to a question by the Special Magistrate, Mr. Spencer stated he no longer has tenants renting any of the space, and only he, a gardener and a housekeeper live in the home now. He stated that his wife is currently living at 113 Spencer Lane; and that he has given her that home to get rid of her. Mr. Spencer stated he is trying to bring the home into compliance, but needs to get an electrical contractor out there. He requested an extension of time to the first of February to get the electrical violations repaired, but stated almost all of the other violations have been corrected.

The Special Magistrate thanked Mr. Spencer for attending today. She stated he will need to meet with staff and allow them to inspect the property to see what is in compliance and what still needs to be done. She stated that permits will most likely be needed to be pulled for the electrical work and a certified electrical contractor will need to do the work.

Ms. Diemer stated staff will need to see that the property has been restored to a single family home, and that other major issues will be the accessory structure exceeding the amount of the principal structure, and the electrical issue could be a fire hazard.

The Special Magistrate asked if anyone else was present to comment on this case.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4504, she did find that the owner was in violation of the Town of Lady Lake Land Development Regulations Chapter 5-4 for zoning district uses; Chapter 16-52 for building permit required for numerous improvements; Chapter 9-2 (h)(1) for outside storage; Chapter 5-4 (a)(1)(F) for accessory structure limitation; and Code of Ordinances Chapter 7-67 for junk and trash; Chapter 20-20 (a)(2) for painting required; Chapter 20-19 (a)(1) 7(2) for general maintenance required; Chapter 20-17 (a) for light/window requirements; Chapter 20-17 (b) for outlets, switches and ceiling fixture requirements; Chapter 20-17 (f) for window and screen requirements; and Chapter 20-20 (a)(1) for exterior maintenance required for mildew. The owner has until February 1, 2014 to come into compliance for the 2013 violation or a fine of \$100 per day will begin to accrue on February 2, 2014 if the property is not in compliance at that time. This fine will be recorded as a lien if not paid. The administrative fee of \$87 is waived.

The violators 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.

Mr. Spencer commented from the audience that he has lived in Lady Lake for 45 years and enjoys living here, and that he bought 20 acres when he first moved here. He stated he gave the Town an acre for the lift station at no charge.

The Special Magistrate stated that it was interesting information and she is sure the Town appreciated it, but that he must still maintain his property and keep it up for safety reasons, as well.

FIRST TIME OFFENDERS:

Senior Code Enforcement Officer Cindy Diemer stated that the four cases listed under this category of First Time Offender were all cited for the violation of Chapter 7-67 for high grass, and failed to come into compliance based on the original courtesy notice, and then letters were sent out, and the cases were put on the agenda for first time offender.

Special Magistrate Valerie Fuchs asked if all these cases were now in compliance.

Ms. Diemer replied that they were now in compliance.

5. Case No. 13-4542 – 400 South Old Dixie Hwy – 141 South Holding Co. Inc. – 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 that Lake County records show this property is owned by 141 South Holding Company, Inc., in care of Mark Caruthers Contracting, 4585 CR 141, Wildwood, Florida. The alternate key number is 1121124.

Ms. Diemer reported that the property was in violation of the Town's Code of Ordinances Chapter 7-67 for high grass. An initial inspection was conducted on November 6, 2013 and the violation was noted at that time. Photos were entered as evidence. She stated a courtesy notice was mailed to Mr. Caruthers on this same date. A re-inspection of the property showed no corrections had been completed on December 2, 2013, and a Notice of Hearing was mailed via certified and first class mail to the owner of record. No certified mail receipt has been received to date, but based on a telephone call received on December 10, 2013 from Ms. Caruthers; staff knew the property owner was aware of the problem. Ms. Caruthers called to say she would try to have the property mowed before the hearing date.

Ms. Diemer stated the purpose of establishing first time offender status is because a violation was cited and did not come into compliance within the time frame provided; and so that there is a clear understanding that if this violation occurs again, a lesser time frame for compliance will be provided and the property owner will be fined as a repeat offender if he/she does not come into compliance within that time frame.

The Special Magistrate noted that it appears some property owners use the Code Enforcement staff as their property manager to let them know when it is time to mow, and that the repeat offender fine for this can be as much as \$500.00.

Ms. Diemer stated that Mr. Caruthers is present to speak on this case.

Mr. Mark Caruthers introduced himself and stated he has brought the property into compliance. He stated he has about 87 properties and it is sometimes difficult to keep up with all of them, and he apologized, but stated the property has been mowed and herbicide has been put down to help keep up with some of the issues.

Initially, the Special Magistrate imposed the following finding:

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4542 she did find that the owner was in violation of the Town of Lady Lake's Code of Ordinances Chapter 7-67 for high grass and weeds. The violation of high grass has

been established as a first-time offense for purposes of establishing the basis for repeat offender. Future violations of the same code shall be considered as a repeat offense and shall be cited pursuant to FS Ch. 162. No fines or administrative fees are imposed at this time.

*The violator has a right to appeal this order within thirty (30) days to the Circuit Court, Tavares, Florida per FS 162.11. The property owner will get a copy of this order.**

***After further discussion following the next case, this case was pulled pending research on the violations under Chapter 7-67.**

6. Case No. 13-4513 – 302 Woods Landing Drive (Vacant Lot) – Stone Wood Estates LLC – 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 that Lake County records show this property is owned by Stone Wood Estates LLC of 1195 NW 165th St. Citra, FL, with Patricia Lancaster as registered agent. The alternate key number is 3837199.

Ms. Diemer reported that the property was in violation of the Town's Code of Ordinances Chapter 7-67 for high grass. An initial inspection was conducted on October 3, 2013 and the violation was noted at that time. Photos were entered as evidence. She stated a courtesy notice was mailed to Ms. Lancaster on this same date regarding two properties in the subdivision. Re-inspections of the properties showed no corrections had been completed on October 21, 2013 or on November 5, 2013, and a Notice of Hearing was mailed via certified and first class mail to the owner of record, Mr. Charles Vigne on November 6, 2013. Staff made contact by phone to the number listed for the manager of the LLC on this same date. He had issues with notices being mailed to the registered agent because they were vague on compliance time. The property was posted and the certified mail receipt was received on November 18, 2013. Ms. Diemer stated the property had been mowed when inspected on December 12, 2013. She stated the purpose was to let them know the property was in violation and that it needed to be corrected, and to be aware that the property needs to be checked routinely and perhaps more frequently during the heavy growing season.

The Special Magistrate asked if there was anyone present who would like to comment on this case.

Mr. Charles Vigne stated that he thinks Lady Lake is a fine place and it is why he invested here. He stated he has improved property on W. McClendon and has several other lots in the area, and tries diligently to keep the property nice. Mr. Vigne stated the neighbors of his property have joined him at today's hearing when they heard he was being cited as they disagree, as does he, and that he does maintain the property. He stated there are double standards and feels staff has something against him.

The Special Magistrate stated that she did not want to hear accusations of discrimination as there are five cases for high grass on the agenda and they are not all owned by Mr. Vigne, and each case is taken on a case by case basis.

Mr. Vigne asked for clarification on what the rules are, and stated he disagreed that he was in violation of high grass. He asked what the compliance was for the code.

The Special Magistrate read Code of Ordinances Chapter 7-67 as follows: *It shall be unlawful for the owner, occupant, lessee or person in control of any land which is within the town limits of the town, and which area is unoccupied or occupied to permit, maintain or allow to remain thereon, any accumulation of garbage, trash, yard trash, rubbish, debris, and unsightly and unsanitary ~~matters~~ matter including but not limited to any accumulations, as defined in this division, or the development of a dense growth of trees, vines or underbrush, which is or may reasonably become infested or inhabited by rodents, vermin or wild animals; or may furnish a breeding place for mosquitoes; threatens or endangers the public health, welfare, or safety; or may reasonably cause disease; or adversely affects and impairs the economic welfare of adjacent properties; any such action or omission is hereby prohibited and declared to be a public nuisance.*

She asked Ms. Diemer where it actually talks about the grass in this chapter, and also if the property was cited for the violation of high grass only.

Ms. Diemer replied the violation was only for the high grass on the vacant properties, and she agreed the wording is vague in the current Chapter 7-67. She stated this inspection was based on a complaint by one of the neighbors, and several properties in the same subdivision were cited.

The Special Magistrate stated that the Town may need to address this wording as it is vague, and she does not see any photographs showing the high grass. She asked if anyone else was present who wanted to speak on this matter as an interested party or neighbor.

Mr. Charles Melton introduced himself and stated he is the only resident of Stone Wood Estates and that Mr. Vigne regularly mows the grass and picks up limbs. He stated there are erosion problems in the area, and the grass cannot be mowed down too low or it would become a sandstorm. He stated he has no complaints.

Mr. Fred Snow stated his property adjoins Mr. Vigne's property in Stone Wood Estates. He stated that he and his wife feel that Mr. Vigne keeps his property up and keeps a tractor on the property. Mr. Snow stated that all he has to do is call Mr. Vigne if something needs attention.

Heather Melton stated her family lives in the only house in the area, and she asked what the standard is for high grass, whether it is 8" or 10", as it does not state it in the code and it is vague. She stated Mr. Vigne takes care of the property.

After discussion for the above two cases, the Special Magistrate agreed that the provision they were noticed on for the violation of Chapter 7-67 is lacking and staff has the burden to show the violation.

Ms. Diemer stated that in the past, 10" was in Chapter 7-67 as the height limit, and she believed that when the code was re-codified, part of it was left out. She apologized and moved to pull all four cases under the First Offender item, including Case No. 13-4542 that had been adjudicated earlier in this meeting.

Special Magistrate Valerie Fuchs stated that all four cases listed under First Time Offender were being pulled until further research could be done on the violations under Code of Ordinances Chapter 7-67.

Mr. Vigne asked how he can get information on what is a violation.

The Special Magistrate stated that he can contact the Town with any questions, and explained that most cases are complaint driven. She stated that if someone is having issues with a neighboring property, they should contact Code Enforcement and they will treat everyone the same by law.

7. Case No 13-4522 – 302 Stone Castle Loop (Vacant Lot) – Pine Acres Holdings LLC – Town of Lady Lake Code of Ordinances – Ch. 7-67 – High Grass

This case was pulled.

8. Case No. 13-4521 – 306 Stone Castle Loop (Vacant Lot) – Amanda Gehring – Town of Lady Lake Code of Ordinances – Ch. 7-67 – High Grass

This case was pulled.

ABATEMENT

9. Case 11-3176 – 907 April Hills Blvd. – Michael & Cherrie Salay – 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 this property represents a violation of Town of Lady Lake Code of Ordinances Chapter 7-76, which was brought before the Special Magistrate on October 24, 2011. She stated the Order of Enforcement was issued and required compliance within ten days or a daily fine of \$100.00 per day would begin to accrue. The order also required the payment of an \$87.00 administrative fee. Ms. Diemer stated a compliance date of May 23, 2012 was documented and the accrued lien for the period of November 3, 2011 to May 23, 2012, representing 202 days at \$100 per day, totaled 20,287.00, including the administrative fee.

Ms. Diemer stated the initial inspection on August 29, 2011 revealed the violation of high grass and a courtesy notice was issued for compliance. She stated a subsequent inspection on September 5, 2011 showed non-compliance and resulted in a Notice of Violation/Notice of Hearing for October 24, 2011.

Ms. Diemer stated in September 2013, a lien search was requested from the Town, and with regards to the Code Enforcement lien, it was advised that if an earlier compliance date could be presented other than the date documented by the Town, it would be presented for consideration of the accrual. She stated no evidence has been presented to date, and the property is under active foreclosure under Circuit Court Case No. 2012-CA001752. According to Realtor Addie Owens, who is present, it is a cooperative foreclosure and she will be representing the property owners in the lien reduction proceedings. Ms. Diemer reported the lien was recorded on November 28, 2011 in OR Book 4097, Pages 2087-2089.

Ms. Addie Owens introduced herself as representing the current owners, Bayview Financial. She stated she has the deed in lieu from Michael and Cherrie Salay to Bayview Financial, the current owners as of September 23, 2013. Ms. Owens stated it has not been recorded yet because it is a

cooperative foreclosure and the deed is executed, and they are trying to clear the title by clearing out the liens. She stated they are requesting a reduction in the lien so they can move forward with listing the property.

The Special Magistrate confirmed that the property is currently in compliance, and asked if they had a figure in mind for the reduction in the lien. She also asked how long it took for the property to come into compliance.

Ms. Owens replied that they are requesting a reduction of the lien to \$100.00, plus the administrative cost.

Ms. Diemer stated that the Town documented it as out of compliance for 202 days, and it may have come into compliance before that, but the owners did not contact the Town for a re-inspection.

Ms. Owens stated that Citi-Mortgage was the prior mortgage holder on the property, and based on her experience with them, they would have hired a management company to maintain the property as soon as it is vacant.

Special Magistrate Valerie Fuchs stated that she recommends abatement of this case's lien amount down to \$500.00. 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 January 6, 2014 at 6:00 p.m. The property owner will get a copy of the order.

OTHER BUSINESS

The Special Magistrate and Ms. Diemer discussed the meeting date for May of 2014, and agreed that Wednesday, May 21, 2014 would work for both parties.

ADJOURN

With no other business to discuss, the meeting was adjourned at 11:51 a.m.

Julia Wolfe
Staff Assistant to Town Clerk

Valerie Fuchs
Special Magistrate