

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

September 27, 2016

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: Michelle Bilbrey, Code Enforcement Officer; Thad Carroll, Growth Management Director; and Carol Osborne, Staff Assistant to Town Clerk.

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

PLEDGE OF ALLEGIANCE

Approval of July 19, 2016 Minutes

The Special Magistrate signed and accepted the July 19, 2016 meeting minutes into the record as presented.

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

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 explained that Staff will present their case and testimony, and she will ask any questions she deems necessary. At that time the owner or interested party will be able to present their testimony or evidence, and Staff will have an opportunity to rebut. The case will be closed for public comment and she will render her decision on each of the cases.

The Special Magistrate asked if there are any changes to the agenda.

Code Enforcement Officer Michelle Bilbrey stated items #1 and #3 have come into compliance, and requested item #4 be tabled until the October 25, 2016 meeting. The Special Magistrate asked if there was anyone present associated with this case that would object to rescheduling this case. Hearing none, Case No. 16-6092 is tabled until October 25, 2016.

Code Enforcement Officer Michelle Bilbrey presented documentation and photographs of each case to the Special Magistrate.

NEW BUSINESS:

1. Case No. 16-6082 – 602 Ray St. – Michael Churchman – Town of Lady Lake Code of Ordinances Chapter 7-67 – High Grass, Garbage, Trash.

This case came into compliance prior to the meeting.

2. Case No. 16-6075 – 101 Mark Ave. – Joseph R. Keene, Sr. c/o Sunburst FL Corp. – Town of Lady Lake Land Development Regulations Chapter 9-2(h)(1) – Outside Storage.

Code Enforcement Officer Michelle Bilbrey stated on August 4, 2016 she observed an inoperable Isuzu Amigo on this property with a missing driver's side front tire, fender, hood, and an expired license plate. That same day the current owner was cited and sent a Courtesy Notice/Notice of Violation via certified mail. The certified mail was signed for on August 10, 2016.

Ms. Bilbrey reported the following actions:

- August 4, 2016 – Joseph R. Keen, Sr. c/o Sunburst FL Corp., the current property owner, was cited and sent a Courtesy Notice/Notice of Violation via certified mail for Violation of the Town of Lady Lake Land Development Regulation – Outside Storage – for an inoperable vehicle. This was signed for on August 10, 2016.
- August 15, 2016 - A re-inspection of the property was conducted, the inoperable vehicle was still present in public view and the right-of-way.
- August 15, 2016 – A Notice of Hearing was sent via certified mail to the property owner. It was signed for on August 18, 2016.
- August 16, 2016 a copy of the Notice of Hearing was hand-delivered to an adult female at the home, and an affidavit of personal service was completed.
- August 24, 2016 - An inspection of the property was conducted. The vehicle had all four tires and had been moved to a different location on the property, still in public view and with the expired license plate tag.
- September 22, 2016 - A re-inspection of the property was conducted and the vehicle remained in the yard, moved to a different location, and still in public view. Ms. Bilbrey stated she attempted to make contact with an occupant of the home, but there was no answer at the door.
- September 26, 2016 – A re-inspection of the property was conducted and the vehicle remained in public view, and the property remained non-compliant.

Ms. Bilbrey stated it is staff's recommendation to find the owner in violation of the Town of Lady Lake Land Development Regulation 9-2(h)(1), Outside Storage, and afford the property owner ten days to cure the violation or a fine of \$50.00 per day be assessed thereafter for each day the violation continues to exist, along with an \$87.00 administrative fee.

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

Joseph Keen, Sr., stated he is not the owner of the vehicle; the vehicle is owned by his son who is out of work and does not have a driver's license. Mr. Keen stated his son has been attempting to repair the vehicle. He stated that he does not own any other property on which his son can store his vehicle, and his son does not own property and cannot afford a storage unit for this vehicle.

Special Magistrate Fuchs stated the testimony from the Code Enforcement Officer and from Mr. Keen confirms there is a violation of the code to have the inoperable vehicle on the property.

Mr. Keen stated the vehicle is operable; however, the vehicle is not insured.

Special Magistrate Fuchs stated the vehicle must be licensed to be in compliance.

Ms. Bilbrey emphasized the vehicle must be out of public view. She stated that Mr. Keen has a lot of privacy fence on the property and suggested Mr. Keen obtain a fence permit, construct a privacy fence, and place the vehicle behind it, shielding the vehicle from public view. This is one solution if Mr. Keen's son cannot get the vehicle licensed and registered at this time.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 16-6075, she did find that the owner is in violation of the Town of Lady Lake Land Development Regulations Chapter 9-2(h)(1) – Outside Storage.

The owner has thirty days to come into compliance or a fine of \$50.00 per day will accrue. Mr. Keen must notify the Lady Lake Code Enforcement Officer to confirm compliance. In addition, an administrative fee of \$87.00 is imposed to be paid within ten days of this date. Should the per diem fine begin to accrue, Mr. Keen can request a second hearing by giving twenty days' written notice. The property owner will get a copy of this order.

3. Case No. 16-6103 – 464 N. US Hwy 27/441 – Boot Barn – Town of Lady Lake Code of Ordinances Chapter 8-26 – Business Tax Receipt.

This case came into compliance prior to the meeting.

4. Case No. 16-6092 – 609 Hwy 466 – Lady Lake, Inc. c/o Grant Gore – Town of Lady Lake Land Development Regulations Chapter 3-1(a) – Development Order; Chapter 10-5(a) – Tree Removal Permit Required.

This case is tabled until the October 25, 2016 meeting.

ABATEMENT/LIEN REDUCTION REQUESTS:

The Special Magistrate explained that the abatements have been recorded as a lien, therefore she no longer has jurisdiction over them. She stated the Town of Lady Lake knows she is familiar with the case and asks for her recommendation as to whether to waive or reduce the liens. She explained that the lien runs in favor of the Town and, therefore, the Town has the jurisdiction to ultimately waive, reduce, or forgive any of the liens.

5. Case No. 15-5524 – 614 Ray St. – Branch Banking & Trust Co. c/o CT Corporation System – Town of Lady Lake Code of Ordinances Chapter 7-67 – High Grass, Garbage, Trash.

Code Enforcement Officer Michelle Bilbrey stated a citizen's complaint was received on July 6, 2015 regarding the condition of this property.

A site inspection was completed on September 2, 2016 and the property was found to be non-compliant.

On September 30, 2016 the current owner, Branch Banking & Trust Co., was cited. A Notice of Violation was sent via certified mail for violation of Town of Lady Lake Ordinance Chapters 7-67 for High Grass, Garbage, Trash, and Chapters 20-74 for Abandoned Property Registration. The property was registered as abandoned on October 13, 2015 (Case #15-5756), and the violation was removed from this case.

Ms. Bilbrey reported the following actions:

- October 12, 2015 - a Notice of Hearing was sent to the property owner via certified mail for the remaining violation. It was signed for on October 15, 2015.
- October 27, 2015 - This case was presented to the Special Magistrate. The property owner was ordered to pay an administrative fee of \$87.00 and to bring the property into compliance within ten days or a fine of \$50.00 per day would begin to accrue.
- October 27, 2015 - Code Enforcement Officer Aaron Graulau completed a Certificate of Service. A copy of the Notice of Enforcement was sent to the property owner via certified mail on October 28, 2015, and it was signed for on October 30, 2015.

Due to changes in Code Enforcement Officers, the Order of Enforcement was not immediately recorded.

- March 28, 2016 and April 6, 2016 - Property inspections were conducted and the property was found to be non-compliant. An affidavit of non-compliance was completed on April 6, 2016.
- April 13, 2016 - The Order of Enforcement was recorded with the Lake County Clerk of Courts in the Official Records, Book 4765, Page 2070.
- July 14, 2016 - Ms. Bilbrey stated she was contacted by a representative from Branch Banking & Trust Mortgage requesting the lien amount and the details of the violation.
- August 4, 2016 - At the request of the property owner a site inspection was conducted, and the property was found to be in compliance.
- August 22, 2016 - Ms. Bilbrey stated she was contacted again by a representative from Branch Banking & Trust Mortgage requesting this case be placed on the Special Magistrate agenda for consideration of a lien reduction.
- September 26, 2016 - A re-inspection of the property was conducted and the property remains in compliance

Ms. Bilbrey stated the total lien amount is \$13,687.00. Per the Lake County Property Appraiser's website, the property is assessed at \$38,586.00.

Ms. Bilbrey stated it is staff's recommendation to reduce the lien amount to \$5,000.00, pending final approval by the Town Commission.

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

Yuliya Swain, Attorney representing Branch Banking & Trust Co., stated her client acknowledges there is a violation, and is kindly requesting a reduction of the lien. Ms. Swain stated the Order of Enforcement and the fine was overlooked. She stated once the notices were delivered to the proper person within the bank, the issue was taken care of immediately. Because the bank is a multi-department institution handling several matters and, with the overwhelming

amount of foreclosures, the notices were not delivered to the proper person in a timely manner. Ms. Swain stated there is now one person dedicated to foreclosure cases in Florida, and will ensure all of the Branch Banking & Trust properties are in compliance with the local government codes and ordinances.

The Special Magistrate reviewed the timeline regarding this case. She asked Ms. Swain how much of a reduction of the lien her client is requesting.

Ms. Swain stated her client will pay any hard costs such as the administrative fee. She stated it has been the practice of BB&T to request a reduction to 10% of the lien where this has occurred.

The Special Magistrate stated lien reductions typically encompass the costs of inspections and notices, and asked Ms. Bilbrey why staff is requesting a fine of \$5,000.00.

Ms. Bilbrey stated the Town's typical reduction is 25% of the property value or \$5,000.00, whichever is lower.

Growth Management Director Thad Carroll stated this is the recommended reduction by the Town Commission. He stated the Special Magistrate's recommendation and staff's recommendation will be presented to the Commissioners and they will ultimately decide on the amount of the lien reduction.

Special Magistrate stated she is an unbiased party; however, she stated she needs to know if there is a change in the Town's policies. She stated the recommended fine was lower in the past.

Special Magistrate Valerie Fuchs stated that based on the testimony, she recommends an abatement of this case's lien amount to \$2,500.00 based on the appraised value of the property and the length of time it took the property to come into compliance. She stated that although this is her recommendation, the case still has to go before the Town Commission. The property owner will get a copy of the order.

Code Enforcement Officer Michelle Bilbrey stated cases #6 and #7 will be presented together as they are for the same property address, and will present Staff's recommendation simultaneously.

6. Case No. 12-3359 – 213 Morningside Ave. – Land Trust Service Corp. (Frank Rutig) – Town of Lady Lake Code of Ordinances Chapter 7-67 – High Grass, Garbage, Trash; Chapter 20-20(a)(1) – PM Res. Exterior Maintenance; Chapter 20-51(a)(8) – PM Porches/Stair Maintenance.

Code Enforcement Officer Michelle Bilbrey reported the following actions regarding Case No. 12-3359, 213 Morningstar Avenue:

- January 09, 2012 – A citizen's complaint was received.
- January 10, 2012 – A site inspection was conducted and the property was found to have multiple violations. The owner, Frank Rutig, was cited and sent a Notice of Violation/Notice of Hearing via certified mail and regular USPS mail for violation of the following Ordinances and/or Land Development Regulations:

- Town of Lady Lake Code of Ordinances Ch. 20-51 (a)(8) - Property Maintenance, Porches/Stair Maintenance
- Town of Lady Lake Code of Ordinances Ch. 20-20 ((a)(1) - Property Maintenance, Exterior Maintenance
- Town of Lady Lake Code of Ordinances Ch. 7-67 - High Grass, Garbage, Trash
- March 03, 2012 – The certified mail was returned and marked as unclaimed.
- January 25, 2012 - A copy of the Notice of Hearing was posted to the site. An affidavit of posting was completed by Code Enforcement Officer Cindy Diemer.
- February 27, 2012 – This case went before Special Magistrate. The owner was ordered to pay an \$87.00 administrative fee and bring the property into compliance within ten days or a fine of \$100.00 per day would begin to accrue.
- March 12, 2012 – A site inspection was conducted and the property was found to be non-compliant.
- April 04, 2012 – The Order of Enforcement was recorded with the Lake County Clerk of Courts.
- April 19, 2012 – The Order of Enforcement was recorded in the Official Records, Book 4146, Page 2200.
- Three subsequent abatements were performed and filed on this property:
 - Removal of trash and mow grass (#12-3619)
 - Boarding up property (#13-4121)
 - Mow grass (#13-4338)
- July 29, 2014 – This property was purchased by Tax Ease Florida REO, LLC at a tax deed sale from the Lake County Clerk of Courts. The property remained non-compliant for the duration of this ownership.
- March 16, 2015 – The property was purchased by Paul McConnon, Trustee. The property remained non-compliant for the duration of this ownership.
- August 16, 2016 – The property was purchased by Land Trust Service Corporation, Trust No. 213MA, represented by Henry and Paula Kones.
- August 23, 2016 – At the request of the new owners, a property inspection was conducted. The property was found to be in compliance at that time. An affidavit of compliance was completed. The new owners made a request to go before the Special Magistrate to request consideration for a lien reduction.
- September 27, 2016 – The total amount of this lien is \$162,987.00 as of this date.

7. Case No. 14-4691 – 213 Morningside Ave. – Land Trust Service Corp. (Tax Ease Florida REO, LLC) – Town of Lady Lake Code of Ordinances Chapter 20-51(a)(8 – PM Porches/Stair Maintenance; Chapter 20-20(a)(1) – PM Res. Exterior Maintenance; Chapter 20-19(a)(1)(2) – Chapter 7-67 – High Grass, Garbage, Trash.

Code Enforcement Officer Michelle Bilbrey reported the following actions regarding Case No. 14-4691, 213 Morningstar Avenue:

- February 06, 2014 – A citizen’s complaint was received regarding this property. This property had one pre-existing lien, and three abatement liens.
- March 12, 2014, April 07, 2014, May 29, 2014, July 16, 2014, and July 28, 2014 – Property inspections were conducted, respectfully.

- October 06, 2014 – The current owner, Tax Ease Florida REO, LLC was cited and sent a Notice of Violation/Notice of Hearing for Violation of the following Town of Lady Lake Ordinances:
 - Town of Lady Lake Code of Ordinances Ch. 20-51 (a)(8) – Property Maintenance, Porches/Stair Maintenance.
 - Town of Lady Lake Code of Ordinances Ch. 20-20 (a)(1) - Property Maintenance, Exterior Maintenance.
 - Town of Lady Lake Code of Ordinances Ch. 20-19 (a)(1)(2) - Property Maintenance, General Maintenance.
 - Town of Lady Lake Code of Ordinances Ch. 20-20 (a)(6) – Property Maintenance, Window/Door Maintenance.
 - Town of Lady Lake Code of Ordinances Ch. 7-67 – High Grass, Garbage, Trash.
- October 07, 2014 – A copy of the Notice of Violation/Notice of Hearing for Violation was posted to the site.
- November 19, 2014 – This case went before the Special Magistrate. The current owner was ordered to pay an \$87.00 administrative fee and bring the property into compliance within ten days or a fine of \$250.0 per day would begin to accrue.
- November 20, 2014 – A copy of the Order of Enforcement was posted to the site.
- December 02, 2014 – A subsequent site inspection was conducted and the property was found to non-compliant.
- December 09, 2014 – The Order of Enforcement was recorded with the Lake County Clerk of Courts in the Official Records, Book 4559, Pages 1581-1587.
- March 16, 2015 – The property was purchased by Paul McConnon, trustee. The property remained non-compliant for the duration of this ownership.
- August 16, 2016 – The property was purchased by Land Trust Service Corporation, Trust No. 213MA, represented by Henry and Paula Kones, for \$5,000.00.
- August 23, 2016 – At the request of the new owners, a property inspection was conducted. The property was found to be in compliance at that time. An affidavit of compliance was completed. The new owners made a request to go before the Special Magistrate to request consideration for a lien reduction.
- September 27, 2016 – The full amount of the lien is \$158, 337.00. The property is currently assessed at \$25,934.00, per the Lake County Property Appraiser’s website.

Ms. Bilbrey stated there are outstanding abatements that remain on this property. As of today’s date, the total amount of abatements is \$2,375.70. She stated it is staff’s recommendation to reduce the lien amounts for both these cases to \$2,624.30, under the condition that the abatements are paid in full, for a total amount of \$5,000 due to the Town, pending final approval by the Town Commission.

The Special Magistrate asked if there was anyone present who would like to speak on these two cases.

Paula Kones stated that she and her husband, Henry Kones, have a small business whereby they purchase distressed properties and repair them where necessary to bring them into compliance with the local government codes. Ms. Kones stated the money used to finance these renovations is from their personal finances. She stated that she and Mr. Kones do many of the cosmetic repairs and they hire licensed, bonded professionals to do major repairs. She stated they work with a management company that screens potential renters for their properties, and on average,

their tenants rent from them for approximately three years. Ms. Kones stated when they purchased this property on Morningside Avenue, some of the neighbors stopped and thanked them for the repairs and cleanup of the property.

Ms. Kones stated they know there are substantial liens associated with this property. She reported that the property is condemned. Even though the property appraiser has a value associated with the building, it is condemned and will cost a lot of money to restore it. Therefore, they can either pay the liens or repair the structure to make it livable.

Ms. Kones stated that they have addressed the issues on the property presented to them by the Code Enforcement Officer to make it appealing to the community and eliminate any risk factors.

Mr. Kones stated they initially found this property through the Code Enforcement Officer's recommendation. Upon visiting the property, they contacted the owner, and they realize there are a large number of violations associated with the property.

Mr. Kones stated due to the condemned nature of the property, the building inspector informed him the property must comply with current Florida wind load standards. He reported even though the tie-downs on this modular home are still in place, he was informed they must be fully upgraded to 2016 standards, which will cost approximately \$3,500.00.

Mr. Kones stated they are willing to pay the abatements. He stated the property was brought into compliance within a week of them owning it. He requested a substantial reduction of the lien amounts. Currently the grass is mowed and the property is secured. He stated he and his wife have purchased properties in Clermont, and by repairing them and getting quality renters, it has improved the value of the neighboring properties.

Special Magistrate stated the ultimate goal is compliance and as indicated by the testimony of the Code Enforcement Officer, and by Mr. and Ms. Kones, the property has improved tremendously and was brought into compliance within seven days of ownership.

Special Magistrate recommended that the fines be reduced to \$500.00 for each case, contingent upon the abatements being paid, based on all of the facts and circumstances, and for the best interest of the community. She stated that although this is her recommendation, the case still has to go before the Town Commission. The property owner will get a copy of the order.

Ms. Kones expressed her appreciation to the Lady Lake Police Officers for being extremely helpful to them and for keeping watch on the property

OTHER BUSINESS:

Special Magistrate Fuchs advised that she will not be available for meetings on the fourth Tuesday of November and December, and requested Ms. Bilbrey schedule alternate dates.

ADJOURN: *With no further business to discuss, the meeting was adjourned at 11:13 a.m.*

Carol Osborne, Staff Assistant to Town Clerk

Valerie Fuchs, Special Magistrate

Transcribed by Carol Osborne, Staff Assistant to Town Clerk