

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

November 15, 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 1:00 p.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 1:00 p.m.

PLEDGE OF ALLEGIANCE

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 replied that there are no changes to today's agenda.

Approval of October 25, 2016 Minutes

The Special Magistrate signed and accepted the October 25, 2016 meeting minutes into the record as presented.

OLD BUSINESS:

NEW BUSINESS:

1. Case No. 15- 5741 – 1606 Cog Hill Dr. – Judith L. Parker, Life Estate – Town of Lady Lake Land Development Regulations Chapter 16- 52 – Building Permit Required.

Code Enforcement Officer Michelle Bilbrey presented documentation and photographs of the first case to the Special Magistrate. She presented the background summary for this case as follows:

- October 6, 2015 – The case was opened by Code Enforcement Officer Aaron Graulau based upon a citizen complaint. A site inspection was completed that day and aerial photos were compared to permits on file for this property. Considerable improvements were found to have been completed without permits to include concrete and room additions and/or changes.
- October 10, 2015 – A call was placed to the property owner. Ms. Parker advised she had legal counsel.
- October 21, 2015 – A Courtesy Notice of Violation was issued for Town of Lady Lake Land Development Regulations Chapter 16– 52 – Building Permit Required.
- November 23, 2015 – Code Enforcement Officer Graulau met with the property owner’s attorney, Arlene Udick.
- December 16, 2015 – An email was sent from Ms. Udick to Mr. Graulau stating the property’s survey would be dropped off at Town Hall the following day. Ms. Bilbrey stated that this case remained inactive until March 3, 2016 due to a lapse in code enforcement officers.
- March 3, 2016 – A site visit was conducted; photos of the survey were taken and compared to the aerial photos once again, showing the property remained non– compliant. A phone call was made to Ms. Udick requesting an update.
- March 16, 2016 – A survey of the property was delivered to the Town’s Growth Management Department.
- April 27, 2016 – Ms. Udick sent an email to staff requesting a meeting to discuss the project, but due to conflicting schedules, the meeting did not occur until June 21, 2016.
- June 21, 2016 – Growth Management Director Thad Carroll and Ms. Bilbrey met with Ms. Udick and discussed the options of either keeping the concrete overage versus removing it to meet the 60% impervious surface ratio requirement. Ms. Udick stated they would go before The Villages’ Architectural Review Committee (ARC) first, then make their decision whether to keep the concrete or asking for a variance. She stated she would put together a packet of all the items, including permit applications for enclosed structures that were not permitted, and submit them to the Building Department. Ms. Udick stated she would discuss the options with her client and asked that staff would be lenient with them regarding time based on the complexity of the process. Staff advised time would be granted as long as forward progress continued.
- July 26, 2016 – A Notice of Violation was sent to the property owner via certified mail, giving the deadline of August 10, 2016. It was signed for by Judith Parker on July 29, 2016. An email was also sent to Ms. Udick on July 26th requesting an update on the permit applications; and asking that the applications be submitted within two weeks. It included a copy of the Notice of Violation sent to Ms. Parker.
- August 9, 2016 – The Building Department received an application for removal of the concrete, sod, and extended irrigation. Permit #16– 930 was issued. Ms. Bilbrey stated that the initial notice to the property owner included citing for concrete placed on the property without a permit. Since this time, the sections of concrete that were placed without a permit have been removed or permitted.
- August 16, 2016 – An email was sent to Ms. Udick acknowledging the permit application for the concrete removal, and reminding her that a permit was still needed for structures that were altered without a permit.
- October 3, 2016 – Another email was sent to Ms. Udick asking for an update on the status of the permit application for the altered structures. The email stated that staff would need to see forward progress on this case, or it would be put on the agenda for the Special Magistrate.

No correspondence was received from the property owner or from Ms. Udick from mid-August until the end of October.

- October 26, 2016 – A Notice of Hearing was mailed to the property owner and her attorney via certified mail; return receipts were signed for by both respective parties. A copy of the Notice of Hearing was posted at the property site and at Town Hall.
- November 14, 2016 – A contractor representing the property owner presented himself at the Building Department and attempted to pull a permit for the altered structures. Staff was unable to issue a permit based on the as-built plans. The room located at the southwest corner of the property does not meet the setback requirements and is located within an easement. The property is currently assessed at \$142,192.00 per the Lake County Property Appraiser.

Ms. Bilbrey stated it is staff's recommendation to find the owner in violation of the Town of Lady Lake Land Development Regulations Chapter 16- 52 – Building Permit Required, and afford the property owner or their agent 30 days to successfully apply for a variance and subsequent permit if the variance is granted 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 reviewed the photos and documents presented as evidence. She asked if there was anyone present who would like to speak on this case.

Arlene Udick introduced herself as attorney for Ms. Parker.

Judith Louise Parker introduced herself as the property owner.

The Special Magistrate asked if the property owner has any outstanding issues with The Villages District or the ARC.

Ms. Udick replied that they have decided not to go through The Villages ARC.

Growth Management Director Thad Carroll was sworn in. He then stated that, as a matter of correction, the structure is partially in an easement, and The Villages must be approached to see if they will grant a partial vacation of that easement before the Town is approached for a variance. Mr. Carroll stated that the easement is 7.5 feet, and there is an encroachment of a couple of inches. He stated staff does not want the property owner to apply for a variance if she is still not in compliance with The Villages.

The Special Magistrate stated for the record that she is the attorney who represents The Villages District governing body, and she stated that The Villages cannot legally grant variances in the deed restriction easements. She stated she will have to recuse herself in this case as there may be an appearance of a conflict of interest for her.

Ms. Udick stated that Ms. Parker has decided to take the added structure off, so they will not need the variance once it is removed.

With no further business, Special Magistrate Valerie Fuchs stated that she will continue Case No. 15- 5741 to the next Special Magistrate meeting on December 12th at 9 a.m., which may

either give the property owner time to come into compliance, or allow the Town time to contact a conflict attorney to hear this case in her stead, as it is a conflict of interest for her since she also represents The Villages District governing body.

ABATEMENT/ LIEN REDUCTION REQUESTS:

2. Case No. 14– 5142 – 236 Skyline Dr. – John A. & Maria Zonin – Town of Lady Lake Code of Ordinances Chapter 20– 19(b) – Stairs, Porches & Guardrails; Chapter 20– 19(e) – Property Maintenance, Electrical Maintenance; Chapter 20– 19(d) – Property Maintenance, Plumbing Line; Chapter 20– 21(i) – Property Maintenance, Sanitary System Maintenance; Chapter 20– 17(f) – Property Maintenance Door Screens; Chapter 20– 20(a)(6) – Property Maintenance Window/Door Maintenance; and Chapter 20– 23(a)(1) – Responsibility of Owners.

Code Enforcement Officer Michelle Bilbrey presented documentation and photographs regarding the case and summarized the case history as follows:

- October 27, 2014 – A case was opened by Code Enforcement Officer Donald Hoos after a complaint was received from the tenant occupying the property. A site inspection was completed the same day with access granted by the occupant. Photos were taken and multiple violations were noted.
- November 3, 2014 – A Notice of Violation/Hearing Notice was mailed via certified mail to the property owner. It was returned marked unclaimed.
- November 4, 2014 – A copy of this notice was hand– delivered to the occupant of the property.
- The Violation/ Notice of Hearing cited the following Town of Lady Lake Ordinances:
 - TLL Ordinance Ch. 20– 19 (b) – Stairs, Porches, Guardrails
 - TLL Ordinance Ch. 20– 19(e) – Property Maintenance/ Electrical
 - TLL Ordinance Ch. 20– 19(a)(1)(2) – Property Maintenance/ General Maintenance
 - TLL Ordinance Ch. 20– 19(d) – Property Maintenance/Plumbing Line
 - TLL Ordinance Ch. 20– 20(I) – Property Maintenance/Sanitary System Maintenance
 - TLL Ordinance Ch. 20– 17(f) – Property Maintenance/Window, Door, Screens
 - TLL Ordinance Ch. 20– 20(a)(6) – Property Maintenance/ Window, Door Maintenance
 - TLL Ordinance Ch. 20– 23(a)(1) – Property Maintenance/ Responsibility of Owners
- November 19, 2014 – The case went before Special Magistrate and the owner was ordered to pay an \$87 administrative fee and bring property into compliance within 10 days or a fine of \$250 per day would begin to accrue. A copy of the Order of Enforcement was mailed to the property owner the same day. This letter was later returned, marked unclaimed.
- November 20, 2014 – A copy of the Order of Enforcement was posted to the site, and an affidavit of the posting was completed by C.E. Officer Donald Hoos.
- November 30, 2014 – The property was re– inspected and was found to remain non–compliant at that time.
- December 9, 2014 – The Order of Enforcement was recorded as a lien with the Lake County Clerk of Court in the Official Records in BK 4559, PGS 1615– 1622.

- November 2, 2016 – The owner, John Zonin, contacted the Building Department and requested that this case be put on the Special Magistrate agenda to request consideration for a lien reduction.
- This past week, a permit was obtained for by a licensed contractor for electrical repairs that were needed.
- November 15, 2016 – A site inspection was conducted with the Town of Lady Lake Building Official, Ron Rowe. All necessary repairs have been made to the property, and it is currently compliant at this time. The full amount of this lien as the date of confirmed compliance is \$179,337.00. The property is currently assessed at \$23,995 per the Lake County Property Appraiser.

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 confirmed that Mr. and Mrs. Zonin were the original property owners in 2014 as well. She asked if it is possible that the property was in compliance before they called this month to request a lien reduction.

Ms. Bilbrey replied that she met with Mr. Zonin at a neighboring property of his that she was inspecting, and he questioned this property at that time as he is the process of selling it. She confirmed that the violation for the electrical repairs was still active before the permit was requested this past week.

The Special Magistrate made a general statement that liens have been filed in the public records and run in favor of the Town as lien holder, and the Town Commission has the ultimate jurisdiction to decide whether they want to reduce or waive the lien, although they take her recommendations into account.

The Special Magistrate asked if the property owners are present and would like to speak. She asked why it took so long to bring the property into compliance.

John Zonin introduced himself as the owner of this property. He stated his wife is very ill and he has been taking care of her; he stated it is hard to work on the property and work at Leesburg Hospital, and take care of his wife as well.

The Special Magistrate stated staff is recommending the lien being reduced to \$5,000.00 and asked Mr. Zoning what his request would be. She asked if this is rental property, and if it is for sale.

Mr. Zonin replied that he cannot afford \$5,000.00. He stated he could afford \$250.00 as he is paying doctor bills that he cannot afford, and this is why he is trying to sell off his property. He stated this was rental property, but it has been empty since the original case as he could not afford to fix it up to have it torn up again. Mr. Zonin stated it is currently for sale, but not under contract.

The Special Magistrate asked staff if a lot of inspections were done during the two– year timeframe that this home was in violation.

Ms. Bilbrey replied that she was not employed by the Town during much of that time, but doubted that staff could access the property to do a true inspection of the interior. She stated there were not frequent complaints about the property during this time to the best of her knowledge.

Special Magistrate Valerie Fuchs stated that based on the testimony, she recommends an abatement of this case's lien amount to \$750.00 based on the value of the property, the costs associated with the case, 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.

3. Case No. 13- 4102 – 101 Mark Ave. – Joseph R. Keene, Sr. c/o Sunburst FL Corp. – Town of Lady Lake Code of Ordinances Chapter 20– 20(a)(1) – Property Maintenance; and Chapter 7– 37 –High Grass, Garbage, Trash.

Code Enforcement Officer Michelle Bilbrey presented documentation and photographs regarding the case and summarized the case history as follows:

- February 15, 2013 – A case was opened by Code Enforcement Officer Cindy Diemer. A Courtesy Notice door hanger was posted on the property citing the violation of Code of Ordinances Chapter 20– 20(a)(1) – Property Maintenance, mildew on exterior of mobile home.
- March 18, 2013, April 30, 2013 and May 1, 2013 – Subsequent inspections were conducted and the property was found to remain non– compliant on each of these dates.
- During subsequent inspections, an additional violation was also noted.
- May 1, 2013 – A Violation/Notice of Hearing notice was mailed to the property owner shown on the Property Record card printed on Feb 20, 2013, showing Joseph R. Keene, Sr. as owner.
- The Violation/ Notice of Hearing cited the following Town of Lady Lake Ordinances:
 - TLL Ordinance Ch. 20– 20 (a)(1) Property Maintenance, Exterior Maintenance– Mildew
 - TLL Ordinance Ch. 7– 67 High Grass, Garbage, Trash
- May 3, 2013 – The Notice of Violation sent certified mail was signed for by Joseph Keene.
- May 6, 2013 – A copy of the Notice of Violation/ Notice of Hearing was also posted to the site, and an Affidavit of Posting was completed by C.E. Officer Donald Hoos.
- June 19, 2013 – The case went before Special Magistrate and the owner was ordered to pay an \$87 administrative fee and bring property into compliance within 15 days or a fine of \$250 per day would begin to accrue. A copy of the Order of Enforcement was sent certified mail to Joseph R. Keene. It was returned unopened on July 7, 2013, marked as “unclaimed”.
- June 25, 2013 – A copy of the Order of Enforcement was posted to the site; a photo was taken, and an affidavit of posting was completed by C.E. Officer Donald Hoos.
- July 5, 2013 – A subsequent inspection was completed and the property was found to remain non– compliant at that time. An affidavit of non– compliance was executed.
- July 11, 2013 – The Order of Enforcement was recorded as a lien with the Lake County Clerk of Courts in the Official Records in BK 4349, PGS 1695– 1697.
- August 4, 2016 – A new C.E. case was opened for this property citing the owner for an inoperable vehicle located in the yard. A Statement of Violation was mailed to the owner,

Joseph R. Keene, c/o Sunburst FL Corp, as per the current Property Record card. This notice was signed for by Jean Gries on August 10, 2016.

- September 27, 2016 – This secondary case went to the Special Magistrate and the property owner was ordered to pay an \$87 administrative fee and bring property into compliance within 30 days or a fine of \$50 per day would begin to accrue.
- October 26, 2016 – Jack Gries with Sunburst FL Corp. came into the Building Department. He requested a property inspection, stating the property was currently in compliance. He stated he had the vehicle removed from the property and the grass mowed, and he did not want a lien to be recorded against the property. A site inspection was conducted that same day; the property was found to be in compliance. An affidavit of compliance was completed. Ultimately, Case # 16– 6075 was closed prior to a lien being recorded. During this same visit, staff informed Mr. Gries of the existing lien against this property from the case on today’s agenda, # 13– 4102. Mr. Gries stated he was unaware that the lien existed, and requested at that time to be put on the Special Magistrate Agenda for a lien reduction consideration.
- November 14, 2016 – A site inspection was conducted and the property remains compliant at this time. The full amount of this lien as the date of confirmed compliance (10/26/16) is \$317,837.00. The property is currently assessed at \$15,461 per the Lake County Property Appraiser.

Ms. Bilbrey stated that staff’s recommendation is to reduce the lien amount to 25% of the property value, which is \$3,865.25 in this case; pending final approval by the Town Commission.

The Special Magistrate clarified that the property owner was Joseph R. Keene in 2013. She asked if the property owner or representative was present.

Ms. Barbara Huff, an officer of Sunburst Corporation, introduced herself. She stated they buy properties at tax sales and then resale them. She stated they sold the property to Mr. Keene, but were unaware of the lien on the property until recently. Ms. Huff stated that she was a novice at this, but when they sold the property to Mr. Keene in 2012, they took the deed and a promissory note to the courthouse to record. She stated they were not aware that the promissory note was not recorded and this is why Sunburst Corporation was not on the property record before.

The Special Magistrate confirmed that Mr. Keene created the violation that created the lien, and asked whether he was still living at the property.

Ms. Huff replied that Mr. Keene is still on the property, but has been asked to move, and Sunburst Corporation will be taking back the property.

The Special Magistrate asked whether the violations were brought into compliance quickly once Ms. Huff was made aware of them, and Ms. Huff confirmed this. She asked staff for further comments regarding the property.

Ms. Bilbrey stated that Mr. Keene has not been compliant regarding the violations on the property, although once the representatives of Sunburst Corporation were made aware of them, the property was brought into compliance quickly. She stated the newest violation regarding the

inoperable vehicle was a result of her noting it when driving by the property it was not based upon a citizen's complaint.

Special Magistrate Valerie Fuchs stated that based on the testimony, she recommends an abatement of this case's lien amount to \$1,500.00 based on the assessed value of the property, the costs associated with the case, 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.

4. Case No. 15- 5788 – 226 Lake Griffin Rd. – Richard Stone – Town of Lady Lake Code of Ordinances Chapter 7- 67 – High Grass, Garbage, Trash.

Code Enforcement Officer Michelle Bilbrey presented documentation and photographs regarding the case and summarized the case history as follows:

- February 2, 2015 – A Code Enforcement Case was opened by C.E. Officer Aaron Graulau.
- November 12, 2015 – A Courtesy Notice was sent to the owner at that time, Edward Rojewski.
- The Courtesy Notice cited the following Town of Lady Lake Ordinances:
 - TLL Ordinance Ch. 7- 67 High grass, garbage, trash
- Several subsequent inspections were conducted; the property was found to remain in violation.
- December 1, 2015 – A notice of hearing was mailed to the owner via certified mail and was returned marked “unclaimed”.
- December 7, 2015 – The Notice of Hearing was posted to the site and an affidavit of posting was completed.
- December 15, 2015 – The case went before Special Magistrate and the owner was ordered to pay an \$87 administrative fee and bring property into compliance within 10 days or a fine of \$25 per day would begin to accrue.
- A change in Code Enforcement Officers delayed the re-inspection of this property for several months.
- March 28, 2016 – Staff inspected the subject property and found it to be non-compliant. The original Order of Enforcement was not located in the file.
- May 12, 2016 – This case was again heard by the Special Magistrate under Old Business for the purpose of executing an original Order of Enforcement. The Order of Enforcement was signed by the Special Magistrate creating an original document for recording purposes. A copy of Order of Enforcement was posted to the site this same date.
- May 22, 2016 – A subsequent inspection was completed and the property was found to be non-compliant at that time.
- May 26, 2016 – The Order of Enforcement was Recorded in the Lake County Records in Book 4785, Pages 1531- 1534.
- November 1, 2016 – This property was purchased by the new/current owner, Richard Stone, at the Lake County Courthouse through a tax deed sale.

- November 2, 2016 – The new owner contacted staff and asked that a property inspection be conducted. The property was found to be in compliance at that time and an Affidavit of Compliance was completed. The new owner then made a request to be placed on the agenda to go before the Special Magistrate for consideration of a lien reduction.

Ms. Bilbrey stated that the full amount of this lien as of the date of compliance is \$4,362.00. This property has one pre-existing abatement lien for removal of trash and cutting of high grass, in the amount of \$773.71, as well as one pre-existing Utility lien and unpaid utilities bills due in the amount of \$891.04 as of today's date. The property is currently assessed at \$49,887 per the Lake County Property Appraiser.

Ms. Bilbrey stated that staff's recommendation is to reduce the lien amount to \$3,335.25 under the condition that the abatement and utility liens are both paid in full, making the grand total due \$5,000; pending final approval by the Town Commission.

The Special Magistrate asked if the owner is present and had any comments or questions.

Mr. Richard Stone introduced himself as the current owner of the property which was bought at a tax deed sale on November 1, 2016. He confirmed that he was aware of the abatement lien at the time, but was unaware of newer lien from the 2015 case as he used an older title search that the County had done on the original tax deed sale docket from April 2015. He agreed that he should have used a current report. Mr. Stone asked if the fines could be reduced even more from staff's recommended amount, to about \$1,000.00, since he brought the property into compliance in less than a day, and he stated he will keep it in compliance as he intends to fix it up and re-sell it.

The Special Magistrate stated she would take these items into consideration as he is not the original owner that caused the violations for this period of time. She asked staff if repetitive site visits were made.

Ms. Bilbrey replied that there were not.

Special Magistrate Valerie Fuchs stated that based on the testimony, she recommends an abatement of this case's lien amount to \$1,500.00 based on the value of the property, the costs associated with the case, 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.

ADJOURN: With no further business to discuss, the meeting was adjourned at 1:49 p.m.

Carol Osborne, Staff Assistant to Town Clerk

Valerie Fuchs, Special Magistrate

Transcribed by Nancy Slaton, Deputy Town Clerk