

**MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING
CITY OF LAKE ALFRED
NOVEMBER 19, 2020
CITY HALL**

Call to Order: Magistrate Joseph Mawhinney at 3:00 pm

Special Magistrate Mawhinney explained the procedures and conducted the swearing-in of the audience members in attendance. All in attendance took the oath.

Staff in attendance: Assistant City Attorney Seth Claytor, Community Development Director Ameer Bailey, Code Enforcement Officer Carl Watson, and City Clerk Linda Bourgeois.

Special Magistrate Mawhinney stated the first item on the agenda was approval of the previous minutes from October 15, 2020. As no objections or concerns were raised, Magistrate Mawhinney approved the minutes. He went on and explained the consent agenda was for the certification of fines for violations already found to exist. He introduced the case and asked if there was anyone in attendance.

CONSENT AGENDA:

A. FINE CERTIFICATION

1. Case # 2017-000-49
Klingensmith, Keith
485 N. Buena Vista
Parcel No. 26-27-32-503000-009110

Assistant City Attorney Claytor stated this was a supplemental order imposing fine. The last order was entered on October 18, 2020. This was a subsequent supplemental order imposing fine and City Staff confirmed the fine is to be certified from 10/4/2018 until 11/10/2020.

Code Compliance Officer Watson presented the case. He said the case was cited in 2017. The affidavit of non-compliance was on 11/10/2020. The notice of violations did not apply in this case since it was a certification of fines. The notice of hearing was mailed on 11/10/2020 and the property was also posted on 11/10/2020. The affidavit of posting was included in the file. The slides with photographs were admitted into evidence and staff's recommendation was to find the violations continue to exist, certify the fines and award administrative costs.

Special Magistrate Mawhinney said he had heard the testimony of the Code Compliance Officer and asked him what he would like to have taken into consideration today.

Keith Klingensmith, Sr. of 485 N Buena Vista Drive was in attendance. He wanted to know where the grass was high in the photographs and said the structure of the house was safe. He said he had one of the finest houses in Lake Alfred. He said he was sorry they did not like it, but he did not buy it for them, he bought it for himself. He continued and spoke referencing the Fourth Amendment and said he had a way to resolve the issue if the City was interested in hearing his suggestion.

Special Magistrate Mawhinney reviewed the violations, the order already entered, and explained we were here today to certify the fines that have accumulated since the entry of the previous order.

Keith Klingensmith, Sr. said which brings me to the Fourth Amendment of the Constitution referencing unjust and high fines.

Special Magistrate Mawhinney asked if it was his contention these violations had been taken care of?

Keith Klingensmith, Sr. said there was no unsafe structure there, there was no garbage there, and the grass is undoubtedly mowed.

Assistant City Attorney Claytor said if Mr. Klingensmith would like to arrange for the Code Enforcement Officer to reinspect the property to determine compliance, the burden is on the property owner once there has been an order of finding violation to establish compliance with the Code of Ordinances, he was certain Mr. Watson would be more than happy to reinspect. It is the position of the City that the order finding violation remains in noncompliance and the City would be seeking certification of the fine.

Special Magistrate Mawhinney asked Mr. Klingensmith if there were any alternations or repairs since the initial order was entered because he had indicated he did not believe there were any unsafe structures or equipment on his property.

Keith Klingensmith, Sr. replied not that he knew of but said that would lead me to ask you for a compromise that would appeal to everybody.

Special Magistrate Mawhinney said based on your acknowledgement there has not been any improvements or corrections to the structures or equipment previously found to be in violation by the Special Magistrate for this case, he was going to find the violations continue to exist on the property.

Keith Klingensmith, Sr. asked about photos of the unsafe structure.

Assistant City Attorney Claytor stated the City's position is that an evidentiary hearing has already been conducted and an order finding violation was entered by the Special Magistrate. He continued and said if Mr. Klingensmith wants to request a reinspection of the property in order to determine if compliance has been achieved, it is the City's position

that he contact the Code Compliance Office to schedule an inspection. If compliance has been achieved, an affidavit of compliance will be provided.

Special Magistrate Mawhinney shared there was a procedure for once a property was in compliance and he could apply for a reduction in fines. He went on to conclude, based on the testimony today, the violations continue to exist on the property. He went on to certify the fines through the date of the most recent inspection of 11/10/2020. He encouraged him to communicate with the Code Enforcement Officer and concluded by entering an order certifying the fines requested by the City.

Assistant City Attorney Claytor said as a part of that order and consistent with the previous orders entered, you will notice there is a notation that was provided for the orders entered in March and October of 2018 for a 90 day period, after recording of the Order, that the City be authorized to foreclose the said lien. As such, the City is requesting authorization to foreclose its lien created by the entry and recordation of this Order pursuant to Florida law, if deemed necessary, to abate any nuisance conditions on the property. That would be consistent with the previous orders. The additional costs for this certification are \$49.48.

Special Magistrate Mawhinney addressed Mr. Klingensmith and said if the violations were not taken care of the City would be authorized to abate the nuisance and explained what that meant. He continued and said he was authorizing the abatement. He went on to say if after 90 days of the certification, at the discretion of the city, the City can proceed with the foreclosing of lien that they would have on the property as a result of these fines.

Mr. Klingensmith, Sr. again asked if the city would have an interest in resolving the issue.

Special Magistrate Mawhinney said the City may however, he was not a mediator. He said he was totally interested in him solving the problem with the city by coming to an agreement. If you all can do that, then he is happy for them. With all due respect to you, there is a process you can go through, but it is not here today to do what you want to do.

2. Case # 2019-00012
Soloman, Alceus & Chartie
315 S. Ilakee Ave.
Parcel No. 26-73-32-505700-000051

Code Enforcement Officer Watson presented the City's case. He said the property was cited for 302.1 Sanitation and storage of materials, and 302.8 motor vehicles. The motor vehicle issue has been resolved. He is making an effort to comply; however, the violations continue to exist. Staff's recommendation is to find the violation continues to exist, certify the fines, and award administrative costs.

Special Magistrate Mawhinney asked what he would like to take into consideration today.

Jonas Feuquire, current owner of property asked for more time to comply.

Special Magistrate Mawhinney certified the fines through 11/10/2020, encouraged him to communicate with the Code Enforcement Officer and explained the fine reduction process after compliance. He said he was certifying the fines (\$6,600), finds that one violation continued to exist, and then awarded the administrative costs of \$39.02.

Assistant City Attorney Claytor asked, if not stated, would all fines be payable within thirty (30) days? Special Magistrate Mawhinney replied yes.

3. Case # 2020-00006
Angeanny D Prashad
740 S. Glencruiten Ave.
Parcel No. 26-27-33-000000-044070

Special Magistrate Mawhinney asked if anyone was here on the property.

Code Enforcement Officer Watson said this was an affidavit of non-compliance and request to find violation. He cited city codes 108.11 for an unsafe structure and 302.1 for sanitation and storage of materials. This is a request for the certification of fines, finding that a violation continues to exist, and the award of administrative costs. The final date of inspection was 11/10/2020.

Angeanny Prashad, former owner of the property said the bank was going to short-sale the property in October however, it has now been postponed until January. He said the bank changed the locks about a year and a half ago and they were the ones maintaining the property.

Assistant City Attorney Claytor said unfortunately the title has not changed hands yet so Mr. Prashad would still be the party responsible pursuant to Florida law.

Angeanny Prashad, said it was the bank that had stopped the short-sale.

Special Magistrate Mawhinney said as the City Attorney said he would still be responsible for the property until the property was sold. He explained this would be a lien on the property for whomever after the sale is consummated. He entered an order certifying the fines through the 11/10/2020 and assessed the additional costs to be paid within thirty days.

NEW BUSINESS:

4. Case # 2020-00013
Soloman, Alceus & Chartie
315 S. Ilakee Ave.
Parcel No. 26-73-32-505700-000051

Code Enforcement Officer Watson said this was a permit violation and had been remedied prior to the hearing. Staff's recommendation was to find the violation existed and to award the administrative costs. The property was brought into compliance on 11/13/2020 and a notice of compliance was sent.

Special Magistrate Mawhinney noted a discrepancy in the administrative costs and asked for the updated amount.

Community Development Director Bailey stated the costs were updated today and it was \$89.05.

Special Magistrate Mawhinney entered an order finding a violation did exist on the property and the property is now in compliance. He continued and said no fine will be assessed but the administrative costs of \$89.05 will be assessed payable within thirty days of today's date.

5. Case # 2020-00019
Expert Care Inc.
1025 S. Lakeshore Way
Parcel No. 26-28-05-52500-0006010

Code Enforcement Officer Watson said the property was cited for the following:

- Section 14-22 – Permit required
- Section 32-1 – Nuisance declared
- Section 2.05.00 – General regulation for accessory use and structures
- Section 105 – Permits

He continued and said staff's recommendations was to find the violations exist, allow 45 days to correct, assess a \$50.00 per day fine thereafter, and award administrative costs. He said the property was first inspected on 7/23/2020 when a work-stop order was given. The property was under a full renovation when they located it. Date of violation was 9/2/2020 and the date to be corrected by was 10/5/020. He went on to say 10/05/2020 with a reinspection on 11/10/2020 with 111 days for compliance. He shared the affidavit of non-compliance and affidavit of posting was mailed on 11/10/2020. He said the notices of violation were mailed regular and certified on 9/8/2020 and the notice of hearing was also mailed regular and certified on 11/4/2020. Public hearing and postings were on 11/10/2020. He showed the photographs, and shared staff's recommendation was to find the violation exist, allow for 45 days to correct, and award administrative costs of \$74.41.

Special Magistrate Mawhinney requested clarification that this was not new construction and Code Enforcement Officer Watson said that was correct. He went on to ask the owner what he would like for him to take into consideration today.

Desmond Edmund explained he thought this was a commercial property and said he needed time to get engineer drawings before he was able to get a permit. He was waiting for the architect to give the drawings to the contractor to submit for a permit.

Special Magistrate Mawhinney asked when he anticipated having that completed, and he said maybe by next week. He continued and said he would extend the time to 60 days to take care of the issues he had been cited for or a \$50.00 per day fine would be imposed. He assessed the City's cost of \$74.41 payable within thirty days of today's date.

6. Case # 2020-00020
Martinez, Mario & Cynthia
985 S Lake Shore Way.
Parcel No. 26-28-05-525000-004072

Code Enforcement Officer Watson said the property was cited for the following:

- Section 14-22 – Permit required
- Section 108.1.4 Unlawful structure
- Section 105.1 – Permit required Florida Building Code

He shared the date of inspection was on 7/22/2020, a work-stop order was posted on 7/23/2020, the date of violation was 9/2/2020 with a date to correct by 10/5/2020. He continued and shared the re-inspection was on 11/10/2020. The structure is still in the same condition as we found it. That allowed for 111 days to correct. The affidavit of violation was filled out on 11/10/2020. He shared the affidavit of non-compliance and affidavit of posting was mailed on 11/10/2020. He said the notices of violation were mailed regular and certified on 9/8/2020 and the notice of hearing was also mailed regular and certified on 11/4/2020. Public hearing and postings were on 11/10/2020. He showed the photographs, and shared staff's recommendation was to find the violation exist, allow for 45 days to correct, \$50.00 per day fine thereafter, and award administrative costs. He continued and showed the photographs of the condition of the property and said the owner was aware there was substantial work needed to bring the property into compliance. He concluded by saying he has had several conversations with the owner, he seemed to be proactive, however it has lingered.

Mario Martinez, owner of the property, said he bought the property about a year ago and it was not structurally sound. He said he cleaned it and closed the back off with plywood because people were breaking in and he was finding needles. He said he was aware the roof was also not structurally sound. He requested consideration of additional time to talk to an architect and engineer to get drawings. He said this year had been a financial hardship and he was not able to do much with the property. He again requested for additional time to be considered.

Special Magistrate Mawhinney asked where he was in the permitting process and Mr. Martinez said he had never planned to build so he was not in the process.

Mr. Martinez said he just cleaned the property and said he would like a few months to think about what he would like to do with it. He shared he bought the property, cleaned it up and secured it from drug addicts. He concluded by saying he never started the process.

Special Magistrate Mawhinney asked if he was going to demolish or build and Mr. Martinez said either / or as those are my only two options.

Mr. Martinez requested time until March of 2021 due to his financial status.

Code Enforcement Officer Watson said the property was secure with the power off so the city was willing to work with the owner in any way we can. He said ninety days was a little extreme.

Mr. Martinez said he thought 60 days was fair.

Special Magistrate Mawhinney entered an order that the violation does exist with 75 days to come into compliance. If not in compliance within the 75 days, then a \$50.00 per day fine will commence to accrue. He assessed the city's costs of \$78.61 payable within thirty days of today's date.

7. Case # 2020-00022
JNS Investments Inc.
540 Mosley Rd.
Parcel No. 26-27-33-52051-0001140

Code Enforcement Officer Watson read the citations into record.

- Section 106.3 - Declaration of nuisance
- Section 108.1.1 - Unsafe structures
- Section 108.1.3 – Structure unfit for human occupancy
- Section 108.1.5 – Dangerous structure or premise
- Section 301.3 - Vacant structures and land
- Section 302.1 – Sanitation and storage of materials
- Section 302.4 – Weeds and overgrowth

Assistant City Attorney Claytor asked about the next two cases and Mr. Watson said 540 & 550 had the same violations on one parcel and 560 was the same owner but a different parcel and violations.

Code Compliance Officer Watson shared the date of inspection was on 7/22/2020, on 8/11/2020 unsafe structure was posted, the date of violation was 10/8/2020 with a date to correct by 10/22/2020. He continued and shared the re-inspection was on 11/10/2020. That allowed for 112 days to correct. The affidavit of violation was filled out on 11/10/2020. He shared the affidavit of violation was mailed on 11/10/2020. He said the notices of violation were mailed regular and certified on 10/8/2020 and the notice of hearing was also mailed regular and certified on 11/4/2020. Public hearing and postings were on

11/10/2020. He showed the photographs of all the properties, and shared staff's recommendation was to find the violation exist, allow for 45 days to correct, \$50.00 per day fine thereafter, and award administrative costs of \$78.55. He concluded by sharing the owner has requested for 60 days and the buildings have all been secured and the grass has been cut. They have been cleaning up the properties.

8. Case # 2020-00023
JNS Investments Inc.
550 Mosley Rd.
Parcel No. 26-27-33-52051-0001140

Code Enforcement Officer Watson read the citations into record.

- Section 106.3 - Declaration of nuisance
- Section 108.1.1 - Unsafe structures
- Section 108.1.3 – Structure unfit for human occupancy
- Section 108.1.5 – Dangerous structure or premise
- Section 301.3 - Vacant structures and land
- Section 302.1 – Sanitation and storage of materials
- Section 302.4 – Weeds and overgrowth

Code Compliance Officer Watson shared the date of inspection was on 5/20/2020, on 8/11/2020 unsafe structure was posted, the date of violation was 10/8/2020 with a date to correct by 10/22/2020. He continued and shared the re-inspection was on 11/10/2020. That allowed for 92 days to correct. The affidavit of violation was filled out on 11/10/2020. He shared the affidavit of violation was mailed on 11/10/2020. He said the notices of violation were mailed regular and certified on 10/8/2020 and the notice of hearing was also mailed regular and certified on 11/4/2020. Public hearing and postings were on 11/10/2020. He showed the photographs of all the properties, and shared staff's recommendation was to find the violation exist, allow for 45 days to correct, \$50.00 per day fine thereafter, and award administrative costs.

9. Case # 2020-00024
JNS Investments Inc.
560 Mosley Rd.
Parcel No. 26-27-33-52051-0001160

Code Enforcement Officer Watson read the citations into record.

- Section 106.3 - Declaration of nuisance
- Section 108.1.3 – Structure unfit for human occupancy
- Section 108.1.5 – Dangerous structure or premise
- Section 301.3 - Vacant structures and land
- Section 302.1 – Sanitation and storage of materials
- Section 302.4 – Weeds and overgrowth

He continued and said staff's recommendation was to find the violation exist, allow for 45 days to correct, \$50.00 per day fine thereafter, and award administrative costs. The date

of inspection was on 5/20/2020, the date of violation was 10/8/2020 with a date to correct by 10/22/2020. He continued and shared the re-inspection was on 11/10/2020. That allowed for 112 days to correct. The affidavit of violation was filled out on 11/10/2020. He shared the affidavit of violation was mailed on 11/10/2020. He said the notices of violation were mailed regular and certified on 10/8/2020 and the notice of hearing was also mailed regular and certified on 11/4/2020. Public hearing and postings were on 11/10/2020. He said the administrative costs were \$78.55.

Special Magistrate Mawhinney provided a recap of the efforts of compliance and the owners request of sixty days for compliance. There was not anyone in attendance for the three cases. He said in each case he finds violations existed and continued to exist, in each case the owner will be given sixty days to bring the properties into compliance or a \$50.00 per day fine will commence to accrue. In addition, in each case he awarded administrative costs in the amount of \$78.55 to be paid within thirty days of today's date.

Community Development Director Bailey said the owners had moved out of the area and currently have a property manager. They were looking to sell the property and have just been unsuccessful this year. She continued and said the tenants were no longer occupying the trailers, the power had been pulled and the owners are looking to remove the trailers to further enhance their prospect of selling the property.

10. Case # 2020-00025

Timmer, Jeffery
975 S. Buena Vista Dr.
Parcel No. 26-28-05-524500-000130

Code Enforcement Officer Watson read the citations into record.

- Section 106.3 - Declaration of nuisance
- Section 302.1 – Sanitation and storage of materials
- Section 302.4 – Weeds and overgrowth
- Section 302.8 - Motor vehicles
- Section 304.2 Protective treatments

He shared staff's recommendation was to find the violation exist, allow for 45 days to correct, \$50.00 per day fine thereafter, and award administrative costs of \$50.85.

The date of inspection was on 3/4/2020, the date of violation was 10/8/2020 with a date to correct by 10/22/2020. He continued and shared the re-inspection was on 11/10/2020. That allowed for 253 days to correct. The affidavit of violation was filled out on 11/10/2020. He shared the affidavit of violation was mailed on 11/10/2020. He said the notices of violation were mailed regular and certified on 10/8/2020 and the notice of hearing was also mailed regular and certified on 11/4/2020. Public hearing and postings were on 11/10/2020. He concluded by sharing staff's recommendations again and showed slides of the photographs of the violations. He said Mr. Davis was in attendance and he had cut the grass down and the vehicles have been removed. He said the only remaining violation was treatments of pressure cleaning or painting.

Tim Davis Property Manager introduced himself.

Special Magistrate Mawhinney disclosed he has represented Mr. Davis on numerous occasions but he has not represented the owner of this property nor has he been engaged incidental to this property.

Tim Davis Property Manager said they had started working for the property owners about three months ago. He said they had cleaned up the property and he went by there today and said he would make sure the mold on the backside of the property was taken care of.

Special Magistrate Mawhinney entered an order of finding the violations existed and at least one violation continues to exist. He gave 45 days to bring the property into compliance or a \$50.00 per day fine will commence to accrue. He awarded \$50.85 in assessed costs payable within 30 days from today's date.

Tim Davis Property Manager asked if the owner in California would receive the fee notice and the reply was, they would be included in the order. He then asked if he could be included, and Code Compliance Officer Watson stated yes and asked him to provide him with his email address.

Community Development Director Bailey reminded them there was not a December hearing and said beginning in January the proposal to the City Commission is to set the hearing times at 2:00 PM.

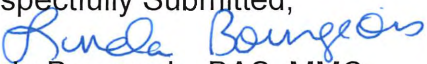
There were no repeat offense cases.

There was no other business.

The next hearing date is scheduled for Thursday, January 21, 2021 at 2:00 p.m.

At 4:06 p.m., the Code Enforcement Special Magistrate Hearing was adjourned.

Respectfully Submitted,


Linda Bourgeois, BAS, MMC,
City Clerk