

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

January 28, 2014

The regular meeting of the Special Magistrate was held in the Town Hall Commission Chambers at 409 Fennell Blvd., Lady Lake, Florida. The meeting convened at 10:30 a.m.

TOWN STAFF PRESENT: Cindy Diemer, Senior Code Enforcement Officer; Donald Hoos, Code Enforcement Officer; and Julia Wolfe, Staff Assistant to the Town Clerk

Also Present: Commissioner Paul Hannan

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 December 18, 2013 Minutes

Special Magistrate Valerie Fuchs accepted the December 18, 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 that Item #7, Case No. 13-4555, and Item #8, Case No. 13-4550 came into compliance prior to the meeting; and the following items have come off the agenda for today: Item #10, Case No. 11-3079; Item #11, Case No. 12-3544; and Item #12, Case No. 11-3290.

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 February 25, 2014. She stated staff is making progress in working with the property owners and their attorney toward a solution.

Special Magistrate Valerie Fuchs asked if anyone present had any objections regarding the requested motion to table the two cases. As there were no objections, Ms. Fuchs granted the request to table Case No. 13-4321 and Case No. 13-4294 to the February 25, 2014 meeting at 10:30 a.m.

3. Case No. 13-4504 – 456 S. Old Dixie Hwy – Irvin A. & Mildred L. Spencer – Town of Lady Lake Land Development Regulations Ch. 5-4 – Zoning District Uses; Ch. 16-52 – Building Permit Required for 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 for Mildew

Senior Code Enforcement Officer Cindy Diemer stated the Order of Enforcement gave the property owners 30 days to come into compliance, and it does not expire until February 2, 2014. She stated the owner of the property wants to ask for an extension and he will come forward to state the reason for the extension request. Ms. Diemer stated the Town has not recorded a lien on the property. She stated there are two active permits, and Mr. Hoos and the Building Official have made one inspection. She stated there are some conditions that still need to be corrected and the property is not at the point of compliance.

The Special Magistrate clarified that the property is not in compliance, but the property owner is seeking additional time before the lien is recorded. She asked staff if the owner had been cooperative since the last meeting.

Ms. Diemer replied that he has been cooperative.

Mr. Irvin Spencer approached the podium and introduced himself.

The Special Magistrate thanked Mr. Spencer for coming in today, and for cooperating with staff on bringing the property into compliance. She clarified that Mr. Spencer is seeking an extension of time and asked him to explain what was going on.

Mr. Spencer replied there are two items ready for inspection and the only thing left to do is the windows in the bathroom. He stated they are having trouble getting the engineering report for the windows, and as soon as they get that, they will apply for a permit and have the work done. He stated he was unsure how he would pay for the work, but it has to be done.

The Special Magistrate asked if there was anyone residing in that section of the home.

Mr. Spencer replied no one is living in that section.

The Special Magistrate asked Mr. Spencer how much time he was requesting and if he has an engineer he is working with.

Mr. Spencer replied he is asking for an extension until March 15, 2014. He stated they were just waiting on the engineer's report and once they have that, they will turn in the other permits and start work. He stated there is a lot of work to be done.

The Special Magistrate asked staff if the time being requested is reasonable.

Ms. Diemer replied that it is. She stated for the record that at the time of the initial inspection of the property, the house was broken up into four units. She stated when they went out for their inspections, they were not allowed entry into the back two rentals. She stated when she spoke with Mr. Spencer, he indicated he lives there with two other people, a gardener and a maid. Ms. Diemer stated it is a little different when it is an open house available to everybody in a roommate situation, but once you have a segregated and separate entry, it constitutes multi-residential. She stated that the inspection must show that it has been restored to a single family house, and staff has not been satisfied in that regard.

The Special Magistrate stated she was sure Mr. Spencer understands the house must be in compliance, and be inspected and confirmed by the March 15th date.

Mr. Spencer stated that if his word was not good enough that there are no renters in the house other than himself, the gardener and a housekeeper, he does not know what other proof is needed.

The Special Magistrate stated it is not a matter of his word that he was not collecting rent, but that his property is zoned for single family residential, and the quarters cannot be divided into separate multi-family residential as that is not allowed under the zoning for his property.

Mr. Spencer replied it is not divided.

The Special Magistrate stated she wished staff could take everyone's word, but they actually have to go in and inspect to be sure all is in compliance with the Town's codes. She stated she is giving him until March 15th to be in total compliance and the Town's Code Inspector and the Building Official must be able to enter the property to inspect and confirm compliance.

Mr. Spencer asked if that was all that was required for proof.

The Special Magistrate stated that staff could show him what the code actually requires, but there has to be an inspection to confirm compliance.

Mr. Spencer stated staff did not inspect the property on the original inspection and asked why they should have to inspect it now.

The Special Magistrate stated staff has to confirm compliance because the allegations were that he was not in compliance. She stated the only way to avoid a lien on his property is to allow staff in to confirm the property is in compliance.

Mr. Spencer stated he will open the door and staff can come tomorrow and inspect the house.

The Special Magistrate stated he can work that out with staff.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4504, she hereby amends the order to provide for additional time until March 15, 2014 for the owner to come in to complete compliance. The property owner will get a copy of this order.

NEW BUSINESS:

4. Case No. 13-4595 – 813 St. Andrews Blvd. – Nationstar Mortgage/(Steven W. Wolfe) – Town of Lady Lake Code of Ordinances Ch. 20-78 – Abandoned Property Registration Required

Senior Code Enforcement Officer Cindy Diemer presented the background on this case. She stated that the owner of the property is Steven Wolfe and this property is being foreclosed on by Nationstar Mortgage LLC, in care of Ronald R. Wolfe & Associates, of Tampa, Florida. The alternate key number is 2874023.

Ms. Diemer stated this property is in violation of the Town of Lady Lake's Code of Ordinances Chapter 20-78 for abandoned property registration for 2013 which has not been paid. She stated the original lis pendens was filed on November 7, 2013. An initial inspection was done on December 18, 2013, and it was determined the lis pendens was filed by Nationstar Mortgage, LLC. The Villages Utilities confirmed the water to this property has been turned off and staff confirmed the property is vacant.

Ms. Diemer stated the renewal notice was e-mailed to Nationstar Mortgage and the attorney for the plaintiff on December 18, 2013. A Notice of Hearing was mailed via certified and first class mail to Nationstar Mortgage in care of Ronald Wolfe & Associates on December 18, 2013, and the certified mail receipt was returned signed by unreadable on December 30, 2013.

The Special Magistrate clarified that the notice was sent to both the bank and the property owner, and was posted on the property.

Ms. Diemer replied that it was.

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

There was no one.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4595, she did find that the owner was in violation of the Town of Lady Lake Code of Ordinances Chapter 20-78 for abandoned property not being registered as required. The owner has 10 days to come into compliance for the 2013 violation and pay the fee of \$150. This order will be recorded as a lien if not paid. In addition, an administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

5. Case No. 13-4577 – 1223 Tarpon Lane – Katherine L. Skinner – Town of Lady Lake Land Development Regulations Ch. 10-5 (a) (8) – Hat-Racked Tree

Code Enforcement Officer Donald Hoos presented the background on this case. He stated that Lake County records show the property is owned by Katherine L. Skinner Life Estate of the same address, and is registered as alternate key number 3332237. This property is in violation of the Town of Lady Lake's Land Development Regulations Chapter 10-5 (a) (8) for hat-racked tree.

Mr. Hoos stated an inspection was conducted on December 3, 2013 based upon a citizen complaint for a possible hat-racked tree. A Notice of Hearing was mailed via certified and first class mail to the property owner on December 3, 2013, and the certified mail receipt was received signed by Katherine Skinner on December 11, 2013.

Mr. Hoos stated he sent an e-mail to Eric Knudson, The Villages' arborist, to request his opinion on the tree. Mr. Knudson replied by e-mail on December 5, 2013 that the tree was a Laurel Oak and verified that it was hat-racked. The attached e-mail from Eric Knudson and pictures were entered into evidence.

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

Ms. Katherine Skinner introduced herself and stated she requested that the tree be trimmed as it was hanging over her gutters and her neighbors were complaining of debris from the tree. She stated she obtained three estimates from landscapers for making the tree smaller, which they said would be topping the tree, and the trimming was done while she was at work. Ms. Skinner stated she did not understand that such extensive trimming was going to be done, and numerous neighbors watched while it was trimmed and were happy it was being done. She was told by neighbors and tree trimmers that it was prohibited by Lady Lake to take the tree down, so she had the trimming done instead. Ms. Skinner stated that Mr. Hoos has since told her she could have applied to remove the tree and just paid \$25.00. She stated that an e-mail from Paul Hannan was incorrect in that it gave the wrong address at the corner of Palmetto Dr. and Pompano, when she is on the corner of Palmetto and Tarpon; and it states the majestic tree was scalped over a year ago. Ms. Skinner stated she just had the tree trimmed in September 2013,

and the landscapers should know what is or is not allowed in The Villages. She stated it was hard for her to pay the \$750.00 charged for trimming the tree, and she was not trying to do something that was going to cost her more money by going against code. She stated that perhaps the landscapers that work in the area should be advised as to what is or is not legal to do in The Villages. Ms. Skinner asked how citizens are to know about all the rules and if the public is notified when they are changed. She asked if she could find out who made the complaint.

The Special Magistrate stated she understood the property owner tried to do her due diligence by using an insured and bonded tree trimmer, but it is her responsibility to go to the source, which is the Town, to find out the codes. She stated that the owner may have recourse if the tree trimmer went against what was in her contract with them, but she is unable to give legal advice. She stated that when ordinances are changed, they are publically noticed and advertised, and are public record. The Special Magistrate also stated that if the person who complained was not anonymous, it would be public record, but many complaints are made anonymously and to the Commissioners who try to help residents as an elected official and keep the neighborhoods harmonious.

Ms. Skinner asked what will happen after a year.

Mr. Hoos clarified that the property owner must come back in a year with a letter from a certified arborist or landscape architect, and it is the owner's choice of who to use.

Mr. Terry Benzi introduced himself and stated he is in a similar situation to Ms. Skinner. He asked if the property owner can get more than one opinion from an arborist.

The Special Magistrate stated that was up to the property owner and that they must present the information to staff. She stated it will only come back before her if staff does not accept their documentation. She informed Mr. Benzi that she cannot speak on his case at this time.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4577, she did find that the owner was in violation of the Town of Lady Lake Land Development Regulations Chapter 10-5(a)(8) for excessive pruning of a tree. A re-inspection to determine the condition of the tree must be completed in one year, by March 1, 2015. An administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

6. Case No. 13-4556 – 614 St. Andrews Blvd. – Marion B. Harvey Life Estate – Town of Lady Lake Land Development Regulations Ch. 10-5 (a) (8) – Hat-Racked Tree

Code Enforcement Officer Donald Hoos presented the background on this case. He stated that Lake County records show the property is owned by Marion B. Harvey Life Estate of the same address, and is registered as alternate key #3024516. This property is in violation of the Town of Lady Lake's Land Development Regulations Chapter 10-5 (a) (8) for prohibited tree pruning.

Mr. Hoos stated that while doing a pro-active inspection in the neighborhood on November 14, 2013, he noticed a tree that was excessively pruned. He stated he spoke with Marion Harvey, the property owner, on November 25, 2013 and she indicated she hired Scott Moore to trim the tree.

Mr. Hoos stated a Notice of Hearing was mailed via certified and first class mail to the property owner on November 21, 2013, and the certified mail receipt was received signed by Marion Harvey on November 25, 2013. He stated Ms. Harvey called staff and questioned the reason for the hearing, and advised staff of the wrong year on the notice on November 25, 2013. He stated the notice indicated 2013 instead of 2014, and staff did leave a revised notice on the door the next day.

Mr. Hoos stated Eric Knudson, The Villages' arborist, replied by e-mail on December 21, 2013 that the tree was a Laurel Oak and verified that it was hat-racked. The attached e-mail from Eric Knudson and pictures were entered into evidence.

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

Ms. Marion Harvey introduced herself and stated she inherited the tree when she purchased the property. She stated she has been trimming the tree and taking care of her house ever since and does not know what the problem is. She stated she wants to protect her property and not do damage to her roof or the neighbor's car. Ms. Harvey stated if she has done something wrong she cannot understand it. She stated the tree was in bad shape when she had it trimmed and was afraid it may do some damage. She asked if they wanted her to wait until something happened because when she talked with her insurance company they advised her to wait until something happened. Ms. Harvey asked for the meaning of a racked tree.

The Special Magistrate stated if the tree is trimmed too severely, it will not come back and will eventually die.

Ms. Harvey stated she had a leak in her screen room roof from a branch hanging on it, causing damage to the tile, and that is why she had it done.

The Special Magistrate stated the tree can be trimmed in accordance to the Town's code, and the owner may be able to remove the tree, but they would need to check on the removal requirements. She stated if it was an issue of the limb being too big and the owner was in fear for her property, she might be able to get a tree removal permit. Ms. Fuchs stated the tree trimming company trimmed the tree too severely, and the picture clearly indicates that. She stated staff is saying to give it a year and see if it comes back, and if so, she would be fine.

Ms. Harvey asked about the Notice of Hearing which indicated there will be a one year follow-up inspection and an \$87.00 fee for the meeting, and asked if that was all there was to it.

The Special Magistrate stated if the tree does not survive after the tree trimming, she would either need to remove or replace the tree according to the Town's code. She stated an \$87.00 administrative fee is being charged at this time for the hearing and the costs incurred with inspections, etc.

Ms. Harvey stated she cannot see what she is doing wrong because there are many trees where she lives that are hanging over the streets and people's screen rooms.

The Special Magistrate stated tree trimming is okay, but it cannot be too severe. She stated someone complained that maybe did not complain in the past. She stated Code Enforcement officers have to inspect after a complaint is made, and she agrees with their opinion that it is a violation.

Ms. Harvey questioned the fee of \$500.00 mentioned on the Notice of Hearing to have the tree removed.

The Special Magistrate stated if the tree has not come back after a year, it will need to be removed. She thanked Ms. Harvey for attending the meeting today.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4556, she did find that the owner was in violation of the Town of Lady Lake Land Development Regulations Chapter 10-5(a)(8) for excessive pruning of a tree. A re-inspection to determine the condition of the tree will be completed in one year. An administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

Mr. Hoos clarified the \$500.00 fee is standard for the removal of an historic tree. He also stated Ms. Harvey was not the only person on her street that had the same thing done.

7. Case No. 13-4555 – 608 St. Andrews Blvd – William C. Whipp III – Town of Lady Lake Land Development Regulations Ch. 10-5 (a)(8) – Prohibited Tree Trimming

This case has come into compliance.

8. Case No. 13-4550 – 211 East McClendon St. – Patricia M. Paluska – Town of Lady Lake Land Development Regulations Ch. 16-52 – Building Permit Required for Addition/Enclosure

This case has come into compliance.

9. Case No. 13-4105 – 1013 Sierra Blanca Ct. – Terry & Kathleen Benzi – Town of Lady Lake Land Development Regulations Ch. 10-5 (a)(8) – Prohibited Tree Trimming

Code Enforcement Officer Donald Hoos presented the background on this case. He stated that Lake County records show the property is owned by Terry & Kathleen Benzi of the same address, and is registered as alternate key number 3776933. This property is in violation of the Town of Lady Lake's Land Development Regulations Chapter 10-5 (a) (8) for prohibited tree trimming.

Mr. Hoos stated an inspection was conducted on February 21, 2013 based upon a complaint by Eric Knudson, The Villages' arborist, and the violations were noted at that time. On the same day, a Notice of Hearing was mailed via certified and first class mail to the property owner.

Mr. Hoos stated that on April 23, 2013, the date of hearing, it was ascertained that the case had been removed accidentally when the adjoining property obtained a tree removal permit. He stated he spoke with the property owner and they stated they would decide over the summer if they wanted to keep or remove the tree. Mr. Hoos stated no permit had been obtained as of November 4, 2013, and the Notice of Hearing was mailed via certified and first class mail to the owner of record on this same date.

Mr. Hoos stated he received a phone call from Terry Benzi, the property owner, on November 17, 2013, and he stated he understood the Special Magistrate meeting was necessary. Mr. Benzi also stated he will work with the neighbors to have the property inspected by the arborist at the same time. He stated the neighbors are scheduled to have a follow-up inspection in April 2014.

The Special Magistrate asked if they were requesting a date of April 15, 2014 instead of March 2, 2015.

Mr. Hoos requested that the property owner be given the same year as everyone else.

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

Mr. Terry Benzi introduced himself and stated his case is very similar to Ms. Skinner. He stated his neighbors were having their trees trimmed and he did the same. He stated they left for awhile to do some shopping, and when they returned, they were shocked at what was done. He stated his neighbors felt the same way.

The Special Magistrate stated that it is shocking when you look at the pictures.

Mr. Benzi stated he received a notice that they were in violation, and when Mr. Hoos came by, he commented that Mr. Hoos was very professional and explained the problem. He also stated the tree trimmers should have some responsibility because they are supposed to know their job and the ordinances.

The Special Magistrate stated she does not know what his contract says, and may have some civil remedies, however she is unable to give legal advice.

Mr. Benzi commented that he wished he could find the tree trimmers. He stated he sent staff some pictures a couple months ago showing that there was growth on the tree.

The Special Magistrate stated that hopefully the tree will come back in a year, but that sometimes the homeowner feels the tree is alright because of new growth, and then asks why the tree needs to be removed. She stated it depends on the arborist's opinion.

Mr. Benzi clarified that the ordinances are printed in the newspaper.

The Special Magistrate stated there is a public hearing for all new ordinances and they are publicly noticed. She stated the current Land Development Regulations and the Code of Ordinances books are public records, and can also be accessed on-line. Ms. Fuchs thanked everyone for coming to the hearing today.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 13-4105, she did find that the owner was in violation of the Town of Lady Lake Land Development Regulations Chapter 10-5(a)(8) for excessive pruning of a tree. A re-inspection to determine the condition of the tree must be completed in one year, by March 1, 2015. An administrative fee of \$87 is imposed to be paid within ten days of this date.

The violator shall contact Code Enforcement to confirm compliance. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty (20) days of the commencement of the fine. When requested, such a hearing will be heard by the Special Magistrate. The property owner will get a copy of this order.

ABATEMENT HEARING

10. Case No. 11-3079 – 101 West Lemon St. – William & Mary Beth Abruzzino, II – Town of Lady Lake Code of Ordinance Ch. 7-67 - High Grass; and Ch. 7-68 (a) – Dead Tree

This case was not heard.

11. Case No. 12-3544 – 101 West Lemon St. – William & Mary Beth Abruzzino, II – Town of Lady Lake Code of Ordinances – Ch. 20-20 (c) – Dead or Dangerous Tree

This case was not heard.

12. Case No. 11-3290 – 915 April Hills Blvd. – Robert W & Debra Zahn – Town of Lady Lake Code of Ordinances Ch. 7-46 – Junk Equipment Storage; Ch. 7-67 – Junk; and Land Development Regulations Ch. 16, Art. II, Sec. 3 – No Shed Permit

This case was not heard.

ADJOURN

With no other business to discuss, the meeting was adjourned at 11:25 a.m.

Julia Wolfe
Staff Assistant to Town Clerk

Valerie Fuchs
Special Magistrate