

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

December 19, 2017

The special 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; Wendy Then, Senior Planner; Chief McKinstry, Police Department; 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

The Special Magistrate asked everyone to silence their phones.

Approval of November 28, 2017 Minutes: The Special Magistrate signed and accepted the November 28, 2017 meeting minutes into the record as presented.

EXPLANATION OF PROCEDURE: Special Magistrate Valerie Fuchs explained to the public that the cases before her today were tabled at the November 28, 2017 Special Magistrate meeting. She stated she is familiar with the cases and that she has not received any new evidence since the November meeting. She explained that staff will present their case and testimony, which may include photographs that defendants have a right to see if it pertains to their case, and will ask any questions she deems necessary. At that time, the owner or interested party will be able to present their testimony or evidence. The Special Magistrate will ask any questions if need be and staff will have an opportunity to rebut. The case will then be closed for public comment and she will render her decision on each of the cases.

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

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

Code Enforcement Officer Michelle Bilbrey replied that there are no changes.

As there were representatives present for each case, the Special Magistrate stated that she has reviewed the minutes of the November meeting to refresh her memory and she asked staff to present new evidence only.

OLD BUSINESS:

- 1. 17-6562 – 103, 108 & 107 Neil Ct. – Lake County Citrus Sales – Town of Lady Lake Code of Ordinances Chapter 20-18(e) - Property Maintenance-Plumbing/Septic Requirement; Town of Lady Lake Code of Ordinances Chapter 20-21(i) – Property Maintenance-Sanitary System Maintenance; Town of Lady Lake Code of Ordinances Chapter 20-19(a) 1&2 – Property Maintenance – General Maintenance**

Code Enforcement Officer presented the Special Magistrate with the case packet from the November meeting that includes supporting documentation and photographs, along with new documents and photographs.

With the Special Magistrate's permission, Code Enforcement Officer Michelle Bilbrey presented a brief overview of this case as follows:

- November 28, 2017 - This case was originally heard at the Special Magistrate meeting on this date. An attorney representing Lake County Citrus Sales, Inc., Susan Balmer, was present for the hearing. She stated that when she completed the case information testimony, Ms. Balmer came forward and requested a continuation based on the fact that she had only recently been employed by the property owners.
- The continuation was granted. Proper notification of today's hearing was given. The property owner(s) and their attorney are both present today.
- After receiving two complaints from two different tenants (Steadman and Anderson) in the month of October 2017, a code enforcement case was opened for this property.
- The following ordinances were cited:
 - Town of Lady Lake Code of Ordinances Chapter 20-18(e) - Property Maintenance, Plumbing Septic–Septic Malfunction
 - Town of Lady Lake Code of Ordinances Chapter 20-21 (i) - Property Maintenance- Sanitary System Maintenance – Septic Malfunction
 - Town of Lady Lake Code of Ordinances Chapter 20-19 (a) 1 & 2 - Property Maintenance- General Maintenance–Roof leak
- Research was done to obtain case history on this location which revealed that a Code Enforcement case was opened by the previous Lady Lake Code Enforcement Officer, Donald Hoos, in 2013. The property owner was cited after a complaint was received from a tenant at 103 Neil Court stating that there was sewage present in the yard and that the septic system was malfunctioning. The case was passed to Diane with the Lake County Florida Department of Health for investigation.
- In 2016, Ms. Bilbrey stated that she opened a similar case based on a complaint from another tenant (Smith). She stated that she was provided with a photo showing raw sewage on the ground. That case was later closed when the property owner provided Ms. Bilbrey with written information indicating that they were obtaining quotes and would be replacing the septic and drain field.
- In October 2017, notification of the violations in association with the Code Enforcement case which is being heard today was provided to the property owner and registered agent of the corporation, William P. Floyd. Mr. Floyd, after receiving these notifications, left Ms. Bilbrey multiple voicemail messages. In these messages Mr. Floyd indicated that they know there is a problem with the system and that they have it pumped out whenever they get complaints. In addition, he went on to explain that the septic problems have derived from the tenants in the apartments, stating they were late on rent, had criminal histories and were crazies. Mr. Floyd stated that the Town needs to put in sewer lines on his street, and that, ultimately, they are working on fixing the system by putting chemicals in it.
- Ms. Bilbrey reported that she received copies of invoices from All-Out Septic, one of the companies indicated by the property owner to have done work on the septic system. The invoices indicate this system was pumped in May, July and August 2017. The May invoice specifically indicates the “drain field is not working”.
- The Town of Lady Lake Utility Department supplies water to all of the units on this site. Records were obtained from them to determine occupancy changes from 2013 to 2017.

According to the records, 105 Neil Court has had four different tenants from 2013 to 2017, and 103 Neil Court has had seven different tenants during this same time

- Ms. Bilbrey reported that the Florida Department of Health in Lake County sent her case narratives from three incidents in which they received complaints of raw sewage on the ground at 103 and/or 105 Neil Court. A cross referencing of the complaint dates with the utilities records indicated that all three complaints came from different tenants:
 - March 2016 – 105 Neil Court. - Smith
 - September 2014 – 103 Neil Court. – Gonzalez
 - April 2013 – 103 Neil Court. – Gordon
- Ms. Bilbrey reported that in total, five complaints have been received from five different tenants regarding this triplex (Gordon, Gonzalez, Smith, Steadman and Anderson – Oct 2017).
- December 18, 2017 - Ms. Bilbrey stated that she contacted Elias Christ, an Environmental Supervisor with Lake County’s Florida Department of Health, to see if any attempts had been made by the property owner to pull a permit for a new septic and drain field. Mr. Christ advised that no attempts had been made. Mr. Christ indicated that he received a call from the property owner, Mrs. Floyd, sometime last week. According to Mr. Christ, Mrs. Floyd stated she was putting liquid additives in the tank. Mr. Christ stated that he explained to Ms. Floyd that anything like that is a “band aid” at this point; that the units are 20+ years old and that is the original drain field. He went on to explain to Ms. Bilbrey that additives will just re-suspend oils into a solution that will then push them into the drain field which can cause more problems with the drain field. Mr. Christ went on to state that the drain field is surrounded by big mature oaks and probably has roots growing in it. He asked that Ms. Bilbrey update him on this case after the hearing today.
- To date, no attempts have been made to pull a permit for a new septic and drain field at this location. No attempts have been made to pull a permit for needed roof repairs at this location.
- There are four triplex units located on this property, all contained within one parcel of property and assigned one alternate key number. A search of Lady Lake’s recent code enforcement records found 13 code enforcement cases have been opened on this property between 2011 and 2017. The other three units on the property have not been cited for septic system issues.
- Per records at the Lake County Tax Collector and Clerk of Courts, this property has had the same owner since 2006.
- The property is currently assessed at \$530,951 per the Lake County Property Appraiser, an increase from the assessed value noted at the November 28, 2017 Special Magistrate hearing.
- The Sunbiz.org Corporation filing is included in this case file.

Ms. Bilbrey reported that a search of old case files revealed a similar code enforcement case at this same location was opened in 2013. The basis of the complaint was there was sewage present in the yard alongside 103 Neil Court and that the septic system was malfunctioning. In conjunction with this case, the Lake County Health Department was contacted. The case notes for the 2013 case were printed and are included in the case file. Ms. Bilbrey stated the 2013 complaint originally came in as a citizen complaint for sewage present in the yard at 103 Neil Court.

Ms. Bilbrey stated she requested that Ms. Smith, a former tenant at 105 Neil Court, appear today to give her testimony and she is present. Ms. Bilbrey presented the Special Magistrate and Ms. Balmer with copies of photographs 105 Neil Court provided by Ms. Smith.

Quantesia Smith stated she was a tenant at 105 Neil Court for approximately two years from 2014 – 2016. She stated she was an annual lease the first year and there were no issues. During the second year, she was on a month-to-month lease and she encountered several septic tank issues such as her toilet overflowing and her home flooding to the point water was draining out of the front door. She

stated she found her bathtub was full of feces one day. Ms. Smith reported this to the property owner and the septic issue was fixed, although these issues continued each month. Ms. Smith stated at one point, the property owner stated she would have someone come out to fix the problems. Ms. Smith stated she told her she could also contact a septic company who, unbeknownst to Ms. Smith, had already been contacted by the property owner. Per Ms. Smith, the septic contractor explained he had been told by the property owner not to divulge that tree roots were the cause of the issue. Ms. Smith stated she relayed that information to the property owner, and a few months later, Ms. Smith was told her lease was being terminated and she had to leave. Ms. Smith stated her roof had been also leaking and she texted those pictures to the code enforcement officer as well.

The Special Magistrate confirmed that the new photographs presented to her today of the roof leaking were taken during the time Ms. Smith was living in the apartment.

Ms. Smith agreed and explained she has more photographs of the conditions in which she was living on an older phone that is not functioning properly.

The Special Magistrate clarified that the septic company told Ms. Smith that roots were part of the issue.

Ms. Smith stated this is correct.

The Special Magistrate asked if anyone had any questions for Ms. Smith.

Attorney Susan Balmer, representing the property owners, asked Ms. Smith which septic company she contacted.

Ms. Smith replied that she could not remember the name of the company, although it is located in Lady Lake off of Hwy 27/441.

Ms. Balmer asked Ms. Smith what period of time she resided at 105 Neil Court.

Ms. Smith replied that she lived there from 2014 to 2016.

Ms. Balmer asked Ms. Smith if she was asked to leave the property.

Ms. Smith replied affirmatively; she stated after so many complaints and the landlord stated Ms. Smith's last rent payment did not go through. Ms. Smith stated she verified that her payment did go through and that the landlord had changed systems.

Ms. Balmer asked Ms. Smith if this is her understanding of why she was asked to leave.

Ms. Smith replied affirmatively; she stated she had several complaints and she has all of the text messages from the time she began living in the apartment until she left the apartment on her phone that is not functioning properly.

Ms. Balmer asked Ms. Smith who lived in the apartment with her.

Ms. Smith stated her child lived with her and that her boyfriend would visit periodically.

Ms. Balmer asked if Ms. Smith was aware of any complaints about her boyfriend.

Ms. Smith replied that she was not aware of any complaints about her boyfriend, although Mr. Floyd was put on probation because he attacked him in front of her child.

At this point, the Special Magistrate interrupted and stated these questions have nothing to do with the septic tank issues.

Ms. Balmer stated she had no further questions for Ms. Smith.

The Special Magistrate asked if there were any further questions from Ms. Bilbrey.

Ms. Bilbrey replied that she did not have any questions for Ms. Smith.

The Special Magistrate stated she would hear testimony from the property owner.

Kathleen Floyd stated that she and her husband own the subject property.

Ms. Balmer asked Ms. Floyd if there was an issue with the roof leaking as Ms. Smith testified.

Ms. Floyd replied there was a problem where the roof cap became loose and was repaired approximately in 2016.

Ms. Balmer asked Ms. Floyd what steps she is taking to repair the roofs.

Ms. Floyd stated after Hurricane Irma, they contacted their insurance company and inspectors have been to the property to assess the roofs. They have received appraisals and are going through the process and are talking to SBA about a low-interest loan rather than paying for the repairs with cash.

Ms. Balmer confirmed with Ms. Floyd that they are in the process of having the roofs repaired.

Ms. Floyd stated this is correct and to be proactive they had tarps placed on the roof and secured them with wood because they were aware that there was an issue with the roof cap on the subject triplex unit.

Ms. Balmer asked if the roofs are currently leaking.

Ms. Floyd stated the roofs are not currently leaking.

The Special Magistrate stated everyone is in agreement that the roof is in disrepair; she asked how much time is needed to complete the repairs as Town staff is recommending 60 days and this issue has been ongoing for months.

Ms. Floyd asked for 90 days.

Ms. Balmer stated her client is currently in the process of having the roofs repaired by discussing it with her insurance company.

The Special Magistrate stated she would take this into consideration.

Ms. Balmer asked which septic company have been contracted to deal with the septic issues.

Ms. Floyd stated there have been three septic companies contracted during her time managing the apartment. She noted that the statement that was made (by Ms. Smith) that they told a septic company not to tell anybody anything is categorically untrue. She stated that they have dealt primarily with All Out Septic (Jon Shrout and Donny, owners/managers) to address the septic issues.

Ms. Balmer asked if Mr. Shrout has been on site to assess the drain field.

Ms. Floyd replied affirmatively.

Ms. Balmer asked what is Mr. Shrout's latest recommendation to repair the septic issues.

Ms. Floyd stated Mr. Shrout recommended they try a product called BioOne, made by BioOne Technology, which is not an enzyme product, as Mr. Christ thought.

Ms. Balmer asked Ms. Floyd if it is her understanding from Mr. Shrout that there has been a problem with the water coming out of these three apartments containing oil and grease.

Ms. Floyd replied affirmatively. She stated that when they evicted Ms. Smith, there was a great deal of grease that had been put down the drain. She stated she was present when the viewing instrument was used and she saw a white substance. Mr. Shrout then jetted the area and vacuumed the contents. It was full almost to the top with white, clean grease and it was solid. She stated that the reason they have had a problem with that septic tank and not the other septic tanks on the property is because it has been sabotaged with grease. Ms. Floyd noted that another septic tank on the property also has trees around it.

Ms. Balmer confirmed with Ms. Floyd that Mr. Shrout recommended a new product to aid in repairing the septic system. Ms. Balmer presented the Special Magistrate with the product information.

Ms. Floyd replied affirmatively; she stated the reason they have tried to use it is because it consists of bacteria that consumes grease. She stated this product multiplies every 20 minutes, it is a patented process using this bacteria, and the grease and biological waste is the "food" on which the bacteria grow. Per the product literature the amount of grease is reduced by approximately 70% within a 48-hour period.

Ms. Balmer asked Ms. Floyd if this product has been proven to rejuvenate failing or failed drain fields.

Ms. Floyd replied that is correct.

Ms. Balmer asked if this is an expensive product.

Ms. Floyd stated the representative at All Out Septic sold them two half-gallon containers of the product for \$125 each. She stated a plumber in Lakeland sold her the same product for \$35 a half-gallon.

Ms. Balmer asked Ms. Floyd if they have used this product in the septic tank.

Ms. Floyd replied they began using it this fall and have not had the septic pumped since the beginning of October.

Ms. Balmer asked Ms. Floyd if they have noticed any changes since they began using the BioOne chemical.

Ms. Floyd stated she has checked the cleanout valve on the septic tank and it has not shown any issues.

The Special Magistrate asked Ms. Floyd how many tenants are in the subject triplex unit currently.

Ms. Floyd replied there are three tenants.

Ms. Balmer asked Ms. Floyd if any of the tenants have filed a complaint since she began using this chemical in the septic system.

Ms. Floyd stated there have been no complaints. She stated that she has checked with the tenant residing in 103 Neil Court on a weekly basis because it is the closest to the septic tank. She also asked the tenant in 105 Neil Court to notify her immediately should they notice if their water drains slowly or if their toilet flushes slowly. She stated she also asked Anderson to do the same.

The Special Magistrate asked if they had considered asking the current tenants to attend today's hearing.

Ms. Floyd replied the tenant in 103 Neil Court works approximately 16 hours a day. She stated she could ask them for an affidavit.

Ms. Balmer stated the tenants in these apartments are not available to take off a day of work.

Ms. Floyd stated the tenant has said that she has not had any issues.

Ms. Balmer asked Ms. Floyd if she has any objection to the Code Enforcement Officer speaking to the tenants or conducting site inspections.

Ms. Floyd replied that she would welcome that and that they want to cooperate. She stated they want it to make it cost effective and also good for the tenants.

Ms. Balmer asked Ms. Floyd if the BioOne product does not work or does not continue to work as well as it has, would she have any objection at that time to consider the issue of rebuilding the drain field.

Ms. Floyd replied affirmatively, if it is possible, although she has concerns that she had previously discussed with Ms. Balmer. She stated she has received different estimates regarding the size of the drain field and the size of the septic tank. Per Ms. Floyd, her husband stated that, at one time, Mr. Shroust had expressed concerns regarding putting in a drain field in that area because the size is incorrect. She stated that her husband is concerned that he purchased a piece of property and neither the County nor the Town of Lady Lake informed them that a septic tank and drain field that cannot handle three apartments was permitted and allowed to go in there.

Ms. Balmer stated the size of the septic tank was in question at the November hearing, and she asked Ms. Floyd if she has researched the original permitting to determine the size of the septic tank.

Ms. Floyd replied she called Lake County per Ms. Balmer's request, and was told that there are no paper records or electronic records that date back that far.

Ms. Balmer asked Ms. Floyd to explain the difference between the BioOne product and the alternative enzyme product they had used.

Ms. Floyd explained enzymes create a slurry because they break down and that will block the drain field. The BioOne product contains bacteria that "eats" the grease and the biological waste. Once that is out of the way, there are products that will deal with the tree root problem. She noted there is a septic tank servicing three apartments at the other end on the same side of the property that is also surrounded by trees and there have been no problems with that tank.

The Special Magistrate stated that has nothing to do with the septic tank that has had ongoing issues since 2011.

Ms. Floyd stated, unlike the other property, Mr. Gonzalez's lease was not renewed because he cooked with a very large amount of grease that he poured down the drain.

Ms. Balmer asked Ms. Floyd why she believes these problems occurred in these apartments.

Ms. Floyd replied that she rented to people who either sabotaged the system by pouring grease down the drain, or cooked with grease...

The Special Magistrate interrupted Ms. Floyd at this point. She stated that according to the testimony from the November hearing that includes transcribed voice messages, Ms. Floyd's testimony today, the information from Lake County that was provided to the Town, and testimony from Town staff that these issues have been ongoing for several years, since 2011. She stated it has not been one tenant or two tenants; Ms. Floyd is stating that every single tenant since that time has sabotaged the system with grease. She reiterated the problems have been ongoing for many years, and in the voicemail messages and the email correspondence, it is indicated that roots have been a problem.

Ms. Floyd stated she did not admit there is a root problem; she stated it is possible that roots are a problem.

The Special Magistrate stated that main theme of the voicemail messages was that the property owners do not want to spend the money, and are waiting for the Town to have the sewer hookup, and that the property owners are just going to try to remedy this issue with a "band aid". She stated now the property owners' new "band aid" is BioOne and she stated the literature presented to her today states that it is not to be used often.

Ms. Floyd stated it is used monthly.

The Special Magistrate stated septic tanks need to be pumped every two-three years, and Ms. Floyd's testimony and in the voicemail messages, it is acknowledged that the tanks were being pumped every month.

Ms. Floyd stated part of the problem was that when Mr. Gonzalez put grease down...

The Special Magistrate interrupted to ask when Mr. Gonzalez resided at the triplex.

Ms. Floyd stated he was a tenant prior to 2013, before she came to Florida. She stated she believed the problem began when Mr. Gonzalez was there.

Ms. Balmer continued her questioning; she confirmed with Ms. Floyd that she has been in direct contact with Mr. Shroul, and that this is very new product.

Ms. Floyd replied affirmatively and stated this is not a new product; that it was a new product to Mr. Shroul. She stated Mr. Shroul had attended a seminar regarding this product and believed it to be an amazing product.

Ms. Balmer asked Ms. Floyd if this product has resolved the problem since she began using it.

Ms. Floyd stated she believes the product is working on resolving the problem and it will become more effect. She stated that she has talked to the technology team at OneBio Technology how this product will rejuvenate septic tanks.

The Special Magistrate stated that regardless of all of the facts, everyone is in agreement that there was a problem with the septic tank, although Ms. Floyd believes that she has found a solution. The Special Magistrate stated the recommendation is to allow Ms. Floyd 60 days to find a solution and the Code Enforcement Officer must be allowed to verify that there is no longer any issues.

Ms. Balmer stated they would like the Town do whatever is necessary to determine whether this product is working effectively. She stated if it is not working effectively, then Mr. and Mrs. Floyd will entertain...

The Special Magistrate stressed that this is a commercial piece of property and there have been issues raised such as, "I don't want to spend the money or it is too expensive to do that". She emphasized that this is a commercial property that is providing homes for families, and the property owners should be embarrassed to be here; to have these homes for residents of the community living with these issues. She stated she does not believe the "grease defense" has been the cause of this issue that has been going on for several years. The main thing is to find a solution for the residents who have made these apartments their homes. The Special Magistrate stated she finds it appalling that people's histories are being brought up when they are living in these homes that she believes are uninhabitable due to the roof and septic issues.

The Special Magistrate stated at this time, she is finding there is a violation for the issue of the roof although the testimony from everybody is that there it is being addressed, and there is a violation with the septic tank because there is no proof that it is in compliance, although Ms. Floyd seems confident that it is in compliance. Therefore, the Special Magistrate stated she will allow 75 days to bring the roof and the septic system into compliance. She imposed an \$87 administrative fee, and a \$250 per day fine will begin to accrue on the 76th day if these issues are not brought into compliance.

The Special Magistrate emphasized to Ms. Balmer that the burden of proof is on her clients to contact the Code Enforcement Officer and to verify to her satisfaction that these issues are in compliance, which could be an inspection conducted by a septic company, interviews with tenants, etc.

Ms. Balmer requested a timeline for the inspector.

The Special Magistrate stated that is not within her jurisdiction and they must work with the Town regarding compliance issues.

Ms. Balmer stated that she does not know how long it takes to construct a drain field.

Ms. Floyd stated that Mr. Shroust was not certain a new septic system could be constructed in that area.

The Special Magistrate stressed that if the property is unsafe for habitation without having a septic system, then it will be condemned. She stated this is the property owner's responsibility if it is not fit for habitation. She emphasized to Ms. Floyd that a new drain field must be constructed if this solution she is proposing does not work.

Ms. Balmer asked Ms. Bilbrey if they can schedule a site inspection.

Ms. Bilbrey stated that she is not comfortable conducting this type of inspection and would rely on the Lake County Health Department to conduct an inspection.

The Special Magistrate reiterated that it is up to Town staff to inform Mr. and Mrs. Floyd what they need.

Ms. Bilbrey stated the Lake County Health Department conducts environmental health inspections for septic systems, and she suggested Ms. Balmer contact Elias Christ. She stated that the LCHD is the State entity that issue permits for septic tank replacement and drain field replacement. She noted LCHD is the agency who is notified when there is raw sewage on the ground and that is why they are familiar with this property.

Ms. Bilbrey asked if all three units are occupied at this time, as when last she checked, unit 105 Neil Court was unoccupied.

Ms. Balmer replied that all of the apartments are occupied and they can provide the leases.

Ms. Bilbrey stated the system may not present any issues if there is not full occupancy.

The Special Magistrate directed Ms. Bilbrey to verify that the subject triplex is fully occupied.

Ms. Bilbrey stated she will verify with the Utility Department that the water is turned on and is being used. She clarified with the Special Magistrate that staff will follow the recommendations of Elias Christ with the Lake County Health Department after the inspection of the septic system is conducted.

The Special Magistrate asked staff to insure that this new product is not a temporary fix and what his recommendation is if the triplex is fully occupied.

Ms. Balmer requested to have 90 days to come into compliance because of the holidays.

The Special Magistrate stated that 75 days is enough time to come into compliance because the holidays are only one week away. She stated these issues have been going on for years and that the tenants are spending their holidays in that situation.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 17-6562 at this hearing and at the hearing in November at which the owner and the owner's attorney were present, she did find that the owner is in violation of the Town of Lady Lake Code of Ordinances Chapter 20-18(e) - Property Maintenance, Plumbing Septic – Septic Malfunction, Town of Lady Lake Code of Ordinances Chapter 20-21(i) – Property Maintenance – Sanitary System Maintenance – Septic Malfunction, Town of Lady Lake Code of Ordinances Chapter 20-19(a) 1 and 2 – Property Maintenance – General Maintenance – Roof Leak. The owner has 75 days to come into compliance or a fine of \$250 per day will begin to accrue on the 76th day. 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.

ABATEMENT/LIEN REDUCTION

2. Case No. 14-4786 – 552 S. Hwy 27/441 – BBC Investments II, LLC - Request to Invalidate Lien (Tabled at the November 28, 2017 hearing)

The Code Enforcement Officer presented documentation and photographs of this case which was tabled from the November 28th Special Magistrate hearing. She stated that she does not have any new documents to present.

The Special Magistrate noted that the property owner and his attorney are present. She stated it is not within her purview to decide whether or not to decide whether or not a lien running in favor of the Town should be found as invalid or not. Therefore, she stated she will not act on this request. She stated should Mr. Hanratty or his client like to argue that, it would be at the time the Town would go to enforce it.

Mr. Hanratty stated that he appeared before the Commissioners in November and it was their desire to have the Special Magistrate render a decision. He stated that he and the Town attorney discussed the issue at that meeting and, ultimately, the Commission sent him to the Special Magistrate.

The Special Magistrate stated this could be because it is the first time this has been challenged. She stated that she could not contact the Town attorney regarding this issue under ex-parte rules. If she had been permitted to call the Town attorney, perhaps they could have reached an agreement.

The Special Magistrate stated in regard to the next case - No. 14-4786 – 552 S. Hwy 27/441 – BBC Investments II, LLC – Code Violations, since she has previously ruled on it and it has been recorded as a lien. The statute clearly states that once a lien is recorded, it runs in favor of the Town and the Town has cure jurisdiction and the Special Magistrate does not. She stated that she cannot see how she can now go back and invalidate the lien, even if she agreed with the process that Mr. Hanratty is stating. She stated this may be moot after the next item is discussed.

3. Case No. 14-4786 – 552 S. Hwy 27/441 – BBC Investments II, LLC – Town of Lady Lake Land Development Regulations Chapter 16-52 – Building Permit Required; Town of Lady Lake Code of Ordinances Chapter 20-52 – Commercial Property Maintenance-Exterior Appearance; and Town of Lady Lake Code of Ordinances Chapter 20-51(b) – Commercial

Property Maintenance-Exterior/Interior Maintenance (Tabled at the November 28, 2017 hearing)

Code Enforcement Officer presented the Special Magistrate with documents.

The Special Magistrate stated this case is continued from November and she has reviewed the minutes to refresh her memory. She stated there was discussion at the November hearing regarding noncompliance due to site plan approval.

Ms. Bilbrey stated that everything is in compliance as of today.

The Special Magistrate stated that because the property is in compliance, and in light of Mr. Hanratty's arguments regarding the second order procedure pursuant to Chapter 162, she will impose the second order of fine and record it as a lien, which Mr. Hanratty was requesting all along. She stated that the first order of lien was filed correctly according to Chapter 162. Moving forward, she will discuss with the Town's attorney how future processes regarding second orders of Chapter 162.

The Special Magistrate asked for the total amount of the lien as the fine has accrued from the time of the original order.

Ms. Bilbrey stated the total is \$29,000 as of today's date.

The Special Magistrate stated based on the testimony and evidence at the November hearing, the Town was proposing a lien reduction to \$5,000, which was not acceptable to the owner at that time. She stated that this second order could now be properly filed in the amount of \$29,000, or it could be reduced to \$5,000 to cover all the issues here today.

Mr. Hanratty clarified that the prior order that was recorded was pursuant to Chapter 162.07.

The Special Magistrate replied affirmatively.

Mr. Hanratty stated there has not been an order issued pursuant to Chapter 162.09 up until this point in time.

The Special Magistrate stated the first order may cover both sections of Chapter 162; regardless, in an abundance of caution, the second order is pursuant to Chapter 162.09, which now covers everything.

Mr. Hanratty asked if the prior order was filed pursuant to Chapter 162.07 or Chapter 162.09.

The Special Magistrate stated that it is irrelevant because now the second order is being filed, as requested by Mr. Hanratty. She stated that she is considering reducing the amount of the lien from \$29,000 to \$5,000 and if Mr. Hanratty's client finds that acceptable.

Mr. Hanratty asked if the reduction to \$5,000 is to replace the \$29,000, or will there be two fines.

The Special Magistrate stated that the current fine of \$29,000 could be maintained and she could make a recommendation that the Town Commission to reduce the amount of the lien to \$5,000. Mr. Hanratty would then need to go before the Town Commission, who may not follow her

recommendation, resulting in Mr. Sailor having to pay the \$29,000 fine. She stated that because the second order is being filed today pursuant to Chapter 162.09, she can impose a \$5,000 fine instead.

Mr. Hanratty clarified that his client would now have to pay a \$5,000 fine only.

The Special Magistrate stated this is correct.

Mr. Hanratty asked if they could make any compelling arguments today to reduce the \$5,000 fine.

The Special Magistrate replied affirmatively and encouraged Mr. Hanratty to do so, yet to keep in mind the length of this case and the amount of work Town staff has devoted to the issues involved in a commercial property.

Mr. Steven Sailor, owner of Lady Lake Auto Salvage, stated he has been trying for a few years to rectify this issue with the Town. He stated he feels a \$5,000 fine is a lot as he had been waiting on an answer from the Town and St. John's Water Management and believes it was a lapse on their part that he is in this predicament.

The Special Magistrate asked for clarification.

Mr. Sailor replied the lapse was on the concrete slab issue in their yard.

Mr. Hanratty explained their argument is that when the slab was originally formed or laid out, the inspector approved the forms which showed the area that would be poured with concrete. After the concrete was poured, the inspector conducted the site inspection for the completed slab, and then stated it had been over-poured and must now be reduced.

The Special Magistrate asked Ms. Bilbrey if the concrete slab is the only issue and is Mr. Hanratty correct in his representation of what occurred with the slab.

Ms. Bilbrey replied it is not the only recent issue, although a permit for the slab has been obtained. She stated she cannot comment to the previous issues with the slab as she was not employed with the Town at that time.

Growth Management Director Thad Carroll explained that the inspector who conducted the original slab inspection is no longer with the Town. He stated it is his understanding that a pre-inspection was conducted, and it was discovered that the amount of concrete that was poured was in excess of what was permitted. He stated that is referred to as, "building without a permit", and that issue needed to come into compliance. In addition, the major modification to the site plan should have been approved prior to the building permit for that slab. He stated everything is in compliance at this time, although there had been discrepancies with site plans which had varying square footage on the concrete. He stated that he cannot go on record as to say what was done in the field from the prior building inspector as to what was formed out and what was not.

The Special Magistrate stated the typical recommendation for a lien reduction is \$5,000, and she reviews each case's circumstances individually to determine the amount of the fine. She advised that she has not heard anything unique from this commercial endeavor that warrants a further reduction.

Mr. Carroll replied there is nothing unique with this case. He stated that the Town has been working with this case for a few years and have had lien reduction cases in the past that have consumed less resources from the Town and were still imposed a \$5,000 fine.

Mr. Hanratty stated that when the permitted slab square footage area was formed, it did not require water management permitting. When the inspector originally came out and saw the form, which was the same size area of what was ultimately going to be poured, he approved it. The concrete was poured and it was when the re-inspection occurred when he deemed the slab too large.

The Special Magistrate remarked that would not take two years to rectify.

Mr. Hanratty agreed, adding that because it is an auto salvage yard, when the slab was poured oversize, they were then required to obtain a water management permit. He explained that the Department of Environmental Protection and the St. John's Water Management District were fighting with each other over who was responsible for issuing this permit. It took approximately eight months to get a response from those agencies as to who is responsible for issuing the permit. The permit was obtained in December of 2015.

The Special Magistrate asked why it took a year to come into compliance if Mr. Sailor had the permit.

Mr. Hanratty replied he emailed Mr. Carroll the following February to inform him that Mr. Sailor had the permit and asked for direction as to moving forward. He stated everybody dropped the ball, and it was not until recently, when Mr. Sailor was selling the property, that they discovered the lien.

The Special Magistrate stated when it is a commercial business, it must be maintained and safe for the community.

Mr. Carroll stated for the record that the St. John's Water Management District permit was issued December 16, 2014.

From his chair, Mr. Hanratty stated then it was February 2015 when he emailed Mr. Carroll asking for direction, and did not receive a response.

Mr. Sailor stated they did not realize there was anything further needed, and there was no communication from the Town once the permit was obtained from St. John's Water Management District. He stated had he known there was a lien on the property, he would have taken care of it immediately.

Mr. Carroll stated when he received the email from Mr. Hanratty, he forwarded it to the code enforcement officers on staff at that time, Cindy Deemer and Don Hoos. He reported that included in the backup documents for this case are emails between the Town's Senior Planner, Wendy Then, and Brandy Sailor. In the correspondence, Ms. Then reminds Ms. Sailor that a major modification plan is required to complete the project, and that it would have to precede the building permit. He stated the email response from Ms. Sailor indicates that she was going through an issue at the time where she failed to follow up.

The Special Magistrate stated because this case has been ongoing for three years, and not finding any extenuating circumstances to reduce the lien further, a \$5,000 fine for a commercial property is reasonable.

Special Magistrate Valerie Fuchs stated that based on the testimony and evidence presented on Case No. 14-4786 at this hearing at which the owner and the owner's attorney are present, she did find that the owner is currently in compliance. Based on the fact that this property was in non-compliance from the time of the original case in 2014 until recently, a fine of \$5,000 will be assessed on this case, which is less than the original order's accrued fine of \$29,000. This will be recorded as an amended and reinstated order, and will supersede any previous order.

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. Hanratty confirmed that the fine on this case will now be \$5,000, superseding the fine of \$29,000, and that the property owner can pay the fine at any time, before the fine is recorded.

Ms. Bilbrey asked if this Order of Enforcement can be recorded as a replacement for the previous order.

The Special Magistrate agreed that this order should be recorded as an amended, reinstated order, and once the fine is paid, a Satisfaction of Lien will be recorded. She asked Mr. Sailor how long he needed to pay the fine, and he agreed that he could pay it within 30 days or later today.

OTHER BUSINESS

ADJOURN: There being no further matters to discuss, the meeting was adjourned at 11:30 a.m.

Carol Osborne, Staff Assistant to Town Clerk

Valerie Fuchs, Special Magistrate

Minutes transcribed by Carol Osborne, Staff Assistant to Town Clerk