

TOWN OF HAVERHILL
MINUTES
SPECIAL MAGISTRATE
HEARING
August 14, 2024

Present: Special Magistrate William P. Doney, Code Enforcement Officer Joseph Petrick, Town Attorney John Foster, Town Administrator Tracey Stevens and Deputy Town Clerk Jean Wible.

I. CALL TO ORDER:

The meeting was called to order at 9:04 A.M by Special Magistrate William P. Doney.

II. APPROVAL OF MINUTES:

Special Magistrate Doney approved the minutes of July 17, 2024.

III. SWEARING IN OF WITNESSES:

Special Magistrate Doney administered Oath to Code Enforcement Officer Joseph Petrick, Valeria Micin on behalf of Respondent Aida Rosa Dela Vega, Respondent Ho Lung Wang, Jodi Barnes (Contractor for Mr. Wang), Respondent Whitney Danca, Respondent Daymon Allmon and Attorney Ari Pregar on behalf of Ms. Danca and Mr. Allmon.

CODE ENFORCEMENT REPEAT VIOLATION, FINE ASSESSMENT, STATUS HEARINGS AND FINE REDUCTION:

CASE NO. 24-00030

MARTINEZ CLARIBEL A.

5465 STRATFORD ROAD

HAVERHILL, FL 33415

PCN: 22-42-43-35-15-000-0300

LEGAL DESCRIPTION: TOWNER PARK REPL LT 30

NATURE OF VIOLATION: Chapter 58 Article IX Section 58-584 Maintenance and appearance standards for all real property Chapter 38 Section 38-9 Parking of vehicles and boats in residential districts.

Code Enforcement Officer (CEO) Petrick testified that this Fine Assessment hearing was in reference to a Single-Family property that was found in violation of Town Code Section 58-584 for trash, debris, and excessive outdoor storage on the property and also Section 38-9 for having prohibited vehicles parked and stored on the property, and parking on the grass at the June 5, 2024, Special Magistrate hearing. He stated the Special Magistrate Order of June 6, 2024, gave the Respondent until June 20, 2024, to comply or a One Hundred (\$100.00) dollar per day fine be assessed. The order was sent certified mail to the address listed on the Property Appraiser website, the property was posted and posted on the Code Enforcement board at Town Hall. He stated that as of today, the property came into compliance with Town Code Section 58-584; however, Town Code Section 38-9 remained in violation.

CEO Petrick stated the Town was requesting a fine of Fifty (\$50.00) dollars per day be imposed beginning June 21, 2024. The cost to bring this case before the Special Magistrate was \$18.78.

ORDER

It is the Order of the Special Magistrate that a Fine of Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) is hereby assessed at a daily amount of Fifty dollars (\$50.00) per day for the violations which have existed on the property from June 21, 2024 through August 14, 2024, a period of fifty-five (55) days, and such amount will continue to accrue at the rate of Fifty Dollars (\$50.00) per day until compliance is achieved. In addition, costs are assessed in the amount of \$18.78.

CASE NO. 24-00019 CONTRERAS KAREN & WANG HO LUNG

5080 PONDEROSA LANE

HAVERHILL, FL 33415

PCN: 22-42-43-35-24-002-0150

LEGAL DESCRIPTION: WOODLAND TERRACE NO 2 LT 15 BLK 2

NATURE OF VIOLATION: Chapter 14 Section 14-2 Permit and Inspection fees for building, electricity and plumbing Chapter 14 Section 14-7 Unsafe buildings and structures Chapter 16 Section 16-6 License and business tax receipt required for rental dwellings Chapter 58 Article IX Division 14 Section 58-584 Maintenance and appearance for all real property.

Code Enforcement Officer (CEO) Petrick testified that this case was in reference to a Single-Family residence in violation of Town Code Section 14-2 and Section 14-7 for work done without a permit to include a septic tank, electric and a shed on the property which was also not permitted; Town Code Section 16-6 for not having a rental license; and Town Code Section 58-584 for trash and debris, and screens in roof soffit in disrepair. He stated that on February 9, 2024, a Courtesy Notice was issued to the Respondent via email. On February 12, 2024, CEO Petrick met with the Respondent and his contractor Jodi Barnes at Town Hall. At that time, the Respondent stated there had been interior work done to the house without obtaining a permit. CEO Petrick discussed the permitting process and scheduled a date for the rental inspection of the property with the Respondent. CEO Petrick stated that on February 20, 2024, he met with the Respondent at the property for the rental inspection. After the inspection, CEO Petrick met with Town Building Official Durrani Guy to discuss his findings and confirm what work required obtaining a permit.

CEO Petrick testified that he and the Respondent agreed on sixty (60) days to obtain a permit for the work already done, produce a previously approved permit for the shed, or obtain a permit to demo it, remove the trash and debris, and repair the soffit. He stated that once these items have been done, it would cure the violations and would result in another rental inspection.

CEO Petrick testified that by April 22, 2024, no permits were applied for or obtained. He stated he issued a Notice of Violation and Notice of Hearing to the property owner via certified mail to the address listed on the Property Appraiser website, the property was posted, and both notices were posted on the Code Enforcement board at Town Hall. The Notice of Violation gave the Respondent ninety (90) days to comply. CEO Petrick stated that in early July, a permit was applied for and is currently going through the permit process.

CEO Petrick testified that as of today, the property remains in violation of Town Code Sections 14-2, 14-7, 16-6 and 58-584.

CEO Petrick stated the Town was requesting thirty (30) days to comply or a fine of \$100.00 per day be assessed. The cost to bring this case before the Special Magistrate was \$27.86.

The Respondent testified that he had the previously approved shed permit in his possession and would submit it to the Building Department. He stated his contractor was working on obtaining the permits required.

ORDER

It is the Order of the Code Enforcement Special Magistrate that Respondents shall comply with Code Sections 14-2, 14-7, 16-6 and 58-584 of the Town's Code of Ordinances by September 13, 2024. In the event Respondents do not comply with the Town's Code of Ordinances within the time period specified above, a fine in the amount of One Hundred (\$100.00) Dollars per day may be imposed for each day the violation(s) continue to exist. Costs in the amount of \$27.86 are assessed.

NOTICE OF HEARING

A Fine Assessment Hearing, if necessary, shall be held before the Special Magistrate on October 2, 2024, at 9:00 a.m. at Town Hall, 4585 Charlotte Street, Haverhill, Florida to determine whether Respondents have complied with the terms and conditions of this Order and to consider the assessment of a fine.

CASE NO. 24-00043 DELA VEGA AIDA ROSA

5070 PONDEROSA LANE

HAVERHILL, FL 33415

PCN: 22-42-43-35-24-002-0160

LEGAL DESCRIPTION: WOODLAND TERRACE NO 2 LT 16 BLK 2

NATURE OF VIOLATION: Chapter 14 Section 14-2 Permit and Inspection fees for building, electricity and plumbing Chapter 14 Section 14-7 Unsafe buildings and structures Chapter 16 Section 16-6 License and business tax receipt required for all rental dwellings Chapter 58 Article IX Section 58-329 Home Occupations Chapter 58 Article IX Section 58-328 Occupancy regulation.

Code Enforcement Officer (CEO) Joseph Petrick testified that this case was in reference to a Single-Family residence in violation of Town Code Section 14-2 and 14-7 for interior work done inside the house without obtaining a permit, and Town Code Section 16-6 for not having a rental license. He stated that on January 30, 2024, he issued a Courtesy Notice over the telephone to the Respondent for not having a rental license. At that time, the new rental license requirements were discussed and a date for the rental inspection was set. The Respondent contacted CEO Petrick to inform him she had an upcoming medical procedure and would contact him when she was available for the rental inspection. CEO Petrick stated that on February 21, 2024, he was contacted by the Respondent to schedule a date and time for the rental inspection. He stated that during that conversation, the Respondent informed him that some interior work had been done without a permit. He stated that on April 1, 2024, he met with the Respondent and her tenants at the property and conducted a rental inspection of the property. He stated the Respondent allowed him access to the house to discuss the interior renovations that were done without obtaining a permit. These included the garage being converted into a living space adding a full bathroom, and a door was

removed to add a wall to enclose a room at the rear of the house. On April 3, 2024, CEO Petrick met with the Respondent at Town Hall and hand delivered the Notice of Violation and Notice of Hearing to her and both notices were also posted on the Code Enforcement board at Town Hall. The Notice of Violation gave ninety (90) days to comply by obtaining a permit for the work done without a permit and to pass a rental inspection. He stated that as of today, the property remains out of compliance.

CEO Petrick stated the Town was requesting ninety (90) days to comply or a \$100.00 per day fine be assessed. The cost to bring this case before the Special Magistrate was \$22.81.

ORDER

It is the Order of the Code Enforcement Special Magistrate that Respondent shall comply with Code Sections 14-2, 14-7 and 16-6 of the Town's Code of Ordinances by November 15, 2024. In the event the Respondent does not comply with the Town's Code of Ordinances within the time period specified above, a fine in the amount of One Hundred (\$100.00) Dollars per day may be imposed for each day the violation(s) continue to exist. Costs in the amount of \$22.81 are assessed.

NOTICE OF HEARING

A Fine Assessment Hearing, if necessary, shall be held before the Special Magistrate on December 11, 2024, at 9:00 a.m. at Town Hall, 4585 Charlotte Street, Haverhill, Florida to determine whether Respondent has complied with the terms and conditions of this Order and to consider the assessment of a fine.

CASE NO. 24-00077

COMPLIED

ZRAOULI OMAR

5333 BELVEDERE ROAD

HAVERHILL, FL 33415

PCN: 22-42-43-26-00-000-5010

LEGAL DESCRIPTION: 26-43-42 S 268.36 FT OF E 235.91 FT OF W ½ OF E ½ OF SW ¼ OF SE ¼ (LESS S 40 FT RD R/W)

NATURE OF VIOLATION:

Chapter 58 Article IX Division 14 Section 58-584 Maintenance and appearance standards for all real property.

CEO Petrick determined that Respondents complied prior to Special Magistrate Hearing, so there is no reason to move forward with the case at this time.

CASE NO. 24-00055

I AM HOME ASSISTING LIVING LLC
4652 BELVEDERE ROAD
HAVERHILL, FL 33415
PCN: 22-42-43-36-02-000-0142

CASE WITHDRAWN

LEGAL DESCRIPTION: CLEVELAND GROVE ACRES LT 14 (LESS S 200 FT \$ LESS RD R/W)

NATURE OF VIOLATION:

Chapter 34 Article II Section 34-6 Payment of tax; levied on certain persons; affected occupations.

CEO Petrick has withdrawn this case as it was determined that Respondent is not operating an assisted living facility from the property. There is no reason to move forward with the case at this time.

CASE NO. 24-00085

DUNCAN ARNESS & DUNCAN KEITH M
1016 CHERYL ROAD
HAVERHILL, FL 33417
PCN: 22-42-43-26-33-000-0010
LEGAL DESCRIPTION: SOLANA LT 1

COMPLIED

NATURE OF VIOLATION:

Chapter 58 Article IX Division 14 Section 58-584 Maintenance and appearance standards for all real property.

CEO Petrick determined that Respondents complied prior to Special Magistrate Hearing, no reason to move forward with the case at this time.

CASE NO. 24-00048

ALLMON PROPERTY MANAGEMENT LLC
920 N. HAVERHILL ROAD
HAVERHILL, FL 33415
PCN: 22-42-43-36-00-000-3130

LEGAL DESCRIPTION: 36-43-42, N 100 FT OF S 200 FT OF W ½ OF NW ¼ OF NW ¼ (LESS W 54.50 FT HAVERHILL RD R/W)

NATURE OF VIOLATION: Chapter 2 Article V Division 2 Section 2-153 (d) Administrative Fines; Costs of Repair; Liens.

Code Enforcement Officer (CEO) Joseph Petrick testified that this case was in reference to an apartment complex that was found in violation at the Special Magistrate Hearing held on June 5, 2024, for a second repeat violation for trash and debris on the property. The Special Magistrate Orders dated June 6, 2024, were sent to the property owner via certified mail to the address listed on the Property Appraiser website, mailed to the address listed in Sun Biz records, the property was posted, the order was posted on the Code Enforcement board at Town Hall on June 17, 2024. The Special Magistrate Orders assessed a fine of two hundred and fifty (\$250.00) dollars per day until compliance was achieved. He stated that in early July, he was contacted by Respondent Whitney Danca, a property owner, to discuss the Special Magistrates Orders, the history of the property being in violation since last year, the Code Enforcement process and ways to bring the property into compliance. He stated that the Respondent informed him that she would be the point of contact regarding the property going forward.

CEO Petrick testified that on July 19, 2024, he met with the Respondent, Ms. Danca at the property. The property was found in compliance. He stated that at that time, Ms. Danca requested a Fine Reduction hearing. On July 10, 2024, a Notice of Fine Reduction hearing was mailed to her at a new address provided by Ms. Danca. He stated that Ms. Danca informed him that the new address was changed and updated on the Property Appraiser's records. The Notice of Hearing, along with a copy of the Affidavit of Compliance was emailed to her as she requested, the property was posted, and notice posted on the Code Enforcement board at Town Hall.

CEO Petrick stated the Town was contacted by the Respondents Attorney Ari Pregon who informed him that he was now representing the Respondents of Allmon Property Management.

CEO Petrick testified that on August 12, 2024, he was taking photographs for today's hearing and noticed the property once again fell out of compliance. He stated there was trash and debris located in different areas of the property and excessive overgrowth of vegetation in violation of town code. On August 13, 2024, he reinspected the property and found the overgrowth of vegetation was removed, the property was cut, and the trash bags and some debris were removed and put out on the curb for pickup. However, some of the debris remained. On August 14, 2024, CEO Petrick stated that he inspected the property and found a small vegetation pile still remained on the property as well as a hurricane shutter up against a tree and determined it to be out of compliance.

CEO Petrick stated the fine ran from April 1, 2024, through July 9, 2024, a total of ninety-nine (99) days at two-hundred and fifty (\$250.00) dollars per day bringing the fine total of twenty-four thousand seven hundred and fifty (\$24,750.00) dollars. He stated the property

is non-compliant and the Town was requesting no fine reduction be considered until the property reaches compliance.

Attorney Pregen presented the Respondents case regarding the request for a lien reduction. Attorney Pregen stated there were quite a few mitigating factors and legal factors that should lead to the lien being released completely or at least reduced drastically. He stated that the term “vegetation pile” does not accurately depict the vegetation left on the property which amounted to a couple of stray palm fronds. He described the actions taken by his clients to clean up the property and noted it seems to be a never-ending story. He argued that it is appropriate to proceed with the fine reduction hearing today, as his clients can clean up the remaining items today and come into compliance quickly.

CEO Petrick stated that the vegetation piles that were left on the property were there for quite some time, and there doesn't seem to be anyone there to keep an eye on the property to ensure it remains in compliance. He stated that the landscaping truck that he witnessed on the property had the ability to remove all of the landscaping debris that remained; however, they did not do so. He also testified that the lien has not been recorded yet, and the Special Magistrate has the authority to reduce the fine under Town Code Section 2-153.

Town Attorney John Foster stated that CEO Petrick made it clear in discussions with respondents, and as stated on the record today, there was some back-and-forth discussion on a potential settlement and that the Town's willingness to substantially reduce the fine to a specific number was contingent upon the property being in compliance at that time. He stated that according to testimony today by CEO Petrick, the property was not in compliance and therefore, the Town was not in a position to recommend or support a fine reduction at this time. Special Magistrate Doney asked if there would be an agreement from the Town on a fine reduction if the property comes into compliance today.

Respondent Daymon Allmon offered photographs, and Special Magistrate Doney noted that he is not here to hear testimony on a previous violation or any new violations; he is here to hear testimony on a fine reduction and it is really a question of whether or not to proceed today with the fine reduction hearing when the Town testified that the property is still not in compliance. Attorney Pregen noted that the property could be cleaned up directly after this hearing and come into compliance. CEO Petrick agreed that it would not take long at all to clean up the remaining items on the property.

Special Magistrate Doney noted that normally a fine reduction case will not be heard unless the property is in full compliance; however, he ruled that the fine reduction hearing should go forward today due to the circumstances.

Attorney Pregen discussed the original code case (#23-00037), how it was opened, and whether or not it was legal and proper. He stated that he was informed by CEO Petrick that a complaint was made by Town Administrator Tracey Stevens. Attorney Pregen questioned the legal authority of the Town Administrator to issue a complaint to Code Enforcement. He spoke on Senate Bill 60 and how it required anyone making a complaint to provide basic information about themselves such as name, address, telephone number, etc. Attorney Pregen assumed Town Administrator Stevens was on the Town Council or Code Enforcement Board; however, Special Magistrate Doney informed Mr. Pregen that Town Administrator Stevens is not part of any board of the town. She is the Town Administrator and may give the Code Enforcement Officer information regarding things she observes in the town, and it is not a violation of the law. He also noted that the original order is final and none of these issues were raised during the hearing.

Attorney Pregen questioned the way the Notice of Hearing for the Fine Assessment at the June 5, 2024, Special Magistrate hearing was sent to the Respondent. He stated it was not sent certified mail to the Respondent's address on file with the tax collector but sent to a defunct address of the registered agent David W. Schmidt. He stated the notice never made it to his client, and if his client had received it, there would be no fine to reduce.

Special Magistrate Doney asked if anyone showed up at the fine assessment hearing, and CEO Petrick testified that he doesn't recall; however, all of the notices sent, including the notice for the original case, fine assessment hearing, and order assessing fine were sent per statute to the address listed on the Property Appraiser's records, as well as the agent listed on the Sunbiz records, as well as posting at the property and at Town Hall. The only time that changed was after he met with Ms. Danca who informed him of a new address to send it to moving forward.

Special Magistrate Doney stated that Mr. Allmon was present at the original hearing and was notified at that time of the fine assessment hearing if the property did not come into compliance by that time. He had first-hand knowledge of the fine assessment hearing date and time. He noted that notices would still be required by law to be sent, as CEO Petrick testified, they were.

CEO Petrick stated that the fines from the previous cases were paid already, noting that the notices and orders were sent to the same addresses in question.

Respondent Daymon Allmon stated that in the past, CEO Petrick made telephone calls and sent emails to him regarding cases, but CEO Petrick was no longer doing this so in the past, they (Respondents) were not relying on the mail and were aware of the cases.

Attorney Pregen argued that there are legal mitigating factors that would support a reduction in fine. He proposed that respondents pay a fine total of one-thousand five hundred dollars (\$1,500.00). This is a lien reduction of twenty-three thousand two-

hundred fifty dollars (\$23,250). Attorney Pregen stated that his client has poured money into the property, and this should not be about revenue to the town, but about getting the property into compliance. He reiterated that his clients have taken measures to make sure the property remains in compliance.

Town Attorney Foster stated the request was approximately a six (6) percent reduction of the outstanding fine. He stated that the town originally offered twenty-five (25) percent and argued that typically other Municipalities within the county would be at a twenty-five (25) percent reduction or sometimes, even a fifteen (15) percent reduction. He stated there are determining factors that other municipalities look at when proposing a fine reduction such as the nature of the violation, and whether or not the property is homesteaded, which based on the testimony, this property is not. He also asked the Special Magistrate to consider that this is a repeat violation. He noted that the respondents have made efforts to clean up the property and are willing to bring the property into compliance by noon. In reference to the testimony given related to proper notice, he stated that the 4th DCA in 1991 made it clear that any matter that is determined in a code enforcement order which has become final without an appeal within 30 days is not subject to review. Those arguments may be used in support of a fine reduction; however, in terms of revisiting this issue, it would not be appropriate. He again noted that the original offer from the Town was a twenty-five (25) percent reduction if the property was in compliance, and he stated the Town could not agree to the six (6) percent reduction offered by the Respondents at this time.

Attorney Pregen stated that the Special Magistrate should not consider the financial abilities of anyone in determining the fine amount or reduction of fine.

Respondent Whitney Danca stated that a lot of things have been done to bring the property into compliance such as installing cameras, providing rent credit to a tenant that keeps the property clean, and hiring a landscaper. She asked CEO Petrick if he stopped by all of the properties that were on today's hearing agenda. CEO Petrick confirmed that he visits all properties that are on the Special Magistrate agenda the morning of the hearing.

Special Magistrate Doney asked Ms. Danca if there is an on-site property manager, and she confirmed there is no on-site property manager. He asked if the owners were local, and Ms. Danca confirmed they are local. Mr. Allmon described the work that has been completed by the contractors he hired to clean up the property. Ms. Danca confirmed that the landscapers perform service on a weekly basis during the summer months.

Ms. Danca stated that they cannot continue with these costs and clean the property every day. She stated she drove by the property today and didn't notice any issues. She stated she cannot prevent the low-income class from throwing trash on the floor; however, she is offering one of the tenants a rent credit to clean the property. She also noted that there

is old furniture on the exterior of the property on the tenant's patio that the Town didn't like and mentioned that the other properties around her property look similar. She stated their only alternative is to increase the rent prices and push out low-income tenants, which is unfair to do.

Special Magistrate Doney stated that Chapter 162 provides in determining the amount of a fine one must consider the following factors: gravity of the violation, actions by the violator to correct the violations, and any previous violations committed by the violator. He stated that although there were no life safety violations, there were violations that reflect the condition of the property. He noted that the violations were corrected after 99 days, and there was a second repeat violation. He stated it is his inclination to reduce the fine.

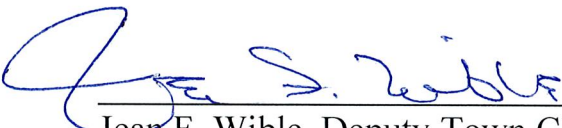
ORDER

Upon consideration of the evidence presented and the factors set forth in Section 162.09, Florida Statutes, the fine imposed in this matter is hereby reduced to the amount of Five Thousand Dollars (\$5,000.00). Respondent shall pay the reduced fine by September 14, 2024, or the original fine in the amount of Twenty-Four Thousand Seven Hundred Fifty Dollars (\$24,750.00) will automatically be reinstated.

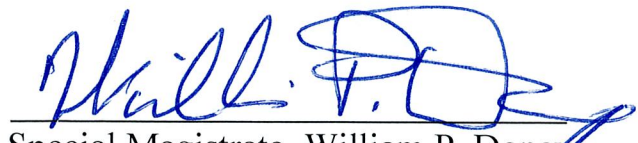
ADJOURNMENT

The hearing was adjourned at 10:20 A.M.

Minutes prepared by Deputy Town Clerk Wible and adopted by Special Magistrate Doney on September 11, 2024.



Jean F. Wible, Deputy Town Clerk



Special Magistrate, William P. Doney

