


**MANATEE COUNTY SPECIAL MAGISTRATE
REGULAR HEARING
COUNTY ADMINISTRATIVE CENTER
1112 Manatee Avenue West
Bradenton, Florida
AUGUST 28, 2019**

Presiding was: Donald Courtney

Also present were:

Tom Wooten, Code Enforcement Field Supervisor
Katharine Zamboni, Assistant County Attorney
Vicki Tessmer, Board Records Supervisor, Clerk of the Circuit Court
Amy N. Beck, Clerk I, Clerk of the Circuit Court

 Special Magistrate, Donald Courtney, called the hearing to order at 9:01 a.m.

 All witnesses and staff giving testimony were duly sworn.


AGENDA


Agenda Announcement:


Trespass Report - 2019-02-740 for Eric Hansen will be continued to a later date, because the Trespass Warning is being appealed.


CODE ENFORCEMENT CASES


16. CE1809-0644 – JOHN AND PAM BEALL


 Violation of Section 410.4 Table 4.4 (Schedule of Area, Height, Bulk and Placement Regulations) of the Manatee County Land Development Code (LDC) at 4568 Bay Club Drive, Bradenton


 Ed Vogler, attorney for the respondent, stated he filed to repeal the motion from the Special Magistrate Hearing held on June 26th, 2019, regarding a violation of a retaining wall constructed too close to a property line. The respondent disputes the violation, because he is holding a County issued permit and certificate of completion. Mr. Beall was informed via email by Code Enforcement on June 23rd, 2019, that the hearing scheduled for June 26th, 2019, was continued for another 90 days. County staff contacted all involved parties to establish a mutual date to discuss the violation, which left Mr. Beall under the impression the hearing was not taking place in June. Mr. Beall did not appear at the originally scheduled hearing so a defense was not entered into the record on his behalf; therefore, Mr. Beall cannot request an appeal of the decision, because it has to be based on the record which lacks a defense. He requested the Special Magistrate reconsider the motion in favor of the defense.


 John Beall, respondent, stated Code Enforcement informed him the hearing would be postponed to a later date to allow additional time to resolve the dispute with his neighbor. He did not intend to forfeit the right to address the code violation due to a misunderstanding regarding the hearing date.


 John Howard, Code Enforcement Officer II, stated there was miscommunication with Mr. Beall in the email, because he told the respondent if there was proof of progression he could extend the case for 90 days.

 Katharine Zamboni, Assistant County Attorney, clarified the email from the respondent to Mr. Howard on June 23rd, 2019, requesting a 90 days extension was perceived by Mr. Howard as a request for the compliance date to be extended; not the date of the hearing.

 Jason Lester, attorney for the adjacent property owner, stated the respondent realized there was a hearing set in June, but chose not to attend and provide a defense. The permit being issued is not a defense for the violation.

 Kace King, adjacent property owner, stated he is concerned of the effects from reconsidering the motion. He disagrees with the respondent's attorney and does not believe good faith attempts have taken place to resolve the issue. The set back is causing flooding and damage to his property.


 Mr. Lester requested the motion for rehearing from the defendant be denied.


 Mr. Volger stated the argument is not holding a permit; so therefore, there is no violation. The County issued the wrong permit code which should have never been issued.


 The Special Magistrate denied the respondents Compliance Order reconsideration request to schedule a rehearing for Case CE1809-0644.

1. **CE1902-0204 – EDIA AND HASAM GHNAIM**

Violation of Section 310.3 (Building Permit Required) of the Manatee County LDC at 1250 Whitfield Avenue, Sarasota

 Ben Dornon, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of a cooking hood that has been installed in the unit 1250 without the required building permit. There was damage inflicted to the structure by Hurricane Irma and Mr. Hasam replaced the equipment without obtaining the proper permit.

 Hasam Ghnaim, respondent, claims the cooking hood was installed in 1994 before he owned the building. He intends to hire a contractor whom is willing to correct the violation.

 Upon question, Mr Dornon answered that Mr. Hasam was issued a cleanup permit, but not a mechanical permit. The Fire District noticed the cooking hood during their initial inspection of the building.

 The Special Magistrate continued Case CE1902-0204 to November 27, 2019.

2. **CE1902-0205 – EDIA AND HASAM GHNAIM**


Violation of Section 310.3 (Building Permit Required) of the Manatee County LDC at 1246 Whitfield Avenue, Sarasota

Ben Dornon, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of a cooking hood that has been installed in the unit 1246 without the required building permit.

 The Special Magistrate continued Case CE1902-0204 to November 27, 2019.

3. **CE1904-0375 – JOSE LUZ MORENO**

Violation of Section 2-9-107(e) (Appurtenant Structures) of the Manatee County Code of Ordinances (CCO) at 2715 113th Street East, Palmetto

 Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs then reviewed the violation of a marine cargo container in the back yard.

Currently, one of the containers is being cut into smaller pieces and being removed by the respondent.



Jose Luz Moreno, respondent, provided an update that one of the marine cargo container has been removed and only one is remaining. He displayed a picture (not submitted to the record) on his phone to show the progress of the last container, and requested time for complete removal.

Based on the evidence and testimony presented in Case CE1904-0375 the Special Magistrate found the respondent, Jose Luz Moreno, to be in violation of Section 2-9-107(e) of the Manatee CCO and ordered the respondent to correct the violation on or before October, 18th, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past October 18th, 2019.

4. **CE1904-0378 – JOSE LUZ MORENO**

Violation of Section 2-9-107(e) (Appurtenant Structures) of the Manatee CCO at 2715 113th Street East, Palmetto

Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of a marine cargo container in the back yard.

Based on the evidence and testimony presented in Case CE1904-0378 the Special Magistrate found the respondent, Jose Luz Moreno, to be in violation of Section 2-9-107(e) of the Manatee CCO and ordered the respondent to correct the violation on or before October 18th, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past October 18th, 2019.

5. **CE1904-0435 – MARK AND BONNIE MILLER**

Violation of Section 702.3 (Earth Moving Site Plan) of the Manatee County LDC at 2703 113th Street East



Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs then reviewed the violation of over 200 cubic yards of fill dirt that has been spread onto the property located in a flood zone without a minor earthmoving site plan. The respondent obtained a farming permit which does not authorize the filling of dirt within the 100 year floodplain. The respondent's contractor is attempting to obtain the correct building permits to rectify the situation.



Mark McQuart, contractor for the respondents, stated the respondents have applied for a building permit. The respondents requested three months to obtain a building permit.


Based on the evidence and testimony presented in Case CE1904-0435 the Special Magistrate found the respondent, Mark and Bonnie Miller, to be in violation of Section 702.3 of the Manatee LDC and ordered the respondent to correct the violation on or before December 20th, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past December 20th, 2019.


6. **CE1905-0161 – MANUEL & MARIA NAVARRETE**

Violation of Section 310.3 (Building Permit Required) of the Manatee County LDC at 3112 16th Avenue East, Palmetto



Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs and reviewed an air conditioner that has been installed without the required building permit.

 Tom Wooten, Code Enforcement Field Supervisor, stated officers were visiting the property to investigate complaints of an unlicensed contractor and discovered the unpermitted air conditioning unit. The respondents are the land owners and claimed the tenants installed the air conditioner without their knowledge.

 Manuel Navarrete, respondent, stated the air conditioner unit is required to be purchased by a licensed contractor and is unaware why the tenant did not obtain a permit when it was installed.


Based on the evidence and testimony presented in Case CE1905-0163 the Special Magistrate found the respondent, Manuel and Maria Navarrete, to be in violation of Section 3103.3 of the Manatee LDC and ordered the respondent to correct the violation on or before September 20th, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past September 20th, 2019.


Motion Amended


The Special Magistrate amended the compliance date for Case CE1905-0161 to February 21, 2020.

7. **CE1905-0163 – MANUEL & MARIA NAVARRETE**

Violation of Section 401.2 (Schedule of Uses) of the Manatee County LDC at 3112 16th Avenue East, Palmetto

 Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs to review the property being used as a duplex which is not allowed within the RSF-1 zoning district.

 Tom Wooten, Code Enforcement Field Supervisor, stated the unlicensed contractor and his brother mention in the previous case (CE1905-0161) are the tenants of the property, and the wall needs to be removed to reach compliance.

 Manuel Navarrete, Respondent, stated the house was constructed for his children who have since moved away. He decided to rent out the house to earn additional income. He requested extra time to reach compliance for his cases due to a family obligation.

Based on the evidence and testimony presented in Case CE1905-0163 the Special Magistrate found the respondent, Manuel and Maria Navarrete, to be in violation of Section 401.2 of the Manatee LDC and ordered the respondent to correct the violation on or before September 20, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past September 20, 2019.


Motion Amended

The Special Magistrate amended the compliance date for Case CE1905-0163 to February 21, 2020.

14. **CE1812-0159 – MANUEL AND MARIA NAVARRETE**

Violation of Section 401.2 (Schedule of Uses) of the Manatee County LDC at 3112 16th Avenue East, Palmetto

Tom Wooten, Code Enforcement Field Supervisor, stated the respondent is requesting an extension to the original compliance date.


 Manuel Navarrete, respondent, stated he has moved the trucks and fire wood onto his


neighbor's property. He attempted to apply for a rezone to his property, but his application was denied twice. Due to a family obligation, he is requesting six months to reach compliance.


The Special Magistrate extended Case CE1812-0519 compliance date to February 21, 2020.

8. **CE1905-0471 – FRANK CLEMENTS SR.**

Violation of Section 2-9-107 (Appurtenant Structures) of the Manatee CCO at 3315 61st Street East, Palmetto

 Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of an unpermitted marine cargo container on the residential property.


 Diana Fronek, daughter of the respondent, presented a letter from Whetstone Engineering and Testing Incorporated assessing the placement of storage containers on private property with the estimated wind load calculations and requested their other case (CE1905-0475) be heard first.


 Cindi Blake, Permitting Development Services Manager, stated there is a process for converting a marine cargo container to a storage shed. A permit issuance is based on the engineering of the container. If the container is placed on an established farm, the respondent may have the opportunity to apply for an exemption.


The Special Magistrate continued Case CE1905-0471 to November 27, 2019.


9. **CE1905-0475 – FRANK CLEMENTS SR.**


Violation of Section 531.8(A) (Standards for Specific Uses, Breeding Facilities) of the Manatee County LDC at 3315 61st Street East, Palmetto

 Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of breeding pigs on a lot 1.7803 acres in size. A minimum of 10 acres is required for a breeding facility in the County.

 Katharine Zamboni, Assistant County Attorney, questioned how the LDC defines a breeding facility, because of the term common house-hold animals. The LDC refers to exotic and non-wild animals, but how are pigs defined. The example of breeding dogs would be an exemption to the LDC, and pigs could be considered a pet.

 Diana Fronek, daughter of the respondent, stated their family is active within the agriculture community by participating in the 4-H and the Future Farmers of America (FFA) by raising and showing in fairs. She explained the process of raising animals for 4-H and FFA and wanted to provide pigs to the children within the community. She does not feel they fit the criteria of being a breeding facility, because their litters of piglets are born and sold during a two month time frame each year. There is not much clarity in the LDC which defines a breeding facility as breeding animals for production services, but they breed pigs for children's fairs.


 Ms. Zamboni, stated the respondent did articulate the definition of what is considered a breeding facility primarily being used for breeding animals. There may not be enough evidence to show that breeding is the main purpose of the facility in question. The LDC defining breeding facilities excludes common household animals which may include pigs.


 Ms. Fronek stated the residence is zoned A-1 (Suburban Agriculture), which allows livestock. The A-1 zoning does not provide a limit to the number of pigs allowed on a property. When they produce a litter of pigs, any extra piglets not kept by the family are sold to raise income for feed.


The Special Magistrate continued Case CE1905-0478 to November 27, 2019.

13. **CE1903-0353 – HAZEL DOYLE**

Violation of Section 2-9-105(d) (Property Maintenance Standards) of the Manatee CCO at 6710 36th Avenue East, Palmetto

 Tanya Shaw, Code Enforcement Officer, stated the respondent is requesting an extension of the original compliance date.


 Hazel Doyle, Respondent, stated the majority of the debris has been removed from her property. She requested an extension to the original compliance date, due to her disability and tenant issues.


 Ms. Shaw, stated the violations are an ongoing problem and the property has never come into compliance, but there have been improvements. The respondent owns the neighboring property and the violation appears to be spreading onto two different locations.

The Special Magistrate extended the compliance date for Case CE1903-0353 to October 18th, 2019.


10. **CE1905-0478 – EII PROPERTIES LLC**

Violation of Section 2-9-106(c) (Structural Standards) of the Manatee CCO at 827 Manatee Avenue, Ellenton

 Donna Finch, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of a vacant structure is unsecured, missing doors, and windows.

 Katherine Zamboni, Assistant County Attorney, stated the violation provides a threat to the health and welfare. The County may need to make the repairs and place a lien on the property for expenses incurred.

Tom Wooten, Code Enforcement Field Supervisor, stated the order may need rewording to include the lien if the County cleans/repairs the property in violation.

 Based on the evidence and testimony presented in Case CE1905-0478, the Special Magistrate ordered to constitute a lien against the property and upon any other real or personal property owned by the Respondent(s) pursuant to Section 162.09, Florida Statutes, and Section 2-7-27 of the Manatee CCO and that conditions causing the violation of Section 2-9-106(c) of the CCO presents a serious threat to public health, safety, and welfare, and notify the Board of County Commissioners regarding the violation according to Section 162.09 of the Florida Statutes and Section 2-27-26(b) of the CCO.

11. **CE1811-0522 – BUFORD AND VICTORIA RAY**

Violation of Section 2-9-108(c) (Motor Vehicles, Inoperable Vehicles) of the Manatee CCO at 11220 Old Tampa Road, Parrish


 Tonya Shaw, Code Enforcement Officer, submitted an information sheet and photographs

to review the violation of numerous vehicles without tags or are inoperable.

Based on the evidence and testimony presented in Case CE1811-0522 the Special Magistrate found the respondent, Buford and Victoria Ray, to be in violation of Section 2-9-108(c) of the Manatee CCO and ordered the respondent to correct the violation on or before October 18th, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past October 18th, 2019.

12. **CE1907-0034 – THOMAS E BOLTZE**

Violation of Section 2-9-108(b) (Restricted Vehicles) of the Manatee CCO at 2291 61st Avenue East, Bradenton


 Tonya Shaw, Code Enforcement Officer, submitted an information sheet and photographs to review the violation of a recreational vehicle (RV), hooked to utilities. A resident is living on the property in the RV to care for horses and dogs.

Based on the evidence and testimony presented in Case CE1907-0034 the Special Magistrate found the respondent, Thomas E. Boltze, to be in violation of Section 2-9-108(b) of the Manatee CCO and ordered the respondent to correct the violation on or before September 20, 2019. If the respondent does not comply with this order, a fine of \$50 per day to a maximum of \$20,000 for each violation continues past September 20, 2019.

15. **CE2018020317 – J RYAN ROUTH**


Violation of Section 310.3 (Building Permit Required) of the Manatee County LDC at 4416 34th Avenue East

Tom Wooten, Code Enforcement Field Supervisor, stated the respondent is requesting an extension to the compliance date.

 Vicki DiOrzaio, Code Enforcement Officer, supports the request of a 30 day extension.

Based on staff recommendation in Case CE2018020317, the Special Magistrate extended the compliance date to September 20, 2019.

REPORT- LIEN PAYOFFS

 Thomas Wooten, Code Enforcement Field Supervisor, read Special Magistrate cases that were mitigated and paid:

- Case CE2013120423 – Alvaro D. Ortiz, fine amount was reduced to \$500.00 plus \$20.00 in recording fees by the Board of County Commissioners and paid July 22, 2019.

HEARING ADJOURNED

There being no further business, Special Magistrate Courtney adjourned the hearing at 11:17 a.m.

Minutes Approved: September 24, 2019