

**MANATEE COUNTY SPECIAL MAGISTRATE
REGULAR HEARING
COUNTY ADMINISTRATIVE CENTER
1112 Manatee Avenue West
Bradenton, Florida
October 23, 2019**

Presiding was: Ben Vitale

Also present were:


Jorge Martelo, Code Enforcement Field Supervisor
Katharine Zamboni, Assistant County Attorney
Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

Ben Vitale, Special Magistrate, called the hearing to order at 9:06 a.m.

 All witnesses and staff giving testimony were duly sworn.

AGENDA

SM20191023DOC001


Agenda Changes: 


- 5. CE1908-0651, Palma Sola Grande LLC – Complied
- 13. CE1903-0635, D4 LLC – Deleted
- 14. CE1907-0511, Garden Ranch, Inc. – Continued
- 15. CE1908-0011, Garden Ranch, Inc. – Continued
- 16. CE1908-0017, Garden Ranch, Inc. – Continued

CODE ENFORCEMENT CASES

10. **CE1908-0070, HERMAN AND DEBORAH HARRIS**


 Violation of Section 2-9-107(b) (Appurtenant Structures) of the Manatee County Code of Ordinances (CCO) at 815 51st Avenue Plaza West, Bradenton.

 John Howard, Code Enforcement Officer, used a slide presentation to review the violation of a seawall collapsing into the pond at the rear of the property.


 Paul Blucher, Attorney for the respondents, sought a continuance in order to prepare to discuss the matter and to investigate who would be responsible for the seawall since the damage was caused by a failed waterline. The respondents live in Virginia and would like to be involved in the process.


Mr. Howard supported the continuance.

Discussion ensued on continuation dates, and Mr. Blucher working with the respondents and staff to resolve the matter.


 The Special Magistrate ordered that Case CE1908-0070 be continued to February 26, 2020.


17. **CE1906-0184, SCOTT AND JUDY MACDONALD**


 Violation of Section 310.3 (Building Permit Required) of the Manatee County Land Development Code (LDC) at 8507 71st Avenue East, Palmetto.
(Note: Case was continued from 9/25/19)

 Tanya Shaw, Code Enforcement Officer, utilized a slide presentation to review the violation of a shed placed on the property without the required permit. Mrs. MacDonald was

unable to obtain a permit, because the shed is located within a force main easement and partially on the adjacent property owned by Patricia Cueto. Ms. Shaw reported on Mrs. MacDonald's disruptive behavior.

 Discussion ensued on how the shed was placed behind a privacy fence, which was erected to prevent staff from accessing the property, Mrs. MacDonald has a letter giving her permission to use Ms. Cueto's property, and the MacDonalds own Lot 55.


 Ms. Cueto reported her family purchased the property being encroached upon 26 years ago, and in 2004 issues arose with the respondents. She has repeatedly confronted them and asked for their personal items such as a recreational vehicle and privacy fence, be removed from her property. She hired a survey company to reflag and delineate property lines on several occasions, and an attorney sent a Cease and Desist Letter to the MacDonalds. The letter that Mrs. MacDonald has claiming permission to use her property is falsified, and she has been harassed by the MacDonalds with demand letters through her attorney.


 Colin Rice, Attorney for Scott and Judy MacDonald (respondents), did not dispute the violations, but sought 90 days in order to comply.

The Special Magistrate stated the shed must be removed to comply the violation.


Ms. Shaw did not support giving the respondents 90 days due to the length of time that has already expired.

Upon question, Mr. Rice stated he would speak to the respondents about moving the shed before seeking the permit.


 Jorge Martelo, Code Enforcement Officer, stated the shed should be removed and placed on the MacDonald's property, and staff would work with them on obtaining the permit.

 Mr. Rice stated there are setback requirements for the shed, which may cause other violations.

The Special Magistrate noted the respondents would have the ability to seek an extension of the compliance date if progress has been made.


 Based upon the testimony and evidence presented in Case CE1906-0184, the Special Magistrate found the respondents, Scott and Judy MacDonald, are in violation of Section 310.3 of the Manatee County LDC and ordered the respondents to correct the violation on or before November 22, 2019. If the respondents do not comply with this order, a fine of \$50 per day, not to exceed \$20,000, would be imposed for each day the violation continues past November 22, 2019.

20. **CE2017080685, SMITH FAMILY-BRADENTON LIMITED PARTNERSHIP**


 Violation of Section 2-9-105(d) (Property Maintenance Standards) of the Manatee CCO at 111 Cortez Road West, Bradenton.

Bob Hendrickson, representing TSA Back 9 LLC (current property owner), stated the property is located adjacent to the former Sports Authority store on Cortez Road, and has been a nuisance property due to a homeless camp and overgrowth. He requested a fine mitigation from \$10,000 to \$500 plus \$28.50 in recording fees, because the property has been brought into compliance.

Jorge Martelo, Code Enforcement Supervisor, supported the mitigation request.


 In Case CE2017080685, The Special Magistrate recommended the Board of County Commissioners reduce the fines to \$500, plus \$28.50 in recording fees.

2. **CE1810-0007, ALEXANDER GUNTANG AND LARRY SCHROCK**


 Violation of Section 2-9-108(c) (Inoperable/Improperly Stored Vehicle) of the Manatee CCO at 4204 51st Street East, Bradenton.
and

3. **CE1904-0142, ALEXANDER GUNTANG AND LARRY SCHROCK**

Violation of Section 2-9-105(c) (Trash and Debris) of the Manatee CCO at 4204 51st Street East, Bradenton.

 Vicki DiOrazio, Code Enforcement Officer, reported Larry Schrock is deceased. She made use of a slide presentation to review the violations of multiple inoperable vehicles, and trash and debris on the property including, but not limited to scrap metal, tires, tarps, microwaves, plastic containers, and tree debris on the property. She reported 80 percent of the junk vehicles have been removed.


Upon question, Ms. DiOrazio explained Mr. Schrock is still listed as an owner on the Property Appraisers website.


 Carl Parent, Power of Attorney for Alexander Guntang, reported Mr. Schrock passed away in 2005 and his family is not willing to remove the trash and debris from property. He confirmed that he continues to make progress on clearing the property.

The Special Magistrate expressed concern on whether the property owners were properly noticed.


Ms. DiOrazio noted that she posted the Notice of Violation and Notice of Hearing on the property and at the County Administration building, as well as mailed to both of the respondents at 4204 51st Street East.


Katharine Zamboni, Assistant County Attorney, advised having two separate compliance orders. If the violation of Section 2-9-108(c) complies by December 20, 2019, and additional time is needed for Section 2-9-105(c), then Mr. Parent could ask for an extension of the compliance date.


 Based on the testimony and evidence presented in Case CE1810-0007, the Special Magistrate found the respondents, Alexander Guntang and Larry Schrock, are in violation of Section 2-9-108(c) of the Manatee CCO and ordered the respondents correct the violation on or before December 20, 2019. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past December 20, 2019, with a maximum fine not exceed to \$20,000.

 Based on the testimony and evidence presented in Case CE1904-0142, the Special Magistrate found the respondents, Alexander Guntang and Larry Schrock, are in violation of Section 2-9-105(c) of the Manatee CCO and ordered the respondents correct the violation on or before December 20, 2019. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past December 20, 2019, with a maximum fine not exceed to \$20,000.


4. **CE1904-0498, GORDON AND LINDA MCCULLIGH**

 Violation of Section 2-9-107(a) (Fence) of the Manatee CCO at 1915 32nd Avenue East, Bradenton.


 Vicki DiOrazio, Code Enforcement Officer, utilized a slide presentation to review the violation of an on-site fence that is in disrepair and must be fixed and maintained.

 Gordon McCulligh, respondent, stated he is the property owner, but his brother lived on the property at the time of the violation. He requested more time to comply due to financial difficulties.

Ms. DiOrazio concurred with Mr. McCulligh's request for additional time to comply.


 Based on the testimony and evidence presented in Case CE1904-0498, the Special Magistrate found the respondents, Gordon and Linda McCulligh, are in violation of Section 2-9-107(a) of the Manatee CCO and ordered the respondents correct the violation on or before January 17, 2020. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past January 17, 2020, with a maximum fine not exceed to \$20,000.


7. **CE1907-0291, FARSHAD NEJAD**

 Violation of Section 702.3(B) (Earthmoving Site Plan Required) of the Manatee County LDC at 2904 16th Avenue East, Palmetto.
and


8. **CE1907-0296, FARSHAD NEJAD**


Violation of Section 702.3(B) (Earthmoving Site Plan Required) of the Manatee County LDC at 2950 16th Avenue East, Palmetto.

 Donna Finch, Code Enforcement Officer, used a slide presentation to review the violations of a large amount of fill dirt that has been spread onto the properties without an earthmoving site plan.


 Farshad Nejad, respondent, agreed that he brought the fill dirt on the properties and discussed the costs associated with obtaining an earthmoving site plan.


Discussion ensued about Mr. Nejad communicating with staff about additional time to comply the violations, and staff is willing to work with him if they see progress.

 Based on the testimony and evidence presented in Case CE1907-0291, the Special Magistrate found the respondent, Farshad Nejad, is in violation of Section 702.3(B) of the Manatee County LDC and ordered the respondent correct the violation on or before January 17, 2020. If the respondent does not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past January 17, 2020, with a maximum fine not exceed to \$20,000

 Based on the testimony and evidence presented in Case CE1907-0296, the Special Magistrate found the respondent, Farshad Nejad, is in violation of Section 702.3(B) of the Manatee County LDC and ordered the respondent correct the violation on or before January 17, 2020. If the respondent does not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past January 17, 2020, with a maximum fine not exceed to \$20,000.


11. **CE2018060057, PHILLIP AND ROSEMARY STEWART**


 Violation of Section 401.2 (Vehicle Repair, Neighborhood Serving) of the Manatee County LDC at 12120 73rd Street East, Parrish.
(Note: Case formerly known as CE2018060571)


 Tanya Shaw, Code Enforcement Officer, utilized a slide presentation to review the violation of an automotive repair shop being operated without the required special permit on property zoned for the Parrish Commercial Village Overlay District. She amended the recommended action to allow the automotive repair shop to continue operations in conjunction with the respondents obtaining the proper special permit. The respondents are not in attendance, because they live out of state.

Katharine Zamboni, Assistant County Attorney, questioned the length of time needed to obtain a special permit and whether obtaining one could be accomplished within the timeframe set forth in a compliance date.

Ms. Shaw explained Mr. Stewart is not willing to obtain the special permit, because there was a previous special permit for a tractor repair business formerly on the property. Mr. Stewart signed a lease with the automotive repair shop owners and told them they could run their business on the property.

 Robert Schmitt, agent for the respondents (Phillip and Rosemary Stewart), explained the special permit process is approximately four to six months, which is followed by Final Site Plan process that could add another three months to the process. It is Mr. Stewart's belief that the previous special permit should be extended to the automotive repair shop. The Building and Development Services Department has taken the stance that once the tractor repair business ceased on the property for more than a year, then the special permit is no longer valid and a new one must be obtained. Unfortunately, no matter where the automotive repair shop owners operate in the Parrish Village, a special permit would be needed. He requested additional time to work with staff on a fee reduction and with Mr. Stewart through the special permit process.

 Eugene Carsey, tenant and owner of the Automotive Repair Shop, stated since opening the shop in February 2018, the clientele has grown. He operates the shop with his son and his entire savings has been invested into the success of the shop. He would like to remain at this location for the duration of the lease (ends February 2021), but if not, they would need time to relocate.

 **Ms. Zamboni** explained if an order is entered into by the Special Magistrate with two options, a special permit is obtained or the operations cease, and if the operations do not cease and fines accrue, the fines would accrue against the property owners not Mr. Carsey.

The Special Magistrate stated in order to bring the property into compliance there are two legal options, and he cannot mandate which option.


Upon question, Mr. Schmitt elaborated that the building has existed since the 1960s, and the LDC reads that if a building is pre-existing, then a conditional use permit (special permit) would be necessary. He could not confirm if the special permit is valid or not, since the previous use ceased for one year.

Jorge Martelo, Code Enforcement Officer, stated the recommended compliance date is November 22, 2019, which could be extended to January 2020. He inquired if the extension would aid Mr. Carsey.


Ms. Shaw supported extending the compliance date.


Ms. Zamboni suggested the recommended motion include that the special permit must be applied for.


Discussion ensued.

 Based on the testimony and evidence presented in Case CE2018060057, the Special Magistrate found the respondents, Phillip and Rosemary Stewart, are in violation of Section 401.2 of the Manatee County LDC and ordered the respondents correct the violation by applying for a special permit or cease automotive repair operations on or before January 17, 2020. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past January 17, 2020, with a maximum fine not exceed to \$20,000.


1. **CE1910-0819, STG1 ENTERPRISES LLC**


 Violation of Section 2-9-106(c) (Unsecured Property) of the Manatee CCO at 5425 16th Street East, Bradenton.

 Kelvin Albritton, Code Enforcement Officer, utilized a slide presentation to review the violation of a home that is unsecured and presents a life safety hazard.


 Based on the testimony and evidence presented in Case CE1910-0819, the Special Magistrate found the respondent, STG1 Enterprises LLC, is in violation of Section 2-9-106(c) of the Manatee CCO. Based on the testimony and evidence presented in Case CE1910-0819, the Special Magistrate found the violation or the condition causing the violation of Section 2-9-106(c) of the Manatee CCO presents a serious threat to the public health, safety, and welfare, and ordered that the Board of County Commissioners be notified regarding this violation in accordance with Section 1062.091 of Florida Statutes, and Section 2-7-26(b) of the Manatee CCO.

18. **CE2014090496, JAMES E. PARKS**

 Violation of Section 511.8(B)(2) (Outdoor Display, Sale and Storage of Merchandise and Equipment) of the Manatee County LDC at 12330 U.S. 301 North, Parrish.
(Note: Respondent was granted a compliance date extension on 4/24/19)


 Jim Parks, respondent, explained he is seeking to rezone the property, but he needs additional time to work with the Parrish Civic Association on the best use for the property.


There was a discussion on the number of compliance date extensions Mr. Parks has sought, and staff has plans to meet with Mr. Parks to work on a solution.


 Ben Dornon, Code Enforcement Officer, confirmed Mr. Parks has submitted a rezone and site plan application; however, he has encountered numerous setbacks due to the rerouting of sewer and water lines and his land being taken. He supported Mr. Parks' request to extend the compliance to February 21, 2020.

 In Case CE2014090496, the Special Magistrate ordered that the compliance date for the violation of Section 511.8(B)(2) of the Manatee County LDC be extended to February 21, 2020.

19. CE1903-0353, HAZEL DOYLE

 Violation of Section 2-9-105(d) (Property Maintenance Standards) of the Manatee CCO at 6710 36th Avenue East, Lot 242, Palmetto.
(Note: Case previously heard on 6/26/19 and 8/28/19)


 Tanya Shaw, Code Enforcement Officer, reported Ms. Doyle was previously granted a compliance date extension, and she did not support another extension, because the property has not been brought into compliance.


 Hazel Doyle, respondent, stated she owns the property, but the possessions belong to her former boyfriend, who she is evicting. She has suffered from numerous health conditions, which prevented her from bringing the property into compliance.

Jorge Martelo, Code Enforcement Officer, noted staff would support a 30-day extension.

 In Case CE1903-0353, the Special Magistrate ordered that the compliance date for the violation of Section 2-9-105(d) of the Manatee County LDC be extended to November 22, 2019.

21. CE2016070060, MANAGED INVESTMENT HOLDINGS LLC (ADD-ON MITIGATION ITEM)

 Violation of Section 401.2, Table 4-2, page 4-15, of the Manatee County LDC at 1301 29th Avenue West, Bradenton.


 Robert Selby, Managed Investment Holdings LLC, reported the property was in violation and fines were accrued. The violation was corrected in April 2019; however, the outstanding fines/liens were unresolved. He applied for a mitigation of fines, which was reviewed by Tom Wooten, Code Enforcement Field Supervisor. Mr. Wooten informed him that the explanation and proposed settlement amount was amicable, and a hearing would be scheduled. Unfortunately, the hearing was not scheduled for today.

The Special Magistrate stated the respondent was not provided a Notice of Hearing for today's hearing, and inquired if Mr. Selby waived his right to the notice. Mr. Selby concurred.

Jorge Martelo, Code Enforcement Field Supervisor, waived the lack of notice.

The Special Magistrate inquired if the respondent obtained a special permit as outlined in the original compliance order (2/22/17).

Mr. Shelby reported a special permit was not obtained, because the vehicles for sale were removed from the property.


 John Howard, Code Enforcement Officer, stated he performed the inspection in April 2019, and the vehicles were removed from the property.

Discussion ensued on when the property was brought into compliance, and the principal use of the property is not for auto sales.

Upon question, Mr. Selby reported the fines continued to accrue despite the property being in compliance, and he offered to mitigate the fines for \$2,000.

Following review of the files, staff reported the fine amount totaled to \$49,303.50. The property had been in violation for 657 days and the property was brought into compliance on May 10, 2019.

There was discussion on the compliance date, compliance date extension, the compliance order reflected a finding that the principal use was auto sales, and the principal use for the property was parking due to the adjacent property use.


 Jeff Bowman, Code Enforcement Officer, expressed willingness to work with Mr. Selby to discuss the fine amount.


Mr. Selby agreed that \$2,000 is an acceptable amount.


Mr. Martelo confirmed that staff is in agreement with mitigating the case for \$2,000, plus \$28.50 in recording fees.

 In Case CE2016070060, the Special Magistrate recommended the Board of County Commissioners reduce the fine to \$2,000, plus \$28.50 in recording fees.


6. **CE1902-0322, DUANE AND PATRICIA FRITZ**


 Violation of Section 2-9-105(d) (Trash and Debris) of the Manatee CCO at 3802 36th Avenue East, Palmetto.


 Donna Finch, Code Enforcement Officer, utilized a slide presentation to review the violation of a large amount of tree debris, tires and other items on the property. This is a rental property, and the tenant continues to bring trash and debris on-site. Upon question, Ms. Finch agreed this is a nuisance property.

 Based on the testimony and evidence presented in Case CE1902-0322, the Special Magistrate found the respondents, Duane and Patricia Fritz, are in violation of Section 2-9-105(d) of the Manatee CCO and ordered the respondents to correct the violation on or before December 20, 2019. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past December 20, 2019, with a maximum fine not exceed to \$20,000.


9. **CE1810-0662, BRUCE AND RITA MCDONALD**


 Violation of Section 2-9-106(b) (Structural Standards) of the Manatee CCO at 6412 Wellesley Drive, Bradenton.

 John Howard, Code Enforcement Officer, utilized a slide presentation to review the violation of the roof, soffit, fascia and walls being rotten and missing material.

 Based on the testimony and evidence presented in Case CE1810-0662, the Special Magistrate found the respondents, Bruce and Rita McDonald, are in violation of Section 2-9-106(b) of the Manatee CCO and ordered the respondents to correct the violation on or before January 17, 2020. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past January 17, 2020, with a maximum fine not exceed to \$20,000.

12. **CE1811-0600, KAWALJIT AND JOY SINGH**

 Violation of 310.3 (Building Permit Required) of the Manatee County LDC at 15405 Anchorage Place, Lakewood Ranch.

 Tanya Shaw, Code Enforcement Officer, utilized a slide presentation to review the violation of a pool constructed without the proper permit.

Discussion ensued on the associated case (CE1811-0599), the size of the property, and how the respondents, who live out of state, are trying to sell the property.



Based on the testimony and evidence presented in Case CE1811-0600, the Special Magistrate found the respondents, Kawaljit and Joy Singh, are in violation of Section 310.3 of the Manatee County LDC and ordered the respondents to correct the violation on or before November 22, 2019. If the respondents do not comply with this order, a fine of \$50 per day would be imposed for each day the violation continues past November 22, 2019, with a maximum fine not exceed to \$20,000.

HEARING ADJOURNED



There being no further business, the Special Magistrate adjourned the hearing at 11:45 p.m.

Minutes Approved: November 5, 2019