

Meeting Date
November 21, 2017



AGENDA	
Section	New Business
Item No.	<i>III. A. 1.</i>

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	BOARD CONSIDERATION RE: REQUEST FOR REDUCTION OF FINE AND RELEASE OF CODE ENFORCEMENT LIEN FOR LISA R WENDT aka LISA R BRAY, 2775 BROCKETT RD, MIMS, FL 32754 (DISTRICT 1) FY18 FISCAL IMPACT - \$4,435 FINE/\$2,230 REDUCTION = \$2,205 PAYMENT DUE
DEPT/OFFICE:	Planning and Development

Requested Action:
It is request that the Board consider the Special Magistrate's recommendation to reduce the accrued fine for the violation at 2775 BROCKETT RD, MIMS, FL 32754, Case 13CE-00760, from \$4,435 to \$2,205 and direct staff to prepare and execute a release and satisfaction of lien upon receipt of payment.

Summary Explanation & Background:
This matter came for public hearing before the Code Enforcement Special Magistrate on December 19, 2013 for violation of County Code, Section 114-28(b), Overgrowth. After due notice to the Respondent, the Special Magistrate found the property in violation of County Code and issued a Findings of Fact, Conclusions of Law and Order & Lien for Costs, which was executed and recorded in Official Records Book 7034, Page 2454, of the Public Records of Brevard County.

On July 20, 2017, the Special Magistrate issued an Order Imposing Fine as Lien which was executed and recorded in Official Records Book 7941, Page 2679 of the Public Records of Brevard County. The fines on the property accrued at \$25 per day from January 3, 2014 to July 17, 2017. The fines accrued to the 35% maximum of \$4,435.

On September 21, 2017, the Respondent, Lisa Bray petitioned the Code Enforcement Special Magistrate for a reduction of the fine. The Special Magistrate recommends a reduction of the fine from \$4,435 to \$2,205, contingent upon payment within 30 days or establishment of a payment plan within 30 days of the date that the Board of County Commissioners render a decision approving the Special Magistrate's recommendation.

Actual cost: Total actual costs for this case are \$1,868. The enforcement costs of \$550 were paid toward that amount bringing remaining actual costs to \$1,318.

Contacts: Brian Lock, Code Enforcement Manager, extension 52779.

Clerk to the Board Instructions: N/A

Exhibits Attached: Findings and Recommendation of the Special Magistrate and Reduction Factor Worksheet, Request for Reduction of Penalty, Actual Costs Worksheet

Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
------------------------------------	-----------------------------	-----	--------------------------	----	--------------------------	----	--------------------------

County Manager	Assistant County Manager	Department Director / Extension
Frank Abbate <i>[Signature]</i>	John Denninghoff	Tad Calkins, Director <i>[Signature]</i> Planning & Development Dept, extension 56532



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

November 22, 2017

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Brian Lock

RE: Item VI.A.1., Request for Reduction of Fine and Release of Code Enforcement Lien for Lisa R. Wendt aka Lisa R. Bray, 2775 Brockett Road, Mims, Florida 32754

The Board of County Commissioners, in regular session on November 21, 2017, considered Special Magistrate's recommendation to reduce the accrued fine for the violation at 2775 Brockett Road, Mims, Case 13CE-00760; approved reducing the fine to the actual cost of \$1,868, the enforcement cost of \$550 was paid, bringing the remaining actual cost to \$1,318; and directed staff to execute a release and satisfaction of lien upon receipt of payment.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

cc: Clerk to the Special Magistrate
Finance
Budget

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
a political subdivision of the State of Florida,
Petitioner,

CASE NUMBER: 13CE-00760

vs.

Property Address: 2775 BROCKETT RD MIMS FL 32754
District: 1

LISA R WENDT aka LISA R BRAY,
Respondent(s)

**FINDINGS AND RECOMMENDATION TO
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**

Upon petition of LISA R WENDT aka LISA R BRAY, the Code Enforcement Special Magistrate, on 9/21/2017, reviewed the basis for reduction of the accrued fine stated in the Request for Reduction of Penalty and Recommendation to Brevard County Board of County Commissioners application provided by LISA R WENDT aka LISA R BRAY, heard testimony from LISA R WENDT aka LISA R BRAY and the County; reviewed the Minutes and other documents from the original hearing, and being fully advised finds:

I. FACTS

1. This cause came on for public hearing before the Code Enforcement Special Magistrate on 12/19/2013 after due notice to the Respondent, LISA R WENDT aka LISA R BRAY, at which time the Code Enforcement Special Magistrate heard testimony under oath, received evidence, and issued his Findings of Fact, Conclusions of Law and Order & Lien for Costs, and thereupon issued his oral Order which was reduced to writing and furnished to the Respondent. Findings of Fact, Conclusions of Law and Order & Lien for Cost recorded in the official records of Brevard County Book 7034, Page 2454.

2. Said order required the Respondent to take certain corrective action for the violation by 1/2/2014, and in the event the violation is not corrected by the specified time a fine of \$25.00 per day will be imposed. Accordingly, it was brought to the Code Enforcement Special Magistrate's attention on 7/20/2017 that the Respondent did not comply with the Special Magistrate's Order, and an Order Imposing Administrative Fine and/or Costs as Lien was filed against the property and upon any other real or personal property owned by the Respondent, LISA R WENDT aka LISA R BRAY, and recorded in the official records of Brevard County, Book 7941 at Page 2679.

3. A re-inspection on 7/17/2017 revealed the corrective action ordered by the Code Enforcement Special Magistrate was completed and the inspecting officer filed an Affidavit of Late Compliance. The fine accrued to 35% maximum, \$4,435.00.

4. Testimony and evidence was presented by LISA R WENDT aka LISA R BRAY, stating:

she claims she was not aware
of violations until Title Company discovered it

5. Testimony was received from the County stating:

- a) The County objects to the request for reduction **OR**
 The County acknowledges the Special Magistrate's authority to recommend a fine reduction pursuant to Board policy.

b) COUNTY sought COST plus 20%

II. FINDINGS

The Special Magistrate weighing the severity of the violations of **Overgrowth**.

All of above factors support **do** <or> **do not** support a recommendation of reduction of the accrued fine.

III. RECOMMENDATION

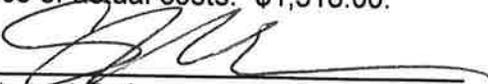
1. Based upon the foregoing factors, the request is DENIED.

OR

1. Based upon the foregoing factors, which in total weigh in favor of reduction of the accrued fine, the Special Magistrate recommends reduction of the accrued fine in the amount of \$4,435.00 to the reduced sum of \$ 2,205.00, contingent upon:

- a. **Payment within 30 days** of the date the Board of County Commissioners renders a decision approving the Special Magistrate's recommendation.
- b. With an option for the establishment of a **payment plan which must be created within 30 days of the date of the Board of County Commissioners rendered decision, and payment plan timely paid accordingly.**
- c. If reduced amount is not paid by the above time frame(s) as specified, the accrued fine will revert to the original amount due, less payments received.
- d. The actual costs total: \$1,868.00. Enforcement costs in the amount of \$550.00 have been paid. Balance of actual costs: \$1,318.00.

Dated September 21, 2017.


Stewart B. Capps, Special Magistrate
Code Enforcement

You have a right to appeal a final administrative Order to the 18th Circuit Court for Brevard County within a period of 30 days in accordance with Brevard County Code Section 2-178.

cc: Delivery by HAND OR Delivery by Mail
LISA R WENDT aka LISA R BRAY, 15 SUGAR MILL LN S, FLAGLER BEACH FL 32136-4913

Mail payment to: Brevard County Code Enforcement, 2725 Judge Fran Jamieson Way, Bldg A 114, Viera, FL 32940

REDUCTION FACTOR WORKSHEET

CASE #13CE-00760

A. Extenuating Circumstances? Circle any that apply.

- 1) The applicant did not have the resource to comply
- 2) The applicant had a financial hardship
- 3) The applicant had a medical hardship
- 4) The applicant was experiencing hard times or was a victim of circumstances.

Explain: Client not aware of violation until title company picked it up.

- 5) There were technical and/or procedural issues with the case
- 6) The applicant did not have authority to make corrections (i.e., other legal action pending)
- 7) The required corrections were complex in nature
- 8) The applicant's age prevented timely compliance
- 9) The applicant experienced a language barrier

B. Nature of the violation.

- 1) Heightened health, safety, welfare concern Yes/No
- 2) The amount of time to correct
 - a) 1-60 days
 - b) 61-120 days
 - c) Over 120 days
- 3) Degree of responsibility the applicant contributed to the delay in compliance
 - a) None
 - b) Somewhat
 - c) Complete
- 4) The applicant's level of cooperation with code enforcement
 - a) None
 - b) Somewhat
 - c) Complete
- 5) Did the applicant ever request an extension of the compliance date?
Yes _____ was it granted _____ denied _____ None requested _____
- 6) If yes, how many extensions were granted? _____

C. What type of interest does the applicant have on the property?

- 1) Considering acquiring the property
- 2) Foreclosure/Tax Deed Sale
- 3) Inherited property
- 4) Acquired property from the violator
- 5) The applicant was the owner when the violation occurred

D. Financial beneficiary of the fine reduction

- 1) Violator
- 2) New owner who corrected violation
- 3) _____

Original Fine **\$4,435.00**

Recommend Reduction to \$ _____

- Contingent on payment within _____ days
- Establish Payment Plan within _____ days, and pay in full by _____
- If unpaid, fine will revert to original amount, less payments received

S. Capps 9/21/11

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

RECEIVED
AUG 29 2017
BY:

Special Magistrate Hearing: Thursday, 9/21/17 9:00 a.m.,
Bldg C, 2nd Floor Space Coast Room, Viera, FL 32940
FAX COMPLETED FORM TO: 321-633-2167
Mail original to: Brevard County Code Enforcement, 2725
Judge Fran Jamieson Way, Bldg A 114, Viera, FL 32940
DUE ON OR BEFORE: ASAP-8/24/17

Case No. 13CE-00760
Property Address: 2775 BROCKETT RD, MIMS, FL 32754 District:1
Owner's Name: LISA R WENDT aka LISA R BRAY

REQUEST FOR REDUCTION OF PENALTY and
RECOMMENDATION TO BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
(Consider this document your Notice of Hearing-No other notice will be sent for this request
*THIS IS A 2-STEP PROCESS)

BY COMPLETING THIS FORM, YOU ARE MAKING STATEMENTS UNDER OATH. FAILURE TO BE TRUTHFUL IS A VIOLATION OF FLORIDA STATUTES PERTAINING TO PERJURY, WHICH IS A FELONY PUNISHABLE BY UP TO 15 YEARS IMPRISONMENT.

INSTRUCTIONS: Please review and complete the entire package. Failure to provide complete information will delay consideration of your request. Enforcement Costs must be paid prior to scheduling case for hearing and are not eligible for reduction. Be specific when writing your statement. Please return this form to the Special Projects Coordinator in Code Enforcement prior to the above deadline. The Request will then be scheduled for the next available Special Magistrate hearing and before the Board of County Commissioners thereafter. You must be present at both of the meetings. If you are claiming medical or financial hardship, you may attach supporting documentation, however they will become public record. If you have any questions, please call Angela at (321) 633-2086, ext. 52885.

Property Owner's Name: LISA R WENDT aka LISA R BRAY

Property Owner's Mailing Address: 15 S Sugar Mill S Ln, Flagler Beach FL 32136

Phone Number where you can be reached during the day: 321-863-5032 lands42001@yahoo.com

STATUS OF PROPERTY AS OF INSPECTION MADE BY Sean Donovan ON 7/17/2017
VIOLATION of: Section 114-28(b), Brevard County Code, Overgrowth
Violation heard on 12/19/2013; fine ordered to accrue at \$25.00 per day from 1/3/2014 to 7/17/2017; the fine accrued to maximum 35% = \$4,435.00 (1291 days in violation); Fine imposed as lien by Special Magistrate on 7/20/2017.
Enforcement costs in the amount of \$550.00 were paid on 6/21/2017 .

If the property owner is unable to complete this form, list the name of the person who completed the form and is authorized to act for the Property Owner and their relationship to the property owner.

MAKE CERTAIN THAT THIS FORM AND ANY ATTACHMENTS COMPLETELY SET FORTH YOUR POSITION. YOU MUST BE PRESENT TO ANSWER ANY QUESTIONS THE SPECIAL MAGISTRATE MAY HAVE.

I, LISA R WENDT aka LISA R BRAY, do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

I'm requesting a reduction in penalty as I did not receive an initial letter in regard to the code violation in 2013 and I was completely unaware of the situation until I tried to sell the property this summer (2017). The title company found the violation in their search and they notified me. I took care of the matter in a timely manner as soon as I found out about the violation. I would never intentionally go against what the county was wanting or enforcing. I sincerely apologize for this violation and how long it continued. During these dates the land was brush hogged a couple times a year. I'm a stay at home mother of three ages 4, 4, & 3 with one income and currently can not come up with the total cost of the violation \$4435.00 and I'm asking you to please reduce the cost of the fine by 80% to \$887.00. If you could do this I would be very grateful and appreciative and gladly pay the fine ASAP. Thank you for your time and consideration.

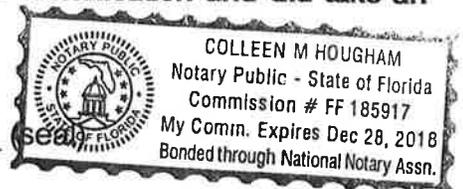
Date: 8/24/17

Signed: *Lisa Bray*
Lisa Bray

STATE OF FLORIDA)
COUNTY OF BREVARD)
Volusia

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, LISA R WENDT aka LISA R BRAY, who first being duly sworn, acknowledged before me that the information contained herein is true and correct. He/she is not personally known to me and has produced a Florida driver's license as identification and did take an oath.

Date: 8/24/17 Notary Public: *Colleen M Hougham*



REDUCTION FACTOR WORKSHEET

THIS WORKSHEET MUST BE COMPLETED AS PART OF THE APPLICATION PROCESS

CASE #13CE-00760

A. Extenuating Circumstances? Circle any that apply.

- 1) The applicant did not have the resource to comply
- 2) The applicant had a financial hardship
- 3) The applicant had a medical hardship
- 4) The applicant was experiencing hard times or was a victim of circumstances.

Explain: _____

- 5) There were technical and/or procedural issues with the case
- 6) The applicant did not have authority to make corrections (i.e., other legal action pending)
- 7) The required corrections were complex in nature
- 8) The applicant's age prevented timely compliance
- 9) The applicant experienced a language barrier

B. Nature of the violation.

- 1) Heightened health, safety, welfare concern Yes/No
- 2) The amount of time to correct
 - a) 1-60 days
 - b) 61-120 days
 - c) Over 120 days
- 3) Degree of responsibility the applicant contributed to the delay in compliance
 - a) None
 - b) Somewhat
 - c) Complete
- 4) The applicant's level of cooperation with code enforcement
 - a) None
 - b) Somewhat
 - c) Complete
- 5) Did the applicant ever request an extension of the compliance date?
Yes _____ was it granted ___ denied ___ None requested
- 6) If yes, how many extensions were granted? _____

C. What type of interest does the applicant have on the property?

- 1) Considering acquiring the property
- 2) Foreclosure/Tax Deed Sale
- 3) Inherited property
- 4) Acquired property from the violator
- 5) The applicant was the owner when the violation occurred

D. Financial beneficiary of the fine reduction

- 1) Violator
- 2) New owner who corrected violation
- 3) _____

.....
Original Fine \$4,435.00

Recommend Reduction to \$ 887.⁰⁰

(Must Enter an Amount)

Worksheet for Assessment of Actual Costs for Case 13CE-00760

Inspector	Donovan							
Wages S&B Hourly	\$22.86							
Per Minute	\$0.38							
Officer Costs:								Sub Total
# Field Inspections	8 x	\$22.86	Hourly	Total	\$182.88			\$182.88
Vehicle Mileage								per mile
# Field Inspections	8 x2: Rdtrip	39 x miles	13	507	0.54			\$273.78
Administrative Costs:								
		Minutes						
# Computer Entries	32	10	320	\$0.38	\$121.60			
# Telephone calls	15	5	75	\$0.38	\$28.50			
# Research	17	15	255	\$0.38	\$96.90			
# Hearings/Prehearings	2	120	240	\$0.38	\$91.20			
					\$338.20			\$338.20
Extra Investigative Insp:								
S&B Hr/Mn		Minutes						
								\$0.00
								\$0.00
Recording Fees								
1 Page	\$10.00							\$20.00
2 Pages	\$28.50							\$28.50
3 Pages	\$39.00							
4 Pages	\$49.50							
Hearings (public, extension, reduction, imposition)	3 x	\$200.00				Legal Fees		\$600.00
Hearing Prep Office-number of hearings	5 x	\$85.00						\$425.00
Subtotal Actual Costs for case								\$1,868
Enforcement Costs Assessed and Paid - \$350 or \$550								\$550
Balance due of Actual Costs - DEFICIT								\$1,318

Tammy Rowe

From: Calkins, Tad <tad.calkins@brevardfl.gov>
Sent: Wednesday, November 22, 2017 1:46 PM
To: Tammy Rowe
Subject: VIA.1_.docx
Attachments: VIA.1_.docx

Tammy,

Understanding of their action was to reduce the fine to actual cost \$1,868. Ms. Bray paid \$550 already so her balance due \$1,318.

Tad

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."