

ADD ON

Meeting Date
July 12, 2016



AGENDA	
Section	Unfinished Business
Item No.	V B

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Board Approval to Take Legal Action Against Eric and Amanda Obloy
DEPT/OFFICE:	County Attorney's Office

Requested Action:

It is requested that the Board of County Commissioners grant permission to the County Attorney to continue taking necessary legal action against Eric and Amanda Obloy, property owners of 165 Gator Drive, Merritt Island, Florida 32953.

Summary Explanation & Background:

Eric and Amanda Obloy are the record title owners of 165 Gator Drive, Merritt Island, Florida. This is an AU zoned property with its only access located through the back of a residential subdivision.

At least six different neighbors have complained to Code Enforcement and the County Attorney's Office regarding the detrimental impact Eric's business has on their community. Complaints included: increased traffic, speeding cars, commercial semi-trucks, box trucks of various sizes, customer cars queuing in front of neighboring properties, taxis, and other disturbances in the neighborhood.

Based on these complaints, on November 24, 2015 the County pursued and obtained a temporary injunction against the Obloys enjoining them from engaging in any commercial activity on the 165 Gator Drive property in violation of County ordinances. This injunction included all activities that are not directly and inherently related to farming activities. Though the temporary injunction was set to expire, on May 19, 2016, the parties stipulated to extending it until a permanent injunction could be heard, or until the parties could resolve their conflict.

On June 27, 2016, the County became aware of advertisements for an "Indian River Lagoon Family Festival" to be hosted at the subject property on July 23, 2016. The festival – as advertised – will feature live bands, food trucks, beer from local breweries, bounce houses, farm games, shopping from local vendors, and open admission to the petting farm. On June 30, 2016, Brevard County Planning and Development Director, Robin M. DiFabio, sent the Obloys a letter informing them that they would need a special event permit for the stated event. As a courtesy, she attached a special event application package.

To date, the Obloys have not applied for the required special event permit. Instead, on or about July 6, 2016, Eric Obloy visited the County and informed staff that he was not required to obtain a special event permit for the stated event.

On July 8, 2016, the County filed an amendment to its initial complaint against the Obloys, requesting an injunction against their holding of special events on their property without permits due to the substantial off-site impacts caused by such events. Along with the injunction request, a request for a declaratory action requesting the court's interpretation of the limits and applicability of "agritourism" as defined in section 570.85, Florida Statutes, was made.

The neighbors still complain of traffic regularly. They are in constant contact with County staff regarding the detrimental impacts of the Obloys' activities on their property to their peaceful use of their own properties.

Clerk to the Board Instructions:

Exhibits Attached: Brevard County's Amended Verified Complaint For Preliminary Injunction, Permanent Injunction, and Declaratory Relief

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager	Assistant County Manager	Department Director / Extension County Attorney
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Stockton Whitten	Assistant County Manager	
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Consequently, the County Attorney's Office is ensuring that the Board's direction given on October 21, 2015, still stands and that the Board wishes for us to continue forward with our injunction against the special event.

There is potential liability in pursuing the injunction, namely, if the court determines that the Obloys were wrongfully enjoined, the County could be responsible for the cost of any cancelled vendor contracts or costs incurred due to the injunction of the special event. Those costs are presently undetermined, and could be mitigated by the Obloys if they were to get the special event permit prior to hosting their event.

Contact: Cristina Berrios & Diana Yuan, Assistant County Attorneys

Phone/e-mail: cristina.berrios@brevardcounty.us / diana.yuan@brevardcounty.us



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

July 28, 2016

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item V.B., Board Approval to Take Legal Action Against Eric and Amanda Obloy

This is to correct the memorandum of July 13, 2016. The Board of Commissioners, in regular session on July 12, 2016, granted permission for you to continue pursuing the necessary legal action against Eric and Amanda Obloy, subject to the Obloy's filing for a **special events** permit, and subject to the **special events** permit being approved for the property owners of 165 Gator Drive, Merritt Island.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

cc: County Manager
Planning and Development Director



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July 13, 2016

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item V.B., Board Approval to Take Legal Action Against Eric and Amanda Obloy

The Board of County Commissioners, in regular session on July 12, 2016, granted permission for you to continue pursuing the necessary legal action against Eric and Amanda Obloy, subject to the Obloy's filing for a permit, and subject to the permit being approved for the property owners of 165 Gator Drive, Merritt Island.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

cc: County Manager
Planning and Development Director

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

BREVARD COUNTY, a political
Subdivision of the State of Florida,

CASE NO.: 05-2015-CA-047568-XXXX-XX

Plaintiff,

v.

ERIC and AMANDA OBLOY,
as individuals,

Defendants.

_____ /

**BREVARD COUNTY'S AMENDED VERIFIED COMPLAINT FOR
PRELIMINARY INJUNCTION, PERMANENT INJUNCTION, AND
DECLARATORY RELIEF**

COMES NOW the Plaintiff, Brevard County, Florida, by and through its undersigned counsel, hereby amends its Verified Complaint for Preliminary and Permanent Injunction filed on October 28, 2015 to include: (1) a request for declaratory relief regarding the interpretation and application of Section 570.85, Florida Statutes, to the activities occurring on the subject property, and (2) a request for an additional temporary injunction against any and all special events as defined by section 10.27, Brevard County Code of Ordinances, from being held on the subject property without the required permits. In support thereof, Plaintiff states as follows:

PARTIES

1. Plaintiff, Brevard County ("the County"), is a political subdivision of the State of Florida, duly organized and operating under Article VIII, Section 1, of the Florida Constitution and the laws of the State of Florida.

2. Defendants, Eric and Amanda Obloy ("the Obloys") are individuals and the record title owners of real property located at 165 Gator Drive, Merritt Island, Florida, ("subject

property”) in the unincorporated area of Brevard County, Florida, and more particularly described as follows:

The Southeast ¼ of the Northwest ¼ (less and except those lands described on Official Records Book 2247, Page 418, and also less those lands lying in the plat of THE GROVES Phase II, according to the plat thereof as recorded in Plat Book 39, Page 73, of the Public Records of Brevard County, Florida) of Section 2, Township 24 South, Range 36 East, Brevard County Florida.

3. Defendants hold title to the subject property pursuant to a deed dated March 26, 2015 and recorded at Official Records Book 7331, Page 2918, Public Records of Brevard County, Florida. See “**Exhibit A.**”

JURISDICTION AND VENUE

4. Pursuant to section 162.30, Florida Statutes, the County is authorized to enforce violations of County Codes of Ordinances by filing civil actions in the Circuit Court.

5. The Circuit Court has jurisdiction to grant injunctive and declaratory relief in this matter pursuant to Chapters 26, 162, and 86 Florida Statutes.

6. Venue in Brevard County, Florida, is proper under section 47.011, Florida Statutes, because the property in litigation is located in Brevard County, the cause of action accrued in Brevard County, and the Defendants reside in Brevard County.

PROCEDURAL BACKGROUND

7. On or about October 28, 2015, the County filed its Verified Complaint for Preliminary and Permanent Injunction.

8. On or about November 24, 2015, a hearing for temporary injunction was held before this Honorable Court at which Defendant, Eric Obloy, and his attorney, Roy Hornstein, Esq., were present.

9. On or about November 24, 2015, an Order of Temporary Injunction was orally issued immediately enjoining the Obloys from conducting commercial activity on the subject property in violation of Brevard County Code of County Ordinances. The injunction was “intended to include all activities that are not directly and inherently related to farming activities.” The order was executed in written form on or about December 3, 2015. (Order of Temporary Injunction, ¶19a). See “**Exhibit B.**”

10. On or about March 17, 2016, the Obloys, represented by Paul Bross, Esq., filed their “Counterclaim and Demand for Injunctive Relief (sic)” in the present action. The hearing for this Counterclaim is currently set for July 25, 2016.

11. On or about April 6, 2016, the County, through outside counsel Sherry Sutphen, Esq., filed its “Motion to Strike Counterclaim and Demand for Injunctive Relief” and noticed it for hearing on June 27, 2016.

12. On or about May 19, 2016, the parties filed a “Joint Motion for Stipulated Order to Extend Temporary Injunction.” That same day, this Honorable Court entered a Stipulated Order extending the November 24, 2015 temporary injunction until such time as the permanent injunction is heard or until the case is otherwise resolved by the parties. See “**Exhibit C.**”

13. On or about June 24, 2016, the County, through outside counsel Sherry Sutphen, Esq., cancelled its June 27, 2016 hearing on its “Motion to Strike Counterclaim and Demand for Injunctive Relief” and re-noticed it for July 25, 2016 after opposing counsel, Paul Bross, Esq., agreed to cancel the Obloys’ hearing on their “Counterclaim and Demand for Injunctive Relief (sic)” in order to meet with the County in good faith to discuss settlement. See “**Exhibit D.**”

14. The settlement meeting was set for July 1, 2016 at 11:00am. Neither opposing counsel nor the Obloys appeared at the July 1, 2016 meeting with the County. See “**Exhibit E.**”

15. Opposing counsel has not canceled his July 25, 2016 hearing on the Obloys' "Counterclaim and Demand for Injunctive Relief (sic)" as previously agreed upon.

GENERAL ALLEGATIONS

16. On or about March 26, 2015, the Obloys purchased the subject property. This property is a large parcel of agriculturally-zoned land located behind a residential subdivision known as "The Groves" in Merritt Island, Florida. In the same transaction, the Obloy's also purchased a parcel of residentially-zoned property that is adjacent to the agriculturally-zoned property and provides access from the public road to the agricultural property. The only public roadway access to this parcel is via Gator Drive, a county maintained road which runs from North Courtenay Parkway, through the subdivision, and ends at the residential property's entrance. See "**Exhibit F.**"

17. On or about June 27, 2016, the County became aware of advertisements for an "Indian River Lagoon Family Festival" to be hosted at the subject property on July 23, 2016. The festival – as advertised – will feature live bands, food trucks, beer from local breweries, bounce houses, farm games, shopping from local vendors, and open admission to the petting farm. See "**Exhibit G.**"

18. According to the online flyer, the proceeds from the festival will be donated to "preservation efforts of the Indian River Lagoon."

19. Gator Drive, which leads to the subject property, is narrow, without a sidewalk, and designed only with neighborhood traffic in mind. It is not designed for the influx of commercial traffic being caused by the Obloys' present uses of the subject property, and especially not for traffic generated by special events such as festivals, food trucks, alcoholic beverage consumption by the public, public amusement facilities and live-bands.

20. The access path from Gator Drive to the agricultural property is a one-lane dirt path cutting across the residential property. It is not wide enough for two cars to travel abreast down. If there is a car exiting the property, any cars entering the property must pull over into a grassy area or wait on Gator Drive until the exiting car has cleared the entryway.

21. The Obloys are the owners of several business enterprises related to ecotourism. Popular services the Obloys offer are swimming with the dolphins and manatee, kayaking, paddle boarding, and charter fishing. These activities are all provided under the umbrella of "Adventures in Paradise Farming Company," a fictitious name registered to "Dolphin Paradise Tours, Corp." Dolphin Paradise Tours, Corp is a for-profit company owned by Amanda Obloy with its address listed at the subject property. See "**Exhibits H & I.**"

22. The above-stated commercial ecotourism activities are in part facilitated through the use of Brevard County-owned public parks. A permit acquired through a lottery system is needed to use the parks for commercial activities, and the Obloys have obtained such a permit and have been substantially complying with its terms and limits.

23. Prior to the March 26, 2015 purchase of the subject property, the Obloys ran "Dolphins Paradise Tours Corp" from a location at the Harbortown Marina in Merritt Island, Florida. This was a properly-zoned location for their business, however, the Obloys refused to get their prefabricated building properly permitted and ADA compliant.

24. As a result of conflict with County staff regarding proper compliance with county, state, and federal laws, the Obloys moved the location of their business and prefabricated building to the newly purchased agriculturally-zoned subject property.

25. Agricultural zoning does not allow the Obloys' non-agriculturally related, off-site commercial business. As a result, there have been multiple Code Enforcement cases against the Obloys and their activities on the subject property.

26. On or about January 28, 2016, pursuant to the invitation of the County, a meeting was held between Eric Obloy, who was then represented by the law firm of Rogers Towers, and Robin DiFabio (Planning & Development Director), Cynthia Fox (Zoning Manager), John Calkins (Assistant Planning & Development Director), Michael McCaughin (Building Official), and Assistant County Attorneys Diana Yuan and Cristina Berrios. The purpose of this meeting was to discuss obtaining compliance by the Obloys in regards to County Code.

27. On or about February 4, 2016, the Obloys, assisted by Rogers Towers, applied for, and ultimately obtained, a permit for their mobile home. The permit was applied for and obtained over a month after the December 24, 2015 deadline given by this Honorable Court in its November 24, 2015 Temporary Injunction. The County did not pursue a show-cause hearing in an effort to encourage voluntary compliance with County Codes.

28. On or about March 13, 2016, the Obloys obtained agricultural classification on the subject property by the Property Appraiser, making the property agriculturally exempt. See **"Exhibit J."**

29. The prefabricated building still remains unpermitted and there are other unpermitted buildings, specifically a concession stand, on the subject property.

30. The stated concession stand is used to sell tickets to the petting zoo located on the property. Moreover, refreshments, suntan lotion, towels, and other non-agricultural items supplied for resale by commercial vendors are also for sale.

31. Consequently, large semi-trucks and box trucks deliver soda, ice, and other items to the property on a regular basis and there continues to be increased commercial traffic traversing in and out of the residential subdivision located in front of the subject property.

32. There are a variety of animals on the subject property including cattle, horses, goats, pigs, lemurs, emus, a camel, a zebra, alligators, goats, turtles, and muntjac deer. The animals are kept in pens mostly toward the back of the property. The cattle are kept in an electrified fence near the front of the property.

33. There is no business tax receipt for the commercial activity occurring on the property.

34. Article II of Chapter 10, Brevard County Code of Ordinances, regulates Special Events held within unincorporated Brevard County. The intent of stated regulations is to provide “minimum standards for the regulation of special events in the unincorporated areas of Brevard County to protect the health, safety and welfare of participants.” Section 10-26, Brevard County Code of Ordinances.

35. Section 10-27, Brevard County Code of Ordinances, defines a “special event.” The relevant portion of which is as follows:

“(a) Any temporary public gathering of 50 or more persons for the purposes of participating in entertainment in an open area that does not comply with commercial recreational facilities as defined in section 62-1921, which may consist of music, parades, fairs, festivals, carnivals, circuses, observing sports events, observing arts and crafts, or any other public entertainment event taking place in the unincorporated areas of the county, excluding state and federally owned property and property controlled by the county parks and recreation department. Special events on county parks will be permitted pursuant to Chapter 78, Code of Ordinances of Brevard County, Florida.

(b) Public events held in facilities that are not within the original purpose of the facility.” Section 10-27, Brevard County Code of Ordinances.

36. A special event permit requires an application accompanied by a site plan to allow the county to determine if there is adequate parking; storage, collection and disposal of wastewater and refuse; security and traffic control; fire protection; emergency services; size, location duration, time and date of the event; expected sale or service of alcoholic beverages; and insurance coverage.

37. Ultimately, the Brevard County citizens who reside in the residential neighborhood abutting this property have had their rights to quiet use of their properties infringed upon and suffer from daily harm of increased noise, traffic, and speeding on their roads, vehicle turnarounds using private driveways, non-residents driving across lawns, as well as routine commercial vehicles like semi-trucks and box trucks using their residential street. There are no sidewalks or public parking spaces in the community as the road was not built to accommodate large volumes of commercial traffic, especially the type of traffic and parking requirements associated with the large crowds of people attracted to special events of the type described in the “Indian River Family Festival” flyer advertising live bands, food trucks, beer from local breweries, bounce houses, farm games, shopping from local vendors, and open admission to the petting farm.

COUNT I: REQUEST FOR DECLARATORY RELIEF REGARDING THE INTERPRETATION AND APPLICATION OF SECTION 570.85, FLORIDA STATUTES

38. Paragraphs 1-37 are realleged and incorporated as if fully set forth herein.

39. On or about July 1, 2016, the Florida Legislature's amendment of Section 570.85, Florida Statutes, became effective. The law's revision provides that any property deemed agriculturally exempt by the Property Appraiser can be used for agritourism, and ensures that such agritourism activity is exempt from enforcement of local government regulation.

40. The agritourism statute defines "agritourism activity" as:

"Any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Section 570.86(1), Florida Statutes.

41. The legislative intent in amending section 570.85, Florida Statutes, was "to promote agritourism as a way to support for bona fide agricultural production by providing a secondary stream of revenue." See "Exhibit K." The operative portion of the amended statute reads as follows:

"570.85 Agritourism.—

(1) It is the intent of the Legislature to promote agritourism as a way to support bona fide agricultural production by providing a secondary stream of revenue and by educating the general public about the agricultural industry. It is also the intent of the Legislature to eliminate duplication of regulatory authority over agritourism as expressed in this section. Except as otherwise provided for in this section, and notwithstanding any other provision of law, a local government may not adopt or enforce a local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under s. 193.461. This subsection does not limit the powers and duties of a local government to address substantial offsite impacts of agritourism activities or an emergency as provided in chapter 252."

42. The Obloys claim that they are entitled to operate a concession stand without a permit or business tax receipt and are not required to obtain a special events permit by virtue of the operation of section 570.85(1), Florida Statutes.

43. Section 570.85(1), Florida Statutes states: “This subsection does not limit the powers and duties of a local government to address substantial offsite impacts of agritourism activities.” In this instance, the offsite impacts on the neighboring residential subdivision are substantial, especially if the Obloys attempt to utilize the property as a venue for public events.

44. The County is in doubt as to whether several of the ongoing uses of the subject property and the proposed Indian River Lagoon Family Festival constitute “agritourism” as that term is defined in section 570.80, Florida Statutes, or under the “Right to Farm Act” in section 823.14, Florida Statutes.

45. Accordingly, the County is in doubt as to whether, under the provisions of section 570.85, Florida Statutes, it has the authority to regulate activity on the subject property that does not qualify as agritourism activity under the provisions of section 570.85, Florida Statutes.

46. An actual controversy exists between the parties as to whether – and to what extent – the County can determine if a given activity falls under the agritourism statute; whether the County can regulate activity that does not constitute agritourism, and whether a festival of the type proposed by the Obloys is permissible without a special events permit.

WHEREFORE, Plaintiff, BREVARD COUNTY, requests a declaratory judgment:

- a. Declaring that Defendants are not engaging in exempted agriculturally-related activity when selling non-farm products or non-farm animals; or displaying non-farm animals, thereby allowing the County to regulate such activities;

- b. Declaring that the County's special event permitting ordinance criteria found in section 10-27, Brevard County Code of Ordinances is a legitimate regulation of "substantial offsite impacts of agritourism activities" under section 570.85, Florida Statutes;
- c. Entering a permanent injunction for activity that has already been temporarily enjoined in the Order of Temporary Injunction and Stipulated Order. See **"Exhibits B and C."**
- d. granting such other and further relief as the Court deems appropriate.

COUNT II: TEMPORARY INJUNCTION AGAINST SPECIAL EVENTS HOSTED ON SUBJECT PROPERTY WITHOUT REQUIRED PERMITS

- 47. Paragraphs 1-46 are realleged and incorporated as if fully set forth herein.
- 48. The "Indian River Family Festival" event advertised by the Obloys meets the definition of a "special event." Namely:
 - a. The event is advertised to the public and is intended (and likely) to gather 50 or more persons for entertainment in an open area.
 - b. The subject property does not meet the definition of "recreational facilities" as defined in section 62-1921, Brevard County Code of Ordinances.
 - c. The event is advertised as a festival. Music in the form of live bands is also advertised.
 - d. Holding festivals, hosting live bands, food trucks, local breweries, and local commercial vendors is not within the original purpose of the subject property. The subject property is, at best, a farm, not a venue for events unrelated to farming, such as a fundraiser for the Indian River Lagoon.

49. On or about June 30, 2016, the Brevard County Planning and Development Director, Robin M. DiFabio, sent the Obloys a letter informing them that they would need a special event permit for the stated event. Attached to the letter was the special event application package for their convenience. See “**Exhibit L.**”

50. To date, the Obloys have not applied for the required special event permit.

51. Instead, on or about July 6, 2016, Eric Obloy visited the County and informed staff that he was not required to obtain a special event permit for the stated event.

52. The County will suffer irreparable harm per se by virtue of the anticipatory violations of its ordinances. The Obloys have indicated they did not intend to obtain a special event permit and the time to do so is rapidly diminishing. Additionally, history has shown that the Obloys are resistant to complying with County Code without judicial intervention, despite good faith efforts from the County to work with them on compliance.

53. Under the facts pleaded, the lack of alternative legal remedy is established by presumption. *Dispoto v. Marion County*, 969 So. 2d 423, 425 (Fla. 5th DCA 2007), citing *Metropolitan Dade County v. O'Brien*, 660 So. 2d 364 (Fla. 3d DCA 1995) (“[w]here the government seeks an injunction in order to enforce its police power, any alternative legal remedy is ignored and irreparable harm is presumed”).

54. The County and its citizens have a public interest in ensuring compliance with Brevard County ordinances. *Dispoto v. Marion County*, 969 So. 2d 423,425 (Fla. 5th DCA 2007) citing *P.M Realty & Investments, Inc. v. City of Tampa*, 779 So.2d 404, 407 (Fla. 2d DCA 2000).

55. The County has a substantial likelihood of success on the merits as demonstrated by the ultimate facts and provisions of law set forth herein.

56. The threatened injury to the County and the public by the hosting of this special event without a permit outweighs any possible harm to the Obloys should the Court grant the injunctive relief sought by the County. The Obloys can resolve this situation by applying for a special event permit prior to July 11, 2016.

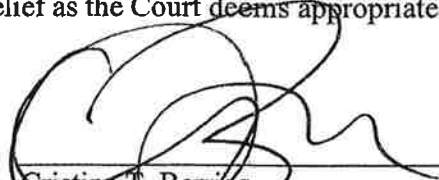
57. If the Obloys are permitted to host their special event on the subject property without obtaining the required permit, the County and the neighboring community will be forced to deal with the violation, the public guests of the event may have their health, welfare, and safety unduly jeopardized. Moreover there will be detrimental impacts that the permitting process is designed to mitigate, such as increased traffic, improper refuse and waste disposal, faulty electrical service, insufficient parking, insufficient security, and insufficient emergency services access to the property. Moreover, due to the single lane access across to the property itself, it is probable that traffic will overflow into the residential community and potentially impact the Coutenay Parkway corridor as well.

WHEREFORE, Plaintiff, BREVARD COUNTY, having no adequate remedy at law, and being empowered to enforce its laws, ordinances and regulations, and to protect the health, safety impacting and welfare of its residents or citizens and their respective property rights, respectfully requests that this Honorable Court enter its order and judgment:

- a. granting a temporary, preliminary or permanent injunction prohibiting the Obloys from conducting or allowing the Indian River Lagoon Family Festival on the subject property without obtaining a County special event permit prior to hosting that event or any other event meeting the criteria set forth in the special event provisions set forth in chapter 10 of the Brevard County Code of Ordinances until such a time as the Obloys comply with the special event permitting process or

until such time as the County's request for declaratory relief may be heard,
whichever occurs first;

- b. granting such other and further relief as the Court deems appropriate.



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OFFICE OF THE COUNTY ATTORNEY
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Viera, FL 32940
321-633-2090
321-633-2096 (fax)

VERIFICATION

On this 8th day of July, 2016, before the undersigned authority appeared, Brevard County Planning and Development Director, Robin M. DiFabio, who being duly sworn and placed under oath, does hereby state that the facts alleged in the foregoing verified complaint are true and correct to the best of her knowledge and belief and that the exhibits attached to the complaint are true and correct copies of original documents.



Robin M. DiFabio, AICP

STATE OF FLORIDA)
COUNTY OF BREVARD)



Notary Public – State of Florida

Personally Known X OR Produced Identification _____
Type of Identification Produced _____



2

PREPARED BY & RETURN TO
Name Katherine L Toim, Kathy@theclosingplace.com



Address 2194 Hwy A1A, Suite 105
Indian Harbour Beach, FL 32937
321-779-0903
File No TCP-1502006KLT

Parcel No 24-36-02-00-00275 0-0000 00 & 24-36-02-26-0000A 0-0000 00

SPR E ABOVE THIS LINE FOR PROVISION DATA

SPR E ABOVE THIS LINE FOR PROVISION DATA

This **WARRANTY DEED**, made the 26th day of March, 2015, by **ECOFARMING OF FLORIDA, LLC**, a Florida limited liability company, hereinafter called the Grantor, to **ERIC OBLOY** and **AMANDA OBLOY**, husband and wife, whose post office address is 2700 Harbortown Drive, Merritt Island, FL 32952, hereinafter called the Grantees

WITNESSETH That the Grantor, for and in consideration of the sum of \$10 00 and other valuable consideration, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantees all that certain land situate in County of Brevard, State of Florida, viz:

That part of plat of THE GROVES Phase II, according to the plat thereof as recorded in Plat Book 39, Page 73, Public Records of Brevard County, Florida, lying South of Lot 15 and East of Gator Drive, also labeled on plat as "existing 66 foot easement" (Official Records Book 3088, Page 563), "Additional Maintenance Easement", "15 foot Maintenance Easement" and "50 foot Drainage Easement" (Official Records Book 3222, Page 267) being more particularly described as follows Beginning at the Southeast corner of The Groves Phase II, according to the plat thereof as recorded in Plat Book 39, Page 73, Public Records of Brevard County, Florida, thence run North 00°26'36" West along the East line of said plat of The Groves Phase II, a distance of 136.87 feet to a point lying on the North line of aforementioned "existing 66 foot easement" (Official Records Book 3088, Page 563) said point also being the Southeast corner of Lot 15 of said plat of The Groves Phase II thence run South 89°15'55" West along the South line of said Lot 15, a distance of 336.12 feet to a point lying on the East right of way line of Dundee Drive (a 66 foot right of way), thence run South 00°50'01" West along said East right of way line of Dundee Drive, a distance of 132.10 feet to a point lying on the South line of aforesaid plat of The Groves Phase II, thence run South 89°55'10" East, along said South line of The Groves Phase II, a distance of 339.01 feet to the Point of Beginning

Together With

The Southeast 1/4 of the Northwest 1/4 (less and except those lands described in Official Records Book 2247, Page 418, and also less those lands lying in the plat of THE GROVES Phase II, according to the plat thereof as recorded in Plat Book 39, Page 73, of the Public Records of Brevard County, Florida) of Section 2, Township 24 South, Range 36 East, Brevard County, Florida

TOGETHER WITH all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

THE ABOVE-DESCRIBED PROPERTY IS NOT THE CONSTITUTIONAL HOMESTEAD OF THE GRANTOR. NOR IS IT CONTIGUOUS TO SUCH

SUBJECT TO TAXES FOR THE YEAR 2015 AND SUBSEQUENT YEARS, RESTRICTIONS, RESERVATIONS, COVENANTS AND EASEMENTS OF RECORD, IF ANY

TO HAVE AND TO HOLD the same in fee simple forever

And the Grantor hereby covenants with the Grantees that the Grantor is lawfully seized of said land in fee simple, that the Grantor has good right and lawful authority to sell and convey said land and that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever. Grantor further warrants that said land is free of all encumbrances, except as noted herein and except taxes accruing subsequent to December 31, 2014



IN WITNESS WHEREOF, the said Grantor has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its proper officers thereunto duly authorized, the day and year first above written

Signed, sealed and delivered in the presence of

Rhonda Arsenault
Witness Signature
Printed Name RHONDA ARSENAULT

Thomas L. Tom
Witness Signature
Printed Name Thomas L. Tom

ECOFARMING OF FLORIDA, LLC
a Florida limited liability company

By Richard E. Nichols L.R.
Name RICHARD E. NICHOLS
Title MANAGING MEMBER
Address (Principal Place of Business)
6737 Sheridan Road, Melbourne, FL 32904

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 26th day of March, 2015, by RICHARD E. NICHOLS, MANAGING MEMBER of ECOFARMING OF FLORIDA, LLC, a Florida limited liability company on behalf of the corporation. He (she) is personally known to me or has produced _____ as identification

Thomas L. Tom
Signature of Notary
Printed Name
My commission expires



IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

BREVARD COUNTY, a political
subdivision of the State of Florida,

CASE NO: 05-2015-CA-047568-XXXX-XX

Plaintiff,

v.

ERIC and AMANDA OBLOY,
as individuals,

Defendants.

ORDER OF TEMPORARY INJUNCTION

THIS CAUSE having come before this Court on November 24, 2015, upon Brevard County's Verified Complaint for Preliminary and Permanent Injunction, and pursuant to Rule 1.610, Florida Rules of Civil Procedure, the Court finds as follows:

I. Jurisdiction

1. The Court has jurisdiction to grant injunctive relief in this matter pursuant to Chapters 26 and 162, Florida Statutes.

II. Notice

2. On November 18, 2015, Brevard County filed its Notice of Order to Show Cause Hearing and Third Amended Notice of Hearing on Plaintiff's Verified Complaint for Preliminary and Permanent Injunction putting Defendants, Eric and Amanda Obloy, on notice that the injunction hearing would be heard on November 24, 2015, at 8:00 a.m. whether or not they, or their legal counsel, were in attendance.



3. On November 24, 2015, Roy Hornstein, from the law firm Bross, Bross, Thomas, & Savy LLC appeared to represent the Defendants. Eric Obloy personally appeared pursuant to a subpoena. Amanda Obloy failed to personally appear despite being subpoenaed.

4. This order is, therefore, granted with notice.

III. Substantial Likelihood of Success on the Merits

5. Eric and Amanda Obloy are the owners of the property at 165 Gator Drive, Merritt Island, Florida pursuant to a deed dated March 26, 2015 recorded at Official Records Book 7331, Page 2918, Public Records of Brevard County, Florida.

6. The property at 165 Gator Drive, Merritt Island, Florida is zoned "AU" for agricultural use, which, pursuant to Sec. 62-1334, Brevard County Code of County Ordinances, includes: single-family detached residential dwellings; all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises; raising and grazing of animals; dude ranches, with a minimum area of 40 acres; fowl raising and beekeeping; parks and public recreational facilities; plant nurseries; private golf courses; private camps; and foster homes.

7. Eric and Amanda Obloy are inviting the public onto their property for the sale of off-site tour tickets, gathering of tour customers to check-in on the property and sign liability waivers, accepting further payment for the tours as well as for parking fees, and selling concession items that are packaged off-site such as beverages, snacks, sunscreen, and towels.

8. The above-described commercial business activities taking place at 165 Gator Drive, Merritt Island, Florida are not permitted uses on AU property and are violations of Sec. 62-1334, Brevard County Code of County Ordinances.

9. The concession stand on the property from which beverages, snacks, sunscreen, and towels are being sold has been erected without a permit, which is a violation of Sec. 22-278, Brevard County Code of County Ordinances.

10. The double-wide mobile home on the property was placed and installed without a permit, which is a violation of Sec. 22-278, Brevard County Code of County Ordinances.

11. The Court finds that Brevard County has presented competent and substantial evidence to establish, at least a prima facie case, showing that the Defendants are clearly in violation of County ordinances.

IV. Lack of an Adequate Remedy at Law and Irreparable Harm

12. Brevard County seeks an injunction to enforce its duly enacted zoning and building regulations against Eric and Amanda Obloy.

13. “When a government seeks an injunction in order to enforce its police power, any alternative remedy is ignored and irreparable harm is presumed.” *Dispoto v. Marion County*, 969 So. 3d 423 (Fla. 5th DCA 2007). Therefore, Brevard County has no alternative remedy to enforce its police powers against Eric and Amanda Obloy and irreparable harm is presumed.

14. Through the evidence presented, the County has established its clear and legal right to relief in this case. Even if irreparable harm was not presumed, the County has demonstrated it for the purposes of this temporary injunction.

V. Harm to Defendant and Serving the Public Interest

15. Brevard County seeks an injunction that would require Eric and Amanda Obloy to comply with zoning and building regulations.

16. The public has an obvious interest in seeing that the County’s ordinances and permit requirements are observed.

17. An injunction requiring compliance with binding laws cannot be said to harm the business owner or to be a disservice to the public. *Manatee County*, at 1121.

18. Therefore, Brevard County's injunction would serve the public interest without causing undue harm to the property owners.

THEREFORE, it is hereby ORDERED and ADJUDGED as follows:

19. The Court grants Plaintiff, Brevard County, a Temporary Injunction against the Defendants, Eric Obloy and Amanda Obloy, and orders:

- a. Defendants in this case are immediately enjoined from engaging in any commercial activity on the 165 Gator Drive property in violation of County ordinances. This is intended to include all activities that are not directly and inherently related to farming activities. The enjoined activity further includes: bringing in and selling any products that are packaged off-site such as concession items, towels, etc. and on-premises selling of off-site tours of any kind, including accepting payments and requiring check-in at the property.
- b. Defendants shall immediately cease and discontinue commercial use of on-site building and the mobile home, until permits required by the County are applied for and obtained;
- c. Defendants will not invite the public to enter into any building on the premises until it is inspected and permitted. The only exception is that the mobile home can continue to be used temporarily for purely residential purposes, so long as the appropriate placement permits are applied for within thirty (30) days of November 24, 2015 and that the Defendants, in good faith, pursue the permits for that purpose;

- d. The duration of this temporary injunction is up to 180 days from November 24, 2015, or until a full evidentiary hearing on the petition for permanent injunction can be heard and ruled upon, whichever occurs first;
- e. During the pendency of this temporary injunction, the Defendants are to allow access to the 165 Gator Drive property to any Brevard County officials during the Defendant's normal business hours to inspect the premises and the activities occurring at the property;
- f. Any failure of the Defendants to allow access, or to otherwise violate terms of this temporary injunction, will result in additional sanctions that are deemed necessary to assure compliance with this Court's order. Additional sanctions may include ceasing all operations on the property, including activities that might otherwise be permitted, such as the farming-related activities.

20. The Court dispenses with the 1.610(b), Florida Civil Rule of Procedure, bond requirement for Temporary Injunctions due to the County being a political subdivision of the State.

DONE and ORDERED this 3rd day of December, 2015, in Titusville, Brevard County, Florida.


HONORABLE JOHN M. HARRIS
Circuit Court Judge

cc: Cristina T. Berrios
Assistant County Attorney
2725 Judge Fran Jamieson Way
Viera, Florida 32940

cristina.berrios@brevardcounty.us

Paul E. Bross
Bross, Bross, Thomas & Savvy, LC
50 N. Grove Street
Merritt Island, Florida 32953
pbross1@yahoo.com

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA**

BREVARD COUNTY, a political
Subdivision of the State of Florida,

CASE NO.: 05-2015-CA-047568-XXXX-XX

Plaintiff,

v.

ERIC and AMANDA OBLOY,
as individuals,

Defendants.

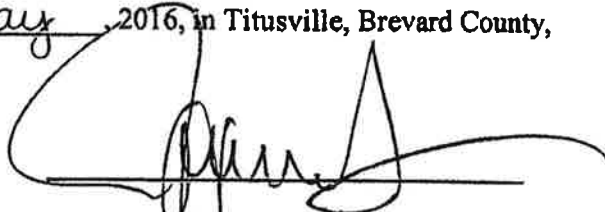
_____ /

STIPULATED ORDER

THIS CAUSE having come before the Court on May 19, 2016 on the Joint Motion for Stipulated Order to Extend the Temporary Injunction and the Court having reviewed said motion without a hearing orders as follows:

1. The Order for Temporary Injunction as ordered by this Court on November 24, 2015 is hereby extended until such time the permanent injunction is heard or until the case is otherwise resolved by the parties.

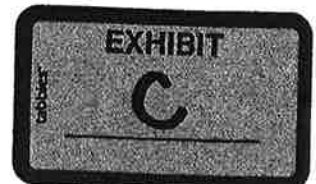
DONE and ORDERED this 19th day of may, 2016, in Titusville, Brevard County, Florida.



HONORABLE JOHN M. HARRIS
Circuit Court Judge

cc: Cristina T. Berrios
Assistant County Attorney
2725 Judge Fran Jamieson Way
Viera, Florida 32940
cristina.berrios@brevardcounty.us

Paul E. Bross
Bross, Bross, Thomas & Savvy, LC
50 N. Grove Street
Merritt Island, Florida 32953
pbross1@yahoo.com



Bell & Roper, P.A.
ATTORNEYS AT LAW

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DAVID B. BLESSING
MICHAEL H. BOWLING
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CHRISTOPHER R. FAY
JOHN M. JANOUSEK
MAI M. LE

2707 EAST JEFFERSON STREET
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TELEPHONE (407) 897-5150
FACSIMILE (407) 897-3332
E-mail: office@bellroperlaw.com
www.bellroperlaw.com

FRANK M. MARI
MICHAEL J. ROPER
DALE A. SCOTT
SHERRY G. SUTPHEN
JOSEPH D. TESSITORE
DANI S. THEOBALD
CINDY A. TOWNSEND

June 24, 2016

VIA E-MAIL DELIVERY

Paul E. Bross, Esquire
Bross, Bross, Thomas and Savy, LLC
50 N. Grove Street
Merritt Island, Florida 32953

RE: *Brevard County v. Eric and Amanda Obloy*
Case No.: 05-2015-CA-047568-XXXX-XX

Dear Mr. Bross:

Thank you for discussing the above referenced matter with me this afternoon. This letter is to confirm that we will be canceling the hearing scheduled for Monday, June 27, 2016, at 1:45p.m., on the County's Motion to Strike Counterclaim. We will be re-noticing this hearing for July 25, 2016, at 1:30p.m., the date which is being held for your client's Petition for Counterclaim. Please file your Notice of Cancellation of hearing as soon as possible as we will be filing our Notice of Hearing for this date. Thank you for your cooperation in this matter.

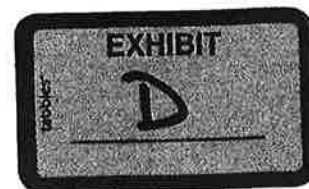
Sincerely,



Sherry G. Sutphen

SGS/klr

cc: Cristina Berrios, Esquire (*via e-mail*)



Bell & Roper, P.A.
ATTORNEYS AT LAW

MICHAEL M. BELL
DAVID B. BLESSING
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SHERRY G. SUTPHEN
JOSEPH D. TESSITORE
DANI S. THEOBALD
CINDY A. TOWNSEND

July 1, 2016

VIA E-MAIL DELIVERY

Paul E. Bross, Esquire
Bross, Bross, Thomas and Savy, LLC
50 N. Grove Street
Merritt Island, Florida 32953

RE: *Brevard County v. Eric and Amanda Obloy*
Eric and Amanda Obloy v. Brevard County
Case No.: 05-2015-CA-047568-XXXX-XX

Dear Mr. Bross:

As you are fully aware, we agreed to meet at the Brevard County Attorney's Office at 11:00a.m. today, July 1, 2016, in order to discuss settlement of the above referenced cases. As a matter of fact, I agreed to cancel the Motion to Strike hearing scheduled for Monday, June 27, 2016, in a good faith effort to resolve these matters with you. Unfortunately, you did not show up for the meeting, nor did you call to provide an excuse for your absence. When I called your office in an attempt to find out where you were, no one in your office was able to reach you either.

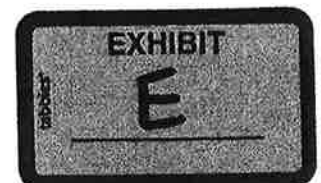
Based on your clear disregard for our time and the unprofessional manner in which you have conducted yourself, I see no reason to attempt any further settlement discussions in these cases. As such, as previously agreed you will need to immediately cancel the hearing which you have set for July 25, 2016, related to your Counterclaim, as we will now be moving forward with our Motion to Strike as set forth in the Notice we filed on June 24, 2016.

Regards,



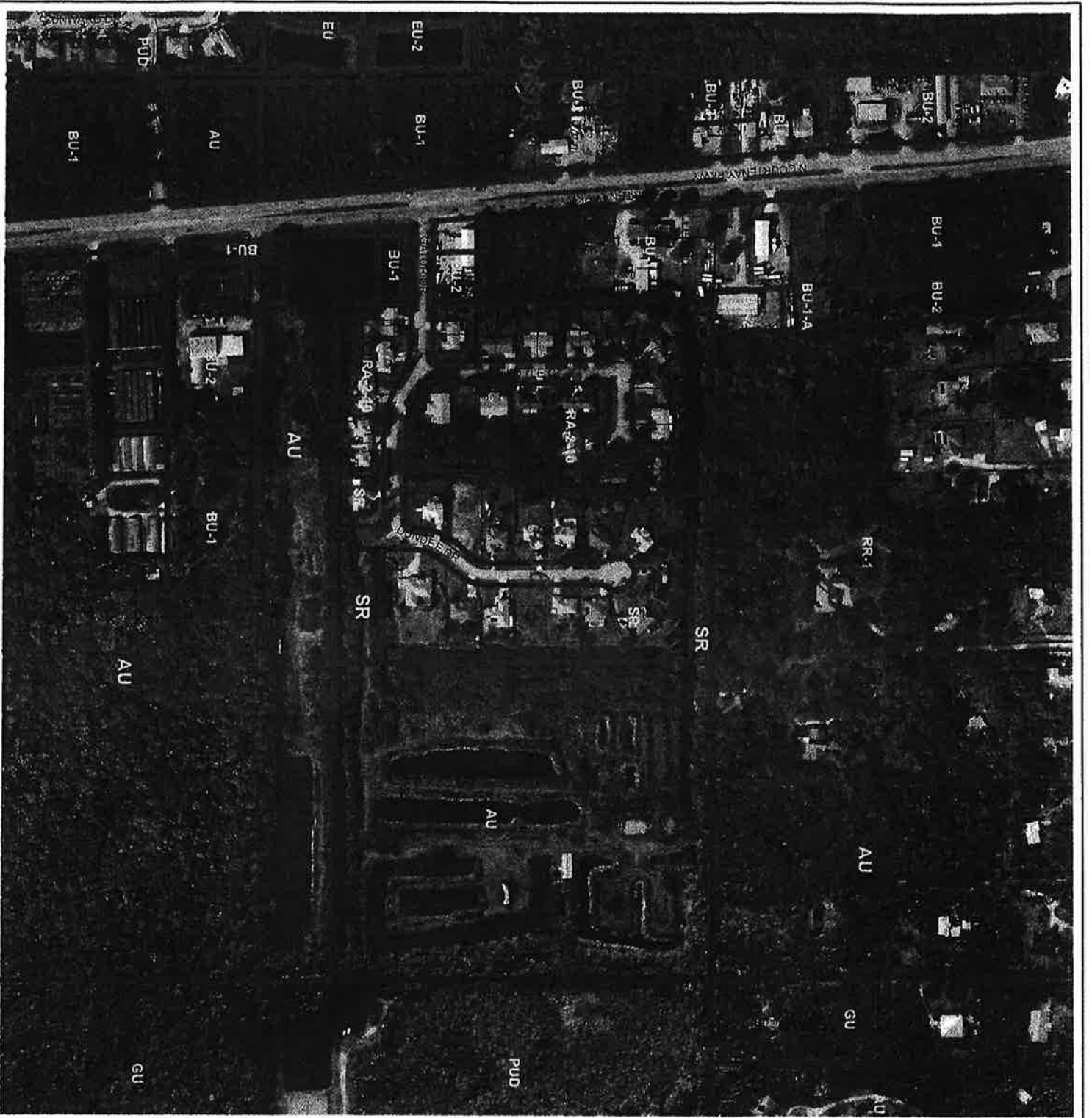
Sherry G. Sutphen

SGS/klr



DM90152

ZONING MAP



Legend

- Subject Property
- TwinRing_Lines
- Sections
- Parcels
- Streets
- Zoning Easements
- Zoning Actions
- Municipality

DISCLAIMER AND TERMS OF USE:

The official version of the Brevard County Zoning Map and Future Land Use Map can be viewed during regular business hours at the Brevard County Planning and Zoning Office, 321-633-2070, 2725 Judge Fran Jamieson Way, Bldg A-114, Viera, FL 32940.

Data is provided "as-is" without any warranty or representation that the data is accurate, timely or complete. The County makes no warranty, express or implied, that the data, graphics and maps presented are up-to-date or that the information shown is reliable for the viewer's intended purposes or uses. The viewer



1 Inch = 400 Feet

Date: 10/26/2015



Find An Event | Create Your Event | Help

Search events...

INDIAN RIVER LAGOON FAMILY FESTIVAL

Florida's Adventures In Paradise
Merritt Island, FL

Get Tickets

Date	Admission Level	Price	Quantity
Jul 23, 2016 12:00 PM	General	\$10.00 (\$11.34 w/service fee)	0

Delivery
(United States - Change Country)

Print-At-Home (No additional fee!)

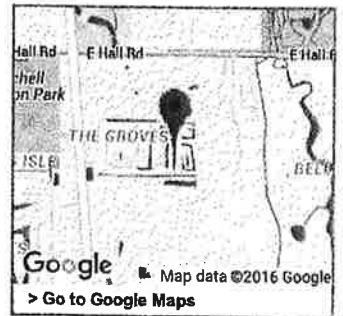


Add to Cart

Share this event:

Location

Florida's Adventures In Paradise (View)
165 Gator Drive
Merritt Island, FL 32953
United States



Maps:

Categories

- Food > Beer, Wine, Spirits
- Food > Markets & Farms
- Music > All Ages
- Other > Family-Friendly
- Other > Festivals
- Other > Fundraisers
- Other > Pets & Animals

Kid Friendly: Yes!
Dog Friendly: No

Contact

Owner: Florida's Adventures in Paradise
On BPT Since: May 17, 2016

Florida's Adventures In Paradise
3218482486
teamdolphin321@gmail.com



Ask a question...

Ask!

Remind Me

Outlook/Cal/Sunbird
Add to Calendar

Google Calendar
Post to Google



Event

INDIAN RIVER LAGOON FAMILY FESTIVAL

Come join us for a day of fun with live entertainment, food trucks, local breweries, local vendors, farm games, bounce houses, and a fishing camp for kids! Plus enjoy our petting farm at no additional cost!

Proceeds will go to benefit restoration efforts of the Indian River Lagoon.

Discussion

0 Comments | Brown Paper Tickets

Recommend | Share

Login

Sort by Oldest



Start the discussion...

Be the first to comment.



Florida's
Adventures in Paradise

Indian River Lagoon

Family Festival

JULY 23RD 12PM-6PM



For Gator in the Park and more
Florida adventures visit www.kandb.com

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS



Detail by Officer/Registered Agent Name

Florida Profit Corporation

DOLPHIN PARADISE TOURS, CORP

Filing Information

Document Number	P13000077102
FEI/EIN Number	46-1417193
Date Filed	09/18/2013
Effective Date	09/18/2013
State	FL
Status	ACTIVE

Principal Address

165 GATOR DRIVE
MERRITT ISLAND, FL 32953

Changed: 01/14/2016

Mailing Address

165 GATOR DRIVE
MERRITT ISLAND, FL 32953

Changed: 01/14/2016

Registered Agent Name & Address

OBLOY, AMANDA
165 Gator Drive
MERRITT ISLAND, FL 32953

Address Changed: 01/22/2016

Officer/Director Detail

Name & Address

Title P

OBLOY, AMANDA
165 GATOR DRIVE
MERRITT ISLAND, FL 32953

Annual Reports

Report Year	Filed Date
--------------------	-------------------



2014	04/10/2014
2015	01/13/2015
2016	01/22/2016

Document Images

<u>01/22/2016 -- ANNUAL REPORT</u>	View image in PDF format
<u>01/13/2015 -- ANNUAL REPORT</u>	View image in PDF format
<u>04/10/2014 -- ANNUAL REPORT</u>	View image in PDF format
<u>09/18/2013 -- Domestic Profit</u>	View image in PDF format

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FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS



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[Fictitious Name Search](#)

No Filing History

Fictitious Name Detail

Fictitious Name

ADVENTURES IN PARADISE FARMING, COMPANY

Filing Information

Registration Number G15000047260
Status ACTIVE
Filed Date 05/12/2015
Expiration Date 12/31/2020
Current Owners 1
County MULTIPLE
Total Pages 1
Events Filed NONE
FEI/EIN Number 46-1417193

Mailing Address

165 GATOR DRIVE
MERRITT ISLAND, FL 32953

Owner Information

DOLPHIN PARADISE TOURS CORPORATION
 165 GATOR DRIVE
 MERRITT ISLAND, FL 32953
FEI/EIN Number: 46-1417193
Document Number: P13000077102

Document Images

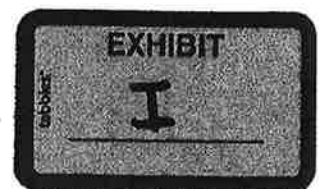
05/12/2015 – Fictitious Name Filing

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 State of Florida - Department of State





Dana Blickley
Brevard County Property Appraiser
P.O. Box 429
Titusville, FL 32781-0429
(321) 264-6700
www.BCPAO.us

March 15, 2016

OBLOY, ERIC
OBLOY, AMANDA
165 Gator Dr.
MERRITT ISLAND FL 32953

RE: Agricultural Classification of Lands
Tax Account Number(s): 2410511

Dear Property Owner:

This letter is to serve as verification that Tax account number 2410511 was inspected and Ag Classification granted on 3/14/2016. It will not appear on the public records until July 1, after the tax roll has been approved.

If there are any questions or concerns I can be reached at 321-264-5393.

Sincerely,

David Connelly
Ag Classification Dept.



**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 59	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	State Affairs Committee; Local Government Affairs Subcommittee; Combee; Raburn and others	113 Y's	0 N's
COMPANION BILLS:	CS/CS/SB 304	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/CS/HB 59 passed the House on January 27, 2016. The bill was amended by the Senate on February 18, 2016, and subsequently passed the House on March 1, 2016.

An "agritourism activity" is any agricultural related activity consistent with a bona fide farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, or harvest-your-own activities and attractions. Agritourism is one of the many methods farmers use to diversify and increase their income.

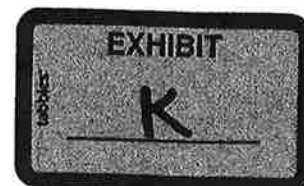
In 2013, the Florida Legislature passed SB 1106, which prohibited local governments from adopting any ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida's greenbelt law. However, some local governments continue to enforce such ordinances, etc., that were adopted prior to the passage of SB 1106.

The bill:

- Declares the intent of the Legislature is to promote agritourism as a way to support bona fide agricultural production;
- Prohibits local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida's greenbelt law;
- Provides that local governments may exercise their powers and duties to address substantial off-site impacts of agritourism activities;
- Adds "civic," "ceremonial," and "training and exhibition" activities to the definition of "agritourism activity" and provides that agritourism activities may be consistent with livestock operations; and
- Clarifies that using agricultural land for agritourism does not limit the land's greenbelt status as long as the land remains used primarily for bona fide agricultural purposes.

The bill may have an insignificant negative fiscal impact on local governments.

The bill was approved by the Governor on March 8, 2016, ch. 2016-14, L.O.F., and will become effective on July 1, 2016.



taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, tax assessments for qualifying lands are lower than tax assessments for other uses.

In 2013, the Florida Legislature passed SB 1106, codified in part as s. 570.85, F.S.⁷ The statute prohibits a local government from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land under Florida's greenbelt law.⁸ The statute also provides limited liability protection for landowners conducting agritourism activities on their property.⁹

While local governments may not adopt ordinances, regulations, rules, or policies that limit agritourism activities on land classified as agricultural land under Florida's greenbelt law, some local governments continue to enforce such ordinances, etc., that were adopted prior to the passage of SB 1106 in 2013.

Effect of the Bill

The bill amends s. 570.85, F.S., to:

- Declare that it is the Legislature's intent to promote agritourism as a way to support for bona fide agricultural production by providing a secondary stream of revenue and by educating the public about the agricultural industry;
- Prohibit local governments from enforcing any local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under Florida's greenbelt law; and
- Provide that local governments may exercise their powers and duties to address substantial off-site impacts of agritourism activities;

The bill amends s. 570.86, F.S., to add "civic," "ceremonial," and "training and exhibition" activities and attractions to the definition of agritourism activity and provides that agritourism activities may be consistent with "livestock operations." Thus, events such as weddings and charitable fundraisers held on a farm may be considered agritourism activities.

Lastly, the bill amends s. 570.87, F.S., to clarify that the use of agricultural land for agritourism does not change the land's classification under the greenbelt law, as long as the primary use of the land remains used for bona fide agricultural purposes.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁷ Chapter 2013-179, Laws of Fla.

⁸ Section 570.85, F.S.

⁹ Chapter 2013-179, Laws of Fla.; codified as s. 570.88, F.S.



Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

June 30, 2016

Mr. Eric Obloy
165 Gator Drive
Merritt Island, FL 32953

SUBJECT: Indian River Lagoon Family Festival

Dear Mr. Obloy:

It has been brought to the County's attention that you intend to host "Indian River Lagoon Family Festival" on your property at 165 Gator Drive, Merritt Island on July 23rd, 2016. In accordance with Chapter 10 - Article II Special Events, Brevard County Code of Ordinances (enclosed), such an activity requires County pre-approval of a special events permit. The County has not received a special events application for a festival on this property. According to Section 10-36(a), "It shall be unlawful for any person to erect, cause to be erected, operate or maintain any special event within the unincorporated areas of the county without having made application for and receiving a permit to do so in accordance with the conditions and limitations set forth in this article."

Additionally enclosed is a special events permit application package. Please note that, pursuant to Section 10-37 of the Brevard County Code of Ordinances, "The County cannot guarantee review and approval in a timely manner if the application is submitted less than ten working days prior to the date of commencement of the special event."

Should you have any questions, please feel free to contact Bessie Grivas-Pereno at (321) 633-2069 ext 56363 or via email at: bessie.grivas-pereno@brevardfl.gov.

Sincerely,

Robin M. DiFabio, AICP
Director

enclosures

cc: Stockton Whitten
Board of County Commissioners





SPECIAL EVENT

DO NOT USE for
Parade, Road Closure, Block Party; Fireworks Display; or Fireworks Sales Tent

Office Staff
 if received

- Need* — **Application for Special Event** – complete and signed. [Download Form](#)
- Need* — **Site plan** showing location of all activities and **plot plan** of designated parking area and number of spaces.
- Owner authorization** (permission letter from owner)
- Need* — **Hold Harmless Agreement** [Download Form](#)
- Copy of Occupational License**
- Certificate of Insurance** naming Brevard County Board of County Commissioners as additional insured
- IF using a temporary power pole: Electrical Affidavit** [Download Form](#) [NOTE: a separate permit is required for the temporary power pole]
- if applies* — **IF using tents (400 square feet or larger): Certificate of Flame-Retardant Treatment**
- Need* — **IF serving alcohol: Alcohol License**
- IF requesting a fee waiver (MUST be Non-profit sponsor/applicant):**
- Special Event Fee Waiver Request and Financial Distribution Affidavit** [Download Form](#)
INCLUDE a letter stating that there is no money available and it would be a hardship to pay fees
- 501-3(c) Form** (from the I.R.S.)

Permit Technician

Date



PERMITTING & ENFORCEMENT DEPARTMENT
Building Code
2725 Judge Fran Jamieson Way, Bldg. A, Viera, Florida 32940

Telephone: (321) 633-2072
Fax: (321) 633-2087

APPLICATION FOR SPECIAL EVENT

PERMIT APPLICATION FOR OPERATION OF A CARNIVAL, CIRCUS, MUSIC FESTIVAL, FAIR, PARADE, FIREWORKS DISPLAY, TENT INSTALLATIONS, SPECIAL EVENT OR OTHER ACTIVITY TO BE LOCATED IN THE UNINCORPORATED AREA OF BREVARD COUNTY, FLORIDA.

ALL PERMIT APPLICATIONS MUST BE ACCOMPANIED BY A PLOT OR LOCATION PLAN AT THE TIME OF SUBMITTAL.

Brevard County Code of Ordinance, Chapter 10 Amusements and Entertainments, Sec. 10-37. Application.

(a) The applicant for a permit under this article shall file a special event application, with the building official of the county. The county cannot guarantee review and approval in a timely manner if the application is submitted less than ten working days prior to the date of commencement of the special event.

1. PROPOSED ACTIVITY TO BE LOCATED ON THE FOLLOWING DESCRIBED PROPERTY:

TWNS RANGE SECT SUB # BLK/PAR LOT

SITE ADDRESS _____

CITY _____

2. SPONSOR'S NAME: _____

EMAIL _____

ADDRESS: _____

TELEPHONE NO. _____ CONTACT PERSON: _____

ADDRESS: _____

STREET

CITY

STATE

ZIP

3. INDICATE (X) NATURE OF PROPOSED ACTIVITY: OPEN TO THE PUBLIC _____

PLEASE INDICATE THE NUMBER OF EACH TENT, RIDE, BOOTHS AND FOOD CONCESSIONS.

BLOCK PARTY _____	CARNIVAL/CIRCUS _____	OUTSIDE MUSIC (ONE TIME) _____
PARADE* _____	FIREWORKS DISPLAY _____	FAIR/ FESTIVAL _____
RELIGIOUS SERVICE _____	SEASONAL EVENT _____	SPORTING EVENT _____
TEMPORARY TENT _____ (SIZES _____)		AMUSEMENT RIDES _____
BOOTHS _____	FOOD CONCESSIONS _____	SECURITY STATIONS _____
ENTERTAINMENT GROUPS _____	OTHERS _____	SIGNS _____

SPONSOR'S REQUESTING A FEE WAIVER MUST IDENTIFY THE NUMBER OF RIDES, BOOTHS, ETC. THAT WILL BE OPERATED BY THE NOT FOR PROFIT SPONSOR.

A SITE PLAN MUST BE SUBMITTED THAT INDICATES THE LOCATION OF ALL ACTIVITIES AND FACILITIES INCLUDING SECURITY STATIONS, RIDES, TENTS, DEVICES AND BOOTHS. THE SITE PLAN MUST INCLUDE THE ELECTRICAL LAYOUT. IF THE ATTENDANCE IS ESTIMATED TO BE GREATER THAN 250 PLEASE INDICATE THE TRAFFIC CONTROL, PARKING FACILITIES OUTSIDE THE SPECIAL EVENT AREA. *PARADES REQUIRE A COMPLETE ROUTE OF THE PROPOSED EVENT INCLUDING AUXILIARY AND ADJACENT ROADWAYS. CLOSURE OF STATE ROADS WILL REQUIRE FDOT APPROVAL PRIOR TO ISSUANCE OF THE SPECIAL EVENT PERMIT.

4. PLEASE DESCRIBE THE PROPOSED ACTIVITY:

5. IF OUTSIDE MUSICAL ENTERTAINMENT IS TO BE PART OF THE PROPOSED ACTIVITY, PLEASE DESCRIBE THE PLANNED MUSICAL ENTERTAINMENT AND AMPLIFICATION SYSTEM TO BE USED:

Brevard County Code of Ordinance, Chapter 10 Amusements and Entertainments Sec. 10-49. Issuance. Outside music special events must have the approval of the county manager or his designee prior to issuance. The county manager or his designee may deny the special event permit if the event has previously resulted in numerous citizen complaints, or has been identified as a public nuisance by any review agency or does not meet the application requirements.

6. (A) LENGTH OF TIME AMUSEMENT/DISPLAY AND/OR ENTERTAINMENT TO BE OPERATED:

TOTAL NUMBER OF EVENT DAYS: _____

BEGINNING DATE: _____

ENDING DATE: _____

(B) HOURS OF OPERATIONS (MARK APPLICABLE DATE AND TIMES):

THIS INFORMATION MUST BE SUBMITTED

___ MONDAY	FROM	___	TO	___
___ TUESDAY	FROM	___	TO	___
___ WEDNESDAY	FROM	___	TO	___
___ THURSDAY	FROM	___	TO	___
___ FRIDAY	FROM	___	TO	___
___ SATURDAY	FROM	___	TO	___
___ SUNDAY	FROM	___	TO	___

7. PERSON, FIRM OR CORPORATION & TELEPHONE # RESPONSIBLE FOR COMPLAINTS:

_____ PHONE #: _____

8. SUBJECT PROPERTY OWNED BY: _____

ADDRESS: _____
STREET CITY STATE ZIP

IF SPONSOR IS OTHER THAN PROPERTY OWNER, PLEASE PROVIDE A NOTARIZED DOCUMENT AUTHORIZING USE OF PROPERTY.

9. SPECIAL EVENT SIGNS: PLEASE REFERENCE TEMPORARY SIGNS UTILIZED FOR THIS EVENT AND COMPLETE THE FOLLOWING:

(A) NAME, ADDRESS AND TELEPHONE NUMBER OF THE OWNER OF THE SIGN, IF DIFFERENT THAN THE PROPERTY OWNER.

NAME: _____

ADDRESS: _____
STREET CITY STATE ZIP

TELEPHONE NUMBER: _____

(B) DESCRIPTION OF PROPOSED SIGN.

DIMENSIONS: _____

SQUARE FEET OF SIGN SURFACE: _____

HEIGHT OF SIGN: _____

(C) SHOW SIGN LOCATION ON COPY OF SITE PLAN.

The applicant understands that an "Operating Permit" will not be issued for the proposed activity until the following departments and agencies have reviewed this application and attachments and notified the Building Official, in writing, that any applicable ordinances, resolutions and laws have been complied with:

- | | |
|--|---|
| (1) BREVARD COUNTY ZONING DIVISION | (5) BREVARD COUNTY ENVIRONMENTAL HEALTH |
| (2) OCCUPATIONAL LICENSING | (6) BREVARD COUNTY RISK MANAGEMENT |
| (3) FIRE PREVENTION EMERGENCY SERVICES | (7) SHERIFF'S DEPARTMENT |
| (4) TRAFFIC ENGINEER DEPARTMENT | (8) SIGN DEPARTMENT |

(NOTE: IT SHALL BE THE RESPONSIBILITY OF BUILDING CODE TO ENSURE ROUTING OF THIS APPLICATION TO ALL OF THE ABOVE-REFERENCED DEPARTMENTS AND AGENCIES, IF APPLICABLE, PRIOR TO THE ISSUANCE OF A PERMIT.)

GRANTING OF AN "OPERATING PERMIT" TO APPLICANT DOES NOT CONSTITUTE A WAIVER OF ANY APPLICABLE COUNTY ORDINANCE REGULATING THE PERMITTED ACTIVITY AND IT IS THE OBLIGATION OF THE APPLICANT AND PROPERTY OWNER TO ENSURE COMPLIANCE WITH ALL FEDERAL, STATE, AND COUNTY OR MUNICIPAL REGULATIONS.

DATE OF THIS APPLICATION

APPLICANT'S NAME

() SPONSOR () PROVIDER OF AMUSEMENT SERVICE

RECEIVED BY: _____

BREVARD COUNTY BUILDING CODE

TIME AND DATE: _____

Applicants who intend to engage in public issue speech, exclusively on property traditionally utilized for the purpose of public issue speech, shall not be required to provide liability insurance unless the proposed activities or event(s) include any of the following high risk or commercial activities: athletic activities that involve physical contact, use of alcoholic beverages, sale of food items, or activities where amplified music is a primary function and a gathering of more than 200 people is expected. If required, the amounts of such insurance shall be identical to those stated in SEC. 10-42 (b) Brevard County Code of Ordinances. Under no circumstances shall the content of the proposed speech, or the potential reaction of those listening to such speech, be a consideration with regard to the requirement and/or amount of liability insurance required.

Brevard County Code of Ordinance, Chapter 10, Amusements and Entertainments, Sec. 10-29. Appeals.

All appeal requests must be submitted in writing to the special event permitting agency at 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, within ten days of such denial. The requests for appeals will be considered by the County Manager. Denial of an outside music special event permit by the county manager may be appealed to the board of county commissioners.

HOLD HARMLESS AGREEMENT

The undersigned, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, hereby executes in favor of Brevard County, Florida, its' officers, employees, agents and assigns, this Hold Harmless Agreement.

WITNESSETH:

WHEREAS, pursuant to Chapter 10 Code of Brevard County Florida, the County may issue special event permits within unincorporated Brevard County; and

WHEREAS, the Brevard County Board of County Commissioners has adopted criteria relative to issuing a special event permit;

NOW THEREFORE, the undersigned agrees as follows:

1. Applicant (print name) _____, hereby agrees that it shall indemnify, defend and hold harmless Brevard County, Florida, its officers, employees and agents from any and all liability, claims, damages, expenses including attorney's fees and litigation costs, proceedings and causes of action of every kind and nature resulting therefrom or arising out of, resulting either directly or indirectly, from the Sponsor/Participant involvement in a permitted special event and from any loss, cost or expense arising in any manner as a result of the special event. The undersigned acknowledges that specific consideration has been given for this indemnity provision.

2. For events held on public property or within public rights-of-way, the applicant hereby represents that it has procured comprehensive general/public liability insurance naming Brevard County as an additional loss payee and including a contractual liability clause or endorsement covering the undersigned's indemnity of Brevard County. The aforementioned insurance policy shall be in an amount designated by Brevard County Code or by the Brevard County Board of County Commissioners. The County in no way represents that the required policy and amount of coverage are sufficient for the purposes of applicant, but rather are minimums that must be procured. Applicant will provide the County with a certificate of insurance showing compliance with the requirement of this paragraph upon execution of this Agreement.

IN WITNESS THEREOF, the undersigned hereby sets his/her hand this _____ day of _____, 20____.

WITNESS:

Applicant (Please Print)

Name (Please Print)

Signature: _____

Title: _____

Name (Please Print)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ who is personally known to me or who has produced _____ as identification.

SEAL:

Notary's Signature

V.B

To Whom It May Concern,

July 12, 2016

Unfortunately I am unable to attend today's commissioner meeting, however I ask that this be considered in my absence.

Since Adventure in Paradise began operating out of 165 Gator Drive, I have had a significant decrease in my family's quality of life. There is an order of magnitude more traffic which creates an unsafe situation for my daughter and other children within the neighborhood. The reason I purchased property in a residential area with no outlets was to avoid commercial traffic. I now cannot allow my daughter to ride her bike in the neighborhood.

When I moved into this neighborhood it was like every other neighborhood with children playing in the streets etc. This has become a concern for the entire neighborhood. In addition the Obloy family's complete disregard for the law has me further concerned, I have seen hay rides on our residential street. There is business being conducted on this property far outside what I believe the bounds of the Agricultural Property Exemption.

The neighborhood does not have sufficient infrastructure for any business. I consistently come home to a line of cars at the stop sign trying to turn southbound onto SR3. This not only creates a hazard for me trying to turn into my own neighborhood, but it also affects the current traffic on SR3 itself. As the majority of the business clientele are not familiar with the local area.

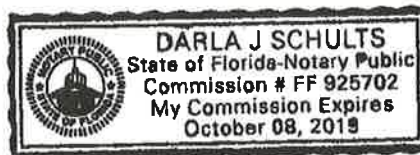
The misuse of this Agricultural Exemption provides an unfair business advantage to the Obloy Family over others who want to try to operative similar businesses within the bounds of the law. The fact that the county attorney's office is struggling to understand the boundary of what codes are enforceable on agriculturally exempt property only amplifies this issue.

I ask that the County Commission approve this motion so that the Obloy family can be expected to follow the same law and codes as any other citizen.

Thank you

Keith Braun

Resident of the Groves 2 Subdivision



Darla J. Schults
07/12/16



