



AGENDA REPORT
April 24, 2018

SUBJECT:

Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for Kathy A. Sichak, 3915 W. Ridgewood Dr., Cocoa, FL (15CE-02340) (District 1)

FISCAL IMPACT:

FY18 Fiscal Impact - \$8,548 Fine Reduction

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board consider the Special Magistrate's recommendation to reduce the accrued fine from \$13,304 to \$4,756 and release the lien upon full payment for case 15CE-02340 at 3915 West Ridgewood Dr., Cocoa, FL 32926.

SUMMARY EXPLANATION and BACKGROUND:

This matter came for public hearing before the Code Enforcement Special Magistrate on April 21, 2016 for violation of County Code, Section 114-28(c)1, Remove all dead or seriously damaged trees from improved or vacant improved lot that pose a threat to health, safety and welfare of the public. More specifically, remove dead, damaged or dangerous trees within the fall distance to the adjoining property. 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.

On April 20, 2017, the Special Magistrate issued an Order Imposing Fine as Lien which was executed and recorded in Official Records. The fines on the property accrued at \$100 per day from June 12, 2016. The dead tree was removed thereby correcting the violation as of August 4, 2017 (418 days). The fines accrued to the 35% maximum of \$13,304.

On September 21, 2017, the Respondent, Kathy A. Sichak, petitioned the Code Enforcement Special Magistrate to eliminate the fine. The Special Magistrate recommends a reduction of the fine from \$13,304 to \$4,756, contingent upon payment within 30 days or establishment of a payment plan within 30 days and pay in full by one year 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 \$2,646. The enforcement costs of \$550 were paid toward that amount bringing remaining actual costs to \$2,096.

Contacts: Brian Lock, Code Enforcement Manager, extension 52779, brian.lock@brevardfl.gov.

CLERK TO THE BOARD INSTRUCTIONS:

N/A

ATTACHMENTS:

Description

- ▢ **Findings and Recommendation of the Special Magistrate and Reduction Factor Worksheet**
- ▢ **Request for Reduction of Penalty**
- ▢ **Actual Costs Worksheet**



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

April 25, 2018

MEMORANDUM

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 Kathy A. Sichak, 3915 West Ridgewood Drive, Cocoa (15CE-02340)

The Board of County Commissioners, in regular session on April 24, 2018, considered the Special Magistrate's recommendation to reduce the accrued fine for Kathy A. Sichak, 3915 West Ridgewood Drive, Cocoa, Case 15CE-02340; waived the fine; and approved release of the lien.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

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: 15CE-02340

vs.

Property Address: 3915 West Ridgewood Dr Cocoa FL 32926
District: 1

KATHY A SICHAKE,
Respondent(s)

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

Upon petition of KATHY A SICHAKE, 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 KATHY A SICHAKE, heard testimony from KATHY A SICHAKE 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 4/21/2016 after due notice to the Respondent, KATHY A SICHAKE, 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 7597, Page 2274.

2. Said order required the Respondent to take certain corrective action for the violation by 5/12/2016, extended to 6/11/2016, and in the event the violation is not corrected by the specified time a fine of \$100.00 per day will be imposed. Accordingly, it was brought to the Code Enforcement Special Magistrate's attention on 4/20/2017 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, KATHY A SICHAKE, and recorded in the official records of Brevard County, Book 7869 at Page 2667.

3. A re-inspection on 8/4/2017 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, \$13,304.00.

4. Testimony and evidence was presented by KATHY A SICHAK, stating:

She thought she complied but ONE SECTION of TREE had to be removed

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 contends Respondent was given options OF Removal of TREE on certification by DISTRICT that TREES were visible of come into compliance 8/4/2017

II. FINDINGS

The Special Magistrate weighing the severity of the violations of Dead or seriously damaged trees-Safety Issue.

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

III. RECOMMENDATION

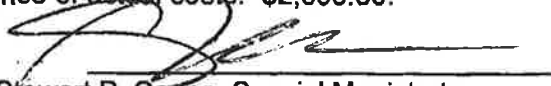
1. Based upon the foregoing factors, the request is DENIED.

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 \$13,304.00 to the reduced sum of \$ 4750.00, contingent upon:

- Payment within 30 days of the date the Board of County Commissioners renders a decision approving the Special Magistrate's recommendation.
- 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.**
- 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.
- The actual costs total: \$2,646.00. Enforcement costs in the amount of \$550.00 have been paid. Balance of actual costs: \$2,096.00.

Dated September 21, 2017.


 Stewart B. Gapps, 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
 KATHY A SICHAK, 3915 RIDGEWOOD DR W, COCOA FL 32926

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

REDUCTION FACTOR WORKSHEET

CASE #15CE-02340

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: Responsible STATES complied by JUNE 18, 2016

- 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 \$13,304.00

Recommend Reduction to \$ 4,756

Contingent on payment within 30 days

Establish Payment Plan within 30 days, and pay in full by one year

If unpaid, fine will revert to original amount, less payments received

SDC 9/25/17
S. Capps

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

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 Jamleson Way, Bldg A 114, Viera, FL 32940
**DUE ON OR BEFORE: 9/1/17 (for 9/21/17 Special Magistrate
Hearing) or by 9/22/17 for 10/19/17 Special Magistrate Hearing**

Case No. 15CE-02340

Property Address: 3915 WEST RIDGEWOOD DR, COCOAFL 32926 District: 1
Owner's Name: KATHY A SICHAKE

**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: KATHY A SICHAKE

Property Owner's Mailing Address: 3915 RIDGEWOOD DR W COCOA FL 32926

Phone Number where you can be reached during the day: 321-208-8223 ksichak@cfl.rr.com

STATUS OF PROPERTY AS OF INSPECTION MADE BY Sean Donovan ON 8/4/2017

VIOLATION of: Section 114-28(c)1, Brevard County Code, Dead or seriously damaged trees-Safety Issue

Violation heard on 4/21/2016; fine ordered to accrue at \$100.00 per day from 5/12/2016, extended to 6/11/2016 until compliance on 8/4/17; the fine accrued to maximum 35% = \$13,304.00 (418 days in violation); Fine imposed as lien by Special Magistrate on 4/20/2017.

Enforcement costs in the amount of \$550.00 were paid on 8/10/2017.

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.

CODE ENFORCEMENT

SEP 01 2017

RECEIVED

REDUCTION FACTOR WORKSHEET

THIS WORKSHEET MUST BE COMPLETED AS PART OF THE APPLICATION PROCESS

CASE #15CE-02340

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: I did comply on June 18, 2016
- 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
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- 3) Degree of responsibility the applicant contributed to the delay in compliance
 - a) None
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- 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 X was it granted X denied ___ None requested ___
- 6) If yes, how many extensions were granted? 1

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 \$13,304.00

Recommend Reduction to \$ 10
(Must Enter an Amount)

Kathy A. Sichak

In December of 2015 during a winter thunderstorm a limb from one of my oak trees was hit by lightning and landed on the carport of my neighbor to the north.

He made such a fuss about it, I got a couple of friends to help me and we removed it from their property. Thinking that the matter was resolved and their insurance would take care of any damage.

On January 19, 2016, I received a letter from Brevard Co. to remove my two trees or have an arborist statement as to their viability.

I soon found that finding an arborist was not an easy task. After making many inquiries, I came up empty. I was given only 10 days to achieve this. When I could not I had to attend a hearing in Viera County Court house 4/21/2016. I was then given 21 days to removed or get a report from an arborist.

I finally found a friend of a friend who came out and told me that trees were fine now but probably would be a problem in a couple of years.

Now started the hunt for a tree company who could get to my home and take the trees down. The company I had been using for several years was swamped and could not get to me for a couple of months.

I asked the county of Brevard for an extension. It was approved until June 11. I finally was able to find Gibney's Tree Service but they could not get to me until June 18. I requested another extension but it was denied.

It took two days to remove the trees. I then called code enforcement office, Sean Donovan, for inspection. He was to be there on June 23 but did not show up until June 27.

After that, he began harassing me about not taking down the right trees???

On July 6, I started trying to get in touch with the head of code enforcement, Robin Dafabio. She finally returned my call on July 8. I made an appointment with her on July 18 to talk to her about the conduct of Officer Donovan. When I got to her office I was blindsided to find Mr. Donovan in her office. He proceeded to monopolize the conversation. Ms. Dafabio finally decided that she would send it back through the Magistrate's office.

I did not hear anything for months after the meeting and naturally assumed they accepted my proof of the tree removal, bill from tree co and pictures.

On 4/25/2017 I received a notice of a lien on my home.

321 -
848. 3340

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, KATHY A SICHAK, do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

Attached

Date: 8/30/17

Signed: *Kathy Sichak*
Kathy Sichak

STATE OF FLORIDA)
COUNTY OF BREVARD)

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, KATHY A SICHAK, 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: 8/30/17 Notary Public: *A. Dammmartling* (seal)

NOTARY PUBLIC
STATE OF FLORIDA
A. DAMM-MARTLING
MY COMMISSION # FF 113595
EXPIRES: July 31, 2018
Bonded Thru Budget Notary Services

NOTARY PUBLIC
STATE OF FLORIDA
A. DAMM-MARTLING
MY COMMISSION # FF 113595
EXPIRES: July 31, 2018
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Worksheet for Assessment of Actual Costs for Case 15CE-02340

Inspector	Donovan							
Wages S&B Hourly	\$22.86							
Per Minute	\$0.38							
Officer Costs:								Sub Total
# Field Inspections	12 x		\$22.86	Hourly	Total	\$274.32		\$274.32
Vehicle Mileage								per mile
# Field Inspections	12 x2: Rdtrip		24	x miles	13	312	0.54	\$168.48
Administrative Costs:								
		Minutes						
# Computer Entries	41	10	410		\$0.38			\$155.80
# Telephone calls	13	5	65		\$0.38			\$24.70
# Research	7	15	105		\$0.38			\$39.90
# Hearings/Prehearings	5	120	600		\$0.38			\$228.00
								\$448.40
								\$448.40
Extra Investigative Insp:								
S&B Hr/Mn		Minutes						
Mgr Lock	1	60	60		0.6			\$36.00
								\$36.00
								\$36.00
Recording Fees								
1 Page	\$10.00							\$10.00
2 Pages	\$28.50							\$28.50
3 Pages	\$39.00							
4 Pages	\$49.50							
Hearings (public, extension, reduction, imposition)	5 x		\$200.00				Legal Fees	\$1,000.00
Hearing Prep Office-number of hearings	8 x		\$85.00					\$680.00
Subtotal Actual Costs for case								\$2,646
Enforcement Costs Assessed and Paid - \$350 or \$550								\$550
Balance due of Actual Costs - DEFICIT								\$2,096