



AGENDA REPORT
April 24, 2018

SUBJECT:

Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for New Owner, God Pleasing, 6475 Colony Park Dr., Merritt Island FL 32953 (14CE-00308) (District 2)

FISCAL IMPACT:

FY18 Fiscal Impact - \$2,247.33 Fine Reduction

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board consider the Special Magistrate's recommendation to reduce the balance of the accrued fine from \$4,056.33 to \$1,809 and release the lien upon full payment for case 14CE-00308 at 6475 Colony Park Dr., Merritt Island FL 32953.

SUMMARY EXPLANATION and BACKGROUND:

This matter came for public hearing before the Code Enforcement Special Magistrate on May 15, 2014 for violation of County Code, Section 22-278(e), Buildings and structures shall be maintained in good repair, structurally sound and sanitary so as to not pose a threat to public health, safety or welfare; and Section 22-278(e)(2), Exterior walls shall be free from holes, breaks and loose or rotting materials. More specifically, Repair exterior siding and roof flashing. After due notice to the Previous Owner, FAYE C HOGAN, the Special Magistrate found the property in violation of County Code and issued a Findings of Fact, Conclusions of Law and Order & Lien for Cost, which was executed and recorded in Official Records.

On October 16, 2014, the Special Magistrate issued an Order Imposing Fine and/or Costs as Lien which was executed and recorded in Official Records. The fines on the property accrued at \$25 per day from June 15, 2014. The structure was repaired and is unoccupied thereby correcting the violation as of July 28, 2017 (1139 days). The fines accrued to the maximum 35% of \$4,627. Partial payment was received from the tax deed clerk of \$570.67, leaving a remaining fine balance of \$4,056.33.

On January 18, 2018, the New Owner, GOD PLEASING, petitioned the Code Enforcement Special Magistrate for a reduction of the fine to \$354.73. The Special Magistrate recommends a reduction of the remaining balance of the fine from \$4,056.33 to \$1,809, 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 \$1,548. The enforcement costs of \$550 were paid toward that amount bringing remaining actual costs to \$998.

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

CLERK TO THE BOARD INSTRUCTIONS:

N/A

ATTACHMENTS:

- | | Description |
|--------------------------|---|
| <input type="checkbox"/> | Findings and Recommendation of the Special Magistrate and Reduction Factor Worksheet |
| <input type="checkbox"/> | Request for Reduction of Penalty |
| <input type="checkbox"/> | 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.5., Request for Reduction of Fine and Release of Code Enforcement Lien for New Owner, God Pleasing, 6475 Colony Park Drive, Merritt Island, Florida 32953

The Board of County Commissioners, in regular session on April 24, 2018, reduced the accrued fine to the actual cost of \$998, and approved release of the lien upon full payment on 14CE-00308 at 6745 Colony Park Drive, Merritt Island.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/cmw

cc: Clerk to the Special Magistrate
Finance
Budget

Worksheet for Assessment of Actual Costs for Case 14CE-00308

Inspector	Lock							
Wages S&B Hourly	\$22.86							
Per Minute	\$0.38							
Officer Costs:								Sub Total
# Field Inspections	4 x	\$22.86	Hourly	Total	\$91.44			\$91.44
Vehicle Mileage								per mile
# Field Inspections	4 x2: Rdtrip	8 x miles	13	104	0.54			\$56.16
Administrative Costs:								
		Minutes						
# Computer Entries	32	10	320	\$0.38	\$121.92			
# Telephone calls	14	5	70	\$0.38	\$26.67			
# Research	20	15	300	\$0.38	\$114.30			
# Hearings/Prehearings	3	120	360	\$0.38	\$137.16			
					\$400.05			\$400.05
Extra Investigative Insp:								
		Minutes						
S&B Hr/Mn								
McCaughin-Research	1	15	15	0.85	\$12.75			
Harris-Research	1	15	15	0.6	\$9.00			
					\$21.75			\$21.75
Recording Fees								
1 Page	\$10.00	x2						\$20.00
2 Pages	\$18.50							\$18.50
3 Pages	\$35.50							
4 Pages	\$44.00							
Hearings (public, extension, reduction, imposition)	3 x	\$200.00				Legal Fees		\$600.00
Hearing Prep Office-number of hearings	4 x	\$85.00						\$340.00
Subtotal Actual Costs for case								\$1,548
Enforcement Costs Assessed and Paid - \$350 or \$550								\$550
Balance due of Actual Costs - DEFICIT								\$998

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: 14CE-00308

Property Address: 6475 COLONY PARK DR
MERRITT ISLAND FL 32953
District: 2

vs.

FAYE C HOGAN, Previous Owner,
GOD PLEASING, New Owner,
Respondent(s)

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

Upon petition of GOD PLEASING, New Owner, through Vivian Wasef, the Code Enforcement Special Magistrate, on 1/18/2018, 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 GOD PLEASING, heard testimony from Vivian Wasef 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 5/15/2014 after due notice to the Respondent, FAYE C HOGAN, 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. The Findings of Fact, Conclusions of Law and Order & Lien for Costs was recorded in the official records of Brevard County Book 7126, Page 2633.

2. Said order required the Respondent to take certain corrective action for the violation by 6/15/2014, and in the event the violation is not corrected by the specified time a fine of \$25.00 per day will be imposed. Accordingly, it was brought to the Code Enforcement Special Magistrate's attention on 10/16/2014 that the Respondent did not comply with the Special Magistrate's Order, and an Order Imposing Administrative Fine as Lien was filed against the property and upon any other real or personal property owned by the Respondent, FAYE C HOGAN, and recorded in the official records of Brevard County, Book 7229 at Page 2964.

3. A re-inspection on 7/28/2017 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 had accrued to the maximum 35% of \$4,627.00.

4. Testimony and evidence was presented by GOD PLEASING, New Owner, through Vivian Wasef stating:

Purchased property at sale & DID NOT cause violation

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) 20% of fine plus outstanding unpaid costs

II. FINDINGS

The Special Magistrate weighing the severity of the violations of **Building Maintenance and Exterior Maintenance:**

All of above factors support 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 balance of the accrued fine in the amount of \$4,056.33 to the reduced sum of \$1,809.00, contingent upon:

a. **Payment within 30 days of the date the Board of County Commissioners renders a decision approving the Special Magistrate's recommendation.**

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: \$1,548.00. Enforcement costs in the amount of \$550.00 have been paid. Balance of actual costs: \$998.00.

Dated January 18, 2018.


Stewart B. Capps, Special Magistrate
Code Enforcement

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

cc: Delivery by HAND OR Delivery by Mail
God Pleasing, 7512 Dr Phillips Blvd Unit # 50, Orlando FL 32819

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

CLERK
JAN 18 2018
Special Magistrate's
Filed with Clerk of the

REDUCTION FACTOR WORKSHEET

CASE #14CE-00308

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: Bought property from violation at sale

- 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) _____

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Original Fine: \$4,627.00 – \$570.67 from tax deed proceeds = \$4,056.33 balance due

- Contingent on payment within 30 days of rendered decision by BOCC out
- Establish Payment Plan within 30 days, and pay in full by one year
- If unpaid, fine will revert to original amount, less payments received

Recommend Reduction to \$ 1809

[Signature]
S. Capps

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

Special Magistrate Hearing: Thursday, 1/18/2018 9:00 a.m.,
Bldg C, 2nd Floor Space Coast Room, Viera, FL 32940

Mail original to: Brevard County Code Enforcement, 2725

Judge Fran Jamieson Way, Bldg A 114, Viera, FL 32940

DUE ON OR BEFORE: ASAP- 12/22/17 (for 1/18/18 hearing
or 1/19 for 2/17/18 hearing)

Case No. 14CE-00308

Property Address: 6475 COLONY PARK DR MERRITT ISLAND FL 32953 District: 2

New Owner: GOD PLEASING; Previous Owner's Name: FAYE C HOGAN

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: GOD PLEASING, by ~~Harry~~ and Vivian Wasef (vivianwasef@gmail.com)

Property Owner's Mailing Address: 7512 Dr Phillips Blvd Unit # 50 Orlando, FL 32819-5420

Phone Number where you can be reached during the day: 403-629-3931

STATUS OF PROPERTY AS OF INSPECTION MADE BY Brian Lock ON 7/28/2017

VIOLATION of Brevard County Code: Sections 22-278(e) and 22-278(e)(2)- Building maintenance and Exterior Maintenance

Violation heard on 5/15/2014; fine ordered to accrue at \$25.00 per day from 6/15/2014 to 7/28/2017; the fine accrued to maximum 35% = \$4,627.00 (1139 days in violation); Fine imposed as lien by Special Magistrate on 10/16/2014. Partial payment received of \$1,120.67 from tax deed proceeds applied to enforcement costs and \$570.67 toward fine. Remaining Fine Balance: \$4,056.33.

Enforcement costs in the amount of \$550.00 were paid on 3/13/2017 by tax deed proceeds.

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

DEC 21 2017

Page 1 of 3

RECEIVED

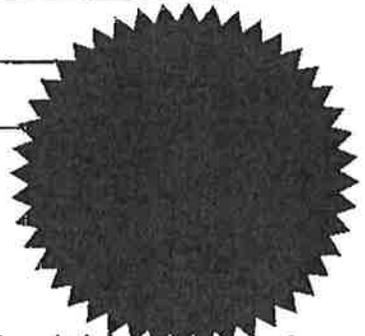
MAKE CERTAIN THAT THIS FORM AND ANY ATTACHMENTS COMPLETELY SET FORTH YOUR POSITION. YOU MUST BE PRESENT TO ANSWER ANY QUESTIONS THE SPECIAL MAGISTRATE MAY HAVE.

I, ~~Henry~~ Vivian Wasef, do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

I purchase this property from the county BREVARD COUNTY and this in 2017 so I did this problem the old owner Nor one.

Date: Dec 19, 2017

Signed: *[Signature]*



STATE OF FLORIDA)
COUNTY OF BREVARD)

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, ~~Henry~~ Vivian Wasef ^{VIVIAN}, 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.
VIVIAN WASEF

Date: 12/19/2017 Notary Public: *[Signature]* (seal)

REDUCTION FACTOR WORKSHEET

THIS WORKSHEET MUST BE COMPLETED AS PART OF THE APPLICATION PROCESS

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 purch in 2017 I was not the owner in 2014

- 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) *I was not the owner*
- 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.

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- 5) The applicant was the owner when the violation occurred

D. Financial beneficiary of the fine reduction

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

.....

Original Fine \$4,627.00

Partial Payment: - 570.67 (Tax Deed Proceeds)

Balance of Fine: \$4,056.33

Recommend Reduction to \$ 354.73
(Must Enter an Amount)