

Meeting Date
July 26, 2016



AGENDA	
Section	New Business Council
Item No.	XXXXXXX

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

VI F 4

SUBJECT:	Request for Waiver of Imposition of Enforcement Costs in Brevard County Code Enforcement Case No. 13CE-00698.
DEPT/OFFICE:	Request made by Barefoot Bay Recreation District General Counsel, Clifford R. Repperger, Jr.

Requested Action:
Waiver of Imposition of \$1,126.00 in enforcement costs ordered by the Brevard County Code Enforcement Special Magistrate in Case No. 13CE-00698.

Summary Explanation & Background:
In 2013, Brevard County Code Enforcement Case No. 13CE-00698 was brought by Brevard County Code Enforcement against the former owner of 635 Hyacinth Circle, Barefoot Bay, FL 32976 for violation of Section 22-278 (b), Code of Ordinances of Brevard County, Florida.

In December of 2015, Barefoot Bay Recreation District "BBRD" obtained the property from a subsequent tax deed sale purchaser for the sole purpose of curing and resolving the outstanding violations for the benefit of the community. Thereafter, BBRD expended \$3,571.00 in demolition and asbestos removal costs to cure the violation. Upon taking ownership, BBRD also waived \$4,329.84 in maintenance-related costs incurred by BBRD against the former property owner.

BBRD made a Request for Reduction of Brevard County's accrued fine (\$2,625.00) and actual costs (\$1,126.00) to the Brevard County Code Enforcement Special Magistrate on June 16, 2016. At the hearing on BBRD's Request for Reduction, the Special Magistrate rendered an Order granting BBRD's Request for Reduction of the accrued fine amount, but not the actual costs. BBRD did pay \$550.00 in Brevard County Enforcement Costs to have the Request for Reduction heard prior to the hearing. BBRD now requests that the Board of County Commissioners waive the imposition of the actual costs (\$1,126.00) in an effort to save the taxpayers of BBRD additional expense.

BBRD's Request for Reduction (including attached referenced Deeds) and the Order rendered by the Special Magistrate on June 16, 2016 are attached to this Agenda Report.

Exhibits Attached: BBRD Request for Reduction (including Deeds) and Brevard County Code Enforcement Special Magistrate Order rendered June 16, 2016.

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

County Manager	Assistant County Manager	Department Director / Extension
Stockton Whitten	Assistant County Manager	



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

July 27, 2016

MEMORANDUM

TO: Robin DiFabio, Planning and Development Director

RE: Item VI.F.4., Request for Waiver of Imposition of Enforcement Costs for Brevard County Code Enforcement Case No. 13CE-00698

The Board of County Commissioners, in regular session on July 26, 2016, denied the request for waiver of imposition of \$1,126 in Code Enforcement costs ordered by the Brevard County Code Enforcement Special Magistrate for Case No. 13CE-00698.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

cc: Clerk to the Special Magistrate
Finance
Budget

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

Special Magistrate Hearing: Thursday, 6/16/2016 9:00 a.m.,
Bldg C, 2nd Floor Florida Room, Viera, FL 32940
FAX COMPLETED FORM TO: 321-633-2167
Mail original to: Brevard County Code Enforcement, 2725
Judge Fran Jamieson Way, Bldg A 114, Viera, FL 32940
DUE ON OR BEFORE: ASAP-5/27/16

Case Number: 13CE-00698

Property Address: 635 HYACINTH CIR, BAREFOOT BAY FL 32976

Previous Owner's Name: HELENA DE BRAUN

New Owners: Barefoot Bay Recreation District Board of Trustees, by Cliff Repperger

REQUEST FOR REDUCTION OF PENALTY AT TIME OF IMPOSITION

(Consider this document your Notice of Hearing-No other notice will be sent for this request)

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, all 3 pages. Failure to provide complete information will delay consideration of your request. Enforcement Costs must be paid prior to scheduling case for hearing. Special Magistrate cannot reduce enforcement cost. 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 at the same time as the imposition at the Special Magistrate hearing. You must be present at the meeting. If you are claiming medical or financial hardship, attach supporting documentation (i.e., a doctor's statement or proof of income). If you have any questions, please call the Special Projects Coordinator, Angela at (321) 633-2086, ext 52885.

Property Owner's Name: Barefoot Bay Recreation District Board of Trustees, by Atty Cliff Repperger

Property Owner's Mailing Address: 625 Barefoot Boulevard Barefoot Bay FL 32796 / 1795 West NASA Blvd., Melbourne, Florida 32901 (Cliff.Repperger@gray-robinson.com).

Phone Number where you can be reached during the day: 321-727-8100

STATUS OF PROPERTY AS OF INSPECTION MADE BY Mark Engel ON 4/14/2016

VIOLATION of Section 22-278(b): Building and property maintenance.

Violation heard on 9/13/2013; date ordered for compliance: 10/3/13; fine ordered to accrued at \$25.00 per day from 10/4/2013 to 4/14/2016; (923 days in violation) totaling \$23,075.00; maximum 35% amount at time of imposition is \$2,625.00.

Enforcement costs in the amount of \$550.00 were paid on 5/23/16.

(TO BE COMPLETED BY BREVARD COUNTY STAFF)

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.

Attorney Cliff Repperger

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, Clifford R. Repperger, Jr., do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

Barefoot Bay Recreation District ("BBRD") is an independent special district unit of government created by Brevard County Ordinance 84-05, pursuant to Sec. 418.30, F.S. On or about September 25, 2014, the subject property was sold at a tax deed sale to Jitendra Goyal (see attached Tax Deed). Thereafter, BBRD negotiated an acquisition of the subject property for the sole purpose of bringing the property into compliance. On November 9, 2015, Mr. Goyal executed a Warranty Deed to BBRD (See attached Warranty Deed.) This Deed was recorded on January 26, 2016. Soon thereafter, BBRD entered into a contract for complete demolition and removal of the structure located on the subject property. BBRD expended a total of \$3,571.00 in demolition and asbestos removal costs, in addition to prior years of landscape and maintenance costs. On or about April 14, 2016, the property was deemed to be in compliance. BBRD, as a subsequent owner was not responsible for the initial violation, and only took title to the subject property for the sole purpose of remedying the violation for the betterment of the community. BBRD, as a governmental entity, should not be required to expend additional taxpayer dollars for the accrued fine and respectfully requests waiver of the outstanding fine amount.

Date: 5/27/16

Signed: 

STATE OF FLORIDA
COUNTY OF BREVARD

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, Cliff Repperger, 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: 5/27/16 Notary Public:  (seal)



REDUCTION FACTOR WORKSHEET

Case #13CE-00698

A. Extenuating Circumstances? Circle any that apply.

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

Explain: _____

- 5) There were technical and/or procedural issues with the case
- 6) The applicant did not have authority to make corrections (i.e., other legal action pending) BBRD was not the owner until late 2015 and could not resolve the violation.
- 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 X
- 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) Government Entity/Acquired property to correct and resolve violation.

.....

Original Fine: \$23,075.00; 35% Max: \$2625

Recommend Reduction to \$ 0.00

(enter amount you would agree to pay)

CODE ENFORCEMENT SPECIAL MAGISTRATE OF
BREVARD COUNTY, FLORIDA

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

Case No: 13CE-00698

Property Address: 635 HYACINTH CIR,
BAREFOOT BAY FL 32976

HELENA DE BRAUN, Previous Owner,
Barefoot Bay Recreation District Board of Trustees, New Owners,
Respondent.

ORDER ON REQUEST FOR REDUCTION OF FINE AT TIME OF IMPOSITION HEARING

THIS MATTER came for consideration by the Code Enforcement Special Magistrate of Brevard County, Florida, on 6/16/2016, on Brevard County's request for Imposition and the New Owner's Request for Reduction. The Code Enforcement Special Magistrate being otherwise fully advised, it is thereupon,

ORDERED as follows:

1. The Respondent's Request is **DENIED**. All fines assessed in accordance with the Special Magistrate's Order, dated 9/13/2013, which accrued a fine in the amount of the maximum 35%: **TWO THOUSAND, SIX HUNDRED, TWENTY-FIVE DOLLARS (\$2,625.00)**, remain due and outstanding. The fine shall be imposed.

OR

1. The accrued fines assessed in accordance with the Special Magistrate's Order, 9/13/2013, which accrued a fine in the amount of the maximum 35%: **TWO THOUSAND, SIX HUNDRED, TWENTY-FIVE DOLLARS (\$2,625.00)** are hereby reduced to: ONE THOUSAND ONE HUNDRED TWENTY SIX DOLLARS (\$ 1,126 .00), contingent on the following:

A. Payment in full of the reduced amount must be received within thirty days

OR

A. Establish payment plan within _____, keep current and pay in full by _____.

2. If reduced amount is not paid by the above date or criteria, the accrued fine will revert to the original amount due, less payments received, and further imposed without further notice to Respondent.

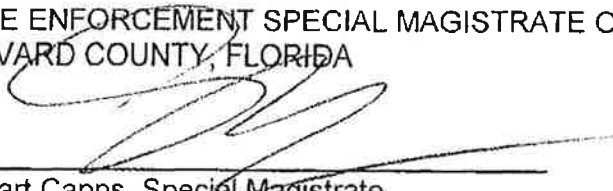
3. An Acknowledgment and Release of Lien will not be recorded until the fines are paid.

ALL PAYMENTS PAYABLE TO THE BOARD OF COUNTY COMMISSIONERS and mailed to Code Enforcement, 2725 Judge Fran Jamieson Way, Building A, Room 114, Viera, Florida, 32940.

You have a right to appeal this Order to the Circuit Court within a period of 30 days from the date of this Order, in accordance with Brevard County Code Section 2-178.

DONE AND ORDERED on June 16, 2016.

CODE ENFORCEMENT SPECIAL MAGISTRATE OF
BREVARD COUNTY, FLORIDA

By: 
Stewart Capps, Special Magistrate

Conformed Copies to: DELIVER by HAND or by MAIL

Barefoot Bay Recreation District Board of Trustees, 625 Barefoot Boulevard Barefoot Bay FL 32976
Cliff Repperger 1795 West NASA Blvd., Melbourne, Florida 32901

E BAREFOOT BAY RECREATION
625 BAREFOOT BLVD
BAREFOOT BAY, FL 32976

PREPARED BY & RETURN TO
Cliff R Reppinger Esq
GrayRobinson, P A
1795 West NASA Blvd
Melbourne Florida 32901

PARCEL TAX ID #30-38-10-JS-78-22
Actual Consideration: \$0.00

WARRANTY DEED

THIS INDENTURE, made this 8th day of NOVEMBER, 2015, between GOYAL JITENDRA ("Grantor") whose post office address is 890 Flammang Avenue, Brawley, California 92227, and BAREFOOT BAY RECREATION DISTRICT BOARD OF TRUSTEES ("Grantee") whose post office address is 625 Barefoot Boulevard, Barefoot Bay, Florida 32796

WITNESSETH that the Grantor, for and in consideration of the sum of TEN AND NO/100THS DOLLARS (\$10.00), and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of Brevard, State of Florida, to wit

Lot 22, Block 78, Barefoot Bay Unit Two Part Ten, according to the plat thereof, as recorded in Plat Book 22, Pages 105 through 115, inclusive, of the Public Records of Brevard County, Florida

Grantor warrants that at the time of this conveyance, the Subject Property is not the Grantor's homestead within the meaning set forth in the Constitution of the State of Florida, nor is it contiguous to any homestead property of the Grantor

SUBJECT TO zoning, restrictions, prohibitions and other requirements imposed by governmental authority, restrictions and matters appearing on the plat or otherwise common to the subdivision or condominium, the reference to which shall not operate to reimpose the same, public utility easements of record, and any unpaid real estate taxes

TOGETHER WITH all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the Grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal the day and year first above written

Signed, sealed and delivered
in presence of

Sandra Suarez
Witness Sandra Suarez

Goyal Jitendra
GOYAL JITENDRA

Maria Salazar
Witness Maria Salazar

STATE OF CALIFORNIA
COUNTY OF _____

THE FOREGOING INSTRUMENT was acknowledged before me this _____ day of September, 2015,
by GOYAL JITENDRA, who personally appeared before me. [] is personally known to me or [] has
produced _____ as identification

Notary Public
Name _____
My Commission Expires _____

* See attachment
11/9/15 JB

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California
County of Imperial

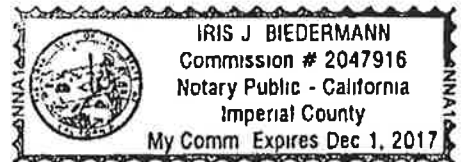
On November 9, 2015 before me, IRIS J. Biedermann, Notary Public
(insert name and title of the officer)

personally appeared Jitendra Goyal
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal

Signature IRIS J. Biedermann (Seal)



Tax Deed File No. 140175

Formerly Assessed To: HELENA DE BRAUN

TAX DEED

State of Florida
County Of Brevard

The following Tax Sale Certificate Number 201215038 issued on 5/31/12 was filed in the office of the Tax Collector of this County and application made for the issuance of a Tax Deed, the applicant having paid or redeemed all other taxes or tax sale certificates on the land described as required by law to be paid or redeemed, and the costs and expenses of this sale, and due notice of sale having been published as required by law, and no person entitled to do so having appeared to redeem said land; such land was sold on the 25th day of September, 2014, offered for sale as required by law for cash to the highest bidder and was sold to:

**GOYAL JITENDRA
890 FLAMMANG AVE
BRAWLEY, CA 92227**

being the highest bidder and having paid the sum of his bid as required by the Laws of Florida.

Now this 25th day of September, 2014, in the County of Brevard, State of Florida, in consideration of the sum of (\$10,437.63) ten thousand four hundred thirty-seven dollars and sixty-three cents only, being the amount paid pursuant to the Laws of Florida does hereby sell the following lands situated in the County and State as described as follows:

TWP-30 RG-38 SC-10 SB-JS BLK-78 LOT-22
BAREFOOT BAY UNTI 2 PART 10
LOT 22 BLK 78
PLAT BOOK 0022 PAGE 0105

Witness:



 A. GUITTAR

SCOTT ELLIS
CLERK OF THE CIRCUIT COURT
BREVARD, FLORIDA


By: 


Deputy Clerk
KETA ASBURY  (Seal)

State of Florida
County Of Brevard

On this 21st DAY OF OCTOBER 2014, before me, personally appeared KETA ASBURY, DEPUTY CLERK, BREVARD COUNTY in and for the State of this County known to me to be the person described in and who executed the foregoing instrument, and acknowledged the execution of this instrument to be his own free act and deed for the use and purposes therein mentioned.

Witness my hand and official seal date aforesaid.



Deputy Clerk, per F.S. 695.03/92.50
Scott Ellis, Clerk
Brevard County, Florida  **CHRISTEN BANNISTER**

Clerk's Certificate

STATE OF FLORIDA
COUNTY OF BREVARD

TAX DEED FILE NO: 140175

BE IT KNOWN THAT I, SCOTT ELLIS, Clerk of the Circuit Court in and for the COUNTY OF BREVARD, STATE OF FLORIDA, DO HEREBY CERTIFY that I did on 08/19/2014 mail a copy of the statutory warning and the attached notice, addressed to the following as required by law. [FLA Statutes, CH. 197.522(1)]

70132630000160984143	HELENA DE BRAUN, 635 HYACINTH CIR, BAREFOOT BAY, FL 32976-7666
70132630000160984136	HELENA DEBRAUN, 635 HYACINTH CIR, BAREFOOT BAY, FL 32976-7666
70132630000160984150	HELENA DEBRAUN, PO BOX 1061, ROSELAND, FL 32957-1061
70132630000160984112	BAREFOOT BAY RECREATION DISTRICT, PO BOX 779233, SEBASTIAN, FL 32976-9233
70132630000160984129	HELENA DE BRAUN, 1865 NE 48TH ST, POMPANO BEACH, FL 33064-6502

I HEREBY CERTIFY that in addition to the mailing the statutory notices and warnings I did provide the following as required for service by law [FLA Statutes, CH. 197.522(2)].

2 Sheriff of BREVARD County, copies of the notice of statutory warning for personal service and mailing, or posting.

0 Sheriff of County, copies of the notice and statutory warning for personal service and mailing.

WITNESS MY HAND AND SEAL AT TITUSVILLE, IN THE COUNTY AND STATE AFORESAID, ON 10/21/2014.

SCOTT ELLIS
CLERK OF THE CIRCUIT COURT

BY: 
KETA ASBURY, DEPUTY CLERK

