

Meeting Date
January 9, 2017



AGENDA	
Section	New Business
Item No.	III A.1.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	BOARD CONSIDERATION RE: REQUEST FOR REDUCTION OF FINE AND RELEASE OF CODE ENFORCEMENT LIEN FOR CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR, 1238 LAKE DR COCOA, FL 32927 (DISTRICT 2) FY18 FISCAL IMPACT - \$7,417 FINE/\$3,559 REDUCTION = \$3,858 PAYMENT DUE
DEPT/OFFICE:	Planning and Development

Requested Action:
 It is request that the Board consider the Special Magistrate's recommendation to reduce the accrued fine for the violation at 1238 LAKE DR COCOA, FL 32927, Case 14CE-00162, from \$7,417 to \$3,858 and accept reduced fine and direct staff to prepare and execute a release and satisfaction of lien upon receipt of payment.

Summary Explanation & Background:
 This matter came for public hearing before the Code Enforcement Special Magistrate on July 17, 2014 for violation of County Code, Section 22-278(c) Work without Building Permit and Section 62-3203, Site Development Plan. More specifically, converting a shed into automobile preparation and paint without building permit and site development plan approval. After due notice to the Respondent, the Special Magistrate found the property in violation of County Code and issued a Findings of Fact, Conclusions of Law and Order & Lien for Costs, which was executed and recorded in Official Records Book 7169, Page 1084 of the Public Records of Brevard County.

On March 16, 2017, the Special Magistrate issued an Order Imposing Fine as Lien which was executed and recorded in Official Records Book 7842 at Page 927 of the Public Records of Brevard County. The fines on the property accrued at \$25.00 per day from September 15, 2014 to April 17, 2017. The fines accrued to the 35% maximum of \$7,417.

On November 16, 2017, the Respondent, Brandy Minnear, petitioned the Code Enforcement Special Magistrate for a reduction of the fine. The Special Magistrate recommends a reduction of the fine from \$7,417 to \$3,858, 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 \$2,725. The enforcement costs of \$350 were paid toward that amount bringing remaining actual costs to \$2,375.

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

Clerk to the Board Instructions: N/A

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

Contract /Agreement (If attached):		Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager Frank Abbate <i>FA</i>	Assistant County Manager John Denninghoff <i>JD</i>	Interim Assistant County Manager Jim Liesenfelt		Department Director / Extension Tad Calkins, Director Planning & Development Dept, extension 56532				



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

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

January 10, 2018

M E M O R A N D U M

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

RE: Item VI.A.1., Board Consideration for Request of Reduction of Fine and Release of Code Enforcement Lien for Clifford Greg Cauthen, Jr. and Brandy Minnear, for Property Located at 1238 Lake Drive, Cocoa, Florida 32927

The Board of County Commissioners, in regular session on January 9, 2018, approved the amount of the payment due for the violation at 1238 Lake Drive, Cocoa, Florida 32927, Case 14CE-00162, to be \$2,992; and directed staff to prepare and execute a release and satisfaction of lien upon receipt of payment.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe

Tammy Rowe, Deputy Clerk

cc: Clerk to the Special Magistrate
Finance
Budget

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

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

CASE NUMBER: 14CE-00162

vs.

Property Address: 1238 LAKE DR COCOA
District: 2

CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR,
Respondent(s)

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

Upon petition of CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR, the Code Enforcement Special Magistrate, on 11/16/2017, 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 BRANDY MINNEAR, heard testimony from BRANDY MINNEAR 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 7/17/2014 after due notice to the Respondent, CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR, 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 7169, Page 1084.

2. Said order required the Respondent to take certain corrective action for the violation by 8/17/2014, extended to 9/15/2014 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 3/16/2017 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, CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR, and recorded in the official records of Brevard County, Book 7842 at Page 927.

3. A re-inspection on 4/17/2017 revealed the corrective action ordered by the Code Enforcement Special Magistrate was completed and the inspecting officer filed an Affidavit of Late Compliance. The fine accrued to 35% maximum, \$7,417.00.

4. Testimony and evidence was presented by CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR, stating:

acquired property from 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) Actual costs plus 20%

II. FINDINGS

The Special Magistrate weighing the severity of the violations of **Permit Required, Site Plan Required.**

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

Special Magistrate

III. RECOMMENDATION

NOV 16 2017

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 \$7,417.00 to the reduced sum of \$ 3,858.00, contingent upon:

CLERK

- a. **Payment within 30 days** of the date the Board of County Commissioners renders a decision approving the Special Magistrate's recommendation.
- b. With an option for the establishment of a **payment plan which must be created within 30 days of the date of the Board of County Commissioners rendered decision, and payment plan timely paid accordingly.**
- c. If reduced amount is not paid by the above time frame(s) as specified, the accrued fine will revert to the original amount due, less payments received.
- d. The actual costs total: \$2,725.00. Enforcement costs in the amount of \$350.00 have been paid. Balance of actual costs: \$2,375.00.

Dated November 16, 2017.

[Signature]
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
CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR 6545 KINGDOM AVE COCOA FL 32927

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

REDUCTION FACTOR WORKSHEET

CASE #14CE-00162

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: Acquired property with violator's structure
- 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 \$7,417.00

Recommend Reduction to \$ 3858.00

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

S. Capps

S. Capps

11/16/17

11/14/17 @dm
CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

CODE ENFORCEMENT

Special Magistrate Hearing: Thursday, 9/21/2017 9:00 a.m.,
Bldg C, 2nd Floor Space Coast Room, Viera, FL 32940
FAX COMPLETED FORM TO: 321-633-2167
Mail original to: Brevard County Code Enforcement, 2725
Judge Fran Jamieson Way, Bldg A 114, Viera, FL 32940
DUE ON OR BEFORE: ASAP- 8/17/17 (for 9/21/17 hearing
or 9/22 for 10/19/17 hearing

OCT 20 2017

RECEIVED

Case No. **14CE-00162**

Property Address: 1238 LAKE DR, COCOA FL 32922 District: 2
Owner's Name: CLIFFORD GREG CAUTHEN JR & BRANDY MINNEAR

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: BRANDY MINNEAR (bnmcgc318213@gmail.com)

Property Owner's Mailing Address: 6545 KINGDOM AVE COCOA FL 32927

Phone Number where you can be reached during the day: 216-7479

STATUS OF PROPERTY AS OF INSPECTION MADE BY Sean Donovan ON 4/17/2017
VIOLATION of Brevard County Code: Section 22-278(c)-Permit Required and Section 62-3203 -Site Plan Required.
Violation heard on 7/17/2014; fine ordered to accrue at \$25.00 per day from 8/17/2014 to 4/17/2017; the fine accrued to maximum 35% = \$7,417.00 (944 days in violation); Fine imposed as lien by Special Magistrate on 3/16/2017.
Enforcement costs in the amount of \$350.00 were paid on 4/26/2017.

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

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

I, BRANDY MINNEAR, do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

Basically it started with the issue of the shed which was previously on property before purchase. Then went through the process of the building previously on property was less than 25 sqft of being able to operate business. Tried everyone possible to pull permits for the shed. no luck no contractor, no shed moving company could give any info about who could help. At the end the shed had to be given away. At the end of the day the dreams and money put into this property has been wasted we are just trying to do everything we can to sell it at this point. In the middle of this process for the reason of not being able to pay towards anything is because we

Date: 10/20/17

Signed: Brandy Minnear

MS60-074-84-598-
RTP 2/18/18

STATE OF FLORIDA
COUNTY OF BREVARD

) went through a process of almost losing the property. At the same time almost losing our home to where we had to borrow money from family. Thank you for your time.

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, BRANDY MINNEAR, 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: 10/20/2017 Notary Public: Dawn Cadore (seal)



REDUCTION FACTOR WORKSHEET

THIS WORKSHEET MUST BE COMPLETED AS PART OF THE APPLICATION PROCESS

CASE #14CE-00162

A. Extenuating Circumstances? Circle any that apply.

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Explain: _____

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D. Financial beneficiary of the fine reduction

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

*see attached
mail
TB*



Original Fine \$7,417.00

Recommend Reduction to \$ _____

(Must Enter an Amount)

Damm-Martling, Angela R

From: bnmcg318213@gmail.com
Sent: Friday, November 03, 2017 3:20 PM
To: Damm-Martling, Angela R
Subject: Re: Missing info on Page 3

Angela,

We are Requesting to be able to pay \$1500. I will be in attendance on November 16. Thank you so much.

Brandy Minnear

On Nov 3, 2017, at 3:12 PM, Damm-Martling, Angela R <Angela.Dammmartling@brevardfl.gov> wrote:

Brandy,

It appears the amount you are suggesting for the fine is missing.

Angela Damm-Martling
Special Projects Coordinator
Code Enforcement Division
Planning and Development Department
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way, Building A 114
Viera, FL 32940
(321) 633-2086, Extension 52885
(321) 633-2167, facsimile

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

Worksheet for Assessment of Actual Costs for Case 14CE-00162

Inspector	Donovan							
Wages S&B Hourly	\$22.86							
Per Minute	\$0.38							
<u>Officer Costs:</u>								
# Field Inspections	7 x	\$22.86	Hourly	Total	\$160.02			Sub Total \$160.02
<u>Vehicle Mileage</u>								
# Field Inspections	7 x2: Rdtrip	14 x miles	13	182		per mile 0.54		\$98.28
<u>Administrative Costs:</u>								
		Minutes						
# Computer Entries	32	10	320		\$0.38			\$121.92
# Telephone calls	11	5	55		\$0.38			\$20.96
# Research	19	15	285		\$0.38			\$108.59
# Hearings/Prehearings	9	120	1080		\$0.38			\$411.48
								\$662.94
Extra Investigative Insp:		Minutes						\$662.94
S&B Hr/Mn								
								\$0.00
								\$0.00
<u>Recording Fees</u>								
1 Page	\$10.00							\$20.00
2 Pages	\$18.50							\$18.50
3 Pages	\$35.50							
4 Pages	\$44.00							
Hearings (public, extension, reduction, imposition)	5 x	\$200.00				Legal Fees		\$1,000.00
Hearing Prep Office-number of hearings	9 x	\$85.00						\$765.00
Subtotal Actual Costs for case								\$2,725
Enforcement Costs Assessed and Paid - \$350 or \$550								\$350
Balance due of Actual Costs - DEFICIT								\$2,375