



**AGENDA REPORT
September 18, 2018**

Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for Susan Filipe, 2530 Palm Lake Dr., Merritt Island, FL 32952 (16CE-00116) (District 2)

SUBJECT:

Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for Susan Filipe, 2530 2530 Palm Lake Dr., Merritt Island, FL 32952 (16CE-00116) (District 2)

FISCAL IMPACT:

FY18 Fiscal Impact - \$9,939

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 \$14,125 to \$4,186 and release the lien upon full payment for case 16CE-00116 at 2530 Palm Lake Dr., Merritt Island, FL 32952.

SUMMARY EXPLANATION and BACKGROUND:

This matter came for public hearing before the Code Enforcement Special Magistrate on July 21, 2016 for violations of County Code, Section 22-278(c), Permit required. More specifically, obtain a building permit for the replacement of the garage door headers. After due notice to the Owner, Susan Filipe, 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 March 16, 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 \$25 per day from August 21, 2016. The required permits were obtained, thereby correcting the violation as of March 8, 2018 (565 days). The fines accrued to \$14,125.

On April 19, 2018, the Owner, Susan Filipe, petitioned the Code Enforcement Special Magistrate for a reduction of the fine to \$0. The Special Magistrate recommends a reduction of the fine from \$14,125 to \$4,186, contingent upon payment within 30 days or

establishment of a payment plan within 30 days 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 \$1,711. The enforcement costs of \$350 were paid toward that amount bringing the remaining actual costs to \$1,361.

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

CLERK TO THE BOARD INSTRUCTIONS:

N/A

ATTACHMENTS:

Description

- **Findings and Recommendation of 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

September 19, 2018

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item J.1., Board Consideration of Request for Reduction of Fine and Release of Code Enforcement Lien for Susan Filipe, 2530 Palm Lake Drive, Merritt Island, Case 16CE-00116

The Board of County Commissioners, in regular session on September 18, 2018, authorized the request for reduction of fine from cost to \$1,701 for Susan Filipe, 2530 Palm Lake Drive, Merritt Island, Case - 16CE-00116; and approved release of the lien upon full payment.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

cc: Code Enforcement Manager
County Manager
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,

Property Address:

CASE NUMBER: 16CE-00116

2530 PALM LAKE DR
MERRITT ISLAND FL 32952

District: 2

vs.

SUSAN FILIPE,
Respondent(s)

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

Upon petition of SUSAN FILIPE, the Code Enforcement Special Magistrate, on 4/19/2018, 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 SUSAN FILIPE, heard testimony from SUSAN FILIPE, 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 7/21/2016 after due notice to the Respondent, SUSAN FILIPE, 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 7668, Page 1009.

2. Said order required the Respondent to take certain corrective action for the violation by 8/20/2016, 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 SUSAN FILIPE, and recorded in the official records of Brevard County, Book 7842 at Page 929.

3. A re-inspection on 3/9/2018 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 \$14,125.00.

4. Testimony and evidence was presented by SUSAN FILIPE, stating:

She was advised by husband mistake was resolved & son changed mailing address w/o advising causing her

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.

to to receive notice upon receipt of notice was complied

b) UNPAID COSTS OF \$1361 plus 20% of PROTECTIVE FINE

II. FINDINGS

The Special Magistrate weighing the severity of the violations of **Work Without Permit**.

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 \$14,125.00 to the reduced sum of \$ 4,125.00, contingent upon:

- a. Payment within 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: \$1,711.00. Enforcement costs in the amount of \$350.00 have been paid. Balance of actual costs: \$1361.00.

Dated April 19, 2018.

Stewart E. Capps
Stewart E. Capps, Special Magistrate
Code Enforcement

You have a right to appeal a final administrative Order to the 16th 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
SUSAN FILIPE 2530 PALM LAKE DR MERRITT ISLAND FL 32952

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

REDUCTION FACTOR WORKSHEET

CASE #16CE-00116

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: HUSBAND TO WIFE HE TOOK CARE OF MOTHER
& DID NOT & WIFE'S SON CHANGED ADDRESS W/O
ADVISING RESPONDENT

- 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 UPON NOTICE
 - 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 \$14,125.00

Recommend Reduction to

4,180

Contingent on payment within _____ days

Establish Payment Plan within _____ days, and pay in full by _____

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

S. Capps

4/19/18

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

Special Magistrate Hearing: Thursday, 4/19/18 9:00 a.m.,
Bldg C, 2nd Floor Space Coast Room, 2725 Judge Fran
Jamieson Way, 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-3/23/18

Case No. 16CE-00116

Property Address: 2530 PALM LAKE DR, MERRITT ISLAND FL 32952

District: 2

Owner's Name: SUSAN FILIPE

**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: SUSAN FILIPE (islandgirl2530@yahoo.com)

Property Owner's Mailing Address: 2530 PALM LAKE DR, MERRITT ISLAND FL 32952

Phone Number where you can be reached during the day: (321) 750-2474

STATUS OF PROPERTY AS OF INSPECTION MADE BY Dall Echevarria ON 3/9/2018

VIOLATION of: Section 22-278(c), Brevard County Code, Obtain a building permit for the replacement of the garage door headers.

Violation heard on 7/21/2016; fine ordered to accrue at \$25.00 per day from 8/21/2016 to 3/8/2018; the fine accrued to = \$14,125.00 (565 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 1/3/2018.

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

MAR 23 2018

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, SUSAN FILIPE, do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

I received a Notice of Violation posted in my front yard, on June 27, 2016. My husband went to the Bldg Dept on July 19, 2016 and picked up an application for a Bldg Permit. He told me to sign it and informed me that he was taking care of it. That was the last I knew about this until my neighbor informed me, in the beginning of December 2017, that there was a lien on my home. I immediately got in touch with Angela Dawn Martling. At that time she informed me of my address being 650 Hawaii Dr. Merritt Island, FL 32953. I informed her when my son moved out he changed his address to 650 Hawaii Dr. and apparently my mailing address also changed. He only lived there for a brief period of time. I called the property appraiser immediately and

Date: 03/23/2018

Signed: Susan Filipe

STATE OF FLORIDA)
COUNTY OF BREVARD)

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, SUSAN FILIPE, 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.

 **Ariel Lopez**
State of Florida
My Commission Expires 03/02/2021
Commission No. GG 78840

Date: 03/23/2018 Notary Public:  (seal)

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, SUSAN FILIPE, do hereby submit this Request for Reduction of Penalty, and in support offer the following statement:

changed my address back to my primary residence here at 2530 Palm Lake Dr. Merritt Island 71 32952. So if there was any correspondence regarding this lien, I was not receiving it. I was advised by Angela what steps needed to be taken and I took care of them immediately. I have been in constant contact with Angela, Dale Echevarria, Bldg Dept. James Foster and Steve Kaster. Currently I am taking steps to divorce my husband due to he is a pathological liar. I truly had no idea of the fines accruing/lien and when I did I immediately took action and comply with the violation. Your consideration in waiving this fine would be greatly appreciated.

Date: 03/23/2018

Signed: Susan Filipe

STATE OF FLORIDA)
COUNTY OF BREVARD)

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, SUSAN FILIPE, 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.



Ariel Lopez
State of Florida
My Commission Expires 03/02/2021
Commission No. GG 78840

Date: 03/23/2018 Notary Public: [Signature] (seal)

REDUCTION FACTOR WORKSHEET

THIS WORKSHEET MUST BE COMPLETED AS PART OF THE APPLICATION PROCESS

CASE #16CE-00116

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 was a victim of circumstances due to my husband telling me he took care of this and my address being changed to an address I never resided at.

- 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
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D. Financial beneficiary of the fine reduction

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

Original Fine \$14,125.00

Recommend Reduction to \$ 0

(Must Enter an Amount)

Worksheet for Assessment of Actual Costs for Case 16CE-00116

Inspector	Echevarria							
Wages S&B Hourly	\$22.86							
Per Minute	\$0.38							
Officer Costs:								Sub Total
# Field Inspections	5 x	\$22.86	Hourly	Total	\$114.30			\$114.30
Vehicle Mileage								per mile
# Field Inspections	5 x2: Rdtrip	10	x miles	16	160	0.54		\$86.40
Administrative Costs:		Minutes						
# Computer Entries	26	10	260		\$0.38			\$98.80
# Telephone calls	10	5	50		\$0.38			\$19.00
# Research	9	15	135		\$0.38			\$51.30
# Hearings/Prehearings	4	120	480		\$0.38			\$182.40
								\$351.50
								\$351.50
Extra Investigative Insp:		Minutes						
S&B Hr/Mn								
								\$0.00
								\$0.00
Recording Fees								
1 Page	\$10.00	x 2						\$20.00
2 Pages	\$18.50							\$28.50
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	6 x	\$85.00						\$510.00
Subtotal Actual Costs for case								\$1,710.70
Enforcement Costs Assessed and Paid - \$350 or \$550								\$350.00
Balance due of Actual Costs - DEFICIT								\$1,361

Item J1
F. Filipe Fine Reduction
9/18/18.

09/15/2018

RE: Susan Filipe, Code Enforcement Action

To Whom It May Concern:

I live at 2535 Palm Lake Drive and have for about 10 years. My house is directly across the street from Susan Filipe.

Several years ago, I was reading in my living room and saw a man stake a notice in Susan's front yard. I went over and grabbed it for her per her request and saw that it was a code enforcement notice.

At the time this occurred Susan's now ex-husband Clem was best friends with my husband. As such Clem was at my house nearly every day. I am in the mortgage business and am very familiar with how code enforcement actions go, and, how liens and fines can quickly accrue if they're not addressed. For that reason, I continually questioned Clem on the status of what was going on with the case. Over the course of at least a year I asked him for specifics on no less than a dozen occasions. Each and every time he told me the same thing and his answers made sense in that they were in logical order. For instance:

- I went to court for Susan because she could not get someone to cover her shift, all that has to be done is file a permit and produce a blue print for the garage header
- I've spoken to the GC and he's working on the blueprint
- I got the blueprints the other day and brought them to my friend at the permit office, she said everything looked good.
- I heard back from my friend at the permit office, blueprints are approved and the case is closed
- I took care of the permit and blueprints and county approved them so case was dropped, there are no liens and no files Susan will have to pay.

At the time this was going on I had not yet been given a reason to doubt anything Clem said. He was telling Susan the exact same things he was telling me so it all seemed to line up and make sense.

In November of 2017 Susan kicked Clem out of her house. Clem's erratic behavior caused her to feel she was in danger and he could not be trusted. The reasons he was kicked out made me personally suspicious of Clem so I searched the County Clerks website to see what I could find out about him to protect Susan. Other than an eviction notice from years back, there was nothing on record for Clem. But what I did find is the County lien against Susan's home.

Not only did he not go to court he also didn't do anything else he said he did. As such the County filed a lien and daily fees began accruing. I immediately notified Susan of this and she started making calls right away to try to figure out what needed to be done. Between getting the information she needed from the County, getting the blueprints, hiring someone to correct the problem it took her several months to finish what needed to be done. But she started working on it the moment she found out there was a problem.

Susan had no reason to doubt Clem at the time this originally occurred. And there was no way for her to know there really was a problem because all of the documents filed in the Clerk's office have another address on them. Had she received one piece of mail on this case at her home she would not be standing before you today, as there'd be no lien at all.

To make matters worse, in addition to not being sent important information on the case, somehow her address got changed with the County which caused her to lose her Homestead Exemption for several years. She wasn't aware of that either because again, someone changed her address without her knowledge or permission.

If there is anything the Court can do to assist Susan with this matter, she really could use a hand. Knowing Susan as I do, had she had one inkling of an idea there was an issue it never would have come to all this. Being lied to, not getting properly notified and losing homestead exemption are all unfortunate circumstances which were all completely out of her control.

Thank you in advance for your time and consideration,

A handwritten signature in cursive script that reads "Wendy Ruhlig".

Wendy Ruhlig

wendy@aloaninthesun.com

321.794.5626

2535 Palm Lake Drive

Merritt Island, FL 32952