



AGENDA REPORT
October 23, 2018

Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for New Owner, SL Assets LLC as Trustee for Trust #3647 (11CE-01131) (District 3)

SUBJECT:

Board Consideration, Re: Request for Reduction of Fine and Release of Code Enforcement Lien for New Owner, SL Assets LLC as Trustee for Trust #3647, 3647 Buddy Drive, Melbourne, FL 32904 (11CE-01131) (District 3)

FISCAL IMPACT:

FY18 Fiscal Impact - \$13,160 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 \$18,805 to \$5,645 and release the lien upon full payment for case 11CE-01131 at 3647 Buddy Drive, Melbourne, FL 32904.

SUMMARY EXPLANATION and BACKGROUND:

This matter came for public hearing before the Code Enforcement Special Magistrate on October 18, 2007 for repeat violations of County Code, Section 94-48, All owners and/or occupants of property zoned residential use shall maintain their property in a sanitary and litter-free condition and Section 114-28(b), Excessive accumulations of weeds and grass. More specifically, maintenance of property and overgrowth (note: scrivener's error regarding violation on Recommendation). After due notice to the Previous Owner, Kathleen L. McGreehan, 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 November 6, 2008, 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 \$50 per day from October 5, 2007. The property was maintained and overgrowth removed thereby correcting the violation as of December 8, 2008 (430 days). The fines accrued to \$18,805.

On February 15, 2018, the New Owner, SL Assets LLC, as Trustee for Trust #3647, by

John Pendl, Registered Agent, petitioned the Code Enforcement Special Magistrate for a reduction of the fine to \$1,000. The Special Magistrate recommends a reduction of the fine from \$18,805 to \$5,645, 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 \$2,692. The enforcement costs of \$808 were paid toward that amount bringing the remaining actual costs to \$1,884.

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

October 24, 2018

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item J.3., Request for Reduction of Fine and Release of Code Enforcement Lien for New Owner, SL Assets LLC as Trustee for Trust #3647 (11CE-01131)

The Board of County Commissioners, in regular session on October 23, 2018, tabled consideration of a request for reduction of fine and release of Code Enforcement Lien for SL Assets LLC as Trustee for Trust #3647, for property located at 3647 Buddy Drive, Melbourne, to the November 13, 2018, Board meeting.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

cc: Code Enforcement 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,

CASE NUMBER: **11CE-01131**(07-2730)

Property Address: 3647 BUDDY DR, MELBOURNE
District: 3

vs.

KATHLEEN L MC GREEHAN, Previous Owner,
SL Assets LLC as Trustee for Trust #3647, New Owner,
Respondent(s)

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

Upon petition of SL Assets LLC as Trustee for Trust #3647, New Owner, through John Pendl, the Code Enforcement Special Magistrate, on 2/15/2018, Respondent/New Owner having failed to appear, the Special Magistrate denied the request. Upon second petition of SL Assets LLC as Trustee for Trust #3647, New Owner, through John Pendl, the Code Enforcement Special Magistrate, on 3/15/2018, 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 SL Assets LLC as Trustee for Trust #3647, heard testimony from John Pendl 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 10/18/2007 after due notice to the Respondent, KATHLEEN L MC GREEHAN, 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 5819, Page 6268.

2. Said order found the Respondent in violation of REPEAT violations and ordered a fine of \$50.00 per day will be imposed beginning 10/5/2007. A re-inspection on 12/08/2008 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 the maximum 35% of \$18,805.00.

3. Accordingly, it was brought to the Code Enforcement Special Magistrate's attention on 11/6/2008 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, KATHLEEN L MC GREEHAN, and recorded in the official records of Brevard County, Book 5897 at Page1539.

4. Testimony and evidence was presented by John Pendl, 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) _____

II. FINDINGS

The Special Magistrate weighing the severity of the violations of **Permits required for roof, windows, doors, front room and fence.**

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

III. RECOMMENDATION

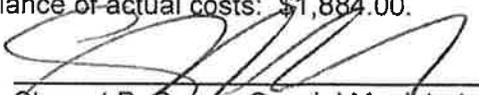
1. Based upon the foregoing factors, the request is DENIED.

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 \$18,805.00 to the reduced sum of \$ 5645, **contingent upon:**

- 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: \$2,692.00. Enforcement costs in the amount of \$808.00 have been paid. Balance of actual costs: \$1,884.00.

Dated March 15, 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
SL Assets LLC as Trustee for Trust #3647, 1751-Croton Road, Melbourne FL 32935

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

**CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA**

Special Magistrate Hearing: Thursday, 2/15/18 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: 1/24/2018 for 2/15/18 hearing OR 2/16/18 for 3/15/18 hearing

07-2730

Case No. 11CE-01131 (Previously recorded as ~~07-30889~~)
Property Address: 3647 BUDDY DR, MELBOURNE District: 3
Previous Owner: KATHLEEN L MC GREEHAN
New Owner's Name: SL Assets LLC as Trustee for Trust #3647, by John Pendl, Reg. Agent

**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: SL Assets LLC as Trustee for Trust #3647, New Owner
Property Owner's Mailing Address: 1751 Croton Road Melbourne FL 32935

Phone Number where you can be reached during the day: (321)802-0334, ext 1; flpropertyinvestments@gmail.com

STATUS OF PROPERTY AS OF INSPECTION MADE BY Nancy Sharp ON 12/8/2008
VIOLATION of: REPEAT violation of Sections 94-48 and 114-28(b) Brevard County Code, Residential Maintenance and Overgrowth
Violation heard on 10/18/2007; fine ordered to accrue at \$50.00 per day from 10/5/2007 until compliance date of 12/8/2008; the fine accrued to the maximum 35% of \$18,805.00 (430 days in violation); Fine imposed as lien by Special Magistrate on 11/7/2008.
Enforcement costs in the amount of \$350.00 were paid on 11/1/2017.

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.

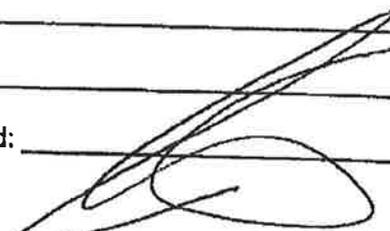
JOHN PENDL, REGISTERED AGENT

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

I was not the property owner at the time of the violations. Property was closed with a title company, but the liens were not discovered because they were in the previous owners name not the owner I purchased the property from. The lot is only assessed at \$9000.00 so title insurance was not required. All violations were corrected prior to my purchase.

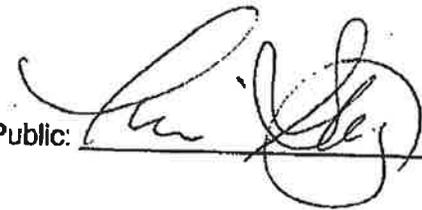
Date: 1/23/18

Signed: 

STATE OF FLORIDA)
COUNTY OF BREVARD)

PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, JOHN PENDL, 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: 1/23/18

Notary Public: 



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: _____

- 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 No
- 2) The amount of time to correct
a) 1-60 days
b) 61-120 days
c) Over 120 days
already corrected.
- 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) _____

.....
Original Fine \$18,805.00

Recommend Reduction to \$ 1,000.00
(Must Enter an Amount)

Worksheet for Assessment of Actual Costs for Case 11CE-01131 (REPEAT AND RECURRING) Amended

Inspector	Sharp		Previous Inspector	Sharp				
Wages S&B Hourly	\$27.00		Wages S&B	\$27.00				
Per Minute	\$0.45		Per Min	\$0.45				
Officer Costs:								Sub Total
# Field Inspections	2 x		\$27.00	Hourly	Total	\$54.00		\$54.00
Previous Inspection	4 x		\$27.00	Hourly	Total	\$108.00		\$108.00
Vehicle Mileage								per mile
# Field Inspections	2 x2: Rdtrip		4 x miles	16	64	0.54		\$34.56
Previous Inspection	4 x2: Rdtrip		8 x miles	16	128	0.54		\$69.12
Adminstrative Costs:								
		Minutes						
# Computer Entries	25	10	250		\$0.45			\$112.50
# Telephone calls	16	5	80		\$0.45			\$36.00
# Research	11	15	165		\$0.45			\$74.25
# Hearings/Prehearings	3	120	360		\$0.45			\$162.00
								\$384.75
								\$384.75
Previous Administrative Costs:								
		Minutes						
# Computer Entries	9	10	90		\$0.45			\$40.50
# Telephone calls	2	5	10		\$0.00			\$0.00
# Research	5	15	75		\$0.00			\$0.00
# Hearings/Prehearings	3	120	360		\$0.00			\$0.00
								\$40.50
								\$40.50
Extra Investigative Insp:								
S&B Hr/Mn		Minutes						
								\$0.00
								\$0.00
Recording Fees								
1 Page	\$10.00 x 3							\$30.00
2 Pages	\$18.50 x 3							\$55.50
3 Pages	\$27.00							
4 Pages	\$35.50							\$35.50
Hearings (public, extension, reduction, imposition)	6 x		\$200.00				Legal Fees	\$1,200.00
Hearing Prep Office-number of hearings	8 x		\$85.00					\$680.00
Subtotal Actual Costs for case								\$2,692
Enforcement Costs Assessed and Paid - \$350 or \$550 (\$350 + \$458)								\$808
Balance due of Actual Costs - DEFICIT								\$1,884