

MINUTES
Code Enforcement Special Magistrate
City of Lake Alfred
City Hall
February 16, 2023
3:00 p.m.

Special Magistrate Mawhinney called to order the Code Enforcement Special Magistrate meeting at 3:04 p.m., explained the general procedures, and conducted the swearing-in ceremony. Audience members and city staff in attendance took the oath. He shared that all materials in the agenda packet are a part of the record and said all city administrative costs are payable within thirty (30) days. There was no interpreter needed.

Staff in attendance: City Attorney Seth Claytor, Community Development Director Ameer Bailey, Code Enforcement Officer Carl Watson, and City Clerk Linda Bourgeois.

Special Magistrate Mawhinney approved January 19, 2023, Special Magistrate Code Enforcement meeting minutes. Case number four was removed, and then later moved to the end of the agenda.

Consent Agenda

SUPPLEMENTAL ORDER IMPOSING FINE

1. Case # 2021-00012 – New Owner
Cerberus Investments LLC
380 W. Davis Ave.
Parcel # 26-28-05-524000-000910

The respondent John Rivera was in attendance.

Code Enforcement Officer Watson presented the case.

John Rivera said he bought this property through a property deed auction in November. He purchased the property sight unseen and said he should have performed his due diligence. He was not aware of the violations. He said he had been working with the code enforcement officer to get the property into compliance.

A brief discussion ensued about the tax deed sale and the surplus allocated to the City, and the being able to apply for a reduction hearing.

Special Magistrate: Found the property in compliance. Approved the supplemental order imposing fines for \$10,900 and assessed the city's administrative costs of \$48.95 payable within thirty (30) days.

ORDER IMPOSING FINE

2. Case # 2022-00055
Pinnacle Investments & Development Inc.
940 S. Lake Shore Way
Parcel # 26-28-05-525000-003021

The respondent Paul Campbell was in attendance.

Code Enforcement Officer Watson presented the case.

Mr. Campbell said this was from one complaint regarding the four units installed without a permit. He said he called about 60 contractors and no one wanted to do the work because it was an after-the-fact permit. He found a Christian man willing to perform the work and there was an issue with the permit. He asked for the city to allow him to get the permit for the installation approved and then he can get the rack done.

The information presented was that there were no violations added to the case, in order for the permit to be issued the rack needed to be stable, the rack was a part of the issue due to it being sunken into the roof, and the Building Officials denial letter was read into the record.

It was acknowledged by Mr. Campbell that the cost of the units and installation costs that were submitted on the permit was in error and he said he would get it corrected.

Building Inspector Otte said the respondent was given thirty days to get the permit in November and the City had not received the permit application until January 31, 2023.

Community Development Director Bailey said the Building's Official letter went out to the permit applicant.

City Attorney Claytor said any questions regarding the permit application should be directed to the Building Official to determine what needs to be done.

Building Inspector Otte said the letter indicated that they should pull a permit for the rack as well.

Special Magistrate: Found the violations continue to exist. Approved the fines for \$4,500 and assessed the city's administrative costs of \$56.90 payable within thirty (30) days.

FINE REDUCTION REQUEST

3. Case # 2021-00027
Lim La Properties
725 S Lake Shore Way
Parcel # 26-27-32-501000-007050

The respondent Christy Barnes, Managing Member, was in attendance.

Code Enforcement Officer Watson presented the case. The staff recommendation was for a 50% fine reduction (\$18,600) plus the total administrative costs of \$42.98.

Christy Barnes said they had hired an attorney to resolve the issues and ended up taking the matter into their own hands due to the tenants not responding to their requests. She said she met with the city officials regarding the fence permit however it needed additional amendments such as the fence height. She continued and said they made all efforts to get the property into compliance and to date, still had not heard back from the Dollar General tenants.

Special Magistrate: Case No. 2021-00027 for Lim La Properties, found the property in compliance. He reduced the daily fine to \$1,000 and assessed the City's total administrative costs

of \$42.98 for a total of \$1,042.98. The costs are payable within thirty (30) days, or the fine reduction will be voided.

5. Case # 2022-00004
Estate of Alva Mae Crudup
540 E. Tangerine Ave.
Parcel # 26-27-28-493500-008150

The respondent Anthony Williams, Alva Mae's grandson was in attendance.

Code Enforcement Officer Watson presented the case. The staff recommendation was for a 50% fine reduction (\$5,675) plus the total administrative costs of \$196.80.

Mr. Williams said he worked hard to get the property into compliance. He is on social security and requested a break in the fines. The information presented was that he was working on the property by himself and they were not his violations. He is currently maintaining the property.

Special Magistrate: Case No. 2022-00004 for the Estate of Alva Mae Crudup, found the property in compliance. He reduced the daily fine to \$250.00 and assessed the City's total administrative costs of \$196.80 for a total of \$446.80. The costs are payable within thirty (30) days, or the fine reduction will be voided.

ORDER FINDING VIOLATION REPEAT CASE

6. Case # 2023-00001-R
Lake Alfred MHP LLC
670 E. Lake Alfred
Parcel # 26-27-33-000000-033040

The respondents from Lake Alfred MHP, LLC were in attendance. They did not provide any testimony.

Code Enforcement Officer Watson presented the case.

City Codes Cited:

- Section 32-1. (a) - Nuisance declared - Lake Alfred Code of Ordinances
- Section 302.1 -Sanitation and storage of materials - Lake Alfred Minimum Property Maintenance Code
- Section 723.022 - Mobile home park owner's general obligations, FI State Statue

City Attorney Claytor said since the property owner has not changed, any case that is brought back to the Magistrate for the violations of the same section would be a repeat case.

Code Enforcement Officer Watson said they are new owners.

Community Development Director Bailey said once the new owners came in, we began discussions with them on certain items that immediately reappeared and needed to be addressed. This property continues to be a nuisance and we constantly get complaints regarding this property.

City Attorney Claytor read the definition of a repeat violation according to the Florida Statutes into the record. He spoke about the settlement agreement with the previous owners and said the City would need to determine if the violations would be considered a repeat case. In this instance, the property owners would have purchased with notice of the recorded document.

Code Enforcement Officer Watson continued his presentation by showing several photos of lots with code violations.

Special Magistrate Mawhinney said on a repeat violation case we have a new owner. As he understands the code a new owner can't be held accountable for past violations by the previous owner.

City Attorney Claytor said this is an issue which should be resolved before the case(s) move forward. He said the cases may need to be continued or brought back.

Special Magistrate Mawhinney said he was having difficulty treating it as a repeat offense and realized it was an issue addressed with the previous owner unless the agreement stated otherwise.

City Attorney Claytor said the City would like to continue it indefinitely.

A brief discussion ensued regarding the agreement with the previous owners and it was determined that the city did not have a copy of the agreement on file.

Special Magistrate: On Case # 2023-00001-R, continued indefinitely until re-noticed by the city.

The **Special Magistrate** called for a recess at 4:03 PM and reconvened the hearing at 4:11 PM.

7. Case # 2023-00004 - R
Lake Alfred MHP LLC
670 E. Lake Alfred
Parcel # 26-27-33-000000-033040

City Codes Cited:

- Section 32-1. (a) - Nuisance declared - Lake Alfred Code of Ordinances
- Section 102.8 - Requirements not covered by code - Lake Alfred Minimum Property Maintenance Code
- Section 302.2 - Grading and drainage - Lake Alfred Minimum Property Maintenance Code
- Section 302.7 - Accessory Structures - Lake Alfred Minimum Property Maintenance Code
- Section 723.022 - Mobile home park owner's general obligations, FI State Statue

Special Magistrate: On Case # 2023-00004-R, continued indefinitely until re-noticed by the city.

4. Case # 2021-00043
Event Place at Lake Alfred LLC
6441 Hwy. 17-92

Parcel # 26-27-27-490100-000507

City Attorney Claytor as related to Case #2021-00043, the Event Place at Lake Alfred, LLC which is the owner of the property, the City did not receive a waiver of the notice of hearing or the notice provisions as set forth in Chapter 162 and it is his advice to the magistrate that this case not be presented nor have any evidence or facts related presented today until the correct parties have been properly notified of the hearing(s). Otherwise, the magistrate is without jurisdiction over the parties.

Usha Jain was in attendance.

Special Magistrate Mawhinney asked about her relation to the property and she replied they gave the notice to me and we tried to fix the problem. She continued and said the city gave notices to us so we thought we would fix it so they wouldn't have to go through all the trouble with the new owner. Now the city says they made a mistake and wants to punish her and also sign a waiver.

City Attorney Claytor said this was going to get construed in a way that is legally insufficient. He said he had informed the individual that is before the magistrate that said parties do not have the authority of the property owner to represent and/or bind the property owner(s).

City Attorney further recommended that the magistrate not take any further testimony related to this case as the City and magistrate are without jurisdiction.

There was no notice of hearing sent out for this hearing pursuant to Chapter 162, Section 162.12 and we have to provide a notice of hearing, and no notice of hearing has been sent out therefore there has been no due process as related to today's proceeding. If the individuals here today have no interest in the LLC, which is the owner of the property, they are without the authority or ability to waive those notice provisions. There is no due process related to this case and we should not proceed.

Usha Jain replied and said the city did not have an issue with due process on March 17th when they gave the notice and now, they have found their mistake they don't want to hear the hearing. She said she prepared everything and they did not have a problem with the due process until yesterday when they found their mistake. She came from Orlando to get everything done. She said this was from the very beginning and there should not be any fine.

City Attorney Claytor said without the authority of the property owner he would request that all testimony that is being provided be stricken.

Usha Jain said they are frustrated because we did our best in good faith so they wouldn't have to go to the new owners. They never gave the notice to the new owner; they made a mistake so there shouldn't be a fine anyway. If the city makes a mistake, we should not be punished for that. She said she and her husband had Covid and he had pneumonia and she asked for an extension. She asked to submit paperwork to the Special Magistrate.

City Attorney Claytor said they are without authority.

Special Magistrate Mawhinney did not accept the documents. He said on March 17, 2022, the initial order was issued finding a violation existed and it gave thirty days for compliance to the Event Place of Lake Alfre, LLC. which is the present owner.

Community Development Director Bailey said they had requested the reduction last year after the property came into compliance, however, we scheduled them several times and were waiting for them to tell us a date to come back. We didn't get the notice that they could attend this hearing until after the city had already put out all of the notices for this hearing which is why we didn't give them notice. She shared we didn't get the waiver either. That was what happened in today's hearing.

Usha Jain said all of the notices were not given to the right party and the right address is different from the beginning. She shared information regarding email exchanges, photos submitted, and that the city had never looked at SunBiz.

City Attorney Claytor objected to all testimony today and restated that the City and magistrate are without jurisdiction over the proper parties and should not enter an order related to this case.

Special Magistrate Mawhinney asked when the new owners took over and it was shared the partnership had changed in 2021. It was determined that the new owners were not cited. He said the timeframe for appeal on any of those orders has passed and if you want to take it up elsewhere you can do that. He is not going to revisit the case. He asked if the Event Place at Lake Alfred, LLC. submit the application for a reduction.

Usha Jain replied, no.

Special Magistrate Mawhinney said he would not hear the case today. If the new owner wants to make a reduction request, he will hear the case.

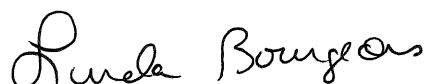
Usha Jain spoke about filing a reconsideration motion when she found out about the orders.

Special Magistrate: on Case # 2021-00043, he dismissed the case because the owner did not submit the application. The proper party was not noticed or present.

The next hearing date is scheduled for March 23, 2023, at 3:00 PM.

The Code Enforcement Special Magistrate meeting was adjourned at 4:24 PM.

Respectfully Submitted,



Linda Bourgeois, BAS, MMC, ADAC
City Clerk