

**Code Enforcement Hearing
Minutes
October 07, 2020**

Present: D. John Morgeson Jr., Special Magistrate
Debra S. Babb-Nutcher, City Attorney
Officer Carrie Long
Melani Beringer, Interim City Clerk

1. Call to Order/Rules of Procedure

Special Magistrate D. John Morgeson Jr. called the Code Enforcement Hearing to order at 2:05 p.m. He stated that formal rules of evidence do not apply and fundamental fairness will be afforded to all. After hearing all of the relevant evidence a verbal order will be issued which will be reduced to writing and mailed to all participants. The order of the presentation will begin with the City presenting their evidence of the alleged violation(s) and then the Respondent shall present his/her case. All witnesses offering testimony or presenting evidence will be required to swear or affirm that the testimony they provide is the truth.

2. Administration of Oath to Defendants/Witnesses

Special Magistrate Morgeson instructed the audience members who wished to testify, to stand and be sworn in by the Clerk. The Clerk administered the oath.

3. Additions, Deletions, Modifications

4. Cases

- A. Case # 10-18-8291
Authorization to Abate
Owner Information: Tiger OC LLC
Loc. Address: 2590 S Volusia Avenue
RE: Authorization for city to abate

Deborah Babb-Nutcher, City Attorney, came forward to state that this motion came forward to the City's Code office, she noted that this property is a repeat offender. It was first presented before the Magistrate on October 18, 2018. She provided a history of the property and noted that a lien foreclosure was approved in February, 2020.

Ms. Babb-Nutcher stated that a lien foreclosure was approved by the Magistrate in June 3, 2020. She stated that the violations are still in existence and the property is still in non-compliance as of this date. She stated that the City has received numerous complaints regarding the condition of the property.

Recommendation: Staff recommends that the Magistrate enter the written request into the form of an order that requests the City Manager update the violations of Section 9-8 and 9-17B of the City

Code on the subject property. The City Manager will comply with all notice requirements. Notices were sent to the property owner with no response.

A discussion between Ms. Babb-Nutcher and the Magistrate ensued that pertained to proper notification to the respondent.

The Magistrate closed the public hearing. Mr. Morgeson ordered that this item be continued to ensure proper notification was delivered to the respondent.

B. Case # 04-19-08529
Lien Reduction Request
Owner Information: Environmental Holdings Florida LLC
Loc. Address: 0 N Volusia Avenue (8011-08-13-0082)
RE: Lien Reduction Request

Code Enforcement Officer Long presented her case: Ms. Long stated that the original violation was City Code (9-8) tall grass and weeds over 12 inches. She stated that this case was brought before the Magistrate on November 06, 2019 to request a lien. Ms. Long stated such lien has been recorded. She stated that the property owner is requesting a lien reduction. She stated that the property was brought into compliance on November 19, 2019, 12 days after the lien was granted. She stated that the total recorded lien amount to date is \$22,250.00 with attorney hard cost of \$550.00, a quiet title action \$4,201.75, and estimated city hard cost for inspections in the amount of \$1,000.00.

Recommendation: Staff recommends that the Magistrate grant a lien reduction and lower the amount to \$5,751.75 to be paid to the City within 30 days.

Ms. Babb-Nutcher came forward and provided an explanation of the accrued attorney's fees. She stated that this property was purchased by Environmental Holdings at a tax deed sale. She stated that tax deed sales do not wipe out municipal liens however, when the property was purchased Environmental Holdings pursued title action to have the City's code liens removed. Ms. Knutcher stated that fees were accrued to defend the City's liens on the property successfully.

Ms. Babb-Nutcher stated that shortly after the City wanted to foreclose on the lien due to failure to pay and request title work, the Respondent took action to bring the property into compliance and a lien reduction was requested shortly after.

Ms. Babb-Nutcher and Mr. Morgeson discussed the City Codes pertaining to lien reductions. Ms. Knutcher stated that the liens reductions the Respondents are requesting are the same liens that were unsuccessfully requested in the quiet title action.

Ms. Babb-Nutcher requested that the Magistrate consider the City's out of pocket costs that were directly related to this lien and this applicant.

Mr. Morgeson stated that he is considering the administrative out of pocket costs relating to the Code. He stated that he was not sure that the City incurred a foreclosure related expense.

Ms. Babb-Nutcher stated that at the prior hearing Mr. Morgeson did consider that lien reduction. She stated that Mr. Morgeson had already authorized foreclosure and ordered the title work that is when the Respondent sought a lien reduction.

Mr. Morgeson reviewed the itemization of fines. He stated that effectively the City is looking for \$1,000.00 in accumulated fines plus the hard fees and costs as well.

Jon Franz, 514 N. Franklin St. Ste. No. 106, Tampa, Manager of Environmental Holdings, came forward to state that the quiet title action the Code Enforcement is seeking has nothing to do with the current Code Enforcement Hearing. He stated that the quiet title was a blanket lien that the City placed on Tarpon IV across all of their properties. Mr. Franz provided an explanation regarding why the grass was not maintained. He stated that in the prior case he did not receive proper notification. He stated he did not receive his due process in 2019. He stated that the only notification received was after the lien was recorded. He requested that if the lien is imposed he is requesting to see the signature noting that notice was received.

Mr. Morgeson stated that his records reflect that Mr. Franz was properly noticed at every stage of this case under chapter 162.

Mr. Franz stated that he does not believe he was notified at the proper address.

Mr. Morgeson stated that at this stage of the proceedings Mr. Franz is here to request a reduction to the accrued lien. A lien has already been established.

Mr. Franz requested that the lien be reduced to \$100.00. He stated that the property is continuing to be maintained. He reiterated that he was not properly notified until the lien was recorded.

The Magistrate closed the public hearing. Mr. Morgeson ordered a denial to the lien reduction proposed by the Respondent and that the lien amount be reduced to the recommended sum of \$5,751.75.

Mr. Franz stated that the \$5,751.75 is related to a different case. He stated that the recommended lien reduction amount should be \$550.00 for the quiet title action.

Mr. Morgeson explained the fine assessed amount to the respondent. He ordered that based on the testimony and evidence in this case the administrative fine be reduced to the recommended sum of \$5,751.75 and the lien be released if paid within 30 days of the written date of this order otherwise reverts to the original amount. Mr. Morgeson stated that the Respondent has every right to contest this order anyway they wish.

Adjournment

There being no further cases to discuss, the hearing was adjourned at 2:29 p.m.