

**CITY OF FRUITLAND PARK
CODE ENFORCEMENT-SPECIAL MAGISTRATE
HEARING MINUTES**

January 7, 2021

City Hall Commission Chambers
506 W. Berckman Street
Fruitland Park, FL 34731
9:00 A.M.

PRESENT: Mr. Ashley Hunt, Attorney-at-law, Special Magistrate; Mses. Anita Geraci-Carver, City Attorney; Lori Davis, Code Enforcement Officer; Tracy Kelley, Community Development Director; Mr. Raymond Everts; Mr. Robert Moore and Ms. Cathy Lamb.

1. CALL TO ORDER

The meeting was called to order at 9:00 a.m.

2. APPROVAL OF MINUTES

Special Magistrate Hunt approved the December 3, 2020 minutes as submitted.

3. ADMINISTRATION OF OATH TO DEFENDANTS/WITNESSES

Special Magistrate Hunt administration the oath to those present who intended to testify at this morning's hearing.

4. ATTORNEY PRESENTATIONS -HEARINGS

**a) HEARING – NOTICE OF VIOLATION
CE2019-0132**

Property Address: 700 Phoenix Avenue, Fruitland Park, FL 34731

Property Owner: Cynthia L. Schadle, Estate

Violation: City Code, International Property Maintenance Code,

Sec. 308.1 - Accumulation of Rubbish and Garbage

Sec. 301.3 – Vacant Structures and Land.

Sec. 108.1.3 – Structure Unfit for human occupancy.

Grace Period for compliance expired: January 24, 2020

Ms. Davis reported that the case was initially brought before her June 2019. The property owner, Ms. Cynthia L. Schadle, was served with a courtesy notice for accumulation of junk in the exterior rear yard of the property. Pictures of the accumulation of junk were presented by CE. Over the course of several months, CE made contact with the property owner several times in attempt to work with Ms. Schadle to address and eliminate the violation. As of January 10, 2020, however, the property had not been brought into compliance and the accumulation of junk had grown. Also, by this time, the property owner had passed away. Squatters/trespassers broke in the house and brought more items to the property.

A subsequent notice of violation was served due to the accumulation of more junk, improper property maintenance and a violation of vacant structure and land. The property was left unsecured and non-maintained. Additionally, the property was unfit for human occupancy due to overgrowth of vegetation.

Complaints were reported to the city as a result of the condition of the property and rats coming into the home. The property was served and Ms. Davis was in touch with a family relative that she hoped would help with the

issue. The relative however, was unable to do so due to their own health issues. Additional pictures were presented by Ms. Davis.

The city felt it was their obligation to abate the issue due to the overgrowth, junk, numerous calls to the city, rat infestation and homeless people coming in and out of the property. Ms. Davis stated that she followed rules and regulations provided through the international property maintenance code under the duties and powers of the code official. Notice was served regarding the violations and the property was condemned. The property was subsequently abated by the city by clearing out the junk and boarding up the windows and doors to prevent break-ins and further damage. Ms. Davis provided more photos and the process the city took to clean up the property to keep the neighborhood safe. All mailings were sent and postings were placed throughout the city as required by the state. Due to the abated work, \$1,400.40 was incurred by the city along with a second cost in the amount of \$59.16 for mailings and the officer's time for providing the case information.

Special Magistrate Hunt inquired whether there was an estate opened or whether it was the intent of the family to open one as a result of the property owner's death. Ms. Davis reported that as of approximately one month ago, her contact with the sister revealed that the sister was financially unable to go before probate court. Sister further reported that she was the only relative. Ms. Davis sent certified letter to known family member (sister) to help keep the family abreast of the status of the property. To date, no family member has stepped forward to assist with the issue/solution.

Special Magistrate Hunt asked if there was anyone in the audience that wished to speak applicable to the property and no one presented. Magistrate addressed Ms. Davis regarding what the city was seeking from an enforcement standpoint. Ms. Davis stated that the city was seeking to file a lien for incurred costs. The city will continue to maintain the property with mowing/maintaining the yard.

Special Magistrate Hunt stated that a lien for the judgement amount for current incurred costs (\$59.16 plus \$1,400.40, with the option to come back to the court for future expenses incurred by the city), would be granted. Ms. Davis requested that the order include the violation and the Magistrate concurred.

b) HEARING – NOTICE OF VIOLATION

CE2020-0064

Property Address: 105 W. Berckman Street, Fruitland Park, FL 34731

Property Owner: Raymond and Rhonda Everts

Violation: City Code, Chapter 97: Property Maintenance

Sec. 97.04 – Accumulation of Junk.

City Code, Land Development Regulations

Sec. 156.010 – Accessory uses and Structures.

International Property Maintenance Code

Sec. 302.7 – Accessory Structures.

Florida Building Code,

Sec. 105.01 – Permits Required

Grace Period for compliance expired: July 30, 2020

Ms. Davis reported that the property was brought to her attention and a courtesy notice was served June 24, 2020. At that time Ms. Davis requested property owner, Mr. Raymond Everts, to clear the accumulation of junk in the yard, to include broken/portable tent structures.

Ms. Davis also addressed the cleanup of overgrown vegetation on the property which was included and dated June 24, 2020. As of July 16, 2020, the property was still in violation for accumulation of junk, the accessory use of structure (to include tent structures), violation of property maintenance code and the excessive or unintended growth of vegetation. Additionally, buildings/structures were placed on the property whereby permits were not issued by the city. Pictures were presented of the property violations.

Numerous complaints from neighbors and other constituents were received by the city.

Special Magistrate Hunt invited parties to speak and property owner Mr. Everts gave a general overview of the property and his employment status. Special Magistrate Hunt informed Mr. Everts that the city has regulations that he needed to comply with and asked whether he had received the notices. He further stated that there are provisions in the city code that require that he hold his property to certain standards.

Mr. Everts stated that his son came to help him clean up the property and to replace boards in a fence. He did not present new pictures to reflect the cleanup and stated that the rear yard was not visible because of an erected privacy fence.

Neighbor Cathy Lamb spoke on Mr. Everts behalf regarding her history with them (he and his wife) as neighbors. She elaborated that the health status of Mr. Everts and especially Mrs. Everts caused concern. Ms. Lamb stated that she spoke with Mr. Everts on several occasion about various items she felt needed to be removed from his property and Mr. Everts had indeed taken the time to remove some of those items.

Ms. Lamb expressed that she has witnessed him trying to maintain the property. She states that she spoke with him about getting help from local churches and/or community kids to help maintain the property. However, Mr. Everts wants to do the work himself. She specifically spoke with him about removing a gazebo structure in his yard and he is willing to take it down.

Mr. Everts expressed that he was being harassed by the city. Special Magistrate Hunt explained to that Ms. Davis is a code enforcement officer and can investigate and take pictures of public health or safety hazard issues.

Ms. Davis clarified that Mr. Everts had posted “no trespassing” signs on the property and that pictures were taken from the roadway/ right of way. She was able to use a feature on the camera to expand the view without going onto the property.

Special Magistrate Hunt found that Mr. Everts was in violation of several sections of code. He stressed that the property owner should cooperatively work with the city in getting the issues resolved. Special Magistrate Hunt explained that if the issues are not addressed, a fine will accrue on the property and a lien could potentially result.

Special Magistrate Hunt cited Sec 156.010 for tents, canopies and frames used as accessory structures are not allowed and must be removed. The permanent structures placed on the property by the previous owner will not be requested to be removed. Mr. Everts must work with Ms. Davis to get the property back into compliance. The excessive or unintended overgrowth of vegetation and undergrowth must also be cleaned up.

Ms. Davis requested that we give Mr. Everts time to coordinate with local churches and community organizations to assist with tree/bush trimming. He must also ascertain a more permanent “permitted” solution to the makeshift patchwork fencing on the eastern most side of the property. Additionally, the property owner would need to address maintenance of visible buildings and the clearance of junk and inoperable vehicles.

Special Magistrate Hunt will give Mr. Everts time to clean up the property before the April 1, 2021 return hearing. If the issues are not addressed by then, fines will be assessed. The assessment rate will be approximately \$50 per day.

c) HEARING – NOTICE OF VIOLATION
CE2020-0014 – Repeat Violation
Property Address: 412 Sunny Court, Fruitland Park, FL 34731
Property Owner: Robert T. Moore
Violation: City Code, Chapter 97: Property Maintenance
Sec. 97.04 – Accumulation of Junk
Grace Period for compliance expired: February 21, 2020

Ms. Davis stated that the case was previously heard on December 14, 2017 and an order of enforcement was given for property cleanup. As a result of the hearing, Love week helped the property owner cleanup and come back into compliance with the city.

Mr. Moore has since come into violation again for the same issue, accumulation of junk. Ms. Davis presented pictures of the violation, although a small amount of cleanup has since been done.

Mr. Moore stated that he went up north and removed a lot of property from his mom’s house which was being condemned. He brought the items back and placed the items on his property. He currently has received help for a large cleanup of the hoarding issue.

Special Magistrate Hunt found that the property was in violation. Mr. Moore was granted 60 days to clean up the property and will report for a return hearing date of April 1, 2021. If cleanup is not done, he will be assessed \$50 per day until the violation is remedied.

5. REQUEST FOR HEARINGS

**a) AFFIDAVIT OF NON-COMPLIANCE
CE2018-0043**

**Property Address: 19 Grizzard Street, Fruitland Park, FL 34731
Property Owner: Joseph Casteel, Jr.**

Special Magistrate Hunt set a hearing date on Thursday of the following month (no actual date was specified).

**b) AFFIDAVIT OF NON-COMPLIANCE
CE2019-0062**

**Property Address: 32 Grizzard Street, Fruitland Park, FL 34731
Property Owner: Tommy C. Smiley, Estate & Charlotte Bryant, Estate**

Special Magistrate Hunt set a hearing date on Thursday of the following month (no actual date was specified).

6. OLD BUSINESS – NONE

7. NEW BUSINESS - NONE

8. PUBLIC COMMENTS

2013-023, members of the public shall be given a reasonable opportunity to be heard on propositions before the Code Enforcement-Special Magistrate. Accordingly, comments Note: Pursuant to F.S. 286.0114 and the City of Fruitland Park's Public Participation Policy adopted by Resolution, questions, and concerns regarding items listed on this agenda shall be received at the time the Code Enforcement-Special Magistrate addresses such items during this meeting. Pursuant to Resolution 2013-023, public comments are limited to three minutes.

9. OTHER BUSINESS

10. ADJOURNMENT

Any person requiring a special accommodation at this meeting because of disability or physical impairment should contact the City Clerk's Office at City Hall (352) 360-6727 at least forty-eight (48) hours prior to the meeting. (§286.26 F.S.)

If a person decides to appeal any decision made by the City of Fruitland Park Code Enforcement-Special Magistrate with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings and ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The city does not provide verbatim records. (§286.0105, F.S.)

Pursuant to FSS 162.11, all Code Enforcement-Special Magistrate cases that are appealed are appealed to Circuit Court. The appeals must be filed no later than 30 days from the date of the execution or signing date of the written Order that is to be appealed. Any Order issued by the City of Fruitland Park's Code Enforcement-Special Magistrate may be appealed, including the original order, any subsequent orders, an extension order, or a reduction order.

PLEASE TURN OFF ELECTRONIC DEVICES OR PLACE IN VIBRATE MODE.