



**CODE ENFORCEMENT HEARING
MINUTES**

**Friday April 20, 2022
TOWN HALL**

The meeting was called to order at 3:31 pm by Special Magistrate for the Town of Astatula, Grant Watson. Also present was John Calhoun, Code Enforcement Officer for the Town and Graham Wells, Town Clerk. Mr. Watson outlined that the Town would bring its case forward and the respondent would have the opportunity to provide any evidence that would help to make a decision in their case.

MINUTES

Approval of Minutes from the October 19, 2020 Code Enforcement Hearing
Approval of Minutes from the January 7, 2022 Code Enforcement Hearing

Magistrate Watson reviewed and approved both sets of minutes.

OLD BUSINESS

Case Number Assigned: CE20-09-003 13009 Florida Avenue, Astatula, FL 34705

Code Enforcement Officer Calhoun stated that he wished to postpone this case due to an incorrect notice being sent to the owner.

NEW BUSINESS

Officer Calhoun and all those respondents that planned to speak were then sworn in by the Special Magistrate and asked Mr. Calhoun to bring the first case.

Case Number: CE21-12-001 25434 County Road 561, Astatula, FL 34705

Type of Violation: Ord 2012M – Sec 23-4 -Accumulation of junk.

Type of Complaint: Unkept property and possibly someone living in the backyard.

The owner of record was not present. A representative of the owner, Attorney Stephanie Modica, was present. Also present was Kathy Dunham who filed the complaint and lives next door.

The Code Enforcement Officers log for this case is as follows:

12-06-21: Complaint letter received

12-11-21: Inspection of property was conducted and there was debris all over the backyard and debris and what appeared to be unregistered trailer on the front left side of the residence, in the front yard. I hand delivered the notice to the tenant, Tanya. Digital pictures were taken. I also reached out to the owner's husband, James Elmore, via the telephone and made him aware of the violation and notice. A certified letter was prepared, and the notice was posted in the bulletin board in town hall.

12-30-21: At approximately 1759 hours I returned a call to Mr. James Elmore (the owner of record's husband). Mr. Elmore stated that he was working with on getting the tenants to clean up the property, but because of family illness, was not able to go over to the property. He asked for a few more days. I explained to Mr. Elmore that I could not give any extensions based on the last case for the property, that this was the same violation. In that case I gave the owner and tenants ample time to come into compliance. The tenants promised that the issue would never happen again. I explained to Mr. Elmore that the tenants had to the 31st to be in compliance.

1-22-22: At approximately 1632 hours I re-inspected the property and found junk still on in the yard. There were two inoperable riding lawn mowers and a pile of debris in the backyard. Digital pictures were taken.

3-24-22: A Notice of Hearing was prepared and sent to the owner of record via certified mail, return receipt requested., notifying the owner of the hearing set for April 20th, 2022 at 3:30 Pm. I also sent a copy via regular first-class mail. The notice was also placed in the town hall bulletin board. I copy was also hand delivered at the property and an affidavit of delivery was completed.

4-20-22: A re inspection was done at approximately 1441 hours and it appeared that the violation had been cured.

The magistrate asked to see any pictures that were taken by Officer Calhoun who gave details of the complaint and what had happened since the complaint was made. He said that although the violation had been cured, he wanted it noted that this should it happen again it would be regarded as a re-offender case.

Attorney Stephanie Modica spoke on behalf of the owner of the respondent whose intention was to sell the property once the tenants have been evicted. A seven-day notice had been sent to the tenants. She stated that the situation would not be an issue going forward and that she did not want the violation to transfer with the sale of the property.

Kathy Dunham spoke of the rat infestation damage that she had at her property because of the junk in the yard.

The Magistrate found that the property was in violation, that notices were properly given by the code enforcement officer and that it was not cured prior to the notice deadline of December 31, 2021. He added that the owner had made efforts to cure the violations on the property and that based on the testimony given, the property is no longer in violation of the cited section. As a result, there would be no further action taken at this time.

Case Number CE22-03-001 13009 Florida Ave, Astatula, FL 34705

Type of Complaint: Fence installed without a permit.

Type of Violation: Chapter VII - Sec 7.9.7 - Fence Requirements

The Code Enforcement Officers log for this case is as follows:

1-13-22: While working a separate complaint on the property (See case #CE20-09-003) I discovered that a makeshift fence was being installed on the property. I checked with the town hall staff and confirmed that no fence permit had been pulled. I spoke with Mrs. Berrios and she said her son had put the fence up. I explained that he would need to get a permit and that the fence would not clear the violation, that I would need to inspect the property to confirm that the original violation was cured. She said she understood. A digital photograph was taken.

3-1-22: A violation letter was sent to the owner of record via certified mail, return receipt requested. The violation letter was also posted in the bulletin board in town hall and posted on the fence at the property. A digital photo was taken. An affidavit of posting was completed and notarized.

3-23-22: I checked again with Jane Whatley, the building permit person with the town and confirmed that no permit had been pulled for the fence. I drove by the property and the fence is still in place. A digital photograph was taken. A Notice of Hearing was sent via certified mail, return receipt requested. A copy was posted on the town hall bulletin board and a copy at the property. An affidavit of posting was completed.

Magistrate Watson summarized the violation as a fence that was erected without a permit to hide all the junk in the yard. Officer Calhoun showed pictures taken on 3-1-22 of the junk that was in the yard. He added that the intention was to have an order of fine today. The pictures shown included that a tarp made up part of the covering of the junk.

A re-inspection was completed at approximately 1115 hours the day of the hearing and found that a portion of the fence had been removed and it appeared that junk remained behind the fence. A digital picture was taken.

The respondent Rosa Berrios answered the magistrates' questions through an interpreter Gricelda Galvan. Ms. Berrios stated that she did not live at the property and that there was not a tenant living there. Mr. Watson stated that there was a two-fold issue, one being that fence cannot

be erected without a permit and that what was used to make the fence would not be an allowable material.

He said that the solution to the problem was to take the fence down and remove the junk in the yard. He asked how long the respondent would need to complete both, to which she replied, two weeks. Office Calhoun added that he would be happy to extend the cure period to 20 days and wanted them to understand exactly what they needed to do to cure both of the violations.

The Magistrate found that the property was in violation, that notices were properly given by the code enforcement officer and that it was not cured prior to the notice deadline of March 15, 2022. He added that the property is in violation of Chapter VII - Sec 7.9.7 - Fence Requirements. He further found that the property was still in violation as of the hearing date.

Based on the facts presented to him, his order to be given is 20 days to remove the fence and that the respondent contact Ofc. Calhoun to let him know that the violation has been fixed so that he can inspect the property and close out the case. If the violation is not cured in 20 days, then a new hearing would be held, and possible fines imposed if appropriate ranging from \$10.00 to \$250.00 per day. This order was translated to the respondent.

Magistrate Watson reminded the respondent of the other violations on the property, such as the removal of debris, junk, and an inoperable vehicle. Ofc. Calhoun stated that the daily fines of \$25.00 per day, previously imposed for the junk and debris, would continue to accrue until it is all removed irrespective of the fence being taken down.

ADJOURNMENT

With no further business the meeting was adjourned at 4:10 pm.

Respectfully submitted,



Mr. Grant Watson, Special Magistrate

ATTEST:



Graham Wells, Town Clerk