



**Town of Howey-in-the-Hills
Special Magistrate Hearing
April 27th 2023 at 9:00 A.M.
Howey-in the-Hills Town Hall
101 N. Palm Ave.
Howey-in-the-Hills, FL 34737**

MINUTES

I. CALL TO ORDER:

Special Magistrate, Zachary J. McCormick, called the Special Magistrate Hearing to Order at 9:00 AM.

II. SWEARING IN:

Code Enforcement Officer Azure Botts, James R. Lieffort, and Kathleen C. Lieffort were sworn in.

III. CASES TO BE DISMISSED:

A. Gerali Hearing

CASE NO. CE-23-01-0028

PROPERTY ADDRESS: 104 S Mare Ave. Howey-in-the-Hills, FL 34737.

Property has been sold and the Town will give the new owners time to come into compliance.

B. FKH SFR C1 LP c/o FirstKey Homes LLC. Hearing

CASE NO: CE-22-09-0240

PROPERTY ADDRESS: 202 Marilyn Ave. Howey-in-the-Hills, FL 34737

Town requested to dismiss this case.

IV. CASES TO BE HEARD

A. Shepard Hearing

CASE NO: CE-22-04-0072

PROPERTY ADDRESS: 126 E Magnolia Ave., Howey-in-the-Hills, FL 34737

OWNER: Robert Shepard
CODE ENFORCEMENT OFFICER: Azure Botts
VIOLATION:

Town of Howey-in-the-Hills Land Development Code, Chapter 5, Section 5.01.07(A).
Town of Howey-in-the-Hills Land Development Code, Chapter 5, Section 5.01.07(D).

Unpermitted corrugated metal fence erected in rear yard on the east side of property.

Heard at 9:04 AM

Magistrate had received a notice from the property owner the night before the hearing, that they would not be attending the meeting and the Magistrate took that as a request for a continuance. Due to the property owner having been granted a previous continuance at an earlier hearing, a continuance was not granted in this case.

Presentation given by Officer Botts.

Officer Botts presented the following and asked that they be admitted as evidence: one (1) picture taken by Officer Botts, three (3) pictures taken by the property owner, and a picture of a letter from Mr. Quintana (property owner of 130 E. Magnolia Ave.)

Magistrate admitted into evidence the one (1) picture taken by Officer Botts as Exhibit A, the three (3) pictures taken by the property owner as Exhibit B, and the picture of a letter from Mr. Quintana (property owner of 130 E. Magnolia Ave.) as Exhibit C.

Magistrate Ruling: Adjudication of Guilt, assesses administrative cost of \$61.33 to be paid within 30 days, 30 days to bring the property into compliance with permits and inspections (utilizing the Town's Building Official - Alpha Inspections), \$100.00 daily fine if property is not brought into compliance within 30 days. (May 27, 2023).

B. Lieffort Hearing

CASE NO: CE-23-01-0013

PROPERTY ADDRESS: 900 N. Lakeshore Blvd. Howey-in-the-Hills, Fl 34737

OWNER: James R. & Kathleen C. Lieffort

OFFICER: Azure Botts

VIOLATION:

Town of Howey-in-the-Hills Land Development Code Chapter 7, Section 7.12.01 Tree removal; permit required.

Unpermitted removal of a specimen tree measuring approximately 24" in diameter.

Heard at 9:17 AM.

Officer Botts provided a correct statement of violation.

Presentation given by Officer Botts.

Officer Botts presented the following and asked that they be admitted as evidence: seven (7) pictures taken by Officer Botts representing the evidence of a removed tree, two (2) emails sent between Officer Botts and Mr. Lieffort, and one (1) email sent between Officer Botts and Mrs. Lieffort.

Magistrate admitted into evidence the seven (7) pictures taken by Officer Botts representing the evidence of a removed tree as Exhibit 1, two (2) emails sent between Officer Botts and Mr. Lieffort as Exhibit 2, and one (1) email sent between Officer Botts and Mrs. Lieffort as Exhibit 3.

Mrs. Lieffort spoke to their ignorance of the Tree Ordinance, that the Liefforts relied on a tree removal company which told them that they would not need a tree removal permit, confusing messages from the Town in relation to if the removed tree was a Historic tree and what mitigation the Town would allow for the removal of the tree.

Mr. Lieffort also spoke of the confusion in the allowable mitigation that the Town had communicated to the property owners.

Magistrate Ruling: Adjudication of guilt/violation of Town's Land Development Code Chapter 7, Section 7.12.01, the tree arborist's letter did not meet the statutory requirements of F.S. 163.045 (as it did not address the risk assessment), assesses administrative cost of \$68.76, within 60 days the property owner can mitigate the removal of the tree by planting a total of 72 inches in diameter of trees (trees planted must be on the approved trees list in the Town's Land Development Code), if tree removal is not mitigated with 60 days a \$250 fine will be imposed.

C. Hollenbach & Friend Hearing (Hearing #1)

CASE NO: CE-22-08-0154

PROPERTY ADDRESS: 601 S Florida Ave. Howey-in-the-Hills, FL 34737

OWNER: Sarah A Hollenbach & Jeffrey Friend

OFFICER: Azure Botts

VIOLATION:

Town of Howey-in-the-Hills Code of Ordinances, Chapter 127, Sec. 127-3, Excessive or Untended Growth of Vegetation.

Grass exceeds 12 inches in height in the rear yard.

Heard at 10:09 AM.

Property Sarah Hollenbach was sworn in.

Presentation given by Officer Botts.

Officer Botts presented the following and asked that they be admitted as evidence: a photograph dated 7/29/2022 taken by Officer Botts (showing grass in excess of 12 inches), a photograph dated 1/31/2022 taken by Officer Botts (showing grass in excess of 12 inches), 4 photographs dated 9/9/2022 taken by Officer Botts (showing the posting of the case and

property), and a photograph dated 4/26/2023 taken by Officer Botts (showing grass in excess of 12 inches).

Magistrate admitted into evidence a photograph dated 7/29/2022 taken by Officer Botts (showing grass in excess of 12 inches) as Exhibit 1, a photograph dated 1/31/2022 taken by Officer Botts (showing grass in excess of 12 inches) as Exhibit 2, 4 photographs dated 9/9/2022 taken by Officer Botts (showing the posting of the case and property) as Exhibit 3, and a photograph dated 4/26/2023 taken by Officer Botts (showing grass in excess of 12 inches) as Exhibit 4.

Ms. Hollenbach explained that a surveyor had told her that the fences that had been built by the builder of the development surrounding their property was not on the property line and a sliver of property on their side of the fence was not actually their property.

Magistrate Ruling: The Town did not meet its burden of proof that the grass near the fences was on the owners' property. No Violation based upon the lack of evidence to the ownership of the land.

D. Hollenbach & Friend Hearing (Hearing #2)

CASE NO. CE-22-04-0071

PROPERTY ADDRESS: 601 S Florida Ave. Howey-in-the-Hills, Fl 34737

OWNER: Sarah A Hollenbach & Jeffrey Friend

OFFICER: Azure Botts

VIOLATION:

Town of Howey-in-the-Hills Code of Ordinances, Chapter 127, Sec. 127-4,
Accumulation of Junk.

Town of Howey-in-the-Hills Code of Ordinances, Chapter 127, Sec. 127-2,
Accumulation of Refuse.

Accumulation of junk, refuse, and rubbish consisting of but not limited to, rugs,
appliances, buckets, wood wire, light fixtures, plastic tubs, and other plastic containers.

Heard at 10:32 AM.

Presentation given by Officer Botts.

Officer Botts presented the following and asked that they be admitted as evidence: two (2) photographs taken by Officer Botts dated 4/27/2022 (showing rubbish and a non-registered white Mercury vehicle), three (3) photographs taken by Officer Botts dated 7/29/2022 (showing rubbish around the house), six (6) photographs taken by Officer Botts dated 11/18/2022 (showing rubbish around the house), and five (5) photographs taken by Officer Botts dated 1/31/2023 (showing rubbish around the house.)

Magistrate admitted into evidence two (2) photographs taken by Officer Botts dated 4/27/2022 (showing rubbish and a non-registered white Mercury vehicle) as Exhibit 1, three (3) photographs taken by Officer Botts dated 7/29/2022 (showing rubbish around the house), as Exhibit 2, six (6) photographs taken by Officer Botts dated 11/18/2022 (showing

rubbish around the house) as Exhibit 4, and five (5) photographs taken by Officer Botts dated 1/31/2023 (showing rubbish around the house) as Exhibit 5.

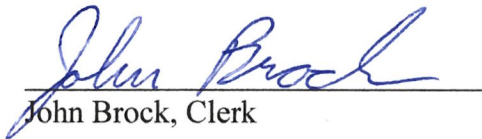
Ms. Hollenbach spoke about the accumulation of stuff around her house and that the white Mercury vehicle needed some repairs, but that she still paid the insurance on it.

Magistrate Ruling: There was no violation found for materials located under the carport, including the lumber located under the carport. Violations were found for the stove that was located outside, any lumber located out in the yard (not under the carport), the cans of paint, the mattresses in either the front or rear yard, the wire bundles, the non-operative lawn mower, and non-operative / un-registered white Mercury vehicle, materials located in the front yard near the trash cans, and any items not located under the carport will be considered refuse or junk. Property owners have 30 days to remove all junk and rubbish listed in the order and must pay an administrative fee of \$61.18, due on the day of the hearing. If property is not brought into compliance within 30 days, a \$50 fine will be imposed each day until property is in compliance.

V. ADJOURNMENT

Special Magistrate Hearing was adjourned at 10:10 AM.

ATTEST:


John Brock, Clerk


Zachary J. McCormick
Special Magistrate

Date: 7/27/2023