

Prepared by:

Lonnie N. Groot, Esquire
Stenstrom, McIntosh, Colbert & Whigham, P.A.
1001 Heathrow Park Lane
Suite 4001
Lake Mary, Florida 32746
(407) 322-2171
Property Appraiser Tax Parcel ID Number: 03-20-29-5PG-FB00-0000

Return to:

Patt Hughes
Clerk to the Code Board
Clerk to the Special Magistrate
Development Services Department
Planning & Development Division
1101 East First Street
Sanford, Florida 32771-1468

**ORDER OF SEMINOLE COUNTY
CODE ENFORCEMENT SPECIAL MAGISTRATE**

Case number: 17-91-CESM

SEMINOLE COUNTY,

Petitioner,

vs.

MAGNOLIA GOLF CLUB HOLDING, LLC,

Respondent.

**ORDER OF SEMINOLE COUNTY
CODE ENFORCEMENT SPECIAL MAGISTRATE**

The Seminole County Code Enforcement Special Magistrate, after due notice to Respondent, has heard testimony under oath and considered other evidence admitted at a hearing held on the above styled case on the 14th day of December, 2017, and based on the evidence received, the Special Magistrate hereupon issues his Findings of Fact, Conclusions of Law, and Order in this Order of Violation and Non-Compliance, as follows:

FINDINGS OF FACT

The Respondent, Magnolia Golf Club Holding ,LLC, is the owner of the property located at 600 Shadowmoss Circle and its environs all being located in unincorporated Seminole County, Florida which property is assigned Tax Parcel Identification Number 03-20-29-5PG-FB00-0000 by the Seminole County Property Appraiser (hereinafter "the

subject property"). Mr. Zachary David Grimland, Esquire, appeared at the hearing representing the Respondent.

The Respondent was ordered, in accordance to controlling State law, to come into compliance with Chapter 95, Section 95.4, *Seminole County Code*, on or before August 28, 2017 and failed to do so.

The Respondent was in violation of Chapter 95, Section 95.4, *Seminole County Code*, on and after August 29, 2017.

However, the County did not prove that the Respondent was in violation of Chapter 95, Section 95.4, *Seminole County Code*, on December 14, 2017.

The conduct of the Respondent constituted a violation the provisions of the *Seminole County Code* as set forth below in more specificity. The Respondent, has allowed a nuisance, uncultivated vegetation, as set forth in Section 95.3 of the *Seminole County Code* on the subject property which encompasses a total parcel of approximately one hundred and ninety (190) acres in size. No evidence was submitted by the County as to whether the subject property was in code compliance as of December 14, 2017.

The Respondent did not file a public records request with the County seeking to review the files of the County relative to this Case.

CONCLUSIONS OF LAW

Chapter 95, Section 95.3, *Seminole County Code*, provides as follows:

Sec. 95.3. - Nuisances declared.

It is hereby declared and determined by the Board of County Commissioners of Seminole County that the following shall each individually, or in any combination thereof, be considered nuisances when existing upon lands or premises in the unincorporated area of Seminole County:

- (a) Rubbish.
- (b) **Uncultivated vegetation.**
- (c) The remains or rubble of a structure.
- (d) Abandoned or discarded volatile, corrosive, poisonous, or noxious chemicals, liquids, or substances.
- (e) Abandoned vehicles; provided, however, that an abandoned vehicle kept within an enclosed garage or attached carport, or on the premises of a legally operating business enterprise when necessary to the functioning of such business operated in a lawful place and manner, or in a permitted or lawful storage area maintained in a lawful place and manner shall not be deemed a violation.
- (f) Stagnant or foul water.
- (g) An unsecured swimming pool.

(h) Any other material or condition tending by its existence and/or accumulation to endanger or adversely affect the health, safety, lives, and/or welfare of the citizens of Seminole County. (Emphasis added).

Further, Chapter 95, Section 95.5(h), *Seminole County Code*, provides:

Sec. 95.4. - Creation or maintenance of nuisances prohibited.

It shall be unlawful for any person to accumulate, dump or cause or allow to be accumulated or dumped, or place or cause or allow to be placed, or to otherwise cause or allow to exist on any lands or premises any nuisance as defined in Section 95.3.

The description/address of the subject property and the Tax Parcel Identification Number of the subject property are stated above.

The conduct of the Respondent constituted a violation the provisions of the *Seminole County Code* as set forth above. The Respondent, has allowed uncultivated vegetation to persist and exist on the subject property thereby constituting a violation on the subject property of Chapter 95, Section 95.4, *Seminole County Code*. That violation was proven to exist on August 29, 2017, but not on December 14, 2017.

ORDER

The provisions of Chapter 162, *Florida Statutes*, relating to the enforcement of local government codes by means of code enforcement boards or special magistrates control the subject proceedings.

Based on the foregoing Findings of Fact And Conclusions of Law, and the authority of Chapter 162, *Florida Statutes*, and other controlling law, it is duly **ORDERED** by the undersigned that the Respondent property owner was in violation of the above-stated code on the above described, but came into compliance after the date which had been ordered as a valid and lawful compliance date by the County.

In the event that the Respondent repeats the subject violation, the Respondent shall be subject to the maximum penalty allowed under controlling law. It is recognized that the County has engaged in a very significant amount of administrative effort in the prosecution of this matter.

This Order may be recorded, at the discretion of the County, in the Public Records of Seminole County and, in such event, shall constitute notice to any subsequent purchasers, successors in interest, or assigns, as the violation concerns real property, and the findings herein shall be binding upon the violator/Respondent and any subsequent purchasers, successors in interest or assigns.

The Respondent is encouraged to coordinate its code compliance issues with Ms. Joann Tamulonis, Code Enforcement Officer, Seminole County Sheriff's Office, 100 Bush Boulevard, Sanford, Florida 32773, Phone: 407 665-1487, e-mail: jtamulonis@seminolesheriff.org.

The Respondent's ore tenus Motion To Dismiss alleging that the County failed to comply with the notice requirements of controlling law is hereby **DENIED**.

The Respondent's ore tenus objection to the introduction of documentary evidence by the County is hereby **DENIED**.

The Respondent noted, ore tenus, a desire to raise constitutional issues relative to the proceedings. The undersigned, Special Magistrate, has no jurisdiction or authority to adjudicate constitutional assertions.


This Order may be appealed to the Circuit Court within thirty (30) days of its rendering.

DONE AND ORDERED this 18th day of December, 2017, *nunc pro tunc* to December 14, 2017.

By: **SEMINOLE COUNTY CODE ENFORCEMENT
SPECIAL MAGISTRATE**



Lonnie N. Groot
Special Magistrate


Attest: 

Patricia A. Hughes
Clerk to the Special Magistrate



Certificate of Service

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished to Magnolia Golf Club Holding, LLC, c/o Mr. Zachary David Grimland, Esquire, Grimland Law, PLLC, 1503 South United States Highway 301, Suite 16, Tampa, Florida 33619-5126 and Ms. Joann Tamulonis, Code Enforcement Officer, Seminole County Sheriff's Office, 100 Bush Boulevard, Sanford, Florida 32773, by first class mail delivery, this 18th day of December, 2017.



Patricia A. Hughes
Clerk to the Special Magistrate