

**AGENDA ITEM SUMMARY SHEET**  
**VILLAGE COUNCIL MEETING**  
**October 17, 2018**

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**Agenda Item:**

Lien Reduction Request: This item requests the Council's direction on a request for a reduction of a Village code enforcement lien pertaining to Code Enforcement Case No. 16120002, on property located at 20601 Groveline Court, Estero, Florida 33928.

**Description:**

On February 16, 2017, the Village's Special Magistrate found the subject property was in violation of Section 17-33 (Nuisance Accumulation) of the Village Code. The violation in this matter consists of overgrown vegetation and a downed tree. The property owner, Erin Reilly, did not have notice of the violation as the notice provided went to the property and was received by a tenant (owner's mother) but not forwarded to the owner. Following the tenants departure, the owner learned of the violation and cleared the property immediately. The property is currently in full compliance.

**Action Requested:**

It is the recommendation of the Village Attorney, code enforcement staff, and the Special Magistrate that this lien reduction be approved.

**Financial Impact:**

The Village will recover all of its enforcement costs related to this case. Prosecution costs in this case amounted to \$306.00, this plus any additional hard costs will be paid by the petitioner prior to release of the lien.

**Attachments:**

1. Letter from Derrick G. Isaac, Esq.
2. Case No. 16120002 background materials

**ATTACHMENT 1**

**GOLDSTEIN, BUCKLEY, CECHMAN, RICE & PURTZ, P.A.  
ATTORNEYS AT LAW**

RAY GOLDSTEIN (1931-2013)

STEPHEN W. BUCKLEY

JOHN B. CECHMAN, BCS\*

J. JEFFREY RICE, BCS\* + ²

RICHARD I. PURTZ, BCS\*

\* Board Certified Specialist in Civil Trial

² Certified Mediator by FL Supreme Court

+ Board Certified Specialist in Business  
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ANDREA PLEIMLING SMITH

DERRICK G. ISAAC

STEPHEN W. DOMMERICH

September 6, 2018

[Derek.rooney@gray-robinson.com](mailto:Derek.rooney@gray-robinson.com)

Derek P. Rooney, Esq.

1404 Dean St., Ste. 300

Ft. Myers, FL 33901

Re: Case No.: 16120002  
Village of Estero, Florida vs. Erin Reilly  
Property: 20601 Groveline Court, Estero, FL 33928

Dear Mr. Rooney:

It was a pleasure speaking with you today. To memorialize our conversation today, it is my client's request that this matter is directed to mitigation. As discussed, my client is in agreement with paying the costs incurred by the Village of Estero as it relates to this matter. It is my understanding that once said costs are paid, the aforementioned lien will be removed.

Please provide my office with the final costs in this matter and my client will timely issue payment. Feel free to contact me at (239) 332-9446 should you have any questions.

Thank you for your attention in this regard.

Very truly yours,

GOLDSTEIN, BUCKLEY,  
CECHMAN, RICE & PURTZ, P.A.

  
Derrick G. Isaac

OFFICES

FORT MYERS  
(239) 334-1146

LEHIGH ACRES  
(239) 368-6101

CAPE CORAL  
(239) 574-5575

NAPLES  
(239) 514-0924

PORT CHARLOTTE  
(941) 624-2393

## ATTACHMENT 2



Village of Estero  
9401 Corkscrew Palms Circle  
Estero, Florida 33928

### OFFICE OF THE SPECIAL MAGISTRATE

VILLAGE OF ESTERO, FLORIDA

Case #: 16120002

Petitioner,

Vs

REILLY ERIN

Respondent(s)

### FINAL ORDER OR STIPULATED FINAL ORDER

#### IN RE:

**STREET ADDRESS:** 20601 GROVELINE CT, ESTERO, FL 33928

**FOLIO:** 27-46-25-E4-04000.0720

**LEGAL DESCRIPTION:** GROVES S/D PB 43 PG 88 LOT 72

The Village of Estero Special Magistrate, having heard testimony under oath and argument at a Public Hearing, in reference to the above-described property, held Thursday, February 16, 2017, after due notice to the Respondent(s):

#### AS AND FOR MY FINDINGS OF FACT:

1. The Respondent(s) is/are the owner(s) of record, and is/are responsible for the subject property.
2. The respondent(s) has/have received proper notice of this hearing by Posting of the property of the alleged existence of certain conditions on the property described as violations, and that those conditions constituted a violation(s) of a Village of Estero Ordinance.
3. The Respondent(s), despite proper notice of this hearing, have failed to appear or otherwise participate in today's hearing, and are in default of having appeared.
4. The notice(s) previously given to the Respondent(s) specified that certain violations existed at the subject premises and what actions to abate the alleged violations were to be taken by a time certain, but the Respondent(s) has/have failed to complete such actions in a timely manner.
5. The following condition(s) is/are found to exist on the subject property located at 20601 Groveline Ct, Estero, FL 33928, as reported by the Village's Code Compliance Manager in the Notice of Violation:



Ordinance/Regulation	Violation Description/Correction	Order Date to Comply by	Date Complied	Daily Fine
CHAPTER 17 HEALTH AND SANITATION Sec 17-33(1a,b,c)(2)(3). – Nuisance declared	It is hereby declared by the board of county commissioners that nuisance accumulations on private property shall constitute a public nuisance, subject to immediate abatement as provided by this article or by any other remedy in law or equity, if: (1) The private property is not: a. A legally permitted junkyard, automobile wrecking or wrecking yard or sanitary landfill as defined and regulated by the county zoning ordinance or any other applicable ordinance; or b. Zoned or permitted by special permit or variance to allow such nuisance accumulations; and (2) The nuisance accumulation impairs the economic value of the underlying or adjacent property, creates a danger to the public health, safety and welfare, constitutes an attractive nuisance as defined by law, or creates a fire hazard; and (3) The accumulation is not made as a part of a regularly scheduled garbage removal program or service.	3/13/2017 by 5:00 pm		

The conditions testified to by the Village's Code Compliance Manager are found to have existed as the date and time of this hearing upon the subject property located at 20601 Groveline Ct, Estero, FL 33928.

6. That same constitute(s) a violation(s) under Section 17-33 (1a,b,c)(2)(3). – Nuisance Declared.
7. Due to the refusal or failure on the part of the Respondent(s) to remedy the conditions(s) which exist on the subject property, it may be necessary for the Petitioner/Village of Estero to take any and all steps necessary to remedy the conditions.

AS AND FOR MY CONCLUSIONS OF LAW:

1. Respondent(s), by reason of the foregoing, is/are in violation of the Village of Estero's Ordinances, as specified above.

THEREFORE, I HEREBY ORDER:

1. That Respondent(s) shall correct or abate the aforesaid violations in the manner set forth in the official Notice of Violation PRIOR to 5:00 P.M., on March 13, 2017.
2. That Respondent(s) shall pay to the Village of Estero, Florida, the sums determined to be due for the Village's actual costs of prosecution of this case in the amount of \$ 306.00, and shall deliver payment of same to the Village Clerk's office no later than 10 days from the date of this Order; and if not paid, may also constitute a lien against the above-referenced property which may also be actionable by law.

In the event that the violation(s) is/are not corrected or abated as indicated above prior to March 13, 2017, additional fines of \$ 250.00 per day shall be imposed against Respondent(s), beginning on that date and continuing for each day that the aforesaid violations continue to exist.

In the event the sums awarded herein are not paid, such sums will become a lien, which may attach to all real and personal property owned by the Respondent(s) upon being recorded in the Public Records of Lee County, even if the violations have been subsequently abated in accordance with this Order.

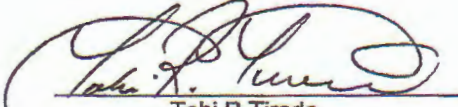
If the owner(s) fail(s) to comply, an Order Imposing Fine in the amounts shown above for every day that the violation continues to exist commencing on the dates shown above will be entered and a certified copy shall be recorded in the Public Records of Lee County, Florida and shall constitute a lien against the above-described real property or personal property owned by the violator. (Section 162.09, Florida Statutes). This Order may be enforced like a court judgment. Repeat violations can be fined up to \$500.00 per day. (Section 162.09, Florida Statutes). Property owner(s) has/have 30 days from date this Final Order is executed to file an appeal in circuit court. (Section 162.11, Florida Statutes). The property owner must contact the Code Compliance Department to advise when compliance has been reached.


3. In determining the amount of such fine(s), I have considered the gravity of the violation(s); any actions, or lack thereof, to correct the violation(s); and, any previous violation(s) committed by the Respondent(s).
4. When the violation(s) has/have been abated, the Respondent(s) **MUST CALL THE VILLAGE OF ESTERO CODE ENFORCEMENT MANAGER – STANLEY KNIGHT, AT (239) 319-2815, AND REQUEST A RE-INSPECTION.** UPON SUCH RE-INSPECTION, IF SUCH VIOLATION(S) ARE FOUND TO HAVE BEEN ABATED, SUCH FINES SHALL CEASE RUNNING.
5. The Village of Estero is hereby authorized, in its discretion, to enter onto the subject premises and to itself abate, clear and remove all violation(s) (or specific items listed in Finding of Fact), found to still exist at the subject premises on or after March 16, 2017, or as soon thereafter as practicable in the event the Respondent(s) has/have not abated the violations. In addition to the amount of fines, and the Village's costs of prosecution, as imposed herein, all costs of such abatement, clearing and removal shall be recovered by the Village of Estero and shall accrue and increase the cost lien provided for herein.
6. Compliance by the Respondent(s) shall be considered at a subsequent Hearing before the undersigned Hearing Examiner/Special Magistrate to be held on March 16, 2017, at 1:00 p.m., at the Village Hall Council Chambers, 9401 Corkscrew Palms Circle, Estero, FL 33928.
7. You may also have other rights which are set forth in Article VI - Code Enforcement Board of the Village of Estero Code of Ordinances.
8. Respondents may appeal any decision with respect to any matter considered by the Village of Estero Special Magistrate. An appeal must be filed within (30) days of the execution of the Order to be appealed. If a person decides to appeal any decision, such person will need a record of the proceedings and that, for this purpose, such person may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based. Section 286.0105, Florida Statutes.

DONE AND ORDERED this 16<sup>th</sup> day of February, 2017

ATTEST:

OFFICE OF THE SPECIAL MAGISTRATE  
VILLAGE OF ESTERO, FLORIDA

  
Tobi R Tirado  
SPECIAL MAGISTRATE CLERK

  
Joseph Faerber  
SPECIAL MAGISTRATE



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6.65

Erin Reilly

20601 Groveline Ct

Estero, FL 33928

Postmark

Here  
*Erin Reilly*

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Village of Estero  
 9401 Corkscrew Palms Circle  
 Estero, Florida 33928

**OFFICE OF THE SPECIAL MAGISTRATE**

VILLAGE OF ESTERO, FLORIDA

Case #: 16120002

Petitioner,

Vs

ERIN REILLY

Respondent(s)

**ORDER OF IMPOSITION OF FINE & CLAIM OF LIEN**

TO: ERIN REILLY

20601 GROVELINE COURT, ESTERO, FL 33928

The Village of Estero Special Magistrate, having reviewed evidence and sworn testimony by Affidavit, enters the following Findings of Fact:

1. That the Village of Estero Special Magistrate did issue on 2/16/2017, a Final Order in the above captioned case commanding the Respondent to bring the violations specified in said Final Order into compliance or be subject to a fine in the amounts shown below commencing on the dates shown below plus an additional fine to cover costs incurred by the Village in the amount of \$306.00.

Ordinance/Regulation	Violation Description/Correction	Order Date to Comply by	Date Complied	Daily Fine
Sec. 17-33(1a,b,c)(2)(3). - Nuisance declared.	It is hereby declared by the board of county commissioners that nuisance accumulations on private property shall constitute a public nuisance, subject to immediate abatement as provided by this article or by any other remedy in law or equity, if: (1)... Grass and weeds around the pool cage exceed allowable height also there is a portion of a dead tree lying down	3/13/2017		\$250.00
Section 17-49(a). - Mowing of nuisance vegetation required.	(a) All real property owners, agents, custodians, lessees and occupants of real property within unincorporated Lee County will, in accordance with the published notice set forth in section 17-48, cut and keep cut, to a height not exceeding twelve (12)... Grass and weeds around the pool cage exceed allowable height also there is a portion of a dead tree lying down	3/13/2017		\$250.00

2. That said violations occurred on the following described real property situate, lying and being in the Village of Estero, Florida, to-wit

FOLIO #: 274625E4040000720

**LEGAL**

**DESCRIPTION:** GROVES S/D PB 43 PG 88 LOT 72

**STREET**

**ADDRESS:** 20601 GROVELINE COURT, ESTERO, FL 33928

3. That the Respondent did not comply with the Final Order on or before the date specified therein.

Upon complying with this Final Order, the Respondent **SHALL NOTIFY STANLEY KNIGHT**, The Code Enforcement Compliance Manager, who shall have the property inspected and notify the Special Magistrate Clerk if compliance has occurred.

4. A fine in the amounts shown above commencing on dates shown above is hereby confirmed and imposed. This fine shall continue to accrue until such time as the property is brought into compliance at which time the Respondent shall notify the Code Compliance Manager. **Additionally, a fine of \$306.00 to cover costs incurred in the prosecution of this matter is confirmed and imposed.**

5. The fine and costs shall constitute a lien against the above-described real property pursuant to Chapter 162, Florida Statutes and Article VI – Code Enforcement of the Village of Estero Code of Ordinances, as currently enacted or as may be amended from time to time. The Special Magistrate Clerk is directed to record a true copy of this order in the Public Records of Lee County, Florida. Any such lien which accrues more than (90) days after the date it is recorded and which remains unpaid, may be referred to a collection agency which shall result in the imposition of additional collection fees.

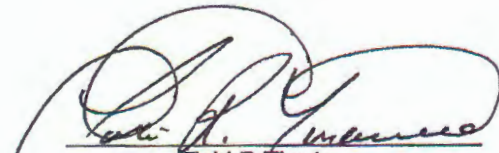
**You may request, in writing, a hearing before the Special Magistrate to contest the finding of non-compliance and imposition of fines. Said hearing shall be limited to consideration of whether the violations were timely complied. A written request for a hearing MUST BE MADE TO THE OFFICE OF THE SPECIAL MAGISTRATE AND RECEIVED WITHIN TWENTY (20) DAYS OF THE DATE OF THIS NOTICE. You will be notified of a hearing date and time. If no timely request is received, this Order Imposing Fine and Claim of Lien entered by the Special Magistrate will be recorded in the Public Records of Lee County, constituting a lien on the subject real property.**

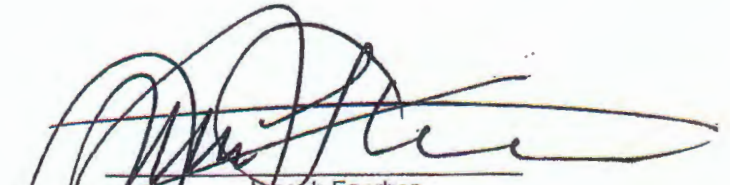
Respondents may appeal a final administrative order of the Special Magistrate for the Village of Estero to the Circuit Court. An appeal must be filed within thirty (30) days of the execution of the Order to be appealed.

DONE AND ORDERED this 16<sup>th</sup> day of March, 2017

ATTEST:

OFFICE OF THE SPECIAL MAGISTRATE  
VILLAGE OF ESTERO, FLORIDA

  
Tobi R Tirado  
SPECIAL MAGISTRATE CLERK

  
Joseph Faerber  
SPECIAL MAGISTRATE



**STATE OF FLORIDA  
COUNTY OF LEE**

The foregoing instrument was acknowledged before me this 16 day of March

2017 by Joseph Faerber and Tabi R. Tirado, Clerk and Special Magistrate, respectively, of the Village of Estero, who are personally known to me and who did not take an oath.

My Commission Expires:

Kathleen Shea  
NOTARY PUBLIC, State of Florida at Large

Kathleen Shea

Print, type or stamp name of Notary  
KATHLEEN SHEA  
Notary Public - State of Florida  
My Comm. Expires Aug 16, 2018  
Commission # FF 114188

Commission Number, if any

Note: Mail your payment to the above address made payable to The Village of Estero.

## Case Overview

### Property/Incident Information

<b>Owner</b>	<b>Address</b>	<b>Site Address</b>
REILLY ERIN	20601 GROVELINE CT ESTERO, FL 33928	20601 GROVELINE CT , ESTERO, FL 33928

### Legal Description

GROVES S/D PB 43 PG 88 LOT 72

### Description

Grass and weeds around the pool cage exceed allowable height also there is a portion of a dead tree lying down

**Case Status** Closed      **Case #** 16120002

**Notes**      Grass and weeds around the pool cage exceed allowable height also there is a portion of a dead tree lying down

please cut the high grass around the pool cage and remove the dead tree

### Documents Issued

<u>Date Issue</u>	<u>Document Type</u>
10/13/2016	Complaint
10/13/2016	Courtesy Notice
11/3/2016	Affidavit of Non-Compliance
12/2/2016	Notice of Violation
1/20/2017	Notice of Hearing
2/28/2017	Final Order
3/15/2017	Order of Imposition/Liens
7/7/2017	Affidavit of Compliance

### Violations

Ordinance/Regulation	Section	Description	Date Complied
CHAPTER 17 - HEALTH AND SANITATION	Sec. 17-33(1a,b,c)(2)(3). - Nuisance declared.	It is hereby declared by the board of county commissioners that nuisance accumulations on private property shall constitute a public nuisance, subject to immediate abatement as provided by this article or by any other remedy in law or equity, if: (1) The private property is not: a. A legally permitted junkyard, automobile wrecking or wrecking yard or sanitary landfill as defined and regulated by the county zoning ordinance or any other applicable ordinance; or b. Zoned or permitted by special permit or variance to allow such nuisance accumulations; and (2) The nuisance accumulation impairs the economic value of the underlying or adjacent property, creates a danger to the public health, safety and welfare, constitutes an attractive nuisance as defined by law, or creates a fire hazard; and (3) The accumulation is not made as a part of a regularly scheduled garbage removal program or service.	7/7/2017
CHAPTER 17 - HEALTH AND SANITATION	Section 17-49(a). - Mowing of nuisance vegetation required.	(a) All real property owners, agents, custodians, lessees and occupants of real property within unincorporated Lee County will, in accordance with the published notice set forth in section 17-48, cut and keep cut, to a height not exceeding twelve (12) inches, all grasses and weeds on any property owned, controlled or occupied by them except as provided for in section 17-47.	7/7/2017



## Case Overview

### Fines

<u>Fine Type</u>	<u>Section</u>	<u>Fine Type</u>	<u>Date Complied</u>	<u>Total Fine</u>
Individual Violation	Section 17-49(a). - Mowing of nuisance vegetation required.	Individual Violation	7/7/2017	\$29,000.00
Individual Violation	Sec. 17-33(1a,b,c)(2)(3). - Nuisance declared.	Individual Violation	7/7/2017	\$29,000.00
Admin Fixed		Admin Fixed		\$306.00
			<b>Total Fines</b>	<b>\$58,306.00</b>

### Payments

<u>Date</u>	<u>Payment Type Name</u>	<u>Amount</u>
	<b>Total Payments</b>	<b>\$0.00</b>
	<b>Fees Outstanding</b>	<b>\$58,306.00</b>



Stanley Knight  
Village of Estero Code Compliance Manager  
9401 Corkscrew Palms Circle  
Estero, FL 33928

Erin Reilly  
414 Grant Ave  
Lehigh Acres, FL 33972

Dear Ms. Reilly

Subject: Mitigation of fines for 20601 Groveline Ct.

In reference to the property located at 20601 Groveline Ct. Estero, FL 33928  
the total amount of the fines on the property are as followed

Prosecution costs: \$306.00  
Individual violation; Section 17-49(a). - Mowing of nuisance vegetation required \$29,000.00  
Individual violation; Sec. 17-33(1a,b,c)(2)(3). - Nuisance declared \$29,000.00  
Totaling \$58,306.00

What we are requesting from you is a letter stating an offer to mitigate the fines.  
The Village of Estero is willing to mitigate the fines to  
\$306.00 in prosecution costs  
Combined violation fines \$694.00

Total mitigated fine \$1000.00

Thank you,

Stanley Knight

Village of Estero  
Code compliance Manager