

## ATTACHMENT 2



### OFFICE OF THE SPECIAL MAGISTRATE ORDER FINDING VIOLATION

Village of Estero  
9401 Corkscrew Palms Circle  
Estero, FL 33928

Case #: 17110013

Certified #:  
70112000000174846496

Petitioner,

Vs

WALSH JAMES + GROFF JOSEPH T/C  
3548 CHERRY BLOSSOM CT, #201  
ESTERO, FL 33928

Respondent(s)

---

**STREET ADDRESS:** 3548 CHERRY BLOSSOM CT, #201, ESTERO, FL 33928

**FOLIO:** 334625E4270250201

**LEGAL**

**DESCRIPTION:** MEADOWS OF ESTERO DESC N INST #2006-263674 PH 25 BLD25 UNIT 201

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, December 21, 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 Certified Mail (Return Receipt Requested) 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 **3548 CHERRY BLOSSOM CT, #201, 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
FLORIDA BUILDING CODE Section 105.4.1.3 Permits	Work shall be considered to be in active progress when the permit has received an approved inspection within 180 days. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due directly to judicial injunction, order or similar process. – Respondent(s) failed to renew expired permit and schedule required inspections.	1/17/2018 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 **3548 CHERRY BLOSSOM CT, #201, ESTERO, FL 33928.**

6. That same constitute(s) a violation(s) under Section 105.4.1.3 Permits.
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:

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 January 17, 2018.**
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 \$202.15, 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 January 17, 2018, 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.

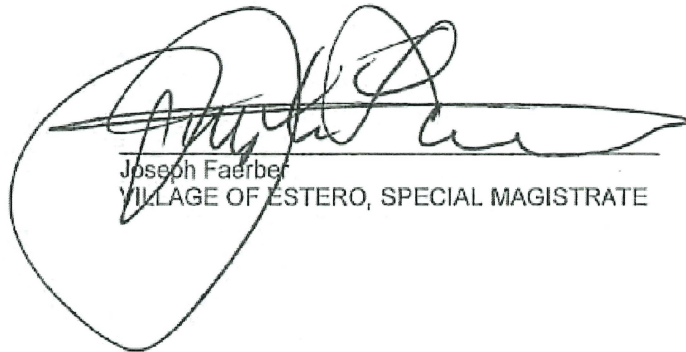
3. In determining the amount of such fine(s), I have considered the gravity of the violation(s); any

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 5:00 pm January 17, 2018, 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 January 18, 2018, 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 in the Village of Estero, Lee County, Florida this 21<sup>st</sup> day of December, 2017.

OFFICE OF THE SPECIAL MAGISTRATE  
VILLAGE OF ESTERO, FLORIDA



Joseph Faerber  
VILLAGE OF ESTERO, SPECIAL MAGISTRATE

SPECIAL MAGISTRATE CLERK AFFIDAVIT

Dated on December 21<sup>st</sup>, of 2017

Village of Estero Special Magistrate Clerk

By: Carla Chauvin  
Carla A. Chauvin

I certify that, under the penalty of perjury that the above written statements are true and accurate to the best of my knowledge.

STATE OF FLORIDA )

)ss:

COUNTY OF LEE )

Carla A. Chauvin stated personally before me that they have personal knowledge of the facts stated herein:

Sworn or affirmed before me on this 21<sup>st</sup> day of December, 2017

[Signature]  
Notary Public

Lisa Reitbauer  
Print Name

SEAL:

