



Village of Estero
9401 Corkscrew Palms Circle
Estero, Florida 33928

OFFICE OF THE SPECIAL MAGISTRATE

VILLAGE OF ESTERO, FLORIDA

Case #: 17010028

Petitioner,

Vs

CELEDONIO VARELA

Respondent(s)

FINAL ORDER OR STIPULATED FINAL ORDER

IN RE:

STREET ADDRESS: 8401 MOCKINGBIRD LANE, ESTERO, FL 33928

FOLIO: 28-46-25-E3-U1938.2477

LEGAL DESCRIPTION: BEG NE COR W ½ OF E ½ OF SE ¼ S 330 FT TH S W FOR 338 FT TO POB DESC OR 2954 PG 1034

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, March 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 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 8401 Mockingbird Lane, 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
Chapter 17 – Health & Sanitation. Section 17-33(1a,b,c)(2)(3). – Nuisance Declared.	It is hereby declared by the village of Estero 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 Village 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.	4/17/2017 by 5:00 pm
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.	
Chapter 34 – Zoning. Section 34-3131(a). – Vehicle Visibility at Intersections.	(a) Corner lots. On a corner lot, no obstruction shall be planted or erected which materially obstructs traffic visibility within the triangular space bounded by the two intersecting right-of-way lines and a straight line connecting the two points on the street right-of-way lines 25 feet from their intersection. No structural and planting masses shall be permitted between three feet and ten feet above the average grade of each street.	

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 8401 Mockingbird Lane, Estero, FL 33928.

6. That same constitute(s) a violation(s) under Sections 17-33(1a,b,c)(2)(3); 17-49(a) and 34-3131(a).
7. Due to the refusal or failure on the part of the Respondent(s) to remedy the condition(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 April 17, 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 \$ 307.50, 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 April 17, 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 April 17, 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 April 20, 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 16th day of March, 2017

ATTEST:

OFFICE OF THE SPECIAL MAGISTRATE
VILLAGE OF ESTERO, FLORIDA



Tobi R Tirado
SPECIAL MAGISTRATE CLERK



Joseph Faerber
SPECIAL MAGISTRATE

7015 1730 0000 5310 6119

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Send to: Celedonio Varela

Street: 8401 Mockingbird Lane

City: Estero, FL 33928

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions