

# ATTACHMENT 4



Village of Estero  
9401 Corkscrew Palms Circle  
Estero, Florida 33928

## OFFICE OF THE SPECIAL MAGISTRATE

VILLAGE OF ESTERO, FLORIDA

**Case #:** 17060006

Petitioner,

Vs

RACETRAC PETROLEUM, INC  
22350 S TAMIAMI TRL , ESTERO, FL33928

Respondent(s)

### FINAL ORDER OR STIPULATED FINAL ORDER

#### IN RE:

**STREET ADDRESS:** 22350 S TAMIAMI TRL, ESTERO, FL33928

**FOLIO:** 044725E1U18942194

**LEGAL DESCRIPTION:** PARL IN S 1/2 OF N 1/2 OF SEC LYING W OF US 41 LESS PORTS DESC IN INST 2013000287266 + 2013000287267

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, August 17, 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 22350 S TAMIAMI TRL, ESTERO, FL33928, 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 30 – SIGNS Section 30-6. - Permitted signs.	Window signs. Window signs which identify or advertise activities, services, goods or products available within the building, and which collectively cover 30 percent or less of the window glass surface area. Lettering on windows and signs required by federal or state laws or regulations of agencies thereof, business information signs, and business affiliation signs are excluded from the computation of the sign area limitations and restrictions.	10/16/2017 by 5:00 pm		\$250.00

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 22350 S TAMIAMI TRL, ESTERO, FL33928.

6. That same constitute(s) a violation(s) under Chapter 30 – Signs, Section 30-6. Permitted signs.
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 October 16, 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 \$331.50, 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 October 16, 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.

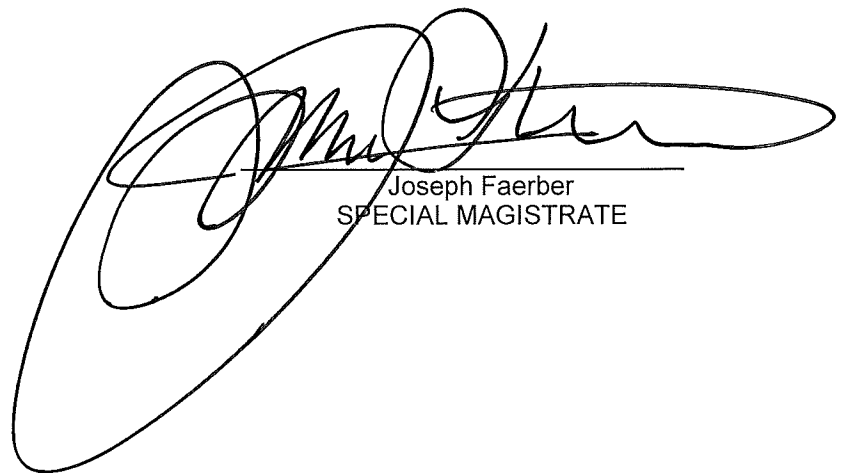
3. In determining the amount of such fine(s), I have considered the gravity of the violation(s); any actions, or lack thereof, to correct the violation(s); and, any previous violation(s) committed by the Respondent(s).
4. When the violation(s) has/have been abated, the Respondent(s) **MUST CALL THE VILLAGE 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 October 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 October 19, 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 22nd date of August, 2017

ATTEST:

OFFICE OF THE SPECIAL MAGISTRATE  
VILLAGE OF ESTERO, FLORIDA

  
Carla Chauvin  
SPECIAL MAGISTRATE CLERK

  
Joseph Faerber  
SPECIAL MAGISTRATE