Item # 50

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Code Enforcement Lien – Request for Reduction of Penalty – Brenda J. & Jon R. Day, 306 Fairmont Drive, Sanford,
DEPARTMENT: Planning & Development DIVISION: Planning
AUTHORIZED BY: Donald S. Fisher CONTACT: Matthew West WEXT. 7353
Agenda Date <u>01/11/05</u> Regular ☑ Consent ☐ Work Session ☐ Briefing ☐ Public Hearing – 1:30 ☐ Public Hearing – 7:00 ☐
MOTION/RECOMMENDATION:
(A) Approve the request to waive the Code Enforcement Board lien which totals \$9,150.00 on the property located at 306 Fairmont Drive – Sanford – Brenda J. & Jon R. Day, owners, Case # 02-106-CEB and authorize the Chairman to execute the Satisfaction of Lien; or
(B) Approve a reduction to the Code Enforcement Board lien which totals \$9,150.00 on the property located at 306 Fairmont Drive – Sanford – Brenda J. & Jon R. Day, owners, Case # 02-106-CEB and require the reduced amount to be paid within 30 days or the lien will revert back to the original amount (\$9,150.00) and upon payment in full, authorize the Chairman to execute the Satisfaction of Lien; or
(C) Approve a reduction to the Code Enforcement Board lien which totals \$9,150.00 to the estimated administrative costs of \$959.52 for processing Case # 02-106-CEB and require these costs to be paid within 30 days or the lien will revert back to its original amount, and upon payment in full, authorize the Chairman to execute the Satisfaction of Lien; or
(D) Deny the request to waive or reduce the Code Enforcement Board lien which totals \$9,150.00 on the property located at 306 Fairmont Drive – Sanford – Brenda J. & Jon R. Day, owners, Case # 02-106-CEB
Commissioner Carey – District 5 Matthew West – Planning Manager
BACKGROUND: Reviewed by:

On April 22, 2002, violations regarding the accumulation of trash and debris and junked vehicles stored on the property, not kept within an enclosed garage or an attached carport were observed at 306 Fairmont Drive, Sanford by the Code Enforcement Officer.

Reviewed by:

Co Atty:
DFS:
Other:
MV
DCM:
CM:
File No: RPDP01

Notices of Violation were issued to the property owner on April 23, 2002 and May 28, 2002 giving the owner until June 12, 2002 to comply. A re-inspection on July 15, 2002 revealed the violations remained. Therefore, on July 18, 2002, the Code Officer filed a Statement of Violation, Request for Hearing with the Clerk of the Code Enforcement Board.

On August 22, 2002, the Seminole County Code Enforcement Board issued its Findings of Fact, Conclusions of Law and Order on property located at 306 Fairmont Drive, Sanford after due notice to the Respondents via Posting of Notice Of Hearing on said property by the Code Enforcement Officer. The Respondents were not present at this hearing. This Order found the Respondents, Brenda J. and Jon R. Day, to be the owners of record of the property, in possession/control of the property and in violation of:

Section 95.4 as defined in Section 95.3(g), the accumulation of trash and debris and Section 95.4 as defined in Section 95.3(l), junk or abandoned vehicles not being kept within an enclosed garage or attached carport.

The Code Enforcement Board further ordered the owners to bring the property into compliance on or before September 9, 2002, or a fine of \$50.00 per day would be imposed.

On September 11, 2002, the Code Officer inspected the property and found the property remained in violation and filed an Affidavit of Non-compliance.

On October 14, 2002, a Notice of Hearing was mailed to the Respondents via certified mail advising them of the October 24, 2002 lien hearing.

On October 24, 2002, a lien was filed and recorded in the amount of \$2,250.00 and the fine of \$50.00 per day continued to accrue. The Respondents were not present at this hearing.

On March 13, 2003, an inspection revealed that corrective action ordered by the Board had been taken and the Code Enforcement Officer filed an Affidavit of Compliance. Said Affidavit certified under oath that the accumulation of trash and debris and junk or abandoned vehicles had been removed from the property.

On October 13, 2004, a request for reduction of penalty was received from the Respondents, via their Attorney, Steven Coover, requesting that the lien, which totals \$9,150.00, placed on the property for non-compliance be waived, claiming that they were unaware of the violations as they did not reside at this location and the tenants who occupied this property were responsible for the violations.

The Board's guidelines for reducing liens adopted February 9, 1999 are identified below:

- 1. If an individual has acquired a property in which the lien was recorded and the individual bought the property with this knowledge, a waiver or reduction in lien should not be granted. In such cases the lien should have been considered in reaching a purchase price.
- 2. If a lien is not considered when a title insurance policy is issued, a reduction of the lien to provide relief to a title insurer should not be granted. To do so would place the County in the position indemnifying an insurance company against its losses, which are reflected in premium charges.
- 3. If a lien has previously been reduced, and another request is received for a lien reduction, whether from the original property owner or a new owner, a reduction or waiver should not be granted. If the BCC Grants relief to a violator its action should be final and conclusive.
- 4. When considering a request and in developing a recommendation to the BCC, staff should evaluate the amount of the lien compared to the value of the property and the actions the violator did or did not take in attempting to resolve the code violation.
- 5. When liens are satisfied as a result of either full payment or reduced/eliminated payment as directed by the BCC, the lien satisfaction instrument will be provided to the property owner who shall be responsible for recording the instrument in the land records.

STAFF RECOMMENDATION:

According to Chapter 162, Florida Statute, in determining the amount of the fine, the Code Enforcement Board considers the following factors:

- 1. The gravity of the violation;
- 2. Any actions taken by the violator to correct the violation; and
- 3. Any previous violations committed by the violator.

Based on the fact that the property is in compliance and that the Respondent's tenants were responsible for the violations, Staff would recommend a reduction of the lien to the administrative costs of \$959.52 as calculated on the attached cost analysis for Case # 02-106-CEB (Option C). Staff would further recommend that payment of the administrative costs shall be made within thirty (30) days and upon payment in full, authorize the Chairman to execute the Satisfaction of Lien. If the administrative costs are not paid within thirty (30) days, the original lien in the amount of \$9,150.00 will be reinstated immediately.

Attachments: Findings of Fact, Conclusions of Law and Order

Affidavit of Non-Compliance

Order Finding Non-Compliance and Imposing Fine/Lien

Affidavit of Compliance

Request for Reduction of Penalty from the Respondents

Property Appraiser Database Information

Estimated Costs for processing Case # 02-106-CEB

SCSO Affidavit for Reimbursement of Costs of Investigation

SEMINOLE COUNTY CEB CASE NO. 02-106 CEB

REQUEST FOR REDUCTION OF PENALTY

BY COMPLETING THIS FORM, YOU ARE MAKING STATEMENTS UNDER OATH

INSTRUCTIONS: Please fill in both sides of this form completely. Be specific when writing your statement. Please return this form to the Secretary of the Code Enforcement Board. The Petition will then be presented at the next regularly scheduled meeting and you will be notified in writing of the Board's decision within 10 days after the hearing. If you are claiming medical or financial hardship, attach supporting documentation (i.e., a doctor's statement or proof of income). If you have any questions, please call the Secretary at 407-665-7403.

Property Owner's Name JON R. DAY and BRENDA J. DAY
Property Address 306 Fairmont Drive, Sanford, FL
Phone number where you can be reached during the day 1-352-735-5184
Is the property now in compliance? X Yes No (If no, explain in detail)
Are you claiming a financial hardship? Yes X No
Are you claiming a medical hardship? Yes X No
If the property owner is unable to complete this form, list the name of the person who is authorized to act for the Property Owner and their relationship to the Property Owner:
Stephen H. Coover, Attorney

XX We, Jon R. Day & Brenda J. Day , do hereby submit this Petition in request for a reduction in the total amount of penalty imposed and in support, offer the following statement: 1. Respondents owned multiple properties in Seminole County in 2002, but had moved their principal residence to Lake County in 1994 and did not think to change their mailing address with the tax assessor. 2. Respondents had no knowledge of CEB Case No. 02-106-CEB until August, 2004, during a title search of an unrelated property. 3. The Respondents' tenants caused the violations in CEB Case No. 02-106-CEB, which were cured by Respondents in October or November, 2002, prior to the move-in date for Respondents' next tenant. 4. Seminole County CEB did everything correctly, however, Respondents feel that payment of Seminole County's costs would be a more equitable resolution. Date: October 12, 2004 Print Name: STEPHEN H. COOVER State of Florida County of Seminole PERSONALLY appeared before me, the undersigned authority duly authorized to administer oaths and take acknowledgments, STEPHEN H. COOVER , who first being duly sworn, acknowledged before me that the information contained herein is true and correct. He Make is went personally known to me and has as identification and did take an produced _ oath. Date: October 12, 2004 Notary Public



My Commission Expires:

CODE ENFORCEMENT BOARI SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political subdivision of the State of Florida,

CASE NO. 02-106-CEB

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VS.

BRENDA J & JON R DAY TRUSTEES 356 EVANSDALE RD LAKE MARY FL 32746

Respondents.

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY BK 04504 PG 0940 CLERK'S # 2002931504 RECORDED 08/29/2002 09:07:29 AM RECORDING FEES 6.00 RECORDED BY J Eckenroth

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Based on the testimony and evidence presented in case number 02-106-CEB, it is determined that the Respondents are:

- the owners of record of the property (Tax Parcel ID #14-20-30-501-0B00-0110), located at 306 Fairmont Dr, Sanford, located in Seminole County and legally described as follows: LOT 11 BLK B SUNLAND ESTATES PB 11 PG 20
- in possession or control of the property; and (b)

in violation of Seminole County Code Section 95.4 as defined in Section 95.3(g)(1). (c)

It is hereby ordered that the Respondents correct the violations on or before Sextom Ber 9 , 2002. In order to correct the violations, the Respondents shall:

REMOVE THE ACCUMULATION OF TRASH AND DEBRIS. 1)

REMOVE JUNKED OR ABANDONED VEHICLES NOT WITHIN AN ENCLOSED GARAGE OR

WHORD TO THE RESPONDENCE OF A SUBJECT OF A S If the Respondents do not comply with the Order, a fine of \$50.00 will be imposed for each day the violations continue, or are repeated after compliance past September 9, 2002. The Respondents are further ordered to contact the Seminole County Code Inspector to arrange for an inspection of the property to verify compliance. Any fine imposed shall continue to accrue until such time as

This order shall be recorded in the official land records of Seminole County and shall constitute a lien against the land on which

DONE AND ORDERED this 22nd day of August, 2002, in Seminole County, Florida.

CODE ENFORCEMENT BOARD SEMINOLE COUNTY, FLORIDA

STATE OF FLORIDA COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 22nd day of August, 2002, by Tom Hagood, who is personally known

to me.

Marcia L. Fuller

Notary Public to and for the

County and State aforementioned.

My Commission Expires:

Order.day

MARCIAL FULLER COMMISSION # DD 014731 EXPIRES: April 2, 2005 iced Thru Notary Public Underwriters

arew L Duller

SEMINOLE COUNTY CODE ENFORCEMENT

CODE ENFORCEMENT BOARD SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political subdivision of the State of Florida.

Petitioner,

VS.

BRENDA J & JON R DAY TRUSTEES

Respondent.

CASE NO: 02-106-CEB

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY BK 04563 PG 1107 CLERK'S # 2002959302 RECORDED 10/17/2002 10:30:15 AM RECORDING FEES 6.00 RECORDED BY J Eckenroth

AFFIDAVIT OF NON-COMPLIANCE

BEFORE ME, the undersigned authority, personally appeared Pamela Taylor Code Inspector for PLANNING DIVISION, who after being duly sworn, deposes and says:

- That on August 22, 2002, the Board held a public hearing and issued its Order in 1. the above-styled matter.
- That, pursuant to said Order, Respondent was to have taken certain corrective 2. action by or before September 9, 2002
- That a re-inspection was performed on SEPTEMBER 11, 2002. 3.
- That the re-inspection revealed that the corrective action ordered by the Board has 4 not been taken in that THE TRASH & DEBRIS AND THE JUNKED OR ABANDONED VEHICLES HAVE NOT BEEN REMOVED OR STORED IN AN ENCLOSED GARAGE OF CARPORT.

FURTHER AFFIANT SAYETH NOT.

DATED this 14TH day of October, 2002

STATE OF FLORIDA COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 14th day of October 2002, by Pamela

Taylor, who is personally known to me and who did take an oath.

Notary Public in and for the County and State Aforementioned My commission expires:

AFFNON.COM

CLERK OF THE CODE ENFORCEMENT BOARD

CERTIFIED COPY

Date:

DOROTHY HIRD MY COMMISSION # CC 825329 EXPIRES: April 12, 2003 Bonded Thru Notary Public Underwriters

CODE ENFORCEMENT BOARD SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political subdivision of the State of Florida,

Petitioner,

VS.

BRENDA J & JON R DAY, TRUSTEES 356 EVANSDALE RD LAKE MARY FL 32746

Respondent.

CASE NO 02-106-CEB

MARYANNE MORSE, CLERK OF CIRCUIT COURT
SEMINOLE COUNTY
BK 04575 PG 1126
CLERK'S # 2002965757
RECORDED 10/30/2002 10:27:40 AM
RECORDING FEES 10.50
RECORDED BY J Eckenroth

ORDER FINDING NON-COMPLIANCE AND IMPOSING FINE/LIEN

The Respondent is the owner of record of the property (Tax Parcel ID #14-20-30-501-0B00-0110) located at 306 Fairmont Drive, Sanford, Florida, located in Seminole County and legally described as follows:

LEG LOT 11 BLK B SUNLAND ESTATES PB 11 PG 20

This case came on for public hearing before the Code Enforcement Board of Seminole County on the 22nd day of August 2002, after due notice to the Respondent. The Board, having heard testimony under oath and having received evidence, issued its Findings of Fact, Conclusions of Law, and Order.

Said Order found Respondent in violation of Section 95.4 as defined in Section 95.3(g)(l), Seminole County Code.

Said Order required Respondent to take certain corrective action by September 9, 2002.

Said Order stated that a fine of \$50.00 per day would be imposed if Respondent did not take certain corrective action by the date set for compliance.

An Affidavit of Non-Compliance bearing the date of October 14, 2002, has been filed with the Board by the Code Inspector, which Affidavit certifies under oath that the required actions, removing the accumulation of trash and debris and junked or abandoned vehicles not within an enclosed garage or attached carport at this location has not been obtained.

Accordingly, it having been brought to the Board's attention that Respondent has not complied with the Order dated August 22, 2002, the Board orders that a fine of \$2,250.00 (total accrued fine up until hearing) is imposed against the property for each day the violation has continued past the date set for compliance, and a fine of \$50.00 per day is ordered against the property for each day the violation continues past October 24, 2002.

The Respondent must contact the Code Inspector to arrange for an inspection of the property to verify compliance. The fine imposed shall continue until such time as the Code Inspector inspects the property and establishes the date of compliance.

This Order shall be recorded in the public records of Seminole County, Florida, and shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the Respondent.

DONE AND ORDERED this 24th day of October, 2002, in Seminole County, Florida.

CODE ENFORCEMENT BOARD SEMINOLE COUNTY, FLORIDA

OM HAGOOD, CHAIR

STATE OF FLORIDA (COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 24th day of October, 2002, by Tom Hagood, who is personally known to me.

Fonda C. Sheehan, Notary Public to and for the

County and State aforementioned. My Commission Expirees:

Lien.DAYtrustees

FONDA C. SHEEHAN
MY COMMISSION # DD 130319
EXPIRES: July 1, 2006
Bonded Thru Notary Public Underwriters

FILE NUM 2002965757 OR BOOK 04575 PAGE 1

CERTIFIED COPY

CODE ENFORCEMENT BOARD

SEMINORE COUNTY, FLORID

Date:

SEMINOLE COUNTY CODE ENFORCEMENT 32771-1468 1101 EAST FIRST STREET SANFORD, FLORIDA

CODE ENFORCEMENT BOARD SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political subdivision of the State of Florida

Petitioner,

VS.

Brenda J & Jon R Day

Respondent.

CaseNo.02-106-CEB

MARYANNE MORSE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY BK 04766 PG 1083 CLERK'S # 2003055468 RECORDED 04/02/2003 11:29:43 AM RECORDING FEES 6.00 RECORDED BY J Eckenroth

AFFIDAVIT OF COMPLIANCE

BEFORE ME, the undersigned authority, personally appeared Pamela Taylor, Code Inspector for Planning Division, who, after being duly sworn, deposes and says:

- That on August 22, 2002 the Board held a public hearing and issued its 1. Order in the above-styled matter.
- That, pursuant to said Order, Respondent was to have taken certain 2. corrective action by or before September 9, 2002.
- That a re-inspection was performed and the Respondent was in compliance 3. on March 13, 2003.
- That the re-inspection revealed that the corrective action ordered by the 4. Board has been taken.

FURTHER AFFIANT SAYETH NOT.

DATED this 14th day of March 2003.

Pamela Taylor, Inspector

STATE OF FLORIDA) COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 14th day of March 2003, by Pamela Taylor, who is personally known to me.

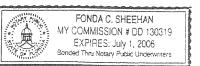
> CERTIFIED CORY CLERK OF THE

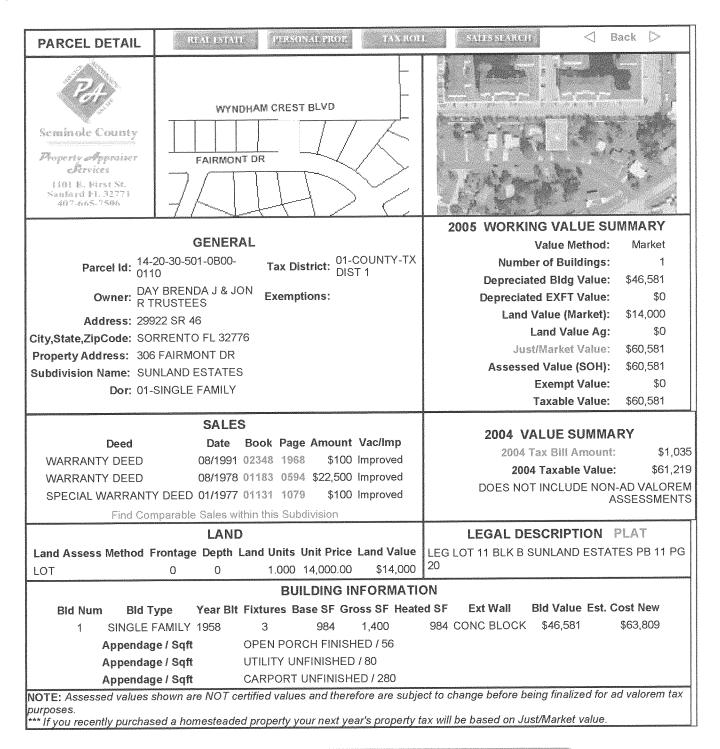
Notary Public in and for the County and State Aforementioned CODE ENFORCEMENT BOARD My commission expires:

CMPLAFF.CEB

SEMINOLE COUNTY, FEORIDA

By: Y Maria L. Conflex.





BACK PROPERTY APPRAISER CONTACT

Estimate of Costs CEB Case # 02-106-CEB Brenda J. & Jon R. Day

Postage				
Regular	12	\$.37	\$ 4.44	
Certified	12	\$ 4.42	\$ 53.04	
				\$57.48
Site Inspections - Per Attache	ed Affidavit for	Reimburseme	nt of Costs	
# Site Visits - 9	1 hr ea	\$ 39.19		
				\$352.71
Processing Time for Code Enforcement and BCC	<u>Action</u>			
Code Officer	7 hours	\$ 39.19	\$274.33	
Code Board Secretary	2 hours	\$ 12.50	\$ 25.00	in the state of th
County Attorney's Review	1 hour	\$100.00	\$100.00	
Planning Manager's Review	1 hour	\$ 40.00	\$ 40.00	
Planning and Development Director's Review	1 hour	\$ 50.00	\$ 50.00	ille verphilitie for un eile fra an eile and an anne an
Deputy County Manager's Review	1 hour	\$ 60.00	\$ 60.00	
		7		\$549.33
Other associated costs not ca Fleet expense, Phone expense		nputer Suppor	t	
ESTIMATED COST FOR PRO	CESSING CASE	E# 02-106 -CE	B	\$959.52