

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Code Enforcement Lien, Case # 04-69-CEB, Request for Reduction of Penalty – Todd and Susan Powell, 225 Temple Avenue, Fern Park

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: Dan Matthys **CONTACT:** April Boswell **EXT.** 7339

Agenda Date 10/25/05 **Regular** **Consent** **Work Session** **Briefing**
Public Hearing – 1:30 **Public Hearing – 7:00**

MOTION/RECOMMENDATION:

(A) Approve a reduction to the Code Enforcement Board lien which totals \$11,325.00, on the property located at 225 Temple Avenue, Fern Park – Todd & Susan Powell, owners, Case # 04-69-CEB, in the amount of \$1,205.12 and require the reduced amount to be paid within 30 days or the lien will revert back to its original amount (\$11,325.00) and upon payment in full, authorize the Chairman to execute the Satisfaction of Lien (Staff recommendation); or

(B) Approve a reduction to the Code Enforcement Board lien from \$11,325.00 to the estimated administrative costs of \$638.87 for processing Case # 04-69-CEB on the property located at 225 Temple Avenue, Fern Park – Todd & Susan Powell, owners, and require these costs to be paid within 30 days or the lien will revert back to its original amount (\$11,325.00) 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 \$11,325.00, on the property located at 225 Temple Avenue, Fern Park – Todd & Susan Powell, owners, Case # 04-69-CEB, to an amount set by the Board of County Commissioners and require the reduced amount to be paid within 30 days or the lien will revert back to its original amount (\$11,325.00) and upon payment in full, authorize the Chairman to execute the Satisfaction of Lien; or

(D) Approve a waiver of the Code Enforcement Board lien which totals \$11,325.00 on the property located at 225 Temple Avenue, Fern Park – Todd & Susan Powell, owners, Case # 04-69-CEB, and authorize the Chairman to execute the Satisfaction of Lien; or

(E) Deny the request to waive or reduce the Code Enforcement Board lien which totals \$11,325.00 on the property located at 225 Temple Avenue, Fern Park – Todd & Susan Powell, owners, Case # 04-69-CEB.

Commissioner Henley – District 4

April Boswell – Principal Coordinator

BACKGROUND:

In response to a complaint, on June 21, 2004, the Code Enforcement Officer observed the following violation located at 225 Temple Avenue, Fern Park: junked or abandoned vehicle not being kept within an enclosed garage or an attached carport, in violation of Seminole County Code Section 95.4, as defined in Section 95.3(l). The timeline on this violation is below:

Reviewed by:	
Co Atty:	<u>[Signature]</u>
DFS:	<u>[Signature]</u>
Other:	
DCM:	<u>[Signature]</u>
CM:	<u>[Signature]</u>
File No.	<u>rpdp01</u>

DATE	ACTION	RESULT
June 21, July 15, and July 30, 2004	Notices of Violation issued to Respondents	Violation remains
September 23, 2004	Notice of Hearing mailed to Respondents via certified and regular mail	Certified mail envelope returned marked "unclaimed" but regular mail envelope not returned
October 18, 2004	Notice of Hearing	Posted at Respondents' property
October 28, 2004	Code Board Hearing	Order entered giving Respondents a compliance date of November 26, 2004 – if the violation is not corrected by that date, a fine of \$75.00 per day will be imposed for each day the violation continues (certified mail envelope returned marked "unclaimed" but regular mail envelope not returned)
December 1, 2004	Reinspection for compliance	Violation remains – Affidavit of Non-Compliance filed by Code Officer
December 9, 2004	Notice of Hearing mailed to Respondents, via certified and regular mail	Received and signed for by Respondent, Todd Powell
March 24, 2005	Code Board Hearing	Lien imposed in the amount of \$8,925.00 with the fine continuing to accrue at \$75.00 per day until compliance is obtained (certified mail envelope returned marked "unclaimed" but regular mail envelope not returned)
April 26, 2005	Reinspection for compliance	Violation corrected – Affidavit of Compliance filed by Code Officer
April 26, 2005	Property in non-compliance for 151 days	Lien accrued to \$11,325.00
August 3, 2005	Request for Reduction of Penalty	Received from Todd & Susan Powell, requesting that the lien imposed against the property be released; claiming that, as a taxpayer, this lien is against their rights and that this property does not have a carport or a garage in which to place the vehicle

The Board considers the individual facts of each case when determining whether to reduce a lien. In addition, the Board adopted the following guidelines on February 9, 1999 to use when considering lien reductions:

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. Per the Property Appraiser information, the assessed value of the property is **\$52,436.00**. The lien totals **\$11,325.00**.
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:

Staff recommends that the Board approve a reduction of the lien on the property located at 225 Temple Avenue, Fern Park, from \$11,325.00 to **\$1,205.12**, which represents 5% of the lien amount and includes the administrative costs of \$638.87 for processing this case based on the following facts:

1. The Respondents were uncooperative in bringing this property into compliance and resisted every attempt by Staff to help them achieve compliance. This lack of cooperation resulted in the property remaining in non-compliance for 151 days.
2. The property is now in compliance and the Respondents submitted a Request for Reduction of Penalty, claiming financial hardship; specifically requesting the lien be removed. As a measure of good faith, Staff believes 5% of the total lien, plus administrative costs, represents a fair amount to be considered for the Respondents to pay in satisfaction of the lien.
3. Five percent of the total lien plus administrative costs is consistent with lien reduction requests previously considered by Seminole County.

Staff further recommends that this amount (\$1,205.12) be paid within 30 days or the fine will revert back to the original lien in the amount of \$11,325.00.

Attachments: Findings of Fact, Conclusions of Law and Order (10/28/04)
Affidavit of Non-Compliance (12/1/04)
Order Finding Non-Compliance and Imposing Fine/Lien (3/24/05)
Affidavit of Compliance (4/26/05)
Request for Reduction of Penalty (8/3/05)
Property Appraiser Database Information
Estimated Costs for processing Case # 04-69-CEB (Planning Division)
Estimated Costs for processing Case # 04-69-CEB (SCSO)

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

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

CASE NO. 04-69-CEB

Petitioner,
vs.

TODD & SUSAN M. POWELL
PARCEL I.D. # 19-21-30-507-0B00-0040

Respondents
_____ /

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Based on the testimony and evidence presented in case number 04-69-CEB, it is determined that the Respondents are:

- (a) the owners of record of the property (Tax Parcel ID # 19-21-30-507-0B00-0040) located at 225 Temple Avenue, Fern Park, located in Seminole County and legally described as follows:
LEG LOT 4 BLK B FERN TERRACE
PB 11 PG 28
- (b) in possession or control of the property; and
- (c) in violation of Seminole County Code, Chapter 95, Section 95.4 as defined in 95.3(I).

It is hereby ordered that the Respondents correct the violation on or before November 26, 2004. In order to correct the violation, the Respondents shall take the following remedial action:

- 1) REMOVE THE JUNKED OR ABANDONED VEHICLES NOT BEING KEPT WITHIN AN ENCLOSED GARAGE OR AN ATTACHED CARPORT.

MARYANNE MORSE, CLERK OF CIRCUIT COURT
CLERK OF SEMINOLE COUNTY
BK 05508 PGS 1289-1290
FILE NUM 2004172539
RECORDED 11/08/2004 03:32:41 PM
RECORDING FEES 18.50
RECORDED BY G Harford

If the Respondents do not comply with the Order, a fine of \$175.00 will be imposed for each day the violation continues, or is repeated after compliance past November 26, 2004. The Respondents are further ordered to contact the Seminole County Code Officer to arrange for an inspection of the property to verify compliance. Any fine imposed shall continue to accrue until such time as the Code Officer inspects the property and verifies compliance with this Order.

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

DONE AND ORDERED this 28th day of October, 2004, in Seminole County, Florida.

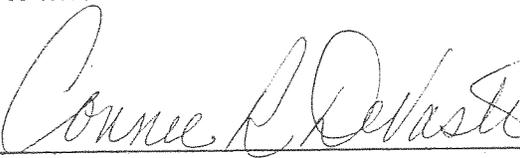
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA



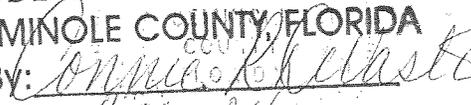
TOM HAGOOD, CHAIRMAN

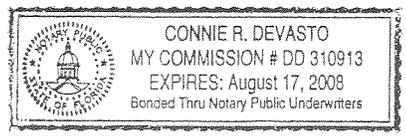
STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 28th day of October, 2004, by Tom Hagood, who is personally known to me.



Connie R. DeVasto
Notary Public to and for the
County and State aforementioned.
My Commission Expires

CERTIFIED COPY
CLERK OF THE
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA
By: 
Date: 11-21-04



CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

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

CASE NO: 04-69-CEB

Petitioner,

vs.

TODD POWELL & SUSAN M

Respondent.

CERTIFIED COPY
CLERK OF THE
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

By: Connie R. Devasto

Date: 12-09-04

AFFIDAVIT OF NON-COMPLIANCE

BEFORE ME, the undersigned authority, personally appeared **Dorothy Hird**,
Code Enforcement Officer, for Seminole County Sheriff's Office, who after being duly
sworn, deposes and says:

1. That on **October 28, 2004**, the Board held a public hearing and issued its Order in the above-styled matter.
2. That, pursuant to said Order, Respondent was to have taken certain corrective action by or before **November 26, 2004**.
3. That a re-inspection was performed on **December 1, 2004**.
4. That the re-inspection revealed that the corrective action ordered by the Board has not been taken in that **the junked or abandoned vehicle not kept within an enclosed garage or an attached carport remains on the property.**

FURTHER AFFIANT SAYETH NOT.

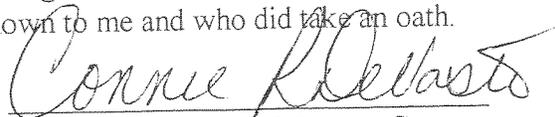
DATED this 1st day of **DECEMBER 2004**.



Dorothy Hird, Code Enforcement Officer

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

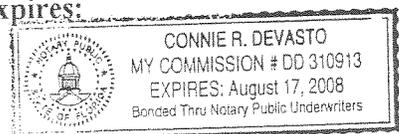
The foregoing instrument was acknowledged before me this 1st day of **December 2004**, by **Dorothy Hird**, who is personally known to me and who did take an oath.



Notary Public in and for the County
and State Aforementioned

My commission expires:

AFFNON.COM



MARYANNE MORSE, CLERK OF THE DISTRICT COURT SEMINOLE COUNTY, CFN 2004191759 BK 05245 PG 1628 RECD 12/14/2004 09:29:16 AM RECD BY J. ESKENOTH

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

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

CASE NO. 04-69-CEB

Petitioner,

vs.

TODD & SUSAN M. POWELL
PARCEL I.D. # 19-21-30-507-0B00-0040

Respondents

1 100001 100 1000 11 00001 11 00001 001 0011 11 00001 001 0011 100 1000 001 1000 11 10000 1 100001

MARYANNE MORSE, CLERK OF CIRCUIT COURT
SEMINOLE COUNTY
BK 05675 PGS 1081-1082
CLERK'S # 2005056117
RECORDED 04/06/2005 02:32:30 PM
RECORDING FEES 18.50
RECORDED BY G Harford

ORDER FINDING NON-COMPLIANCE AND IMPOSING FINE/LIEN

The Respondents are the owners of record of the property (Tax Parcel # 19-21-30-507-0B00-0040) located at 225 Temple Avenue, Fern Park, located in Seminole County and legally described as follows:

LEG LOT 4 BLK B FERN TERRACE
PB 11 PG 28

This case came on for public hearing before the Code Enforcement Board of Seminole County on the October 28, 2004 after due notice to the Respondents. The Board, having heard testimony under oath and having received evidence, issued its Findings of Fact, Conclusions of Law and Order.

Said Order found Respondents in violation of Seminole County Code, Chapter 95, Section 95.4 as defined in 95.3(I).

Said Order stated that a fine in the amount of \$75.00 per day would be imposed if the Respondents did not take certain corrective action by November 26, 2004.

An Affidavit of Non-Compliance bearing the date of December 1, 2004, has been filed with the Board by the Code Enforcement Officer, which Affidavit certifies under oath that the required action has not been obtained.

04-69-CEB
TODD & SUSAN POWELL

Accordingly, it having been brought to the Board's attention that Respondents have not complied with the Order dated October 28, 2004, the Board orders that a fine of **\$8,925.00**, 119 days of non-compliance at \$75.00 per day, be imposed against the property and the fine shall continue to accrue at **\$75.00 per day** for each day the violations continue past March 24, 2005.

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

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

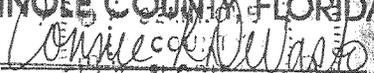
DONE AND ORDERED this 24th day of March, 2005, in Seminole County, Florida.

CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

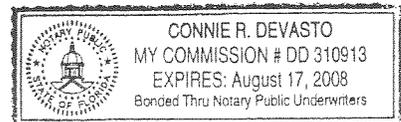

TOM HAGOOD, CHAIR

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 24th day of March, 2005, by Tom Hagood, who is personally known to me.

CERTIFIED COPY
CLERK OF THE
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA
By: 
Date: 4-21-05


Connie R. DeVasto
Notary Public to and for the
County and State aforementioned.
My Commission Expires



CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA

SEMINOLE COUNTY, a political
subdivision of the State of Florida

Case No. 04-69-CEB

Petitioner,
vs.

TODD POWELL & SUSAN M

Respondent.

CERTIFIED COPY
CLERK OF THE
CODE ENFORCEMENT BOARD
SEMINOLE COUNTY, FLORIDA
By: *Connie R. Devasto*
Date: 5-3-05

AFFIDAVIT OF COMPLIANCE

BEFORE ME, the undersigned authority, personally appeared **Dorothy Hird, Code Enforcement Officer, Seminole County Sheriff's Office**, who, after being duly sworn, deposes and says:

1. That on **October 28, 2004**, the Board held a public hearing and issued its Order in the above-styled matter.
2. That, pursuant to said Order, Respondent was to have taken certain corrective action by or before **November 26, 2004**.
3. That a re-inspection was performed and the Respondent was in compliance on **April 26, 2005**.
4. That the re-inspection revealed that the corrective action ordered by the Board has been taken in that **junked or abandoned vehicles not kept within an enclosed garage or an attached carport is operable**.

FURTHER AFFIANT SAYETH NOT.

DATED this 26th day of April 2005.

Dorothy Hird

Dorothy Hird, Code Enforcement Officer

STATE OF FLORIDA)
COUNTY OF SEMINOLE)

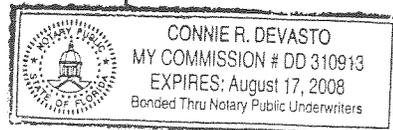
The foregoing instrument was acknowledged before me this 26th day of April 2005, by **Dorothy Hird**, who is personally known to me and who did take an oath.

Connie R. Devasto

Notary Public in and for the County
and State Aforementioned

My commission expires:

CMPLAFF.CEB



MARYANNE MORSE, CLERK OF THE CIRCUIT COURT SEMINOLE COUNTY, CFN 2006078951 BK 05723 PG 0688 RECD 06/12/2006 09:19:42 PM RECD BY: G Hatford

SEMINOLE COUNTY
CEB CASE NO. 04-69-CERB

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 TODD ALAN POWELL

Property Address 225 TEMPLE AVE. FERRO PARK 32730

Phone number where you can be reached during the day 321-277-0513

Is the property now in compliance? Yes No (If no, explain in detail)

Are you claiming a financial hardship? Yes No

Are you claiming a medical hardship? Yes 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:

TODD POWELL

<p>PARCEL DETAIL</p> <p>DAVID JOHNSON, CFA, ASA</p> <p>PROPERTY APPRAISER</p> <p>SEMINOLE COUNTY FL.</p> <p>1101 E. FIRST ST SANFORD, FL 32771-1468 407-665-7506</p>																																																			
<p align="center">GENERAL</p> <p>Parcel Id: 19-21-30-507-0B00-0040</p> <p>Owner: POWELL TODD & SUSAN M</p> <p>Mailing Address: 225 TEMPLE AVE</p> <p>City,State,ZipCode: FERN PARK FL 32730</p> <p>Property Address: 225 TEMPLE AVE FERN PARK 32730</p> <p>Subdivision Name: FERN TERRACE</p> <p>Tax District: 01-COUNTY-TX DIST 1</p> <p>Exemptions: 00-HOMESTEAD</p> <p>Dor: 01-SINGLE FAMILY</p>	<p>2005 WORKING VALUE SUMMARY</p> <p>Value Method: Market</p> <p>Number of Buildings: 1</p> <p>Depreciated Bldg Value: \$51,992</p> <p>Depreciated EXFT Value: \$938</p> <p>Land Value (Market): \$35,000</p> <p>Land Value Ag: \$0</p> <p>Just/Market Value: \$87,930</p> <p>Assessed Value (SOH): \$52,436</p> <p>Exempt Value: \$25,000</p> <p>Taxable Value: \$27,436</p> <p>Tax Estimator</p> <p>2005 Notice of Proposed Property Tax</p>																																																		
<p align="center">SALES</p> <table border="1"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> </tr> </thead> <tbody> <tr> <td>WARRANTY DEED</td> <td>06/1996</td> <td>03096</td> <td>0813</td> <td>\$54,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>06/1991</td> <td>02308</td> <td>1112</td> <td>\$52,000</td> <td>Improved</td> </tr> <tr> <td>WARRANTY DEED</td> <td>01/1971</td> <td>00868</td> <td>0470</td> <td>\$16,800</td> <td>Improved</td> </tr> </tbody> </table> <p align="center">Find Comparable Sales within this Subdivision</p>	Deed	Date	Book	Page	Amount	Vac/Imp	WARRANTY DEED	06/1996	03096	0813	\$54,000	Improved	WARRANTY DEED	06/1991	02308	1112	\$52,000	Improved	WARRANTY DEED	01/1971	00868	0470	\$16,800	Improved	<p align="center">2004 VALUE SUMMARY</p> <p>Tax Value(without SOH): \$878</p> <p>2004 Tax Bill Amount: \$438</p> <p>Save Our Homes (SOH) Savings: \$440</p> <p>2004 Taxable Value: \$25,909</p> <p>DOES NOT INCLUDE NON-AD VALOREM ASSESSMENTS</p>																										
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<p>NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes.</p> <p>*** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.</p>																																																			

**Estimate of Costs
CEB Case # 04-69-CEB
TODD & SUSAN POWELL**

<u>Postage</u>			
Regular	7	\$.37	\$ 2.59
Certified	7	\$ 4.42	\$30.94
			\$ 33.53
<u>Processing Time for Code Enforcement and BCC Action</u>			
Code Board Secretary	2 hours	\$ 12.50	\$25.00
Code Board Attorney	1 hour	\$100.00	
Planning Manager's Review	1 hour	\$ 40.00	
Planning and Development Director's Review	1 hour	\$ 50.00	
Deputy County Manager's Review	1 hour	\$ 60.00	
County Attorney's Review	1 hour	\$100.00	
			\$375.00
Other associated costs not captured:			
Fleet expense, Phone expense, Utilities, Computer Support			
Costs for Recording Documents -			
# of first page docs - 6 # of additional page docs - 1			\$ 68.50
(\$10.00 first page, \$8.50 each additional page)			
<u>ESTIMATED COST FOR PROCESSING CASE # 04-69-CEB By the Planning Division</u>			\$477.03
<u>ESTIMATED COST FOR PROCESSING CASE # 04-69-CEB By the Seminole County Sheriff's Office</u>			\$161.84
<u>TOTAL COST FOR PROCESSING CASE # 04-69-CEB</u>			\$638.87

SEMINOLE COUNTY SHERIFF'S OFFICE
Affidavit For Reimbursement of Code Enforcement Officers Administrative Costs
Case#04-69-CEB/Todd Powell & Susan M

The Seminole County Sheriff's Office requests that the Department of Planning and Development petition the Board of County Commission to enter an order requiring the Respondent in the above-styled case to pay the costs of investigation incurred by this office during the investigation and presentation of said case. The below items detail the activities and associated costs for investigating this case.

Code Enforcement Officer: Dorothy Hird

06/21/04 – 04/26/05	6 Inspections and took 2 photos	1
06/28/05 – 07/30/05	3 Notices mailed	1
11/29/05 – 04/25/05	5 returned phone calls	1
08/20/05	Prepared case for CEB	
10/18/05	Posted property	.50
10/28/04	CEB hearing, comply by 11/26/04 or a fine of \$75.00 per day	2
12/01/04	Filed Affidavit of Non-Compliance	.25
04/26/05	Filed Affidavit of Compliance	.25
06/21/04 – 04/26/05	Input information and pictures into CAFÉ	2

TOTAL HOURS	8
	x \$20.23
TOTAL PERSONNEL COSTS	\$ 161.84

1.		
2.		
3.		
4.		

TOTAL TANGIBLE AND/OR SERVICE COSTS	\$ 00
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The Seminole County Sheriff's Office has incurred actual costs in the amount of **161.84** during the investigation and prosecution of the defendant in this case. Said costs are supported and documented as listed above. Personnel costs are calculated at a rate of \$20.23 per hour, as determined by the Financial Services Section of the Seminole County Sheriff's Office. Tangible goods and contractual services are indicated as required and at a direct cost to the Office.

Signature of Deputy / Investigator:  08/30/05
 Date

Attested to this 30th of August, 2005, by Dorothy Hird
 A Code Enforcement Officer