

(R) Rm 4602
CAO

BEFORE THE SPECIAL MASTER
IN AND FOR HERNANDO COUNTY, FLORIDA

HERNANDO COUNTY
DEVELOPMENT DEPARTMENT,
Plaintiff,

vs.

Case No. 330013

JOSEPH and JOSEPHINE SHIRLAW,
Defendants.

SPECIAL MASTER'S ORDER

THIS MATTER came before the Special Master for hearing on March 7, 2018, after notice to the Defendants, on Citations #BD-5976, #BD-5977, #BD-5978, #BD-5979, and #BD-5980 issued by the Plaintiff, HERNANDO COUNTY DEVELOPMENT DEPARTMENT, CONTRACTOR CERTIFICATION DIVISION, 789 Providence Blvd., Brooksville, Florida 34601, to the Defendants, JOSEPH and JOSEPHINE SHIRLAW, 5307 Kirkwood Ave., Spring Hill, FL 34608. The citations and Amended Notice of Hearing for March 7, 2018 were mailed to the Defendants by Certified Mail, return receipt requested and were signed for at the Defendants' address. The Defendants appeared pro se by JOSEPH SHIRLAW and the Plaintiff was represented by JON JOUBEN, ESQ., Deputy County Attorney.

A hearing was conducted by the Special Master into the allegations brought by the Plaintiff. The Plaintiff presented witnesses and evidence and the Defendant was afforded an opportunity to cross examine those witnesses, review the evidence presented, and present witnesses and evidence on his own behalf. The Defendant argued on his own behalf.

The Special Master heard the testimony of Hernando County Field Investigators, VIC HEISLER and JANE BROWN, Deputy Hernando County Building Official, TONY BRYAN, and the Defendant.

Upon **CONSIDERATION**, the Special Master finds as follows:

A. Upon testimony and evidence presented, by the testimony of Hernando County Building Department Investigator, Vic Heisler, he received an anonymous call regarding construction on the second floor of property owned by the Defendants and located at 4100 Flamingo Blvd., Hernando Beach, Hernando County, FL 34608. Investigator Heisler inspected the property on August 11, 2017 and observed construction activity. There were a couple posts in the ground for an unknown purpose. On August 17, 2017 Investigator Heisler asked Investigator Jane Brown to drive by to see if there was additional work. Investigator Brown reported that there was additional work to the second floor deck and siding was being removed. An air conditioning unit had been installed at the site by unlicensed contractors. Investigator Brown took photographs and posted a Stop Work Order at the site. Investigator Heisler returned on August

18, 2017 took additional photographs and determined that the Stop Work Order had been violated as more siding had been removed from the structure. Investigator Heisler returned on August 28, 2017 and no more work could be identified. He reposted the Stop Work Order on that date. Citations were issued on August 31, 2017. The Defendants' son in law, Jason was on site on two occasions and admitted to performing work on August 18 and August 28. On August 18, 2017 Investigator Heisler spoke with Jason who provided incorrect information or information that was misunderstood by Investigator Heisler. Jason was identified as Mr. Shirlaw's nephew. Jason knew the Stop Work Order had been posted and understood the meaning of it. Investigator Heisler asked for permission to look at the lower floor as information had been received that there was a change of use made to the lower floor. After the citations issued on August 31 were returned unclaimed Investigator Heisler did more research and found a document in Circuit Court that identified a different address for the Defendants. Investigator Heisler received a call from Mr. Shirlaw on September 20, 2017 and confirmed that he was not living at the house. The Flamingo Blvd. Address was no longer his primary residence; Mr. Shirlaw's son in law was living there. Mr. Heisler advised Mr. Shirlaw of the need to hire licensed contractor and pull permits. He advised Mr. Shirlaw to pay the citations. Mr. Shirlaw asked for an additional 30 days on October 2, 2017 to get contractors and permits. Mr. Heisler advised that they were closing on the 10 days to either pay the citations or request a hearing. On October 26, 2017 Investigator Heisler returned to Flamingo Blvd. There was a van with a man and a woman in the driveway. The woman asked what Mr. Heisler wanted? Heisler advised he wanted to meet with the Defendant. The woman stated he was not there yet. Mr. Heisler testified that he gave the woman an overview of the situation. Jason then came out and asked why Mr. Heisler was there? Mr. Heisler advised that the citations had not been paid and there was no hearing requested. Mr. Heisler testified that he advised Jason that responsibility was still with Mr. Shirlaw.

B. The Special Master then heard the testimony of Hernando County Field Investigator Jane Brown who testified that she went to the Defendants' property on Flamingo Blvd. on August 17, 2017 and observed work at the rear of the home. She parked next door and walked the fence line. There was wire mesh going up for stucco. Jason told her that he was Mr. Shirlaw's nephew. There was definitely work being conducted. Investigator Brown testified that Jason was elusive and uncooperative. Investigator Brown advised Jason she was posting a Stop Work Order and why she was posting it. Jason left and she posted the red tag.

C. The Special Master heard the testimony of Hernando County Deputy Building Official, Tony Bryan who testified that he met with Jason and Mr. Shirlaw on November 2, 2017. They complained that Investigator Heisler was harassing them and giving them a hard time. Jason said he had a licensed contractor and called the building department to ask if he needed a licensed contractor for stucco. Mr. Bryan stated that for a wood frame structure, yes, a permit was needed for stucco. Mr. Shirlaw and Jason showed him the

citations. Mr. Bryan advised that he was trying to get them into compliance and the citations would go away. But nothing further happened toward coming into compliance. Jason brought in a contractor from Melbourne with no state license or registered in Hernando County.

D. The Defendant questioned Mr. Bryan and asked if he had complained about Vic Heisler? The Defendant then argued that Tony Bryan said he would straighten out the situation. The Defendant argued that Tony Bryan took the citations and said it was taken care of. The Defendant further argued that where he came from when someone said the situation was taken care of it was a done deal. The Defendant then stated that it was Jason who complained about Vic Heisler and not him.

E. Mr. Collier redirected questions to Mr. Bryan. Mr. Collier asked if there was a February 22, 2018 meeting? Mr. Bryan answered yes. Mr. Collier asked if between November 2, 2017 and February 22, 2018 had the situation been taken care of? Mr. Bryan answered that nothing toward compliance had been done. Mr. Bryan further testified that Mr. Shirlaw had asked for the meeting. Vic Heisler tried to explain the situation and Jason interrupted. Mr. Heisler tried to lay out the case to show where the violations occurred. Finally, Tony Bryan had Jason removed from the meeting. Mr. Bryan testified that it was a productive meeting but nothing more happened. Mr. Bryan further testified that the Defendant understood his requirements.

F. The Defendant testified that at the November 2, 2017 meeting Tony Bryan notified him that the house was in a trust and there could be no further work until the house was taken out of the trust. The Defendant stated he took the house out of the trust. The Defendant admitted that the problem was that work was done that should have not been done and mistakes were made. The Defendant renewed his argument that Tony Bryan had quashed the citations and he thought there was no more problem. Mr. Shirlaw attempted to argue that he did not even have the citations to know what he was charged with. Mr. Shirlaw testified that the house is in Jason's hands and that he (Mr. Shirlaw) has nothing more to do with it. He put the house in Jason's hands in an "as is" condition.

G. The Plaintiff moved the Special Master to take judicial notice that on December 14, 2017 a green card was signed for which identified the citations involved.

H. The Special Master finds that title to the house remains in the Defendants' names. The Special Master attempted to explain to Mr. Shirlaw that while he may think he has made Jason responsible for the all matters with the home, all matters remain Mr. Shirlaw's responsibility. The Special Master further expressed doubt that Tony Bryan stated he would quash the citations and, even if he did say that, he did not have the authority to do so and the citations remain active and viable.

UPON THESE FINDINGS, it is therefore ORDERED:

1. Regarding Citation #BD-5976 and the charge of commencing or performing work for which a

building permit is required by local law without such permit being in effect for expansion of second story deck at a residence at 4100 Flamingo Blvd., Hernando Beach, Hernando County, Florida, the Defendants, JOSEPH and JOSEPHINE SHIRLAW are found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-46(5)(i), Hernando County Code of Ordinances.

a) The Defendants shall pay a civil penalty in the amount of \$500.00, payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

b) The Defendants is assessed \$94.92 in administrative costs on behalf of the Building Dept.

2. Regarding Citation #BD-5977 and the charge of commencing or performing work for which a building permit is required by local law without such permit being in effect for installation of an A/C unit at 4100 Flamingo Blvd., Hernando Beach, Hernando County, Florida, the Defendants, JOSEPH and JOSEPHINE SHIRLAW are found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-46(5)(i), Hernando County Code of Ordinances.

a) The Defendants shall pay a civil penalty in the amount of \$500.00, payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

b) The Defendants is assessed \$94.92 in administrative costs on behalf of the Building Dept.

3. Regarding Citation #BD-5978 and the charge of commencing or performing work for which a building permit is required by local law without such permit being in effect for removal of siding to be replaced with stucco at 4100 Flamingo Blvd., Hernando Beach, Hernando County, Florida, the Defendants, JOSEPH and JOSEPHINE SHIRLAW are found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-46(5)(i), Hernando County Code of Ordinances.

a) The Defendants shall pay a civil penalty in the amount of \$500.00, payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

b) The Defendants is assessed \$94.92 in administrative costs on behalf of the Building Dept.

4. Regarding Citation #5979 and the charge of violation of a Stop Work Order the Defendants, JOSEPH and JOSEPHINE SHIRLAW are found GUILTY of allowing continued construction work after a Stop Work Order was issued at 4100 Flamingo Blvd., Hernando Beach, Hernando County, Florida, , in violation of Chapter 8, Article II, Section 8-35(4)(b), Hernando County Code of Ordinances.

a) The Defendants shall pay a civil penalty in the amount of \$500.00, payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

b) The Defendants is assessed \$94.92 in administrative costs on behalf of the Building Dept.

5. Regarding Citation #BD-5980 and the charge of hiring a person who is not duly certified, licensed or registered for work performed which required a licensed contractor at 4100 Flamingo Blvd., Hernando Beach, Hernando County, Florida, the Defendants, JOSEPH and JOSEPHINE SHIRLAW are found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-46(5)(k), Hernando County Code of Ordinances.

a) The Defendants shall pay a civil penalty in the amount of \$500.00, payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

b) The Defendants is assessed \$94.92 in administrative costs on behalf of the Building Dept.

6. That pursuant to authority granted by Chapter 2, Article III, Section 2-54(k) of the Hernando County Code of Ordinances and Section 162.09(2)(d), Florida Statutes, the Defendants are hereby ordered to pay additional administrative and investigative costs on behalf the Department in the amount of \$942.00, on behalf of the County Attorney in the amount of \$70.00, and mail costs in the amount of \$33.36.

7. The total of penalties and costs due and payable to the Plaintiff, Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601 is \$4,019.96. This order shall bear interest at the legal rate established pursuant to Section 55.01, Florida Statutes, beginning 30 days after the clerk signs this order, FOR WHICH LET EXECUTION NOW ISSUE. In the event that this Special Master's Order is recorded in the public records pursuant to paragraph 8, herein, Hernando County shall be entitled to collect for their actual costs of recording this Order and a Satisfaction, which additional costs shall be added to the total of penalties and costs stated herein.

8. If the Defendants fail to comply with this Order within 30 days, pursuant to Chapter 8, Article 2, Section 8-49(1)(a) of the Hernando County Code of Ordinances, this Order shall be recorded in the public records of Hernando County, Florida and wherever else the Defendants may live or own property and thereafter shall constitute a lien against real and personal property owned by the Defendants.

REQUESTS FOR FURTHER REVIEW shall be addressed as follows:

An aggrieved party, including the local governing body, may appeal a decision of the Special Master to the Circuit Court. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Master. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

YOU ARE FURTHER advised that if you decide to seek further review of any decision made by the Special Master with respect to any matter considered at such hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings

is made which record includes the testimony and evidence upon which the further review is to be based. Production of verbatim transcripts shall be the responsibility and at the personal expense of the party seeking review of the Special Master's Order.

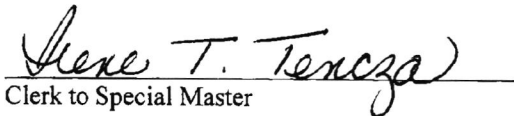
DONE AND ORDERED at Brooksville, Hernando County, Florida this ~~15th~~ day of March, 2018.


KENNETH L. WARNSTADT
Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Special Master's Order has been sent by Regular U.S. Mail and certified mail, return receipt requested to JOSEPH and JOSEPHINE SHIRLAW, 5307 Kirkwood Ave., Spring Hill, FL 34608 and by Courthouse Mail to Hernando County Development Dept., Contractor Certification Division, 789 Providence Blvd., Brooksville, Florida 34601 on March 20, 2018.

Pursuant to Section 119.07, Florida Statutes, as amended from time to time, as Record Custodian for this document, I hereby certify that this is a true and correct copy of the original document on file.


Clerk to Special Master

Record Custodian: Irene T. Tencza
Print Name: Irene T. Tencza Date: 5-4-2018
Hernando County Government, Brooksville, FL
Department/Office: County Attorney's Office