

**CITY OF BROOKSVILLE
 CODE ENFORCEMENT HEARINGS
 201 HOWELL AVENUE
 BROOKSVILLE, FL 34601**

**COB HEARING AGENDA
 Kenneth Warnstadt, Esquire, Special Master Officer, Presiding**

City represented by Nancy Stuparich, City Attorney, Vose Law Firm
 and David Peters, City Code Enforcement Officer.

Date: 11/27/2018

Time: 1:00 p.m.

A. CALL TO ORDER

B. CODE ENFORCEMENT HEARINGS

	NAME	TICKET #	OFFICER	VIOLATION	UA	NG	G
1.	James Kemper/Margaret Bednar	1619/1620	David Peters	Trash/junk Inoperative Vehicles			
2.	Laurenwood MHP LLC	1618	David Peters	Fence maintenance			
3.							
4.							
5.							
6.							

Note:

Case 1. James Kemper and Margaret Bednar were present. See attached order for Special Master Hearing Officer findings. Case continued until January 29, 2019 Code Enforcement Hearing to allow time for compliance.

Case 2. Representative of Laurenwood MHP, LLC, was not present. See attached order for Special Master Hearing Officer findings.

D. ADJOURNMENT

UA= Under Advisement

NG= Not Guilty

G= Guilty

BEFORE THE SPECIAL MASTER
IN AND FOR THE CITY OF BROOKSVILLE, FLORIDA

THE CITY OF BROOKSVILLE, FLORIDA
a Florida Municipality,
Plaintiff,

vs.

Case No. 201800030

JAMES KEMPER and MARGARET BEDNAR,
Defendants.

SPECIAL MASTER'S ORDER

THIS MATTER came before the Special Master for hearing on November 27, 2018, after notice to the Defendants, on Citations #1619 and #1620 issued by the Plaintiff, CITY OF BROOKSVILLE CODE ENFORCEMENT, 201 Howell Ave., Brooksville, Florida 34601, to the Defendants, JAMES KEMPER and MARGARET BEDNAR, 337 S. Brooksville Ave., Brooksville, FL 34601. The citations were mailed to the Defendants by certified mail, return receipt requested, and were signed for at the Defendants' address. The Defendants appeared pro se and the City was represented by NANCY STUPARICH, ESQ., of the Vose Law Firm, City Attorney.

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

The Special Master heard the testimony of City of Brooksville Code Enforcement Officer DAVE PETERS and the Defendants.

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

A. Upon testimony and evidence presented, the Plaintiff established that in March, 2018 Officer Peters responded to a complaint of trash and debris at the Defendants' address, 337 S. Brooksville Ave., Brooksville, Florida. Officer Peters testified he observed miscellaneous debris and man-made material scattered throughout the yard. Additionally, there was a Toyota van on the property with flat tires. A Notice of Violation was issued on March 2, 2018. Officer Peters testified he visited the property on more than one occasion and observed there would be some improvement and then a regression. Sometimes debris was only moved from one location to another for which the Defendant felt he was making improvement. The Special Master viewed photographs taken on November 2, 2018 and November 26, 2018 showing the condition of the property which showed the property to be worse than described.

B. The Defendants admitted that the Notice of Violation was well deserved but pled extenuating circumstances as Margaret Bednar had a full knee replacement in June 2018 and Mr. Kemper took complete

care of her. The Defendants admitted that the Toyota van was not running. Mr. Kemper stated he was busy at work and was working extra hours. He stated that with extra time he would be able to erect a fence or shed to hide the offending material.

C. The Special Master responded to the excuses of the Defendants that for three months prior to Ms. Bednar's surgery there was still very little progress made in bringing the property into compliance. Additionally, in one of the photographs the Special Master observed a refrigerator or freezer outside without a lock. The Special Master advised Mr. Kemper that beside the freezer being stored outside, which in and of itself is a violation, the unsecured freezer presents a dangerous condition to children and admonished the Defendant to immediately secure the freezer with a lock. Due to the Christmas holiday falling on the next hearing date, the Special Master continued this matter to January 29, 2019 at 1:00 p.m. and advised the Defendants that there would be no excuses accepted for a failure to bring this property into full and final compliance. The Special Master reserves ruling on this matter until January 29, 2019 as to whether a fine is warranted.

DONE AND ORDERED at Brooksville, Hernando County, Florida this 20th day of November, 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 to JAMES KEMPER and MARGARET BEDNAR, 337 S. Brooksville Ave., Brooksville, FL 34601 by Regular U.S. Mail and certified mail, return receipt requested, and to the City of Brooksville Code Enforcement Department, 201 Howell Ave., Brooksville, FL 34601 by hand delivery on November 30, 2018.


Clerk to Special Master

BEFORE THE SPECIAL MASTER
IN AND FOR THE CITY OF BROOKSVILLE, FLORIDA

THE CITY OF BROOKSVILLE, FLORIDA
a Florida Municipality,
Plaintiff,

vs.

Case No. 201800104

LAURENWOOD MHP LLC,
Defendant.

SPECIAL MASTER'S ORDER

THIS MATTER came before the Special Master for hearing on November 27, 2018, after notice to the Defendant, on Citation #1618 issued by the Plaintiff, CITY OF BROOKSVILLE CODE ENFORCEMENT, 201 Howell Ave., Brooksville, Florida 34601, to the Defendant, LAURENWOOD MHP LLC, 7300 Johnston Rd., Pleasanton, CA 94588-9501. The citation was mailed to the Defendant by certified mail, return receipt requested, and was signed for at the Defendant's address. The citation was also posted at the site of the violation, 712 W. Jefferson St., Lot 7, Brooksville, Florida and at Brooksville City Hall. The Defendant, being duly informed and advised, failed to appear for the hearing. The City was represented by NANCY STUPARICH, ESQ., of the Vose Law Firm, City Attorney. Proceedings were had in the absence of the Defendant.

The Special Master heard the testimony of City of Brooksville Code Enforcement Officer DAVE PETERS.

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

A. Upon testimony and evidence presented, the Plaintiff established that on July 23, 2018 Officer Peters received a complaint of a fence which was falling down, boards missing, and not structurally sound at Laurenwood Mobile Home Park, 712 W. Jefferson St., Brooksville, Florida. Officer Peters inspected the mobile home park and observed that the fence was in poor condition and was falling down, boards missing, and otherwise not structurally sound. A Notice of Violation was issued. The property was reinspected on November 1, 2018 and there was no change in the condition. A citation was issued. On November 26, 2018 there was still no compliance. Officer Peters testified that he had no contact with the owners but did speak with two different property managers and now a maintenance man. There was some cleanup of trash inside the park and some boards were nailed back but the fence was not made structurally sound and was still falling down. The Special Master viewed photographs of the fence after they were admitted into evidence.

UPON THESE FINDINGS, it is therefore **ORDERED**:

1. Regarding citation #1618 the Defendant, LAURENWOOD MHP LLC, is found **GUILTY** of failing to correct fence maintenance at Laurenwood Mobile Home Park, 712 W. Jefferson St., Brooksville,

Hernando County, Florida in violation of City of Brooksville Code of Ordinances Land Development Code, Article IV, Section 4-6.2(bb)(4)

a) The Defendant shall pay a civil penalty in the amount of \$500.00, payable to the City of Brooksville Code Enforcement Department, 201 Howell Ave., Brooksville, Florida 34601 pursuant to City of Brooksville Code of Ordinances, Ordinance 826, Section 8-1.5.G.7.b.

2. That pursuant to authority granted by Ordinance 826, Section 8-1.5.G.7.d, City of Brooksville Code of Ordinances, and Section 162.09(2)(d), Florida Statutes, the Defendant is hereby ordered pay administrative costs on behalf of the City of Brooksville in the amount of \$105.00, on behalf of the City Attorney in the amount of \$250.00, and certified mail costs in the amount of \$13.18, and regular mail costs in the amount of \$0.94, payable to the City of Brooksville Code Enforcement Department.

3. **The total of penalties and costs due and payable to the Plaintiff, City of Brooksville Code Enforcement Department, 201 Howell Ave., Brooksville, Florida 34601 is \$869.12. In the event that this Special Master's Order is recorded in the public records pursuant to paragraph 4, herein, The City of Brooksville 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.**

4. If the Defendant fails to comply with this Order within 30 days, pursuant to Ordinance 826, Section 8-1.5.G.7.f, City of Brooksville Code of Ordinances, a certified copy of this Order shall be recorded in the public records of Hernando County, Florida and wherever else the Defendant may live or own property and thereafter shall constitute a lien against real and personal property owned by the Defendant.

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 ~~20~~²¹ day of November, 2018.


KENNETH L. WARNST, ADT
Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Special Master's Order has been sent to LAURENWOOD MHP LLC, 7300 Johnston Rd., Pleasanton, CA 94588-9501 by Regular U.S. Mail and certified mail, return receipt requested, and to the City of Brooksville Code Enforcement Department, 201 Howell Ave., Brooksville, FL 34601 by hand delivery on November 30, 2018.


Clerk to Special Master