

<u>Title XI</u>	<u>Chapter 162</u>	<u>View Entire</u>
COUNTY ORGANIZATION AND	COUNTY OR MUNICIPAL	<u>Chapter</u>
INTERGOVERNMENTAL RELATIONS	CODE ENFORCEMENT	

**162.09 Administrative fines; costs of repair; liens.--**

(1) An enforcement board, upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or upon finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the enforcement board for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code inspector. In addition, if the violation is a violation described in s. 162.06(4), the enforcement board shall notify the local governing body, which may make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the local governing body to make further repairs or to maintain the property and does not create any liability against the local governing body for any damages to the property if such repairs were completed in good faith. If a finding of a violation or a repeat violation has been made as provided in this part, a hearing shall not be necessary for issuance of the order imposing the fine. If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine as specified in paragraph (2)(a).

(2)(a) A fine imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation, and, in addition, may include all costs of repairs pursuant to subsection (1). However, if a code enforcement board finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation.

(b) In determining the amount of the fine, if any, the enforcement board shall consider 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.

(c) An enforcement board may reduce a fine imposed pursuant to this section.

(d) A county or a municipality having a population equal to or greater than 50,000 may adopt, by a vote of at least a majority plus one of the entire governing body of the county or municipality, an ordinance that gives code enforcement boards or special magistrates, or both, authority to impose fines in excess of the limits set forth in paragraph (a). Such fines shall not exceed \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs pursuant to subsection (1).

Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines, including but not limited to, those factors set forth in paragraph (b).

(3) A certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered pursuant to this section. After 3 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under s. 4(a), Art. X of the State Constitution.

**History.**--s. 1, ch. 80-300; s. 8, ch. 82-37; s. 2, ch. 85-150; s. 8, ch. 86-201; s. 2, ch. 87-391; s. 8, ch. 89-268; s. 4, ch. 94-291; s. 1, ch. 95-297; s. 5, ch. 99-360; s. 1, ch. 2000-125; s. 65, ch. 2004-11

**Note.**--Former s. 166 059.

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OF COUNSEL

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WILLIAM D. PRIDGEON

1933-1980

MICHELLE VAUGHNS

1946-1982

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MITZI COCKRELL, AUSTIN

[clapp@scruggs-carmichael.com](mailto:clapp@scruggs-carmichael.com)

October 30, 2007

*Sent via hand delivery to:*

Attn: Andrea Stokes, Clerk of Board  
City of Gainesville Board of Code Enforcement  
200 E. University Ave., Ste. 425  
Gainesville, FL 32601

*Re: Petition for Reduction and Release -- Nov 8<sup>th</sup> Hearing  
(CEB Nos. 2005-161 and 2004-012) City v. John L. Rowe  
(Client -- Evergreen USA, Inc.)*

Dear Madam Clerk:

Please find enclosed the original *Petition for Reduction and Release (CEB 2005-161)* and *Petition for Release (CEB 2004-012)* with exhibits to be filed and set for hearing on November 8, 2007. I also enclose six (6) conformed copies of the petition and exhibits for the City Attorney and members of the board.

Please be advised that I have requested Officer Jeff Look, City Code Enforcement, prepare an original Amended Affidavit of Compliance for filing with the Board prior to the hearing.

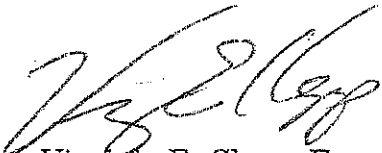
I request my client's petition be placed on the agenda for the hearing at 10:00 a.m. Please contact me if you require any further information or if there is a conflict with the time I have requested.



Thank you for all of your assistance in this matter

Very truly yours,

SCRUGGS & CARMICHAEL, P.A.

By:   
Virginia E. Clapp, Esquire  
(374-4120, Ext 331)

Encl.: as stated.

cc: Evergreen USA, Inc

GAINESVILLE CODE ENFORCEMENT BOARD

CITY OF GAINESVILLE,

Petitioner,

In Re:

Case Nos. CEB 2005-161 and  
CEB 2004-012

vs.

JOHN L. ROWE,

Respondent.

---

PETITION FOR REDUCTION AND RELEASE (CEB 2005-161) AND  
PETITION FOR RELEASE (CEB 2004-012)

Evergreen USA, Inc. ("Evergreen"), as successor in interest to John L. Rowe, the original Respondent in the cases referenced above, by and through its undersigned counsel, files its petition for reduction and release, and states:

1. Evergreen is a Florida corporation having its principal place of business at 3660 Washington Lane, Cooper City, FL 33026.

2. Evergreen is the successor in title to John L. Rowe as to Parcels 1 and 2 described below. John L. Rowe was the original respondent in case numbers CEB 2005-161 (violation on Parcel 1) and CEB 2004-012 (violation on Parcel 3); both violations resulted in liens which now encumber Parcels 1 and 2, purchased at tax sale by Evergreen, and Parcel 3 described below, purchased at tax sale by a third party.

*Petition for Reduction and Release as to CEB 2005-161*

3. Paragraphs 1 and 2 are incorporated herein by reference.

4. Evergreen purchased Parcels "1" and "2" described below (collectively referred to as the "Subject Properties") by tax deed sales on June 26, 2007:

Parcel 1 (Tax ID No. 11669-000-000)

NEW GAINESVILLE PB A-65 LOT 1 BK 47 LESS W 5 FT OR 2385/0665,  
SECTION 04 TOWNSHIP 10 RANGE 20, ALACHUA COUNTY,  
FLORIDA

Address: 1245 SE 4<sup>th</sup> Ave., Gainesville, FL

Parcel 2 (Tax ID No. 11670-000-000)

NEW GAINESVILLE PB A-65 THAT PART OF BROOKLYN AVE S OF S  
LINE OF SOUTH THIRD ST & E OF W LINE OF BK 47 & W 5 FT OF  
LOT 1 AND LOT 2 BK 47 OR 2385/0667, SECTION 04 TOWNSHIP 10  
RANGE 20, ALACHUA COUNTY, FLORIDA

Address: 1239 SE 3<sup>rd</sup> Ave , Gainesville, FL

Subject Properties Collectively Described:

Lots One (1) and Two (2), Block 47, of NEW GAINESVILLE, as per plat  
thereof as recorded in Plat Book A, page 65, of the Public Records of  
Alachua County, Florida.

TOGETHER WITH that part of vacated Brooklyn Avenue described as  
follows:

Commence at the Northeast corner of Block 47, NEW GAINESVILLE and  
run West 55 feet for the Point of Beginning; continue West 105 feet to a  
point; thence South 120 feet to a point; thence Northeasterly to the Point  
of Beginning.

LESS right of way for SE Fourth Avenue as recorded in O.R. Book 21,  
Page 522, of the Public Records of Alachua County, Florida.

A copy of the tax deeds for Parcel 1 (File No. 2007-028) and Parcel 2 (File No.  
2007-030) are attached as Exhibits "A" and "B", respectively.

5. The Subject Properties were owned by John L. Rowe prior to the tax deed sales, and John L. Rowe was also the respondent in the code enforcement violation action regarding Parcel 1 (CEB 2005-161). A copy of the *Order Imposing Fine and Costs* entered in CEB 2005-161 and dated September 15, 2005, is attached as Exhibit "C".

6. John L. Rowe was found guilty of violations of Section 16-19 as defined in 16-17(1) of the Gainesville Code of Ordinances. A copy of those sections are attached as Exhibit "D".

7. Although Evergreen was neither responsible for the code violation affecting Parcel 1 nor the owner of Parcel 1 at the time of the violation, Evergreen acted with diligence after it purchased Parcel 1 by tax sale to hire a contractor to complete the work necessary to bring it into code compliance. Parcel 1 was brought into compliance on or before August 3, 2007. A copy of the first *Affidavit of Compliance* as to CEB 2005-161 dated September 7, 2007, is attached as Exhibit "E", which reflects compliance on August 28, 2007. The undersigned counsel has contacted the code enforcement officer with documentation reflecting compliance on August 3, 2007, and has been advised that an amended affidavit of compliance will be filed herein prior to the hearing on this petition. The documentation of compliance on August 3<sup>rd</sup> includes a copy of the contract for work on Parcel 1 and copies of two cancelled checks, attached hereto as Exhibit "F".

8. Evergreen did not own Parcel 1 prior to the tax sale, and, therefore could not have brought that parcel into code compliance prior to the sale.

9. The City of Gainesville filed a claim in the tax files and was awarded the tax sale overbid proceeds as to Parcel 1 (\$3,785.99) and Parcel 2 (\$5,012.57), in the total amount of \$8,798.56, in partial satisfaction of the code enforcement liens encumbering those parcels

10. The total amount of the CEB 2005-161 lien encumbering the Subject Properties owned by Evergreen is approximately \$164,000.00, pending the completion of the amended affidavit of compliance.

11. Evergreen requests the Board reduce the lien imposed in case number CEB 2005-161 to \$8,491.19 plus \$307.37 in costs, accept the funds received by the City from the tax sale overbid proceeds in Tax File Nos. 2007-030 and 2007-028 as full satisfaction thereof, and forever release Parcels 1 and 2, and Evergreen USA, Inc. and its successors and assigns, from all further liability as to that lien described in the *Order Imposing Fines and Costs* dated September 15, 2005, in CEB 2005-161.

12. Upon the granting of the relief requested in paragraph 11 above, Evergreen agrees to release the City and Board from all liability regarding Case No. CEB 2005-161.

13. Except for the lien described below, Evergreen has no other pending code enforcement violations on any property located in Gainesville or Alachua County or the State of Florida, to the best of Evergreen's knowledge and belief.



*Petition for Release as to CEB 2004-012*

14. Paragraphs 1, 2 and 4 are incorporated herein by reference.

15. John L. Rowe also owned a third parcel of property (Alachua County Tax Identification Number 12727-002-000), described as ("Parcel 3"):

COM 177 Ft. S of NW COR OF LOT 12 BK 41 RUN S 186 FT W 95 FT N  
186 FT E 95 FT LESS R/W OR 827/978 DEED APPEARS IN ERROR OR  
1818/2131, SECTION 04 TOWNSHIP 10 RANGE 20, ALACHUA  
COUNTY, FLORIDA

Address: 1227 SE 3<sup>rd</sup> Ave., Gainesville, FL

16. John L. Rowe was the respondent in the code enforcement violation action regarding Parcel 3 (CEB 2004-012), and he was the owner of Parcel 3 at the time of the violation, to the best of Evergreen's knowledge and belief. A third party purchased Parcel 3 by tax sale on May 16, 2007, and a copy of the Tax Deed (File no. 2007-11) is attached as Exhibit "G".

17. The lien imposed in CEB 2004-012 encumbered all real property owned by John L. Rowe, including Parcels 1, 2, and 3. A copy of the *Order Imposing Fine* entered in CEB 2004-012 and dated November 20, 2003, is attached as Exhibit "H."

18. John L. Rowe was found guilty of violations of Section 13-171(b) of the Gainesville Code of Ordinances. To the best of Evergreen's knowledge and belief, the violation has not been removed and an affidavit of compliance has not been entered as to Parcel 3. A copy of the referenced section is attached as Exhibit "I".

19. Evergreen does not now nor has it ever owned an interest in Parcel 3 nor was it responsible for the violation affecting Parcel 3. Additionally, as Evergreen has never been the owner of Parcel 3 it does not have the legal right to enter that property to remove the violations, and it would be an undue hardship on

Evergreen to require it to expend funds to bring Parcel 3 into compliance when it has no ownership interest in that parcel.

20. On November 8, 2007, the lien imposed by CEB 2004-012 will be assessed at \$358,500.00, accruing at \$250.00 per day, plus \$420.68 in costs.

21. Due to Evergreen's lack of any ownership interest in Parcel 3, its inability to enter or exercise control over Parcel 3 to bring it into compliance with code ordinances, and the fact that Evergreen was in no way responsible for the violation affecting Parcel 3, Evergreen requests that the real property it owns, Parcels 1 and 2, and Evergreen USA, Inc. and its successors and assigns, be forever released from any and all liability and encumbrances imposed by the *Order Imposing Fine* entered in case number CEB 2004-012.

22. Upon the granting of the relief requested in paragraph 21 above, Evergreen agrees to release the City and Board from any liability regarding case no. CEB 2004-012.

Respectfully submitted this 29<sup>th</sup> day of October, 2007.

Attorneys for Evergreen USA, Inc.:

SCRUGGS & CARMICHAEL, P.A.

By: 

Virginia E. Clapp, Esq.  
Fla. Bar No. 761931  
4041-B NW 37<sup>th</sup> Place  
Gainesville, FL 32606  
Tele.: 352/ 374-4120, Ext. 331  
Fax: 352/ 378-9326

TAX DEED FILE NO. 2007-28  
PARCEL I.D. # 11669-000-000

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2349858 1 PG  
2007 JUN 26 04:17 PM BK 3627 PG 1221  
J. K. "BUDDY" IRBY  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA  
CLERK10 Receipt#335978  
Doc Stamp-Deed: 35.00

## TAX DEED

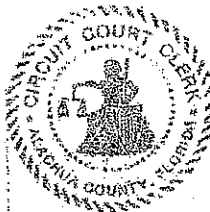


The following Tax Sale Certificate numbered 3802 issued May 28, 2003, was filed in the office of the tax collector of this County and application made for the issuance of a tax deed, the applicant having paid or redeemed all other taxes or tax sale certificates on the land described as required by law to be paid or redeemed, and the cost and expenses of this sale, and due notice of sale having been published as required by law, and no person entitled to do so having appeared to redeem said land, such land was on the 26th day of June, 2007, offered for sale as required by law for cash to the highest bidder and was sold to Evergreen USA, Inc. whose address is 3660 Washington Lane, Cooper City, Florida 33026 being the highest bidder and having paid the sum of its bid as required by the laws of Florida.

NOW, on this 26th day of June, 2007, in the County of Alachua, State of Florida, in consideration of the sum of five thousand and 00/100 dollars (\$5,000.00), being the amount paid pursuant to the laws of Florida, the Clerk of the Circuit Court pursuant to Chapter 197, Florida Statutes, does hereby sell the following lands situated in the County and State aforesaid and described as follows:

**NEW GAINESVILLE PB A-65 LOT 1 BK 47 LESS W 5 FT OR 2385/0665,  
SECTION 04 TOWNSHIP 10 RANGE 20, ALACHUA COUNTY, FLORIDA**

Leresa Mettrie  
Witness  
Ann G. Schneider  
Witness



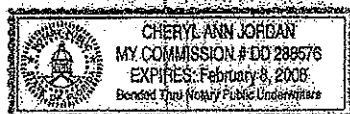
(SEAL)

J. K. "Buddy" Irby  
J. K. "Buddy" Irby  
Clerk of the Circuit Court in and for  
Alachua County, Florida

STATE OF FLORIDA  
COUNTY OF ALACHUA

On this 26th day of June, 2007, before me personally appeared J.K. "Buddy" Irby, Clerk of the Circuit Court in and for Alachua County, Florida, known to me to be the person described in, and who executed the foregoing instrument, and acknowledged the execution of this instrument to be his own free act and deed for the use and purposes therein mentioned.

Notary Seal:



Cheryl Ann Jordan  
Cheryl Ann Jordan



TAX DEED FILE NO. 2007-30  
PARCEL L D # 11670-000-000

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2349860 1 PG  
2007 JUN 26 04:21 PM BK 3627 PG 1224  
J. K. "BUDDY" IRBY  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA  
CLERK10 Receipt#35981  
Doc Stamp-Deed: 47.60

## TAX DEED



The following Tax Sale Certificate numbered 3803 issued May 28, 2003, was filed in the office of the tax collector of this County and application made for the issuance of a tax deed, the applicant having paid or redeemed all other taxes or tax sale certificates on the land described as required by law to be paid or redeemed, and the cost and expenses of this sale, and due notice of sale having been published as required by law, and no person entitled to do so having appeared to redeem said land; such land was on the 26th day of June, 2007, offered for sale as required by law for cash to the highest bidder and was sold to Evergreen USA, Inc. whose address is 3660 Washington Lane, Cooper City, Florida 33026 being the highest bidder and having paid the sum of its bid as required by the laws of Florida.

NOW, on this 26<sup>th</sup> day of June, 2007, in the County of Alachua, State of Florida, in consideration of the sum of six thousand eight hundred and 00/100 dollars (\$6,800.00), being the amount paid pursuant to the laws of Florida, the Clerk of the Circuit Court pursuant to Chapter 197, Florida Statutes, does hereby sell the following lands situated in the County and State aforesaid and described as follows:

NEW GAINESVILLE PB A-65 THAT PART OF BROOKLYN AVE S OF S LINE OF SOUTH THIRD ST & E OF W LINE OF BK 47 & W 5 FT OF LOT 1 & LOT 2 BK 47 OR 2385/0667, SECTION 04 TOWNSHIP 10 RANGE 20, ALACHUA COUNTY, FLORIDA

(SEAL)

Amos L. Schneider  
Witness  
Aeresa M. H. H. H.  
Witness

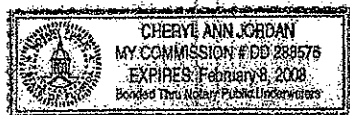


J. K. "Buddy" Irby  
J. K. "Buddy" Irby  
Clerk of the Circuit Court in and for  
Alachua County, Florida

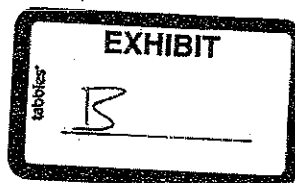
STATE OF FLORIDA  
COUNTY OF ALACHUA

On this 26<sup>th</sup> day of June, 2007, before me personally appeared J.K. "Buddy" Irby, Clerk of the Circuit Court in and for Alachua County, Florida, known to me to be the person described in, and who executed the foregoing instrument, and acknowledged the execution of this instrument to be his own free act and deed for the use and purposes therein mentioned.

Notary Seal:



Cheryl Ann Jordan  
Cheryl Ann Jordan





RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2210304 1 PG  
2006 JAN 30 03:15 PM BK 3305 PG 1191  
J. K. "BUDDY" IRBY  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA  
CLERKS Receipt#269840

## GAINESVILLE CODE ENFORCEMENT BOARD

CITY OF GAINESVILLE,

Petitioner,

vs.

CASE NO.: CEB 2005-161

JOHN L. ROWE,

**ORDER IMPOSING FINE AND COSTS**

Respondent.

THIS CAUSE, having come for Public Hearing before the Code Enforcement Board on September 8, 2005, after due notice to Respondent, JOHN L. ROWE, the Board issues its Order Imposing Fine and Costs as follows:

It is ORDERED that:

1. Respondent, JOHN L. ROWE, is found guilty of violating Section 16-19 as defined in 16-17(1) of the Gainesville Code of Ordinances existing at 1245 SE 4th Ave., also known as Tax Parcel 11669-000-000.

2. Respondent shall have 30 days from the date of the issuance of this Order to correct said violation and to come into compliance with the Code of Ordinances

3. Should Respondent fail to comply with the Order by said date, then in that event, Respondent shall pay a fine of \$250.00 per day for each and every day said violation continues to exist at the above address past the time set by the Board.

4. Costs for prosecuting this case shall be assessed in the amount of \$307.37 payable by the Respondent to the Petitioner.

If not complied with, this Order shall constitute a lien against Tax Parcel 11669-000-000, also known as 1245 SE 4th Ave., and any and all real or personal property owned by JOHN L. ROWE, pursuant to Sec. 162.09, F.S., and may be recorded in Public Records of Alachua County.

DONE AND ORDERED this 15<sup>th</sup> day of September, 2005, at Gainesville, Florida.

ATTEST:

Betty Schille  
Clerk, Code Enforcement Board

GAINESVILLE CODE ENFORCEMENT BOARD

By: William A. Gager, Jr.  
William A. Gager, Jr., Chair

I HEREBY CERTIFY that a true copy of the above Order has been sent to Respondent, John L. Rowe, 4312 SW 68th Terr., Gainesville, FL 32605 by U.S. Mail, this 15<sup>th</sup> day of September, 2005.

Return to: OFFICE OF THE CITY ATTORNEY  
200 E. UNIVERSITY AVE.  
SUITE 425  
GAINESVILLE, FL 32601

Betty Schille  
GAINESVILLE CODE ENFORCEMENT BOARD  
BY Betty Schille  
Clerk Of The Code Enforcement Board  
DATE: 11/30/06



Sec. 16-17. Definitions.

For the purposes of this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise: *Dangerous buildings* shall mean all buildings or structures which have any or all of the following defects:

- (1) Those whose interior walls or other structural members list, lean, or buckle, or the support for which has become damaged or deteriorated, to such an extent that there is a reasonable likelihood that such walls or other structural members may fall or give way;
- (2) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
- (3) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city;
- (4) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to the decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein;
- (5) Those having light, air and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may work therein;
- (6) Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of egress, according to the standards in effect when the building was constructed;
- (7) Those which have parts thereof which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general;
- (8) Those which, because of their condition, are unsafe and are unsanitary or dangerous to a degree that constitutes a hazard to the health, safety, or general welfare of the people of this city;
- (9) Those which are vacant and not sufficiently secured to prevent easy access to trespassers, loiterers and vagrants;
- (10) Those which are untended or unkempt to the extent that they pose a health or safety hazard.

*Enforcing official* shall mean the city manager of the city, the general manager for utilities or their respective designees.

*Excessive growth* shall mean vegetation over 12 inches high that is or may reasonably become infested by pests or may create a fire or safety hazard. Excessive growth includes vegetation growing from private lands into or across public rights-of-way, utility easements, sidewalks, drainage ditches, swales or streets. It does not include the following unless the growth constitutes a fire or safety hazard:

- (1) Shrubs, trees or bushes (natural or cultivated) used for landscape purposes;
- (2) Vegetation located on a lot over five acres in area that is in a natural state, or vegetation that has not been mowed within the past five years; or
- (3) Vegetation located more than 200 feet from the boundary line of an improved property, street or public right-of-way; or
- (4) Controlled, managed and maintained low-maintenance natural landscaping; or



(5) The understory of hammocks that are protected through development regulations, conditions or agreements, and vegetation within wetlands, stormwater retention lake littoral zones, or within 150 feet of a regulated creek.

(6) Land designated agriculture or conservation of the future land use map.

*Hazardous lands* shall mean lands unoccupied as well as occupied upon which there exists a condition or conditions dangerous to the health, welfare or safety of the public generally, or of the occupants of surrounding properties, or of the occupants of such lands, including, but limited to:

(1) Land upon which there exists an accumulation of material or items stored outside of a structure, including, but not limited to, lumber, tires, automobile parts, trash, hazardous waste, abandoned personal property, unusable or discarded household items, inoperative or discarded machinery or equipment, inoperative automobiles, appliances, solid waste, dangerous chemicals, explosives or other hazardous substances without sufficient protections for the control of same, junk, used scrap, construction or demolition materials, tanks, drums, glass, iron or any other material or items that may

a. Create noxious odors or harmful fumes or particulate

b. Serve as a breeding or nesting place for mosquitoes, rats, mice, poisonous snakes, dangerous wild animals, or insect vermin, in such manner and to such extent as to pose an immediate danger to the public health and safety.

c. Contribute to any other unsafe or unsanitary conditions or create a dangerous nuisance attractive to children.

d. Create a fire, safety or health hazard.

(2) Land upon which there is excessive growth of vegetation as defined above.

*Owner* shall mean any person who, alone, jointly or severally with others, holds legal or equitable title to any building or land within the scope of this article and shall include the occupant, lessee, mortgagee, or agent and all other persons having an interest in said building or land as shown by the records of the clerk of the circuit court of Alachua County, Florida.

*Unfit for human occupancy* shall mean in such disrepair as to be unsanitary, vermin or rat infested, containing filth or contamination, or lacking ventilation, illumination, sanitary or heating facilities or other essential equipment required by the housing code, or so located as to constitute a hazard to the occupant of the building or to the public.

*Unsafe building* shall mean a building that is dangerous to the life, health, property or safety of the public or the occupants by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such building contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

*Unsafe equipment* shall include any absent or malfunctioning grease trap or grease interceptor, if required by the Code, boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the building that is such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or building.

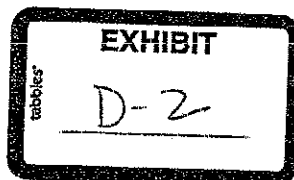
(Code 1960, § 8-7; Ord. No. 950517, § 1, 1-22-96; Ord. No. 980745, § 2, 9-25-00; Ord. No. 031205, § 3, 6-28-04)

**Cross references:** Definitions and rules of construction generally, § 1-2.

**Sec. 16-19. Creating, keeping, maintaining, allowing the existence of dangerous buildings or hazardous lands unlawful.**

It shall be unlawful for any owner of real property within the city to create, keep, maintain, or allow the existence of any dangerous building or hazardous land, as defined in this article, in or on such real property.

(Code 1960, § 8-8.1)





CITY OF GAINESVILLE CODE ENFORCEMENT BOARD

CITY OF GAINESVILLE  
P.O. BOX 490  
GAINESVILLE, FLORIDA  
PETITIONER,  
  
JOHN L. ROWE  
RESPONDENT,

CASE NO: 2005-161  
APD #: 2004-07670

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2373315 1 PG

2007 SEP 20 03:32 PM BK 3680 PG 192

J. K. "BUDDY" IRBY  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA  
CLERK10 Receipt#347309

AFFIDAVIT OF COMPLIANCE

STATE OF FLORIDA  
COUNTY OF ALACHUA

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Jeffrey S. Look, CODE ENFORCEMENT OFFICER FOR THE CITY OF GAINESVILLE, FLORIDA, WHO, AFTER BEING DULY SWORN, DEPOSES AND SAYS:

1. THAT ON 09/08/2005, THE BOARD HELD A PUBLIC HEARING AND EXECUTED ITS ORDER ON 09/15/2005 IN THE ABOVE STYLED MATTER.
2. THAT, PURSUANT TO SAID ORDER, RESPONDENT WAS TO HAVE TAKEN CERTAIN CORRECTIVE ACTION BY OR BEFORE 10/15/2005.
3. THAT RE-INSPECTION WAS PERFORMED ON 08/28/2007.
4. THAT THE RE-INSPECTION AT 1245 SE 4 AVE GNSV REVEALED THAT THE CORRECTIVE ACTION ORDERED BY THE BOARD HAS BEEN TAKEN IN THAT THE PROPERTY IS IN COMPLIANCE.

FURTHER AFFIANT SAYETH NOT

DATED THIS 7 DAY OF September, 2007.

Jeffrey S. Look  
CODE ENFORCEMENT OFFICER

STATE OF FLORIDA  
COUNTY OF ALACHUA

I HEREBY CERTIFY, THAT ON THE 7 DAY OF September, 2007, BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Jeffrey S. Look, KNOWN TO ME TO BE THE PERSON(S) DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND SEVERALLY ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS/HER FREE ACT AND DEED FOR THE USES AND PURPOSES THEREIN MENTIONED.

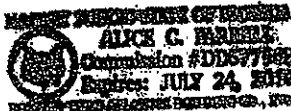
WITNESS MY HAND AND OFFICIAL SEAL THE DATE AFORESAID.

Alice C. Farrell

NOTARY PUBLIC

MY COMMISSION EXPIRES:

PCID: 2001\_06



EXHIBIT

E



2373315

## Evans Land Clearing

Samuel Evans, Owner

19133 N Hwy 329, Micanopy, FL 32667

(352) 591-0447\*office\* (352) 817-6108\*mobile\* (877) 937-1490\*pager\*

I EVERGREEN USA, INC, (the landowner) agree to pay Samuel Evans (the contractor) \$3,500 for clearing land in three payments at 1245 SE 9TH AVE & 1239 SE 9TH AVE (address).

The first payment of \$1,750 will be paid once the job begins, the second payment of \$1,000 will be paid once the job is half complete, and the third payment of \$750 will be paid once the job is complete.

### Definition of work:

#### 1. Land clearing

1. To be cleared ½ acre lot.
2. All debris that slip through a land clearing root-rake will remain on site, if requested by the landowner, there will be an hourly rate for hand picked.
3. The contractor will remove trees 8 in. in diameter and down.
4. The contractor will remove the old shed.
5. The contractor will trim up the remaining trees 10-15 feet high.
6. The chain linked fence will remain on the property.
7. Some areas will be mowed.
8. DEBRIS ON SITE BE REMOVED

#### 2. Job Complete

The contractor will be complete with the job when the lot has been cleared, all selected trees has been removed, the remaining trees has been trimmed up, and the selected area is mowed, and then the contractor will be paid the final amount of \$750 and be paid in full the total amount of \$3,500.

Landowner: 

Date: 7/26/07

Contractor: Samuel Evans

Date: \_\_\_\_\_

EXHIBIT

tabbies

F-1

SCOTT FRANKEL

1034

00-2830

7/25/07

PAY  
TO THE  
ORDER OF

SAMUEL EVANS

\$1750.00

Seventeen hundred & fifty dollars to *Sam*

DOLLARS

WACHOVIA BANK, N.A.

www.wachovia.com

*[Signature]*

FOR

1034

EXHIBIT

tabbies

F-2



Check for Micro Print  
Keep - Lock -  
- 12345

Mark Time and Check  
opt.

SUBS TOWERS & 444-60 10/13/20 2010 1  
#0011FOR CK  
NO 210111004

310273E 007992107 670193130

*Samuel Evans*  
*Barbara Evans*

EXHIBIT  
F-3

SCOTT FRANKEL	1036
PAY TO THE ORDER OF	63-2600
SAMUEL EVANS	AUG. 3 2007
SEVENTEEN HUNDRED & FIFTY DOLLARS & 25/100 DOLLARS & 25/100	\$ 1750.00
WACHOVIA BANK, N.A.	
FOR	1036

Samuel Evans

40083 FOR CK

8/04 08/03/07 01:33P

\$1,750.00

Samuel

Check for M. of ...

... on back, if ...

TAX DEED FILE NO. 2007-11  
PARCEL I.D. # 12727-002-000

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2338699 1 PG  
2007 MAY 17 09:59 AM BK 3600 PG 1045  
J. K. "BUDDY" IRBY  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA  
CLERK13 Receipt#330573  
Doc Stamp-Deed: 71.40



## TAX DEED

The following Tax Sale Certificate numbered 3600 issued May 30, 2000, was filed in the office of the tax collector of this County and application made for the issuance of a tax deed, the applicant having paid or redeemed all other taxes or tax sale certificates on the land described as required by law to be paid or redeemed, and the cost and expenses of this sale, and due notice of sale having been published as required by law, and no person entitled to do so having appeared to redeem said land; such land was on the 10th day of May, 2007, offered for sale as required by law for cash to the highest bidder and was sold to 7th Cavalry Corp. whose address is c/o J. Israel, P.O. Box 403006, Miami Beach, Florida 33140 being the highest bidder and having paid the sum of its bid as required by the laws of Florida.

NOW, on this 16th day of May, 2007, in the County of Alachua, State of Florida, in consideration of the sum of ten thousand one hundred fifty-eight and 43/100 dollars (\$10,158.43), being the amount paid pursuant to the laws of Florida, the Clerk of the Circuit Court pursuant to Chapter 197, Florida Statutes, does hereby sell the following lands situated in the County and State aforesaid and described as follows:

COM 177 FT S OF NW COR OF LOT 12 BK 41 RUN S 186 FT W 95 FT N 186 FT E  
95 FT LESS R/W OR 827/978 DEED APPEARS IN ERROR OR 1818/2131, SECTION 04  
TOWNSHIP 10 RANGE 20, ALACHUA COUNTY, FLORIDA

(SEAL)

*Teresa M. Wright*  
Witness  
Teresa M. Wright  
Witness

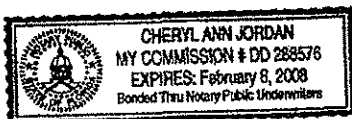


*J.K. "Buddy" Irby*  
J.K. "Buddy" Irby  
Clerk of the Circuit Court in and for  
Alachua County, Florida

STATE OF FLORIDA  
COUNTY OF ALACHUA

On this 16th day of May, 2007, before me personally appeared J.K. "Buddy" Irby, Clerk of the Circuit Court in and for Alachua County, Florida, known to me to be the person described in, and who executed the foregoing instrument, and acknowledged the execution of this instrument to be his own free act and deed for the use and purposes therein mentioned.

Notary Seal:



*Cheryl Ann Jordan*  
Cheryl Ann Jordan



RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2003931 1 PG

2004 JAN 05 03:32 PM BK 2835 PG 783

**GAINESVILLE CODE ENFORCEMENT BOARD**

"BUDDY" IRBY  
CLERK OF CIRCUIT COURT  
ALACHUA COUNTY, FLORIDA  
CLERK10 Receipt#172443

CITY OF GAINESVILLE,

Petitioner,

vs.

CASE NO.: CEB 2004-012

JOHN L. ROWE,

**ORDER IMPOSING FINE**

Respondent.



THIS CAUSE, having come for Public Hearing before the Code Enforcement Board on November 13, 2003, after due notice to Respondent, JOHN L. ROWE, the Board issues its Order Imposing Fine as follows:

It is ORDERED that:

1. Respondent, JOHN L. ROWE, is found guilty of violating Section 13-171(b) of the Gainesville Code of Ordinances existing at 1227 SE 3rd Ave., also known as Tax Parcel 12727-002-000.

2. Respondent shall have 15 days from the date of the issuance of this Order to correct said violation and to come into compliance with the Code of Ordinances.

3. Should Respondent fail to comply with the Order by said date, then in that event, Respondent shall pay a fine of \$250.00 per day for each and every day said violation continues to exist at the above address past the time set by the Board and in addition to the fine, costs for prosecuting this case shall be assessed in the amount of \$420.68.

If not complied with, this Order shall constitute a lien against Tax Parcel 12727-002-000, also known as 1227 SE 3rd Ave., and any and all real or personal property owned by JOHN L. ROWE, pursuant to Sec. 162.09, F.S., and may be recorded in Public Records of Alachua County.

DONE AND ORDERED this 20<sup>th</sup> day of November, 2003, at Gainesville, Florida.

ATTEST:

GAINESVILLE CODE ENFORCEMENT BOARD

Betty Schulte  
Clerk, Code Enforcement Board

By: William A. Gager, Jr.  
William A. Gager, Jr., Chair

I HEREBY CERTIFY that a true copy of the above Order has been sent to Respondent, John L. Rowe, 4312 SW 68th Terr., Gainesville, FL 32608-6427 by U.S. Mail, this 20<sup>th</sup> day of November, 2003.

Return to:

OFFICE OF THE CITY ATTORNEY  
200 E. UNIVERSITY AVE.  
SUITE 425  
GAINESVILLE, FL 32601

GAINESVILLE CODE ENFORCEMENT BOARD  
BY: Betty Schulte  
Clerk of the Code Enforcement Board  
DATE: 11/6/04

Duran  
11/11/03



**Sec. 13-171. Insects, storage, trash, and yard maintenance.**

(a) All premises shall be maintained so as to discourage the harboring and breeding of insects, rodents and vermin. Failure to comply with this provision shall be a major violation. Insofar as the natural drainage will permit, yards and premises appurtenant to a dwelling unit shall be sloped or graded to provide for disposal of surface water and to prevent the accumulation of surface water in the yard or next to the building. Failure to comply with this provision shall be a minor violation.

(b) It shall be unlawful for the owner or occupant of a residential building structure or property to utilize the premises of the residential property for the open outdoor storage of any blight-inducing materials such as abandoned motor vehicle or part thereof including tires, icebox, refrigerator, stove, or other appliances, planks, timbers, glass, or other building material, building rubbish, packing material, barrels, bottles, cans, boxes or similar items. Failure to comply with this subsection shall be a major violation.

(c) It shall be the duty and responsibility of every owner and occupant to keep the premises of residential property clean, and to remove from the premises, upon notice from the code officer, the following:

(1) All trash and garbage;

(2) Dead or hazardous trees that are standing or have fallen to the ground and that pose a hazard to neighboring properties, or which create a hazard to the safety or welfare of any occupant of the property (except the owner), or the inhabitants of the surrounding area, or any public property; and

(3) Dead tree limbs and vegetative debris that pose a hazard to neighboring properties, or which create a hazard to the safety or welfare of any occupant of the property (except the owner), or the inhabitants of the surrounding area, or any public property.

Failure to comply with this subsection shall be a major violation.

(d) Every dwelling unit shall have adequate garbage storage facilities which comply with city ordinances. Failure to comply with this subsection shall be a major violation.

(e) Yards shall be maintained to prohibit vegetation over 12 inches high that is or may reasonably become infested by pests or may create a fire or safety hazard. This shall not be construed to prohibit the following:

(1) Vegetation planted and maintained for landscape purposes or for erosion control;

(2) Vegetation located on a lot over five acres in area that is in a natural state, or vegetation that has not been mowed within the past five years;

(3) Vegetation located more than 200 feet from the boundary line of an improved property, street or public right-of-way;

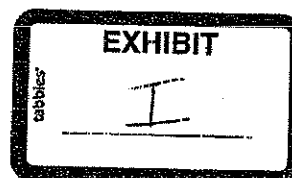
(4) Controlled, managed and maintained low-maintenance natural landscaping; or

(5) The understory of hammocks that are protected through development regulations, conditions or agreements, and vegetation within wetlands, stormwater retention lake littoral zones, or within 150 feet of a regulated creek.

This subsection shall not apply to lands designated agriculture or conservation on the future land use map. Failure to comply with this subsection (e) is a major violation.

(Code 1960, § 15A-40; Ord. No. 3091, § 1(15A-40), 1-7-85; Ord. No. 3483, § 5, 11-7-88; Ord. No. 000724, § 1, 2-12-01; Ord. No. 020375, § 3, 11-12-02; Ord. No. 040025, § 12, 8-22-05)

Secs. 13-172--13-180. Reserved



**GAINESVILLE CODE ENFORCEMENT BOARD  
MINUTES**

**November 13, 2003**

**CALL TO ORDER**

The regular meeting of the Code Enforcement Board was called to order at 9:00 a.m. by Chair William Gager, in Gainesville, Florida.

**ROLL CALL**

Those members present at roll call: Chair William Gager, Marty Eskridge, Willie Ausgood, Hugh Rhea, Donna Lutz, Michael Cook and Vivian Filer (arrived 9:05).

Those members absent at roll call:

The following staff were present at roll call: Daniel Nee, Board Attorney, James Garrett, Code Enforcement Manager and Betty Schille, Clerk of the Board

**APPROVAL OF MINUTES**

Vivian Filer moved, Hugh Rhea seconded, to approve the minutes of October 9, 2003. Motion carried 7-0.

**PUBLIC HEARINGS**

John L. Rowe  
CEB 2004-012

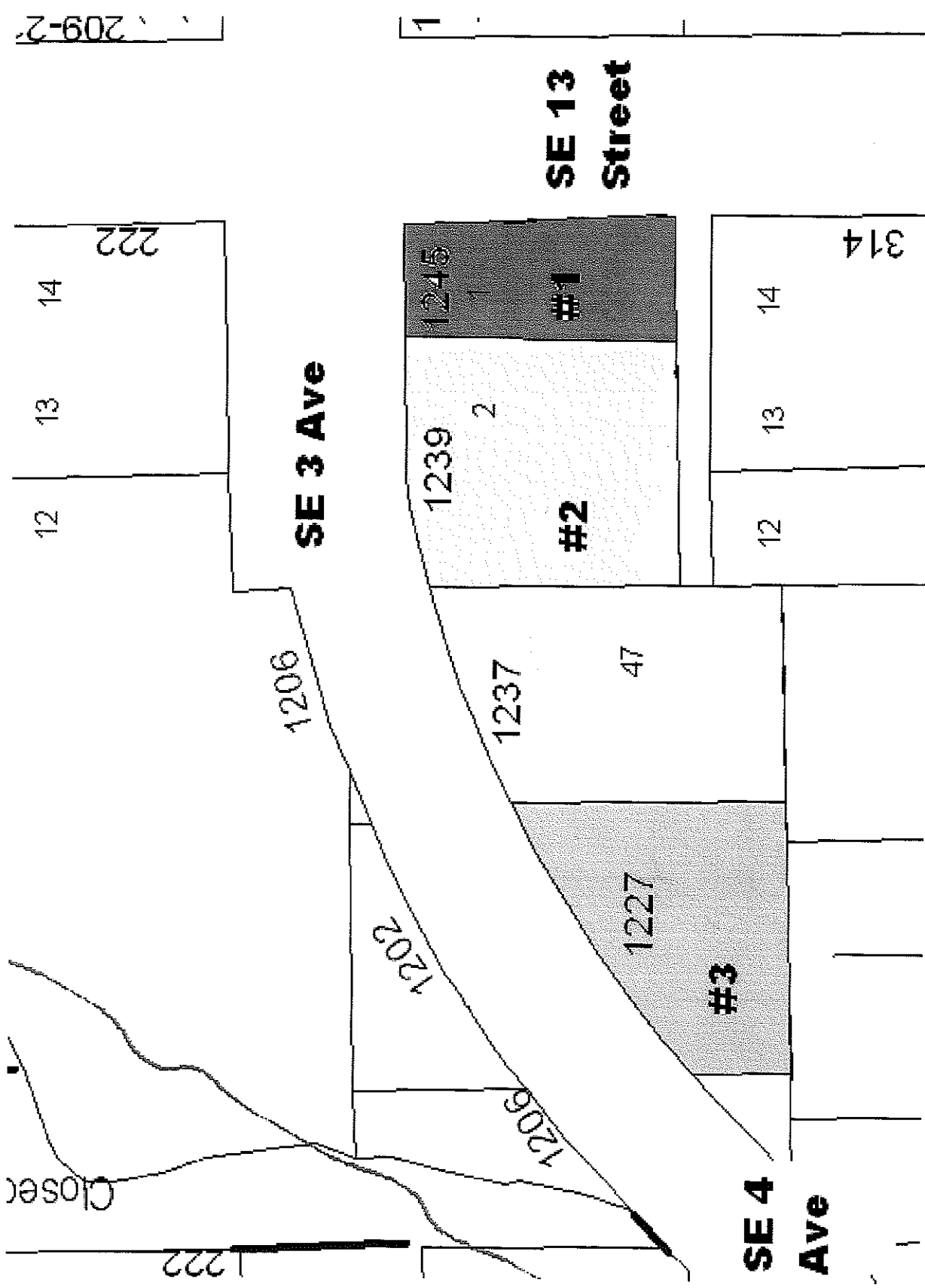
Section 13-171(b)  
1227 SE 3<sup>rd</sup> Ave.

Walter L. Booth, Sr., Code Enforcement Officer for the City of Gainesville, having previously been sworn, testified. This case is a result of a neighborhood complaint. Notice of Violation issued on February 7, 2003 (no service). A second Notice of Violation was hand delivered on March 17, 2003. A reinspection on September 11, 2003 found the property not in compliance. Photos were taken on November 4, 2003, that accurately reflect the property at the time of the inspection. Mr. Booth recommended 15 days to correct the violation and \$250.00 per day fine if the violation is not corrected by the time ordered by the board, and an administrative cost of \$420.68.

Hugh Rhea moved, Marty Eskridge seconded, to find the Respondent guilty of the violation allowing 15 days for Respondent to bring the violation into compliance. Motion carried 7-0.

Hugh Rhea moved, Marty Eskridge seconded, that if Respondent fails to bring the property into compliance by the time period ordered that a fine of \$250.00 per day be imposed for each and every day until Respondent bring the property into compliance, plus costs of prosecuting this case in the amount of \$420.68. Motion carried 7-0.





2-602 1



**SE 13  
Street**

314

す

13

12

**SE 3 Ave**

1206

202

1237

1227

SE 4 Ave



2#

**##**

10

10

1239

2

Closed

222

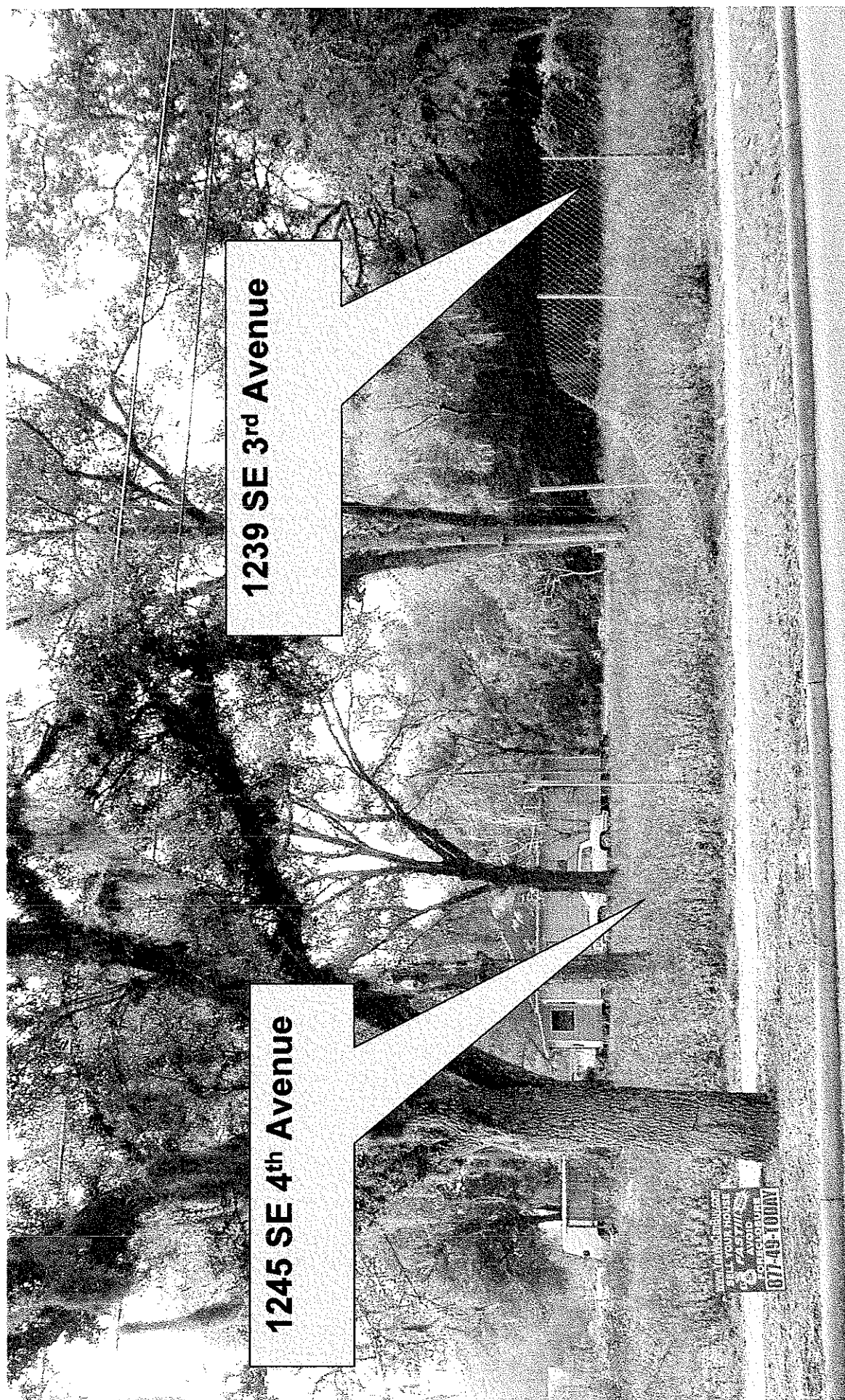
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12





**1239 SE 3<sup>rd</sup> Avenue**

**1245 SE 4<sup>th</sup> Avenue**

**Release of Lien Affecting 1245 SE 4th Avenue, Tax Parcel # 11669-000-000 and  
1239 SE 3rd Avenue, Tax Parcel 11670-000-000**

**12/27/2007**

**GAINESVILLE CODE ENFORCEMENT BOARD  
MINUTES**

**September 8, 2005**

**CALL TO ORDER**

The regular meeting of the Code Enforcement Board was called to order at 9:04 a.m. by Chair William Gager, in Gainesville, Florida

**ROLL CALL**

Those members present at roll call: William Gager, Donna Lutz, James Hahn, Darlene Pifalo and William Samples.

Those members absent at roll call:

The following staff were present at roll call: Daniel Nee, Board Attorney, James Garrett, Code Enforcement Manager, and Betty Schille, Clerk of the Board

**APPROVAL OF MINUTES**

Donna Lutz moved, Darlene Pifalo seconded, to approve the minutes of August 11, 2005. Motion carried 5-0.

**John L. Rowe  
CEB 2005-161**

**Section: 16-19 defined 16-17(1)  
1245 SE 4<sup>th</sup> Ave.**

Walter L. Booth, Sr., Code Enforcement Officer for the City of Gainesville, having been previously sworn, testified. Mr. Booth submitted photos and an administrative costs sheet into evidence as Exhibit "A". Ownership was determined by researching Official Records and Property Appraiser's documents. On January 27, 2005, an initial inspection revealed Respondent was in violation of section 16-19 as defined in 16-17, and 16-17(1), which consists of high grass, weeds, junk, trash and debris on the property. A Notice of Violation was issued on January 27, 2005, giving the Respondent until February 26, 2005 to correct the violation.

Daniel Nee, Board Attorney inquired whether the Notice of Violation was sent to Respondent's address listed on the property appraiser's site.

Walter Booth testified that on January 29, 2005, the Notice was sent to Respondent's address listed on the property appraiser's site.

Donna Lutz moved, Darlene Pifalo seconded, to find the Respondent guilty of the violation, allowing 30 days for Respondent to bring the violation into compliance. Motion carried 5-0.

Donna Lutz moved, Darlene Pifalo seconded, that if Respondent fails to correct the violation within the timeframe ordered that a fine of \$250.00 per day be imposed for each and every day until Respondent brings the property into compliance, plus costs of prosecuting this case in the amount of \$307.37, which sum to be paid immediately. Motion carried 5-0.

**GAINESVILLE CODE ENFORCEMENT BOARD  
MINUTES**

ATTACHMENT "E"

**November 8, 2007**

**CALL TO ORDER**

The regular meeting of the Code Enforcement Board was called to order at 9:04 a.m. by Chair William Gager, in Gainesville, Florida

**ROLL CALL**

Those members present at roll call: William Gager, Darlene Pifalo, Michelle Reeves, Nancy Montgomery, Lucille Lane, and Carrie Parker-Warren.

The following staff was present at roll call: Daniel Nee, Board Attorney, James Garrett, Code Enforcement Manager, D.C. Watkins, Code Enforcement Supervisor, Andrea Stokes, Clerk of the Board, and Cecile Lillie, Notary Public.

**APPROVAL OF MINUTES**

MOTION: Darlene Pifalo moved, Michelle Reeves seconded, to approve the October 11, 2007 minutes.

VOTE: 6-0, MOTION CARRIED.

**REQUEST FOR REDUCTION/RESCISSION – TIME CERTAIN 10:00 A.M.**

2. <b>John L. Rowe</b> <b>CEB 2004-012; CEB 2005-010</b>	<b>Code Officer Jeffrey Look</b> <b>Attorney Virginia Clapp</b>
---	--

Attorney Virginia Clapp addressed the Board on behalf of the new property owner and requested a reduction/rescission of fines.

Jeffrey Look, Code Enforcement Officer, being previously sworn, testified.

Daniel M. Nee, Board Attorney, answered procedural questions and explained the scope of the Board's power with respect to this issue.

MOTION: Michelle Reeves moved, Darlene Pifalo seconded, as to CEB 2005-010 only to reduce the fine and costs to the amount collected by the City of Gainesville from the tax deed sale surplus.

Daniel M. Nee, Board Attorney, addressed Board.

AMENDED MOTION: Michelle Reeves amended her motion, Darlene Pifalo seconded, as to CEB 2005-010 to reduce the fine and costs to the amount paid to the City of Gainesville from the tax deed sale surplus.

MOTION TABLED

William Gager exited the room at 10:15 A.M.