

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
IN AND FOR LEE COUNTY, STATE OF FLORIDA

IN RE:

LEE COUNTY,

Petitioner,           ZONING HEARING

vs.

CLUB AT RENAISSANCE,,

Respondent

\_\_\_\_\_/

Transcript of stenographically-reported  
proceedings held before Donna Marie Collins, Lee  
County Hearing Examiner, at the Lee County Hearing  
Examiner's Office, 1500 Monroe Street, Fort Myers,  
Florida 33901, on February 24, 2025 at 9:41 a.m.

<p style="text-align: right;">Page 2</p> <p style="text-align: center;">APPEARANCES:</p> <p>DAVID W. HALVERSON, ESQ.</p> <p>Lee County Attorney's Office</p> <p>PO Box 398</p> <p>2115 Second St</p> <p>Fort Myers, FL 33901-3012</p> <p>dhalverson@leegov.com</p> <p>On behalf of Lee County</p> <p>ZACHARY W. LOMBARDO, ESQ.</p> <p>ANTHONY P. PIRES, JR., ESQ.</p> <p>Woodward, Pires &amp; Lombardo, P.A.</p> <p>3200 Tamiami Trl N Ste 200</p> <p>Naples, FL 34103-4108</p> <p>zlobbardo@wpl-legal.com</p>	<p style="text-align: right;">Page 4</p> <p>1 how to defend itself.</p> <p>2 EXAMINER COLLINS: Right. Okay.</p> <p>3 I remember I continued the case because you</p> <p>4 were waiting on some determination from the</p> <p>5 County.</p> <p>6 What happened with that?</p> <p>7 MR. LOMBARDO: What happened was that it</p> <p>8 was not forthcoming, so it was slated to be</p> <p>9 provided three days after the hearing.</p> <p>10 And in the transcript, you were</p> <p>11 deliberating between four weeks and two weeks, in</p> <p>12 large part, based on that. Three days after the</p> <p>13 hearing, it did not get produced.</p> <p>14 On Friday, a statement was provided by</p> <p>15 community development that it will just not be</p> <p>16 provided because, according to community</p> <p>17 development, it does not fit in the categories and</p> <p>18 interpretations.</p> <p>19 I'll note that one of those categories is:</p> <p>20 The manner in which a particular code provision is</p> <p>21 to be applied. I fail to see how we do not fit</p> <p>22 into that category, but what is more concerning to</p> <p>23 my client is that, if it never applied, why then,</p> <p>24 at the hearing, was it not brought up because,</p> <p>25 even at the hearing, we were more than 30 days</p>
<p style="text-align: right;">Page 3</p> <p>On behalf of the Respondent</p> <p>1 PROCEEDINGS</p> <p>2 EXAMINER COLLINS: Good morning. My name</p> <p>3 is Donna Marie Collins. The date is February</p> <p>4 24th, 2025.</p> <p>5 It's a full morning agenda of Lee County</p> <p>6 Code Enforcement cases. I understand the first</p> <p>7 case we're going to hear is one that's been</p> <p>8 continued.</p> <p>9 I have some thoughts on this case.</p> <p>10 Is there a motion for me to consider?</p> <p>11 What's going on?</p> <p>12 MR. LOMBARDO: Your Honor, there are three</p> <p>13 filed motions pending, there was a motion to</p> <p>14 continue, motion to strike, and motion to dismiss.</p> <p>15 Your office requested the town county</p> <p>16 attorney's office respond. County Attorney's</p> <p>17 Office did not respond. We would like the</p> <p>18 opportunity to argue these motions first because</p> <p>19 they all go to a procedural due process issue</p> <p>20 before we get into the actual case.</p> <p>21 I think what we'll see, looking back at the</p> <p>22 transcript and looking back at what was provided</p> <p>23 by the county attorney's office, is that the</p> <p>24 instructions were not followed, and my client is,</p> <p>25 again, in jeopardy of not being able to understand</p>	<p style="text-align: right;">Page 5</p> <p>1 from submission of that application.</p> <p>2 Where we are today, for clarity, on Monday,</p> <p>3 you asked for a more detailed statement of the</p> <p>4 violations, and, instead, what you got was a</p> <p>5 four-page legal argument about what the word</p> <p>6 "private club" means.</p> <p>7 In the transcript, you indicated that you</p> <p>8 felt that this should not be a forum where we do</p> <p>9 interpretive work, but that is what we have to do</p> <p>10 today. We have to figure out what private club</p> <p>11 means.</p> <p>12 And if we do that and you make a ruling</p> <p>13 today as to what private club means, today will be</p> <p>14 the first day in which my client is on notice what</p> <p>15 the rules of the game are here, which is why we</p> <p>16 filed the motion to dismiss.</p> <p>17 Because, on the screen here, this</p> <p>18 essentially remains the violation. There is no</p> <p>19 clarification to this provided, and as we can get</p> <p>20 into with our planner and testimony and argument,</p> <p>21 the definition the county attorney is arguing for,</p> <p>22 and I'll note it didn't come from the community</p> <p>23 development, it came from the county attorney's</p> <p>24 office, which is important because I can't</p> <p>25 cross-examine the county attorney.</p>

<p style="text-align: right;">Page 6</p> <p>1 Just making a legal argument, that</p> <p>2 definition paints, with a wide brush, and when we</p> <p>3 look at the other types of private clubs, which</p> <p>4 aren't golf courses, for example, the Captiva</p> <p>5 Island Yacht Club, that's a zone private club,</p> <p>6 it's not sitting inside of a gate house somewhere,</p> <p>7 and it doesn't have a common ownership.</p> <p>8 So is that entire club also a legal? We</p> <p>9 have big zoning questions here.</p> <p>10 And I want to be clear, we are prepared to</p> <p>11 have that discussion here today. We thought very</p> <p>12 carefully about the county attorney's argument.</p> <p>13 We've done a lot of research. We do not want to</p> <p>14 be seen as coming here to ask for more time.</p> <p>15 But what is concerning is how can we be</p> <p>16 forced to stand trial for violations that were --</p> <p>17 the rules were written down a week ago and we're</p> <p>18 going to figure out today whether those are the</p> <p>19 right rules?</p> <p>20 EXAMINER COLLINS: I'm extremely</p> <p>21 dissatisfied with how this is going. There is no</p> <p>22 way I'm going to be able to make any kind of</p> <p>23 determination on the fly.</p> <p>24 I asked for a more definitive description</p> <p>25 of what the violation was. From what I can tell,</p>	<p style="text-align: right;">Page 8</p> <p>1 this case, and I want to get it right. My</p> <p>2 inclination is to dismiss the case, but I'm going</p> <p>3 to give the County another opportunity to try to</p> <p>4 provide me with a description of what the actual</p> <p>5 violation is and, please, by all mean, share it</p> <p>6 with the respondent, and the basis for your</p> <p>7 interpretation with support, other examples of</p> <p>8 zoning approvals or whatever.</p> <p>9 I'm not clear from this case, they're</p> <p>10 approved for a country club, they're approved for</p> <p>11 a golf course, if one is private and the other</p> <p>12 isn't, what will prevent the public from coming on</p> <p>13 the grounds?</p> <p>14 This has to be provided to me in advance of</p> <p>15 the hearing so that I have an opportunity to</p> <p>16 review and consider. There's no way for me to</p> <p>17 take all this in and then make it -- if you're</p> <p>18 ready to go forward with that today, we can go</p> <p>19 today, but what I'm hearing is Respondent still</p> <p>20 isn't entirely clear on what exactly the provision</p> <p>21 is in terms of the issue and why.</p> <p>22 MR. HALVERSON: Madam Hearing Examiner, may</p> <p>23 I just say something?</p> <p>24 EXAMINER COLLINS: Yes.</p> <p>25 MR. HALVERSON: For the record, David</p>
<p style="text-align: right;">Page 7</p> <p>1 I did not receive that. I wanted to wait for this</p> <p>2 determination to come from the County regarding</p> <p>3 how they were interpreting their own resolution.</p> <p>4 That didn't happen.</p> <p>5 So I'm very close to dismissing this case,</p> <p>6 but in any event, I'm going to have to be prepared</p> <p>7 when we actually do have a hearing on this case,</p> <p>8 and I feel as though it's appropriate that the</p> <p>9 County and the Respondent brief -- provide me with</p> <p>10 briefs of what their position is, what they're</p> <p>11 advocating for, and/or the interpretation that</p> <p>12 they want me to find because, you know, everything</p> <p>13 here seems too broad, and I don't have examples</p> <p>14 that would distinguish this particular case from</p> <p>15 another community that has a golf club and a</p> <p>16 country club.</p> <p>17 I need more information to find that this</p> <p>18 is explained in a manner that the Respondent knows</p> <p>19 exactly what the problem is. Like, yeah,</p> <p>20 conceptionally, they may know what the problem is.</p> <p>21 I have to be able to rely on the actual</p> <p>22 code provision in order to find them in violation.</p> <p>23 And I don't feel confident that I have that</p> <p>24 information.</p> <p>25 I understand there's a lot of interest in</p>	<p style="text-align: right;">Page 9</p> <p>1 Halverson, County Attorney's Office.</p> <p>2 Two weeks ago, we are looking at the notice</p> <p>3 of code violation that's on the screen, and based</p> <p>4 on that description, counsel argued, and you</p> <p>5 agreed, that that was not sufficient. They didn't</p> <p>6 tell us what the violation was. They didn't</p> <p>7 outline a clear path for abatement.</p> <p>8 So the direction was for my office to work</p> <p>9 with Department of Community Development staff to</p> <p>10 come up with a more detailed description of what</p> <p>11 the violation is in a path toward abatement.</p> <p>12 We believe that was provided, but if you</p> <p>13 would want more detail in the form of a brief, we</p> <p>14 --</p> <p>15 EXAMINER COLLINS: Yeah, I would because</p> <p>16 we're going to have a hearing, right, and if you</p> <p>17 have not prepared full-blown legal argument with</p> <p>18 examples and exhibits of what supports your</p> <p>19 interpretation that there is a violation here, the</p> <p>20 County is going to be at a big disadvantage at</p> <p>21 this hearing, and I need to be prepared in</p> <p>22 advance.</p> <p>23 I have an idea of what the issue may be</p> <p>24 with this case, that events are being held that's</p> <p>25 resulting in a lot of people coming to the</p>

<p style="text-align: right;">Page 10</p> <p>1 community, and that's objected to by the</p> <p>2 association. I don't know if this entity is owned</p> <p>3 -- the golf club, did they own the country club?</p> <p>4 I don't have any of this information, and</p> <p>5 it needs to be provided to me in advance, so I</p> <p>6 feel as though I'm prepared for the case.</p> <p>7 MR. LOMBARDO: Your Honor, trying to think</p> <p>8 through what the next step would be, one option</p> <p>9 is, there's certainly no -- if this case were to</p> <p>10 be dismissed, they can file a new notice of code</p> <p>11 violation that has the requisite detail.</p> <p>12 EXAMINER COLLINS: I'm not ruling that out.</p> <p>13 MR. LOMBARDO: Because it's not signed and</p> <p>14 this particular one cites to the wrong zoning</p> <p>15 list. 02008 is not the operative zoning list.</p> <p>16 EXAMINER COLLINS: It's the 01 because the</p> <p>17 golf course is on the north.</p> <p>18 MR. LOMBARDO: That's as to the second</p> <p>19 notice.</p> <p>20 As to this notice, there was an amended</p> <p>21 zoning resolution that was put in place. I mean,</p> <p>22 that's a small issue.</p> <p>23 My point is: We can clean all this up.</p> <p>24 This can be dismissed. They can issue a new</p> <p>25 notice of code violation that provides the detail</p>	<p style="text-align: right;">Page 12</p> <p>1 development orders. I don't want any infirmity in</p> <p>2 the notice of violations.</p> <p>3 MR. HALVERSON: Madam hearing examiner, do</p> <p>4 you want the briefs you were discussing earlier in</p> <p>5 conjunction with an updated notice?</p> <p>6 EXAMINER COLLINS: Yeah, I think that would</p> <p>7 be helpful. I think it will be helpful to the</p> <p>8 Respondent. Maybe there is a path that that they</p> <p>9 can abate this without a hearing. But none of us</p> <p>10 really know what exactly is going on and what the</p> <p>11 violation is under the code.</p> <p>12 MR. LOMBARDO: From a timeframe</p> <p>13 perspective, are we going to be given an</p> <p>14 opportunity to file a responsive brief?</p> <p>15 EXAMINER COLLINS: Yes, I think that's</p> <p>16 appropriate.</p> <p>17 I feel as though the County needs to</p> <p>18 provide notice to the Respondent in a meaningful</p> <p>19 way that outlines exactly what the issue is and</p> <p>20 why and how they abate it -- they can abate it, so</p> <p>21 that they have the opportunity to do so.</p> <p>22 Barring that, if the decision is to go</p> <p>23 forward with hearing, I would like the briefs.</p> <p>24 I'm going to ask the County to prepare theirs</p> <p>25 in advance. I don't think they're at any</p>
<p style="text-align: right;">Page 11</p> <p>1 that we need. We can have a briefing scheduled.</p> <p>2 One thing I want to note is we have tried</p> <p>3 to exhaust every possible opportunity to work with</p> <p>4 the County to get answers.</p> <p>5 And so, for example, I did have a phone</p> <p>6 conversation with the County Attorney's Office, in</p> <p>7 which I understood we would be given an</p> <p>8 opportunity to review to clarify statements so we</p> <p>9 can provide comment and address this.</p> <p>10 We were never provided that. Instead, it</p> <p>11 was filed directly with your office, which is what</p> <p>12 forced me to file a motion to strike.</p> <p>13 EXAMINER COLLINS: I'm going to give the</p> <p>14 County leave to amend their notices of violation</p> <p>15 and state with specificity what exactly the</p> <p>16 violations are, and then provide me -- do that,</p> <p>17 provide it to the Respondent, provide it to me,</p> <p>18 and then I will issue -- we can do to two ways.</p> <p>19 We can do that and go forward, but I'm</p> <p>20 going to need something before we have a hearing,</p> <p>21 so I'm going to give leave to the County to amend</p> <p>22 with specificity of what the violation is and the</p> <p>23 path to abatement.</p> <p>24 Please have it signed, make sure it's</p> <p>25 referencing all the proper zoning resolutions or</p>	<p style="text-align: right;">Page 13</p> <p>1 disadvantage having the respondent see that so</p> <p>2 they know how to abate the violation or defend.</p> <p>3 MR. HALVERSON: Understood.</p> <p>4 And I wanted to address something that</p> <p>5 counsel said about -- we did have a phone</p> <p>6 conversation where I said, "Yeah, I can share with</p> <p>7 you."</p> <p>8 I did not have time to do that. In</p> <p>9 addition, I went back and listened to the record</p> <p>10 and the direction was for my office to work with</p> <p>11 staff on this. I didn't see why it was really</p> <p>12 necessary to confer with counsel on what our</p> <p>13 position is.</p> <p>14 And just minor things that he hit on with</p> <p>15 this NOV --</p> <p>16 EXAMINER COLLINS: Well, do you understand</p> <p>17 what I'm asking for?</p> <p>18 MR. HALVERSON: I do.</p> <p>19 EXAMINER COLLINS: Okay. I don't need to</p> <p>20 get into the weeds about everything that's</p> <p>21 happened before. I want to keep this moving</p> <p>22 forward so we can resolve it one way or the other.</p> <p>23 I understand the nature of the dispute only</p> <p>24 cursorily. Judging from all the people in the</p> <p>25 audience, it sounds like activities are happening</p>

<p style="text-align: right;">Page 14</p> <p>1 on the golf course or the country club that is</p> <p>2 creating attacks that are not being addressed.</p> <p>3 If they are not approved to do what they're</p> <p>4 asking for, show me why and how. Compare it to</p> <p>5 the other zoning resolutions, if necessary.</p> <p>6 Because, if you don't, the Respondent certainly</p> <p>7 will, so the case needs to be as air tight as its</p> <p>8 ever going to be to support the situation.</p> <p>9 If there's any ambiguity as to what is</p> <p>10 considered public versus private, I would turn to</p> <p>11 the parking they provided on the grounds, perhaps,</p> <p>12 as an indication that it was not intended to be a</p> <p>13 public use or what have you.</p> <p>14 But you have to make your case and, until</p> <p>15 that happens, I can't have a hearing. And I'm</p> <p>16 going need to be prepared in advance. I wouldn't</p> <p>17 normally ask this of a typical code enforcement</p> <p>18 case because there is enough specificity for me to</p> <p>19 glean what the violation is and the path to</p> <p>20 correct it. I don't have that here.</p> <p>21 MR. HALVERSON: Can we agree on a timeline</p> <p>22 for these briefs?</p> <p>23 EXAMINER COLLINS: I'm willing to give you</p> <p>24 two weeks. You can amend the notice of violation</p> <p>25 notices because I believe there is two things.</p>	<p style="text-align: right;">Page 16</p> <p>1 documents with that understanding and guide your</p> <p>2 future actions in connection with this case</p> <p>3 accordingly.</p> <p>4 Following their submittal of this</p> <p>5 information, I will give the Respondent --</p> <p>6 Is two weeks going to be sufficient or is</p> <p>7 there going to be --</p> <p>8 MR. LOMBARDO: Without the benefit of</p> <p>9 seeing their statement, it's hard to say. I think</p> <p>10 it will be fair to be given two weeks with them</p> <p>11 being given two weeks, but I think there's a</p> <p>12 substantial amount of argument here, so I think --</p> <p>13 I wouldn't have an objection to them having three</p> <p>14 and us having three.</p> <p>15 MR. HALVERSON: I'll say two and two.</p> <p>16 EXAMINER COLLINS: I'm sorry?</p> <p>17 MR. HALVERSON: I'll say two weeks for our</p> <p>18 brief and two weeks to file a response.</p> <p>19 EXAMINER COLLINS: So you have until</p> <p>20 March 10, the County has until March 10.</p> <p>21 And then the Respondent has until March 24.</p> <p>22 The other alternative is for the County to</p> <p>23 withdraw the case and re-cite it.</p> <p>24 Do you want to take a break and consult</p> <p>25 with the office, the County Attorney's Office,</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. HALVERSON: Correct.</p> <p>2 EXAMINER COLLINS: And that would include</p> <p>3 the specific code provisions or zoning resolutions</p> <p>4 if you find those to be in violation of, and the</p> <p>5 method by which it can be corrected, whether it's</p> <p>6 cease the activity and amend the zoning approvals,</p> <p>7 whether it's something else. Specify that.</p> <p>8 And then I would like a supporting</p> <p>9 memorandum of law explaining the County's position</p> <p>10 and support for the violation as cited.</p> <p>11 Because it sounds like this case is going</p> <p>12 to turn on the language in the land development</p> <p>13 code and the zoning resolution and maybe common</p> <p>14 definitions and land use and the dictionary. And</p> <p>15 I feel as though these prehearing memoranda of law</p> <p>16 will help me to be as prepared as I can when we</p> <p>17 actually have the hearing.</p> <p>18 I will allow each party 15 minutes to say</p> <p>19 their peace, and then, if I can, I'll rule right</p> <p>20 then; if I can't, I'll take it under advisement</p> <p>21 and get you a ruling.</p> <p>22 I hope you understand that legally any</p> <p>23 ambiguity in the code or in the zoning resolution</p> <p>24 will have to be resolved in favor of the</p> <p>25 Respondent. That's why I urge you to prepare your</p>	<p style="text-align: right;">Page 17</p> <p>1 before you make that decision? We can take a</p> <p>2 five-minute break.</p> <p>3 MR. HALVERSON: That will be great,</p> <p>4 your Honor.</p> <p>5 EXAMINER COLLINS: Okay.</p> <p>6 (A RECESS WAS TAKEN FROM 9:58 A.M. TO 10:06 A.M.)</p> <p>7 EXAMINER COLLINS: We are back on the</p> <p>8 record.</p> <p>9 MR. HALVERSON: Madam Hearing Examiner,</p> <p>10 based on the issues and comments that were raised</p> <p>11 with respect to the notice of code violation, we</p> <p>12 would request that we withdraw and re-cite the</p> <p>13 violations.</p> <p>14 I spoke with opposing counsel. He has no</p> <p>15 objection to that.</p> <p>16 MR. LOMBARDO: Certainly no objection to</p> <p>17 withdrawal.</p> <p>18 The only comment I made is we still expect</p> <p>19 there to be a briefing schedule after the re-cite,</p> <p>20 and if it were to follow the pattern that you</p> <p>21 suggested, four weeks before the hearing, County's</p> <p>22 two weeks, and then our's two weeks before the</p> <p>23 hearing would be our preference, if that's</p> <p>24 agreeable.</p> <p>25 EXAMINER COLLINS: Say that again louder.</p>

<p style="text-align: right;">Page 18</p> <p>1 I don't know why I'm not hearing you well.</p> <p>2 MR. LOMBARDO: I don't know if this</p> <p>3 microphone is on.</p> <p>4 We have no objection to withdraw and</p> <p>5 re-citing the case. We would still like to have a</p> <p>6 briefing cycle, and based on the prior provided</p> <p>7 guidelines, my suggestion was four weeks before</p> <p>8 whichever hearing date is selected will be the</p> <p>9 County's brief and two weeks before the hearing</p> <p>10 would be our brief.</p> <p>11 EXAMINER COLLINS: What will happen is the</p> <p>12 notice of violation, if it's re-cited, my</p> <p>13 understanding of the code enforcement procedure is</p> <p>14 it will be re-cited, there will be a time period</p> <p>15 given for correction.</p> <p>16 If that doesn't happen within the time</p> <p>17 period, then a hearing date is set. Once the</p> <p>18 hearing date is set, if you can notify my office</p> <p>19 in a memo or -- just a short memo saying we're</p> <p>20 going to schedule this for hearing on this</p> <p>21 particular date. Then I will issue an order</p> <p>22 setting up a briefing schedule.</p> <p>23 MR. LOMBARDO: Thank you.</p> <p>24 EXAMINER COLLINS: In that, I may continue</p> <p>25 the case because they're going to set a date and</p>	<p style="text-align: right;">Page 20</p> <p style="text-align: center;">CERTIFICATE OF REPORTER</p> <p>THE STATE OF FLORIDA )</p> <p>COUNTY OF LEE )</p> <p>I, MICHAEL A. SCIRÉ, RPR, CMRS, FPR-C,</p> <p>certify that I was authorized to and did stenographically</p> <p>report the proceedings and that the transcript is a true</p> <p>and complete record of my stenographic notes.</p> <p>I further certify that I am not a relative,</p> <p>employee, attorney, or counsel of any of the parties, nor</p> <p>am I a relative or employee of any of the parties'</p> <p>attorney or counsel connected with the action, nor am I</p> <p>financially interested in the action.</p> <p>Dated this 24th day of February, 2025.</p> <p style="text-align: center;"><i>Michael A. Scire</i></p> <p style="text-align: center;">MICHAEL A. SCIRÉ, RPR, CMRS, FPR-C</p>
<p style="text-align: right;">Page 19</p> <p>1 that's what's going to trigger everything. If</p> <p>2 there is enough time to set up the briefing</p> <p>3 schedule, I'll do it; otherwise, I'll have to push</p> <p>4 that date.</p> <p>5 MR. LOMBARDO: Thank you, your Honor. We</p> <p>6 just request that we be given at least two weeks</p> <p>7 to respond to their brief, whatever it looks like.</p> <p>8 EXAMINER COLLINS: You know, maybe what you</p> <p>9 do is, if it gets to this point, because I hope</p> <p>10 you guys continue to work together to resolve</p> <p>11 this, when you issue your notice to appear and you</p> <p>12 copy me on that, you can attach your brief to</p> <p>13 that.</p> <p>14 MR. HALVERSON: Okay.</p> <p>15 EXAMINER COLLINS: And then I can give</p> <p>16 three -- you'll know what the hearing date is, and</p> <p>17 we'll back it up three weeks, and ask that you</p> <p>18 provide that.</p> <p>19 MR. LOMBARDO: Thank you, your Honor.</p> <p>20 EXAMINER COLLINS: Push it forward three</p> <p>21 weeks.</p> <p>22 Thank you, Mr. Halverson.</p> <p>23 MR. HALVERSON: Thank you.</p> <p>24 EXAMINER COLLINS: Thank you, Mr. Lombardo.</p> <p>25 (THE PROCEEDINGS CONCLUDED AT 10:09 A.M.)</p>	