CASE REPORT

\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY

Type of Violation: Creating and/or Maintaining an Improper Sewage Disposal System

Date Submitted: December 6, 2021

1. Violators:

Jose Andres Castro Monterrey (a.k.a. Jose Castro) (Tenant of the property)

4712 Seville Drive

Sarasota, FL 34235

Home Phone: (941) 879-5808

Gloria Elena Ayala Gil (a.k.a. Elena Ayala) (Tenant of the property)

4712 Seville Drive

Sarasota, FL 34235

Home Phone: (941) 667-1826

2. Location Of Violation:

4712 Seville Drive

Sarasota, FL 34235

3. NATURE OF THE VIOLATION:

This case involves the unpermitted cutting a sewage line and exposure of raw sewage onto the ground after the utility service was disconnected due to non-payment. The Sarasota County OSP determined the property is jurisdictional on inspections on May 22, 2020 and September 30, 2021. On May 22, 2020, the OSP was notified of pit filled with sewage at the front of the subject property, confirmed via an inspection on the same day. On a subsequent inspection on July 17, 2020, the OSP discovered that the pit appeared to be cleaned up, filled in, and covered with mulch. The plumbing permit violations were referred to county code enforcement. An additional complaint regarding this property was received on September 28, 2021. On September 30, 2021 an OSP inspector determined that the sewage pit was still present under the mulch and boards, which had been damaged and collapsed into the pit. The pit area was cordoned off with caution tape and a “stay clear” notice was posted on the property. A DEP form 4044 (formerly DOH form 4044, *Official Notice to Abate a Sanitary Nuisance*) was prepared and serviced via hand delivery to the tenants on October 20, 2021. The listed owner, Larry Goodman, died in 2016 and the property had a Lis Pendens filed by NEWREZ LLC d/b/a Shellpoint Mortgage Servicing on September 13, 2021.

On November 1, 2021 an OSP inspector performed a follow up investigation and observed that the pit has been filled in and limed, but there have been no permits applied for to reconnect to the sewerage system. A DH form 3416 (*Citation for Violation*) was prepared and hand delivered the same day requiring a $500 fine and a connection to the sewerage service. Sarasota County Utilities will not permit a sewerage connection without a valid lease or owners’ application and a repayment of the delinquent fees (around $10,000). A copy of the lease provided by the tenants appears to be signed in June 2021 under the name “Larry Goodman” and will not be accepted by Sarasota County Utilities.

1st violation: Creating and/or maintaining a sanitary nuisance. [386.041(1)(a) F.S.]

Continually allowing sewage waste to be exposed from a cut pipe to an unlined and illegally dug pit. All witnesses observed this.

2nd Violation: Maintenance of conditions capable of breeding flies. [386.041(1)(e) F. S.]

The sewage pit was not airtight or watertight and allowed access of flies, mosquitos, or other arthropods capable of transmitting disease.

4. ADDITIONAL INFORMATION

The unlined sewage pit appears to be hand dug, about 2.5-3 feet deep, and approximately 6 feet by 4 feet wide.

5. POTENTIAL WITNESSES:

Mr. John Gregg (photographs)

4711 Seville Drive

Sarasota, FL 34235

Phone: (571) 239-5688

Derrick Koppuzha, Sarasota County OSP Inspector

6. RECOMMENDATION FOR CORRECTIVE ACTION

The OSP requests that a complaint be filed seeking a valid reconnection to the sewerage service or the residence be vacated as to no longer produce sewage. The soil and surrounding grounds surface require remediation through the spreading of lime over affected areas.

7. SETTLEMENT NEGOTIATIONS

The parties met three times and had two telephone conversations.

Site meetings were held with the violators on 10-20-21, 10-21-21, 11-01-21. Telephone conversations occurred on 10-20-21, 11-18-21.

8. ATTACHMENTS

Copies of Photographs

Entire Enforcement file 58-99-344425

State Notice to Abate (DEP 4044) and Citation (DH 3416)

Property deed

Lis Pendens

Lease Provided by Jose Castro

Sarasota County Notice of Mandatory Hearing

9. OTHER INFORMATION

The current tenants, Jose Andres Castro Monterrey and Gloria Elena Ayala Gil may not have cut the sewage line themselves or if it was done by others on or around July 2, 2019. It is not clear from talking to them or the complainant when exactly this was done. Additionally, there may be others residing in the home besides Castro and Ayala’s infant, as reported by the complainant, but inspectors have not encountered anybody else.

Padgett Law Group, who is representing NEWREZ LLC d/b/a Shellpoint Mortgage Servicing was contacted on November 19, 2021 to determine if there were any mortgage riders that would allow remediation of public health hazards that may affect the sale of the property, to gain insight on the foreclosure status, and to ensure that they were informed of the current issue. They stated it was unlikely that they could perform any remediation, particularly if there were tenants at the property. They also stated they would keep the OSP informed of any status changes to the Lis Pendens.

The Sarasota OSP is also pursuing enforcement through local ordinance and has a Code Enforcement Special Magistrate hearing scheduled for January 14, 2022.

The information in this Case Report is complete and accurate to the best of my knowledge, information, and belief.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CHD INSPECTOR

I recommend filing an action against the violator(s) described above.

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Environmental Health Director of Date

\_\_\_\_\_\_\_\_County Health Department or Designee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Program Administrator, Onsite Sewage Program Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Assistant Deputy Secretary, Regulatory Date

**AUTHORIZATION TO SUE**

**OFFICE OF GENERAL COUNSEL**

Recommended Action and supplemental comments:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Senior Attorney

Date:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy General Counsel

Date:

FINAL APPROVAL:

\_\_\_\_\_APPROVED \_\_\_\_\_\_\_\_DISAPPROVED

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Justin C. Wolfe

General Counsel

Date:

Comments: