

ALACHUA COUNTY, FLORIDA
CODE ENFORCEMENT BOARD



ALACHUA COUNTY, FLORIDA,

Petitioner,

vs.

Ona Colasante
Post Office Box 190
Lochloosa, FL 32662

Respondent

Complaint No. CEB 11-049 & CEB 12-010

CERTIFICATE OF SECRETARY

I hereby certify that this is a
True and Correct copy of the original
Findings of Fact, Conclusions of Law & Order
as executed by the Chairman of the
Alachua County Codes Enforcement Board.
Katharine P. Bruning
Katharine P. Bruning

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

THIS CAUSE was first heard on the 1st day of December, 2011 and was continued until the 1st day of March 2012, after due notice to the Respondent. Having heard testimony under oath, received evidence, and heard arguments, the Alachua County Code Enforcement Board ("Board") hereby issues its findings of fact, conclusions of law, and order, as follows:

Findings of Fact

1. Respondent Ona Colasante is the owner of property within unincorporated Alachua County, located at 21115 SE 179th Place and 21119 SE 179 Place, Lochloosa, FL, Parcel Numbers 20127-000-000 and 20127-001-001 (hereinafter "Property").

2. On August 29, 2011, an Alachua County Code Enforcement Officer visited the Property and observed an excavation and fill operation, which exceeds 200 cubic yards without the required site plan approval, development review and special use permit. The excavation and fill operation exceeding 200 cubic yards without the required approvals on the property constitutes violation of Section 404.95, Alachua County Code, Special Use Permit and Development Approval Required and Section 402.140(b), Alachua County Code, Improvement of Property prior to the Issuance of a Building Permit. The Office of Code Enforcement issued a Notice of Violation, which Respondent received by certified mail on September 1, 2011.

3. The Notice of Violation gave the Respondent until October 28, 2011 to correct the violation.

4. On October 25, 2011 a site visit occurred with Alachua County Public Works Department, Alachua County Codes Department and the Saint Johns River Water Management District staff and an

environmental assessment was performed and determined that excavation and fill activities occurred in the wetland and wetland buffer and excavation and fill activities occurred in a floodplain without a permit. The excavation and fill activities in the wetland constitute violation of Section 406.41(b), Alachua County Code, Regulated Activities. The excavation and fill activities in the wetland buffer constitute violation of Section 406.43(d), Alachua County Code, Water Resources Buffers. The excavation and fill activities in a floodplain without a permit constitute violation of Section 406.56, Alachua County Code, Flood Hazard Area Permit Required. The Environmental Protection Department issued a Notice of Violation, which Respondent received on November 30, 2011.

5. The Notice of Violation gave the Respondent until 14 days after receipt of notice for immediate stabilization of slopes of excavated materials and to provide a corrective action plan to remove the fill from the wetland and wetland buffer.

6. Due to the irreversible nature of the violation, the cases were forwarded to the Code Enforcement Board. Photographs were taken by Alachua County Sheriff's Office on February 22, 2012; Staff on August 18, 2011, August 29, 2011, November 18, 2011 and St. Johns River Water Management District on October 25, 2011.

Conclusions of Law

7. The Board has jurisdiction over this matter pursuant to Section 162.08, Florida Statutes, and Title 2, Section 24.05 (a) (30) Alachua County Code.

8. The facts described in paragraph 2 and paragraph 4, above, constitute violations of Alachua County Code, Section 404.95, Special Use Permit and Development Approval Required and Section 402.140(b), Improvement of Property prior to the Issuance of a Building Permit for the excavation and fill operation exceeding 200 cubic yards without the required approvals; Section 406.41(b), Regulated Activities for the excavation and fill activities in the wetland; Section 406.43(d), Water Resources Buffers for the excavation and fill activities in the wetland buffer; and Section 406.56, Flood Hazard Area Permit Required for the excavation and fill activities in a floodplain without a permit.

WHEREFORE, Based upon the foregoing findings of fact and conclusions of law, it is hereby ordered that Section 402.140(b), Alachua County Code, Improvement of Property prior to the Issuance of a Building Permit is dismissed and that the Respondent is guilty of the violations of Section 404.95, Alachua County Code, Special Use Permit and Development Approval Required; Section 406.41(b), Alachua County Code, Regulated Activities; Section 406.43(d) Alachua County Code, Water Resources Buffers and Section 406.56, Alachua County Code, Flood Hazard Area Permit Required of the Alachua County Unified Land

Development Code as set forth in the Notice of Violations and Statement of Violations and give the Respondent until April 30, 2012 (60 days) to submit a complete application to the Growth Management Department for a Special Use Permit, 120 days (June 29, 2012) to submit a complete application to the Development Review Committee and 365 days to complete the restoration activity as approved by the Development Review Committee. The 365 days start when the Development Review Committee approves said application. If such corrective action is not taken, an administrative fine of \$500 per day will be assessed for any of the three time deadlines until the Respondent is in compliance. Said fine, if it occurs, will be equally split between the Growth Management Department and Environmental Protection Department. It is further ordered that the Respondent is guilty of a violation that is irreparable or irreversible in nature and assessed a one-time fine of \$2,000 to be deposited into the Environmentally Sensitive Lands Fund as provided by ordinance. It is further ordered that the Respondent is assessed \$490 to cover the costs of prosecution of which \$350 will go to the Growth Management Department and \$140 will go to the Environmental Protection Department. Said fines shall be paid within 120 days (June 29, 2012).

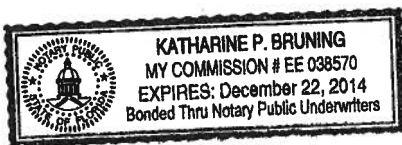
DONE and ORDERED this 8th day of March 2012, at Alachua County, Florida.

By: [Signature]
Jerry Painter, Chairman

STATE OF FLORIDA)
COUNTY OF ALACHUA)

The foregoing instrument was acknowledged before me this 8th day of March 2012, by Jerry Painter, Chairman of the Alachua County, Florida, Code Enforcement Board, and who being personally known to me.

[Signature]
Notary Public, State at Large



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Findings of Fact, Conclusions of Law, and Order has been furnished to Ona Colasante, Post Office Box 190, Lochloosa, FL 32662 and Gary Dounson of Gary Dounson & Associates, Inc., 2830 NW 41st Street, Unit D, Gainesville, FL 32606, by US mail, this 8th day of March, 2012.

[Signature]
Katharine P. Bruning
Secretary to the Board