

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,  
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION: AY  
CASE NO.: 50-2022-CA-011404-XXXX-MB

WALMART STORES EAST, LP,  
Appellant,

vs.

TOWN OF LAKE PARK,  
Appellee.

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Opinion filed: June 25, 2024

On Appeal from the Town of Lake Park Special Magistrate.

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PER CURIAM.

Pursuant to section 162.11, Florida Statutes, Walmart Stores East, LP, (“Walmart”) seeks review of the Order Finding Violation rendered by the code enforcement special magistrate for the Town of Lake Park (“Town”). Chapter 162, which allows fines to be imposed for code enforcement violations, authorizes up to \$250 per day for a first violation, \$500 per day for a repeat violation, and \$5,000 per violation for an irreparable or irreversible violation. § 162.09(2)(a), Fla.

Stat. The Town has adopted the foregoing maximum amounts. Code of Ordinances, Lake Park, Fla. (“Code”), § 9-39(b).

In contravention to the applicable law, an unnumbered provision in the Order Finding Violation imposes a fine in the amount of \$5,000 per day if Walmart fails to comply with the compliance dates. Based on the legally permissible maximums, the Court finds that the Town erred by including an unauthorized daily fine of \$5,000, which must be reversed. The Order Finding Violation also imposes a \$5,000 fine due to the irreparable and irreversible nature of the violation. When determining the amount of a fine, the Town must consider the following factors: the gravity of the violation, corrective actions taken by the violator, and any previous violations. § 162.09(2)(b), Fla. Stat.; Code, § 9-39(c). The Court finds that the record lacks any indication that the Town considered the factors as required by law. This matter must therefore be remanded for an appropriate determination regarding the fine amount.

Additionally, the Order Finding Violation states that Walmart must comply with the first condition by January 18, 2023, and with the second condition by November 18, 2022. Upon remand, the Town shall correct the apparent scrivener’s error in the fourth condition that instead recites the dates of compliance as November 18, 2022, for the first condition and January 18, 2023, for the second condition. Accordingly, the Order Finding Violation is **REVERSED** in part as to the fines and the matter is **REMANDED** for proceedings in accordance with this opinion.

PARNOFIELLO, VOLKER, and COLLINS, JJ., concur.