

**IN THE THIRTEENTH JUDICIAL CIRCUIT FOR THE STATE OF FLORIDA
CIVIL APPELLATE DIVISION**

P&P HOLDINGS GROUP LLC,
a Florida Limited Liability Company,
Appellant,

Appeal No.: 24-CA-003953

Division: O

v.

L.T.: CE-24-4001005

HILLSBOROUGH COUNTY,
a political subdivision of the State of Florida,
Appellee,

On review of a final order of the Code Enforcement
Special Magistrate for Hillsborough County, Florida.

APPELLATE OPINION QUASHING

This case came before the Court on review of a final order rendered April 15, 2024, by the Hillsborough County, Florida, Code Enforcement Board. In the certain order, the Special Magistrate found that Appellant, P&P Holdings, had violated the code's prescribed use of Appellant's property at 1110 Fish Farm Road, Plant City, Hillsborough County, Florida, pursuant to Hillsborough County Code of Ordinances and Laws Sections 2.02.01, 2.02.02, 5.02.01, "Improper Use of Zone" of the Land Development Code. This finding was made pursuant to the Appellant's hosting of traditional Hispanic rodeo style "Jaripeo" events on the property and live music events that may have accompanied the Jaripeo. Because no competent substantial evidence shows that the concert style event hosted around the time of these Jaripeo events was so distinct from the Jaripeo as to fall outside of the agritourism classification *and* because the special magistrate failed to appropriately apply the law, this Court finds that the order finding violation and imposing fine must be **QUASHED**.

Jurisdiction

The Court has jurisdiction. *See* § 162.11, *Florida Statutes*.

Facts and Procedural History

Appellant, P&P Holdings Group LLC, owns a 56-acre parcel at 1110 Fish Farm Road in Plant City, Hillsborough County, Florida. The entire parcel is classified as "agricultural lands" in accordance with the definition rendered in section 193.461, *Florida Statutes*. Appellant primarily uses their property for commercial cattle farming and seasonal cropland. In addition, Appellant hosts a

traditional Hispanic rodeo-style event called “Jaripeo” on the land. The evidence presented before the Special Magistrate is that the Jaripeo includes a petting zoo, “U-Pick” opportunities, bull riding, “horse dancing,” and live music throughout.

During or immediately following the events hosted by Appellant, Hillsborough County received numerous complaints concerning off-site impacts of the events. Complaints from neighboring property owners included: bright lighting; alleged heavy alcohol intoxication of visitors to the events; heavy traffic and vehicles parking along the street; and, loud noise from live musical performances continuing well into late night and the early hours of the morning. As a result of the complaints and an investigation, on March 22, 2024, the Hillsborough County Code Enforcement Department issued a Notice of Violation of Hillsborough County Ordinances and Laws Sections 2.02.01, 2.02.05, 5.02.01, “Improper Use of Zone” of the Land Development Code. A hearing was conducted on the alleged violation on April 12, 2024. The Order Imposing Written Fine, dated April 15, 2024, by the Special Magistrate is the subject of the instant appeal.

At issue for the Court is whether the Special Magistrate applied the correct Florida Law and relied upon competent substantial evidence in its determination as to whether Appellant’s hosting a live music event falls under the definition of agritourism when that music event may or may not be occurring at the same time as the rest of the rodeo events. See § 570.85 and 570.86, *Florida Statutes*.

Standard of Review

Review on a plenary appeal by the Circuit Court shall be limited to review of the record created before the Hillsborough County Code Enforcement Board. See § 162.11, *Florida Statutes*. In reviewing an administrative agency’s final order, the Circuit Court sitting in its appellate capacity is governed by a three-part standard of review: (1) whether procedural due process is afforded; (2) whether the essential requirements of law have been observed; and (3) whether the administrative findings and judgment are supported by competent substantial evidence. *Snyder v. City Council of City of Palmetto*, 902 So. 2d 910, 911 (Fla. 2d DCA 2005) (citing *Haines City Cmty. Dev. v. Heggs*, 658 So.2d 523, 530 (Fla.1995)). Agency rules and decision making must be overturned if their application of law is erroneous. *Hobbs v. Florida Department of Transportation*, 831 So.2d 745, 747 (Fla. 5th DCA 2002) (citing *Palm Beach County Canvassing Bd. v. Harris*, 772 So.2d 1273, 1283 (Fla. 2000).

Analysis: Conclusions of Fact and Law

A. The Special Magistrate’s order was not supported by competent substantial evidence.

The Court reviewed the briefings filed, heard oral argument, and reviewed the record prepared from the administrative code enforcement proceeding. In ruling, the Court narrowly bases its opinion from the record presented to the Special Magistrate. Upon review of the record, and without reweighing the evidence presented, the Court finds that the Special Magistrate's order was not based upon competent substantial evidence. No competent substantial evidence was presented concerning whether the live music performances were simply a part of other Jaripeo events, or occurring at the same time as other Jaripeo events, or, whether the live music performances were entirely separate and distinct from the Jaripeo.

There was minimal testimonial evinced below regarding the live music performance. Officer Hannaford testified that "it's not a typical agritourism. There[']s no petting zoos. It's agriculture – if you would – were to take the amphitheater and bring it to a pasture." Transcript at page 19, lines 6-7. Of note, P&P Holdings brought two witnesses who did not receive an opportunity to testify at the hearing below regarding whether other Jaripeo events were occurring during the live music.

From the composite exhibit admitted by P&P Holdings before the Special Magistrate, it is clear that the documentary evidence conflicts with the testimonial evidence regarding whether the music was integrated into the rest of the Jaripeo events. The photo evidence and the flyer for the event as provided to the Special Magistrate depict petting zoos, bull riding, people on horseback, and u-pick activities. Additionally, this record evidence contains advertisements for live music that was contemporaneous with all other events. See Appendix to Appellant's Initial Brief at page 54, depicting a crowd in front of several livestock pens with cattle and a stage and sound equipment set up next to them; Appendix to Appellant's Initial Brief at page 45, depicting people on horseback under a pole barn with a stage, lighting and sound equipment set up at the far end of the pole barn; Appendix to Appellant's Initial Brief at page 44, depicting children riding in the saddles of donkeys with a stage and sound equipment set up directly behind the children next to a pole barn. What appears to be the same pole barn shown on pages 44-45 is also shown on page 52 with a tractor and other agricultural equipment housed underneath it. Appendix to Appellant's Initial Brief at page 44-45. The flyer presented at the hearing is included in the appendix filed, and depicts: a title "Mega Jaripeo y Baile;" a bull rider; states the event runs from 3:00 p.m. to 10:00 p.m.; and depicts three musical groups of different titles. See Appendix to Appellant's Initial Brief at page 59, Doc. 13.

The Court concludes that the Special Magistrate's finding that P&P Holdings is not permitted to host live music events *at all* is legally erroneous as set forth below and is unsupported by competent substantial evidence. While the Court may not reweigh evidence, the record evidence must be evaluated on appeal. In this case, only conclusory statements and speculation support the

Special Magistrate's finding. Conclusory statements and speculation alone do not amount to competent substantial evidence.

B. The Special Magistrate's Order did not apply the correct law.

The Special Magistrate did not apply the correct authorities under Florida Law in determining whether the event at issue was agritourism. Section 570.86, *Florida Statutes*, defines agritourism activity as “any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions.”¹ The property is partially green belted, zoned as agricultural land AS-1, and is home to a cattle operation – a bona fide farm, livestock operation or ranch – as was conceded to by the County. P&P Holdings was cited for hosting an event that is culturally significant, educational, recreational, and entertaining in support of their bona fide livestock operations on the same property.² The Special Magistrate erroneously parsed the agritourism statute to only permit agritourism activities which are *educational* in nature. Transcript at page 31, lines 22-24 (attachment to Appendix to Appellant's Initial Brief at page 95, Doc. 13).³

In making his decision, the Special Magistrate relied in large part upon a Florida Department of Agriculture Memorandum, dated January 17, 2024,⁴ and, in so doing, ignored the plain language of the statute. The memorandum is not law. Even if the memorandum were accepted as equally binding authority, the memorandum explicitly allows for “ceremonial” and “recreational” events that include music, specifically weddings, that include music and dancing.⁵

¹ The Court notes that the County through their witness Mr. Gromly, conceded that this event was indeed *recreational* in nature, and it was not alleged to be a commercial event in the original administrative proceeding. Transcript at p. 8, lines 23-25.

² A Jaripeo is a lively culturally significant Hispanic bull-riding and rodeo event which seems consistent with P&P Holdings' cattle operation.

³ In ruling, the Special Magistrate stated “[t]his concert described ... in this [memorandum] from a Florida state agency and from the county, that ... the concert is not agriculturally-related activity ... what I'm seeing is an improper use of zoning ... [t]he petting zoo, the cows, *educational* aspects of it, that is not an issue. The issue is only those concerts.” Transcript at page 31, lines 13-24 (attachment to Appendix to Appellant's Initial Brief at page 95, Doc. 13).

⁴ The Court notes that this memorandum is persuasive, and does not add to the requirements set forth in the agritourism statute.

⁵ Even looking to the guidance from the Florida Department of Agriculture, the memoranda states “the Department has long considered weddings to fall within the statutory definition of agritourism... There is ample historic support for this conclusion, including a long tradition of holding *recreational activities in barns*.” Florida Department of Agriculture Memorandum, dated January 17, 2024, at page 2 (attachment to Appendix to Appellant's Initial Brief at page 6, Doc. 13). In support, the memorandum

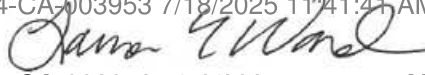
Further, the Special Magistrate's decision was also improper as it was based upon the offsite impacts that the Jaripeo caused on surrounding properties. Of significance, the property is zoned agricultural land AS-1, not residential. Despite this, at the hearing the Special Magistrate commented "of course, there are homes right there that were impacted... Homes that pay property taxes." Transcript at page 20, lines 10-15 (attachment to Appendix to Appellant's Initial Brief at page 84, Doc. 13). This is not a subdivision, neighborhood, or dense-residentially zoned property. Much of the testimony elicited at the hearing focused on offsite impacts such as: traffic; how disruptive the music could be for surrounding properties and livestock; and, the Sherriff's Office concerns over the number of people present at the Jaripeo. The alleged offsite impacts of the Jaripeo are most appropriately addressed by local government. §570.85(1), *Florida Statutes*. These noted offsite impacts of the event would not divest the Jaripeo of its agritourism classification.

Conclusion

For the reasons set forth in this Opinion, it is **ORDERED** that the Final Order Imposing Fine rendered April 15, 2024, by the Hillsborough County, Florida, Code Enforcement Board is hereby **QUASHED**.

DONE and **ORDERED** in Tampa, Hillsborough County, Florida on this 18th day of July, 2025.

24-CA-003953 7/18/2025 11:41:41 AM


24-CA-003953 7/18/2025 11:41:41 AM
Judge Laura E. Ward

LAURA E. WARD, CIRCUIT COURT JUDGE

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cites to the artistic piece "Dance of the Haymakers (Music is Contagious)," by William Sidley Mount, dated 1845, which depicts men dancing in a barn while live music is performed. The memorandum does not separate the different events of a wedding, and merely refers to a wedding as a whole despite a portion of the wedding being non-ceremonial (namely a reception – which includes music, food, and drinks). The entirety of the wedding as both "ceremonial" and "recreational" has long been recognized by Florida Courts as an approved form of agritourism. The memorandum also opines that if the underlying bona fide agricultural activity has been suspended in order to accommodate the agritourism activity, then "the activity would no longer meet the agritourism definition but rather would fall under general commercial activity." Florida Department of Agriculture Memorandum, dated January 17, 2024, at page 2 (attachment to Appendix to Appellant's Initial Brief at page 6, Doc. 13).