

**MINUTES**  
**CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING**  
**December 5, 2024**  
**3000 Bellemead Drive Daytona Beach Shores, FL 32118**

**1. CALL TO ORDER**

SM deLaroche called the meeting to order at 9:00 am.

A. Opening Statements by Special Magistrate deLaroche

B. Swearing in Witnesses

All witnesses were sworn in for the day's hearings.

**2. OPENING REMARKS**

A. Notification of Items Removed from Agenda by City Staff

There were no items removed the agenda.

**3. MINUTES**

A. Code Enforcement Special Magistrate Minutes October 17, 2024

SM deLaroche approved the minutes from October 17, 2024.

**4. ADVANCED HEARINGS (Post-Initial Hearings)**

A. Property Owner: OC 3711, LLC

Violation Address: 3711 S. Atlantic Ave. in Daytona Beach Shores, Florida

Code Enforcement Case #: SCDEF2023-50

Volusia County Tax Parcel ID #: 6302 05 05 0070

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The Special Magistrate accepted the documents with no objection. It was noted that this was a First Compliance Hearing for the Second Compliance Date. The violations were stated on the record and slides were shown. This case was continued from the October agenda due to a conflict with a religious holiday. The property owner, Pinchas Mamane, had no questions regarding the city's staff report. Mr. Mamane explained that he had already spent over \$100,000 with no reimbursement from his insurance company. He is currently in litigation with them. Mr. Mamane hopes to have construction start in the next 60 days. He has secured Paul Culver Construction and has a civil engineer for the seawall plans. SM deLaroche informed him that would be after his final ordered compliance date. He recommended that the permit be applied for and secured prior to the end of January.

Staff recommended Order #11 be imposed with an additional \$85.53 in Administrative Fees. The current total due is \$396.46. Mr. Mamane indicated the Administrative Fees would be paid within seven days. SM deLaroche issued Order #11 as provided, imposing a daily fine of \$250 a day, retro to July 19, 2024. The total Administrative Fee due within seven days is \$396.46.

- B. Property Owner: National Retail Properties, LP  
Violation Address: 2112 S. Atlantic Avenue in Daytona Beach Shores, Florida  
Code Enforcement Case #: CDEF2022-02  
Volusia County Tax Parcel ID #: 5316 24 00 0121

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The SM accepted the packet of evidence, including the 30 pages submitted by the Respondent. This was a Second Compliance Hearing for a case with 26 initial violations. Of the 26, only 13 were found non-compliant by the SM ordered date. The longest violation was 779 days at a fine of \$250 per day. The total due is \$194,750.00 in fines and \$234.62 in unpaid Administration Fees. The additional fees due for today are \$142.19, which will bring the total to \$376.81. Ms. Herstein displayed slides that showed the 13 violations which accrued fines, along with their compliance dates. She discussed the permit turnaround time that was brought up in the evidence packet submitted by the Respondent. The typical turnaround time is 1–10 days by the city staff providing all the necessary documents were submitted with the application. The Respondent mentioned that a permit took 180 days and this was not due to city staff. Attorney Christopher Earle was present to represent the property owner along with Kendrick Holliday, Senior Manager of Maintenance. Attorney Earle questioned Ms. Herstein if steady progress had been made on the property, and she said that the project had moved forward with stops and starts, ultimately taking 779 days. He inquired how many phone calls were made from July 2022–Sept 2024. Ms. Herstein stated that the minimum number was included in the packet; there were a minimum of 31 call threads and a minimum of 109 emails. He asked if the city was aware that Dollar General was a tenant, and she replied yes, but the city does not ask for lease documentation. It is the property owner's responsibility that the property be compliant. Attorney Earle questioned who Ms. Herstein had interactions with, and she replied representatives of the property owner and, at times, the tenant. He inquired if she meant Dollar General, and she responded no.

At this point, SM DeLaroche asked Attorney Earle who he represented. At first, he replied to the tenant, Dollar General. Mr. Holliday had an Authorization to Answer from the property owner. The hearing paused while the attorney made a few phone calls and the SM researched the property owner on Sunbiz. It was determined that the authorization was valid, and Attorney Earle was representing the owner. Ms. Herstein called Chief Building Official Steve Edmunds to the podium. He was questioned about the accuracy of the documents and slides shown. He replied they were true and accurate. He had no changes or additions.

Attorney Earle stated that a more timely response could have been made by both the property owner and the landlord. He admits to large gaps in time, January 2023 to July 2023, when no work had been done. He explained that it took some time to obtain contractors for some of the work. Attorney Earle questioned Kendrick Holliday as to his role and responsibility. Mr. Holliday stated he was the Senior Manager of Maintenance for their SE division. The PowerPoint slides were reviewed for his knowledge of the repairs. He stated he became responsible in the summer of 2023 and did his best to become compliant. Ms. Herstein cross-examined Mr. Holliday regarding the landscape work. He had stated it was fully restored by May 2023 prior to him taking over the project. She inquired if he had requested an update about where the violations stood when he took over. Mr. Holliday stated he did not. He stated when he spoke with Ms. Herstein, they discussed the roofing and electrical issues only. Ms. Herstein felt that landscaping had also been discussed with him. It was determined that Ms. Herstein had emailed him a re-inspection report showing the status of all violations. She directed him to the slide depicting Violation C) landscape plants have died. One picture from July 5, 2024, shows no plants near the building, just trees, grass and mulch. Mr. Holliday stated he felt it was compliant as it stood. She had him review an inspection report from November 2023, and it was determined that the landscaping was marked compliant on that date.

Attorney Earle provided a brief closing statement. He stated that both Dollar General and the property owner have taken the violations seriously since July 2023. Roofing & electrical work were the top priority and landscaping was not thought to be as important. Work was done in early 2022, but then Hurricane Ian occurred. Clearly, there was a gap in work of roughly eight months from January 2023 to July 2023. He asked for a reasonable reduction in fines and was willing to concede to pay for the eight months of no work in 2023.

SM deLaroche issued Order #13 removing 11 days for permit issues and another 28 days for Hurricane Ian as there has been no other evidence presented. The total reduction for the 39 days is \$9,750. The new total due is \$185,000. The total Administrative Fee due is \$376.81, payable within 30 days. Ms. Herstein stated that due to a factual error by the city that was made apparent during cross-examination, she recommended SM deLaroche reduce the fines to the eight months that Attorney Earle stated was the fault of the property owner. The fine could be reduced to 240 days total with the fine amount \$60,000 if paid within six months. SM deLaroche accepted the city's reduction to \$60,000 if paid within six months. If not paid, it will revert to \$185,000. The Administrative Fees of \$376.81 must be paid within 30 days.

## **5. INITIAL HEARINGS**

## **6. CLOSING REMARKS**

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, January 16, 2025, at 9:00 a.m.
- B. February's C.E.S.M. Meeting is scheduled for Thursday, February 20, 2025, at 9:00 a.m.
- C. March's C.E.S.M. Meeting is scheduled for Thursday, March 20, 2025, at 9:00 a.m.

## **7. SPECIAL MAGISTRATE COMMENTS**

## **8. ADJOURNMENT**

The meeting ended at 11:32 am.

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**Special Magistrate, Steven deLaroche**

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**Recording Secretary, Cheri Schwab**