

**MINUTES**  
**CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING**  
**June 19, 2025**  
**3000 Bellemead Drive Daytona Beach Shores, FL 32118**

**1. CALL TO ORDER**

A. Opening statements by Special Magistrate deLaroche  
SM deLaroche called the meeting to order at 9:00 am.

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 from the agenda.

**3. MINUTES**

A. Code Enforcement Special Magistrate Minutes May 15, 2025  
The SM approved the minutes of May 15, 2025.

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

A. Property Owner: 2120 S Atlantic Ave LLC  
Property Address: 2120 S. Atlantic Avenue in Daytona Beach Shores, Florida  
Code Enforcement Case #: CDEF2020-95  
Volusia County Parcel ID #: 5315-02-03-0012

SM deLaroche began by stating that Attorney Storch attended the last hearing but did not have the proper timeline information from the property owner to ask for a reduction in the fine amount. A continuance was granted. Present today is Attorney Joey Posey with the property owner, Joseph Ernest. Gwyn Herstein, City Planner, explained that all the items that were stipulated to at the previous hearing by Attorney Storch were included in today's packet. That also included the 13 pages submitted by the Respondent. Three documents were added by the city; an updated Administrative Fee affidavit, the order of Continuance, and the Order of Continuance Amended. She stated that since the documents were stipulated to at the last hearing, the slides were not shown but are available if needed.

SM deLaroche explained that in order to declare any reduction in the fine amount, he needs to be given evidence of the number of days that were not the fault of the property owner. The fine amount is a mathematical equation. Attorney Posey felt the Affidavit in evidence outlined the issues Mr. Ernest was up against, but in general terms, not the number of days. The SM gave them time to confer while he heard the next case on the agenda. The case resumed at 9:32 am.

Attorney Posey said he calculated 1,133 days that were not his client's fault out of 1,190 days due to hurricanes, storm work etc. The first 288 days were from the initial date of notice through the hearing

in 2021. He had no knowledge of the violations, so he could not take corrective actions. The First Compliance Hearing in January 2022 through October 2022 is another 273 days. This is the date of the first fine and the date he was personally made aware of the situation. Up to that point, Mr. Ernest had a property manager handling the oversight of the property. From January 2023 to March 2023, he tried to secure professionals for another 90 days. The hurricane periods in both 2022 and 2024 took up at least 151 days, probably more.

At this point, the SM requested Ms. Herstein and Attorney Posey to approach the bench. The SM explained that the approach being used does not provide accurate evidence of days that could be excused. A timeline with exact dates and reasons allows him the ability to reduce the fine. He asked Attorney Posey if he would like more time to prepare as the fine was quite high. Attorney Posey took a minute to confer with his client. The decision given was to move forward with the day's hearing.

The SM instructed Attorney Posey to start again with the initial 288 days mentioned and explain why Mr. Ernest is not accountable. The response was that Mr. Ernest had no personal knowledge of the violations. The property manager was sent the notice and the information was never relayed to Mr. Ernest. On November 7, 2022, the city made contact with Mr. Ernest directly and he was made aware of the situation. January through March 2023, Mr. Ernest tried to obtain contractors for the repair work as he didn't have the time or manpower himself. At this point, the SM instructed Mr. Ernest to explain his company and the service they provide. The company is called First Choice Services and was involved with disaster relief and immediate response to save large structures from collapse. He explained that his company put the first temporary seawall at the Grand Coquina. He further stated he just didn't have time to take care of the repairs on his property due to his busy schedule working on both coasts of Florida. Attorney Posey requested 90 days' relief due to having to re-engage with contractors because hiring professionals during disasters is an issue. The next set of dates is September to December 2024, when another set of hurricanes hit Florida and the owner was providing hurricane disaster relief. During 2025, Mr. Ernest actively engaged in the repair work and the property was compliant on March 26, 2025. Attorney Posey stated that was his summary on why they are asking to forgive 1133 days of the fine. The nature of code enforcement is not to be punitive. The property is currently vacant, but it is under contract to be purchased and reopened as a car wash.

Ms. Herstein questioned Attorney Posey regarding the legal service of process (Chapter 162). He responded that he was taking no position either way. She questioned how Mr. Ernest wasn't aware of the violations when she spoke with him on July 7, 2020, and discussed them along with the requirements of the Vacant Building Registration. Attorney Posey stated that the date was before the code enforcement case began. Ms. Herstein stated that she was aware of that, but the owner knew of the issues on the property as he was purchasing it. At every step of the case, good service was achieved per Chapter 162. Attorney Posey inquired if personal outreach was made to Mr. Ernest. Ms. Herstein stated yes, through certified mail, which is allowed per Chapter 162. Attorney Posey questioned the length of time for personal contact with Mr. Ernest from July 2020 to November 2022. Ms. Herstein responded that contact was being made with the provided registered agent as allowed by Chapter 162. She referenced a letter dated November 21, 2022, on page 4-A-128 in the agenda packet that followed an onsite meeting on November 17, 2022. Her recollection was that Mr. Ernest was present for the meeting but Attorney Posey stated his client was not present. Ms. Herstein inquired if the property owner was a licensed contractor in the State of Florida. The attorney responded he currently was. Mr. Ernest was asked to provide his license number for the record. Mr. Ernest replied he was licensed in 19 states, and he would have his office email the number to Ms. Herstein.

Attorney Posey closed by stating he felt the fine was disproportionate to the value of the property. He knows the goal is to be in compliance, and not be punitive.

SM deLaroche stated that he considers the totality of the case but was attempting to approach the fine mathematically. He stated that the previous Administrative Fees were still unpaid. The accrued fine currently due is \$297,000. Legally, if your registered agent has notice, the owner has notice. He noted that during the timespan of this case, the property went through four named hurricanes, which can cause a shortage of manpower and supplies.

SM Delaroche issued Order #13 finding that the property is compliant at this time, but the Respondent did not comply with the code enforcement order of April 21, 2021, by the date specified in that order. The property was brought into full compliance on March 26, 2025. Based on the following factors: multiple hurricanes, shortage of materials and manpower, he issued an Order reducing the fine by 365 days which is a reduction of \$90,750. The reduced fine amount due is \$206,250. He also ordered reimbursement of the total Administrative Fees due in the amount of \$314.31 payable in seven days.

- B. Property Owner: JK Daytona, LLC  
Violation Address: 2225 S. Atlantic Ave. in Daytona Beach Shores, Florida  
Code Enforcement Case #: FCDEF2024-42  
Volusia County Tax Parcel ID #: 5315 02 02 0010

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's rep. The Special Magistrate accepted the documents with no objection. This was a First Compliance Hearing for a compliance date of February 18, 2025. The property was to have restored the inoperable fire alarm system. On February 19th, Lt. Medders determined that no fire alarm permit had been obtained or applied for, so it was not in compliance. An Affidavit of Non-Compliance was generated. A permit application was submitted on February 27th and obtained by the contractor on March 11th. It passed inspection on March 19th. Fire Watch requirements were reduced to 8 hours per day, from 10:00 pm to 6:00 am. On April 11, 2025, Lt. Medders performed an annual fire inspection at the property and discovered the fire alarm system was non-functional. The Fire Watch requirements were immediately re-established at 24 hours per day. An Affidavit of Non-Compliance, Second Instance was generated. Staff requested that the property be found non-compliant beyond the ordered date and impose fines of \$250 per day for both the initial 28 days past February 18th and all days since the second instance of April 11th as a lien. Ms. Herstein questioned Lt. Norman Medders about the accuracy of the documents shown. He replied they were true and accurate with no changes or additions. Lt. Medders stated that he had many visits to the property, the last one being on May 7th to meet with the GM and alarm contractor. He explained that the property needed to maintain a 24/7 fire watch by an independent third party, and he receives an email every day with the watch log for the property for verification. The SM inquired if the property owner should have known that the fire alarm system was not operational. Lt. Medders deferred the question to the property owner. Ms. Herstein asked if there had been a new alarm permit submitted, and he replied there had not been anything submitted. There is an active permit for the fire sprinkler system.

General Manager Shamila Mohomed explained that they had been trying to fix the building since the

hurricanes a few years ago. They were not aware that the wiring was insufficient for the new fire alarms. Once the owners became aware, they took measures to correct them immediately. Sean O' Connor, the alarm technician, explained that the old wiring in the building didn't work properly with the new alarm panels being installed. He anticipated the wiring would be complete in the next two weeks. He was not aware that a permit was not on file to do the work and would be speaking with his office about this matter.

SM deLaroche issued Order #11 finding that the Respondent failed to gain compliance and imposed a fine beginning and including February 19, 2025, through and including March 18, 2025, and beginning again April 11, 2025, and accruing daily in the amount of \$250 until full compliance with said order is achieved. He ordered reimbursement of additional Administrative Fees in the amount of \$79.93 payable in 30 days.

**5. INITIAL HEARINGS**

**6. CLOSING REMARKS**

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, July 17, 2025, at 9:00 a.m.
- B. August's C.E.S.M. Meeting will be held on Thursday, August 14, 2025, at 9:00 a.m.
- C. September's C.E.S.M. Meeting is scheduled for Thursday, September 18, 2025, at 9:00 a.m.

**7. SPECIAL MAGISTRATE COMMENTS**

**8. ADJOURNMENT**

The meeting ended at 10:00 am.

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**Special Magistrate, Steven deLaroche**

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**Recording Secretary, Cheri Schwab**