

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
January 19, 2022
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

A. Opening Statement by Special Magistrate deLaroche

Due to a scheduling conflict, the Special Magistrate called the meeting to order at 9:35 am.

B. Swearing in Witnesses

Ms. Herstein was sworn in to provide testimony for the day's cases.

2. OPENING REMARKS

A. Indication of any items being removed from agenda

There were no cases removed from the agenda.

3. MINUTES

A. Code Enforcement Special Magistrate Minutes December 1, 2021

SM deLaroche approved the minutes from December 1, 2021.

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

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. This is a First Compliance Hearing and slides were shown of the violations. The Initial Hearing was on April 21, 2021, with a compliance date of December 21st. The owner had requested additional time to get a business up and running and it was granted. From April to early January there was no progress on the property. Previous permits and applications on file expired with no

inspections. On December 22nd, the property was re-inspected and the violations still remained. A Notice of First Compliance Hearing was sent on December 27th and the property was posted on January 6th. On January 4th, while inspecting the property next door, Ms. Herstein observed workers on the site. Inspector Steve Edmunds arrived and informed the workers that permits were required for the work. At that point, both violation b and m were taken care of and now compliant. Staff requested that Order #11 be issued with a fine of \$250 per day. An additional \$85.53 in Administrative Fees was also requested. It was noted that the original Administrative Fee had not yet been paid. The property owner had called the office this morning at 8:15 and stated that he was out of state and could not attend the hearing.

Special Magistrate deLaroche issued Order #11 stating that the property remained in violation and the fine of \$250 per day would begin. He ordered reimbursement of the Administrative Fee in the amount of \$85.53 payable within 60 days. The outstanding Administrative Fee was due in 30 days.

- B. Property Owner: SS 2500, LLC
Property Address: 2504 S. Atlantic Avenue in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2021-55
Volusia County Parcel ID #: 5322-01-00-0266

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. This was a first compliance hearing, with the Initial Hearing being held on Dec. 1st. There were two compliance dates ordered at that time. The first date was January 3rd, whereby three violations needed to be addressed. The first violation was compliant on Dec. 20th when the vacant property inspection was completed. The property was reinspected on January 4th and the remaining two violations were not compliant. The property was posted with the Notice of First Compliance Hearing and also sent by First Class mail. Ms. Herstein met both the property owner and an electrician from Giles Electric at the site on Jan 17th to review the electrical issues. While she was there, she saw workers emptying the ponds from the recent rain. Staff requested that Order #11 be imposed with a fine amount of \$250 per day beginning on January 4th. The additional Administrative Fee of \$92.43 was also requested to be reimbursed.

The property owner, Janet Ivanhoe, spoke on her own behalf. She stated that it had been hard to find irrigation experts. She is currently using her maintenance man to help. She stated her ongoing health issues and the holidays had made it hard to find workers. She felt that the meeting with Giles Electric was only a service call, and she didn't need a permit. The property is still on the market.

Special Magistrate deLaroche issued Order #11 stating that the property remained in violation and the fine of \$250 per day would begin on January 4th. He ordered reimbursement of the Administrative Fee in the amount of \$92.43 payable within 60 days. The Special Magistrate also stated that at the Second Compliance Hearing he would adjust the compliance date from January 3rd to January 10th to allow for the holidays.

- C. Property Owner: Roseann Leith Jackson
Violation Address: 3013 S. Atlantic Ave., Unit 1005, in Daytona Beach Shores, Florida
Code Enforcement Case #: PCDEF2021-32
Volusia County Tax Parcel ID #: 5327-13-10-1005

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. It was noted that this was a First and Second Compliance Hearing and that two orders would need to be issued. The Initial Hearing took place on August 18th and given until November 16th for compliance. Permits were applied for and issued during the month of November. The property came into full compliance on November 30th. Notices for First and Second Compliance Hearings were generated and good service was achieved. Staff requested order #11 as the property remained in violation for 13 days with a total fine due of \$1,950.00. The additional reimbursement for the Administrative Fee in the amount of \$142.19 was also requested. The second order would be either #12 or #13 at the discretion of the Special Magistrate. Ms. Leith Jackson was present and spoke on her own behalf. She explained that she was unaware a permit was required to have the renovation work done. This was her first time living in a condo and the rules were different. She called many contractors back in August and no one could start the work until early 2022. Eventually, she met with Lorne Hartman from Hartman Renovations in late August. She couldn't recall signing a contract and explained that she had not paid him anything to date. She has experienced health issues and works when she can. Ms. Jackson requested relief for the penalties as the windows and hurricane shutters were expensive. SM deLaroche explained that with no written contract as evidence, he had no legal mitigator to reduce the fine. Special Magistrate deLaroche issued Order #11 stating that the property remained in violation and a fine of \$150 per day would be assessed. He ordered reimbursement of the Administrative Fee in the amount of \$142.19 payable within 90 days. The SM issued Order #12 stating the \$1,950 was due in 90 days.

5. INITIAL HEARINGS

- A. Property Owner: AD1 Daytona Hotels, LLC
Violation Address: 2323 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: PCDEF2021-84
Volusia County Tax Parcel ID #: 5322-03-01-0130

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. It was requested that the documents shown would be considered for both cases and the SM agreed. This was an Initial Hearing with five violations that were read for the record. The original permits to remodel the hotel units for reopening had expired without obtaining final inspections. New work had also started in the common areas of the hotel with no permits issued. A Stop Work Order was issued in September for this. The office received a phone call from the owner's legal firm to inquire about the permits. Director Hiatt offered a pathway to reinstate the permits, but it was not utilized. The property was reinspected on December 29th and the violations still remained. Notices of the upcoming hearing were sent and the property was posted. The general contractor sent an email on January 10th to inquire about re-instating or obtaining new permits and was given a detailed response. Ms. Herstein explained that the General Manager, Becky Darnell, could not attend today due to mandatory Hilton training. Ms. Herstein questioned Building Inspector Steve Edmunds on the accuracy of the documents and slides shown. He replied they were true and accurate. He explained that various permits had been pulled to begin the remodeling work, but were never finalized. Staff had prepared a modified order #7 due to life safety concerns regarding the swimming pool and other hazards. A 6-foot sand fence is required with a permit by February 18th with

the remaining violations brought into compliance by March 7th or a \$250 per day fine would begin. Reimbursement of the Administrative Fee in the amount of \$149.09 was requested. As an alternative remedy, the property owner could submit a letter of intent to suspend remodeling, submit a Certificate of Compliance - Vacant Property application along with the applicable fees, facilitate the CC-VP inspection, then correct all life safety deficiencies by April 6th and all remaining deficiencies by July 5th.

Special Magistrate deLaroche issued the modified Order #7 with the dates supplied.

- B. Property Owner: AD1 Daytona Hotels, LLC
Violation Address: 2323 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2021-85
Volusia County Tax Parcel ID #: 5322-03-01-0130

Ms. Herstein requested that all the documents and slides from Case 5-A be included and accepted into evidence along with those from Case 5-B. The Special Magistrate accepted the evidence with no objection. This was an Initial Hearing and the 39 violations, identified as a - mm in the Statement of Violation/Request for Hearing were read into the record. After receiving a call of concern from a neighbor with an excellent view of the property, she visited their unit on Sept. 9th and could see many areas of concern, especially the swimming pool. A Notice of Violation was sent and good service was achieved. The property was re-inspected on December 29th and nothing had been addressed. Notices of the upcoming hearing were sent and the property was posted. Ms. Herstein questioned Building Inspector Steve Edmunds on the accuracy of the documents and slides shown. He replied they were true and accurate. He included information regarding the transformer room door explaining that the transformer vault had exposed wires for service to the entire building, which is a safety concern. FPL will be installing a secure door on the room and it will be locked. Staff had prepared a modified order #7 for the Special Magistrate to consider for this case as well and requested a No Fine/Standing Order for Violation g, which had been rectified - though noted it needed to be drained immediately after rain to remain compliant. According to the proposed order, the violations identified as k,l,n,o and v need to be made compliant by February 18th with the remaining violations compliant by May 19th. In the event the Respondent does not comply, a fine of \$250 per day would be imposed. Reimbursement of the Administrative Fee in the amount of \$149.09 was requested.

Special Magistrate deLaroche issued the modified Order #7 with the dates supplied.

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Wednesday, February 16, 2022, at 9:00 a.m.

The upcoming hearing dates were reviewed.

- B. The March meeting is scheduled for Wednesday, March 16, 2022, at 9:00 a.m.

- C. The April meeting is scheduled for Wednesday, April 20, 2022, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 11:17 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab