

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
August 18, 2022
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

A. Opening Statement by Special Magistrate deLaroche

The Special Magistrate called the meeting to order at 9:00 am.

B. Swearing in Witnesses

All witnesses for the hearings were sworn in by the Special Magistrate.

2. OPENING REMARKS

3. MINUTES

A. Code Enforcement Special Magistrate Minutes July 14, 2022

SM deLaroche approved the minutes from July 14, 2022.

4. ADVANCED HEARINGS (Post-Initial Hearings)

A. Property Owner: Pappas Daughters, LLC
Violation Address: 2518 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: PCDEF2020-94
Volusia County Tax Parcel ID #: 5322-01-00-0282

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. The case originally began with a Stop Work order by Inspector Steve Edmunds in August 2020. Work on drywall and plumbing was being done without any permits. The Initial Hearing was held on March 17, 2021 and the property owner was given 90 days to gain compliance. Some permits were submitted during that time period but they were incomplete. The First Compliance Hearing was on July 21, 2021, and the property was found to remain in non-compliance. A fine of \$200 per day began at that time. Inspections were done throughout the Fall and early 2022. The final inspection was held on April 15, 2022, and compliance was fully achieved. The property owner, Chris Pappas, requested the next hearing be in June as he had health

issues and could not attend a meeting in May. There was no meeting held in June, so the Second Compliance Hearing was placed on the July agenda. All notices were sent and good service was achieved. At the July hearing, Attorney Jennifer Gillikin stated that the property owner had death in the family and asked for a continuance. The SM granted the continuance until the August meeting. The current fines total \$60,600 for a total of 303 days of non-compliance. At this time, all Administrative Fees had been paid. Ms. Herstein requested either Order 12 or 13 be issued - to reduce, rescind, or impose the fine. She requested additional Administrative Fees in the amount of \$141.83. Ms. Herstein questioned Building Official Steve Edmunds as to his involvement in the case. He explained that he had issued a Stop Work Order in August 2020. 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. The SM asked Mr. Edmunds if allowing 90 days was adequate, to which he replied with today's environment, probably not. It is hard to find materials and secure a company to do the work. The SM inquired why there was a delay with inspecting the gas permit. It was obtained in September 2021 and not inspected until April 2022. Mr. Edmunds replied that normally the gas line is installed early but it is not needed at that time, so no inspection gets called in. Once the contractor requests an inspection, it is usually less than 24 hours for an appointment. Attorney Gillikin questioned the tenant, Pat Iennaco. In April 2020, he leased the unit and discovered it had been vandalized. There had been water damage and he attempted to remove the drywall and toilet so that no mold could grow. At this point, he didn't know a permit was needed. He stated he was not aware that he would need an architect to sketch the renovated plans. It took three drafts before they were approved. The SM inquired why he waited so long between getting the plans approved and pulling a permit. Mr. Iennaco stated that no one would do the work. He made many calls to various companies. He didn't realize it would be this involved renovating the unit. He added that the Health Dept. took a month to come inspect the restaurant before he could request a final inspection by the city. He wished he could have requested more time. Ms. Herstein asked him if he recalled that she explained that a Second Compliance Hearing would allow the opportunity to explain the delays and request a reduction. Attorney Gillikin questioned Mr. Pappas as to the ownership of the property. There are 16 total units and this tenant has leased one. She inquired if he collected rent from the tenant during this time. He responded no, since the unit was trashed, only a deposit was collected. He lost approximately \$30,000 in rent on this unit. She asked if he filed any criminal charges and he stated that he hadn't since the old tenant left the country. She requested that the fine be either waived or reduced. The SM instructed the attorney to give him a math formula to reduce the fine by XX days. A short recess was taken while she conferred with her client.

Attorney Gillikin reiterated that the space had been vandalized, and the new tenant tried to fix the destruction as best he could. A total remodel was needed to comply with ADA that took more time than initially given. Covid-19 pandemic hit with supply chain issues. She requested that the lien be reduced as the property owner was the victim of a crime, the length of time was beyond the owners' control to secure supplies, the labor shortage etc. She asked if the fine could be reduced from \$200 to \$25 per day.

Special Magistrate deLaroche issued Order #13 reducing the fine by 177 days total for various inspection delays, supply chain problems and the inability to obtain contractors. The total fine due if paid in six months is \$12,600 and \$25,200 if paid after six months. The additional Administrative Fee of \$141.83 is due within 60 days.

- 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

There was no one present for the Respondent. Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. The property is a Dollar General store. This was a First Compliance Hearing. The Initial Hearing took place on April 20, 2022. The property was found in non-compliance with 27 original violations. They were given 90 days to gain compliance. Ms. Herstein had conversations both by phone and email with maintenance for the owner. She explained that there were discrepancies in the landscaping work relating to the size and number of plants being installed. The property was re-inspected on July 20th and found that 13 violations still remained. Affidavits were generated and notices were sent by email and hand delivered. Good service was achieved. Ms. Herstein showed slides of the remaining violations. She explained that some of the required permits had been obtained, but a building permit had not yet been applied for. She requested Order 11 be issued stating that the property remained in violation beyond the date given with a daily fine of \$250 per day. She requested additional Administrative Fees of \$85.53, for a total due of \$234.62. 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 an additional Administrative Fee in the amount of \$85.53, for a total Administrative Fee of \$234.62 payable within 30 days.

5. INITIAL HEARINGS

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, September 15, 2022, at 9:00 a.m.
- B. October's meeting is scheduled for Thursday, October 20, 2022, at 9:00 a.m.
- C. The November/December meeting is scheduled for Thursday, December 1, 2022, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 10:34 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab