

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
January 19, 2023
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 9:07 am.

B. Swearing in Witnesses

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

2. OPENING REMARKS

A. Indication of any cases being removed from Agenda by city staff

Code Enforcement Coordinator, Gwyn Herstein, stated that agenda item 4C would be removed from the agenda.

3. MINUTES

A. Special Magistrate Code Enforcement Minutes August 18, 2022

SM deLaroche approved the minutes from August 18, 2022.

4. ADVANCED HEARINGS (Post-Initial Hearings)

- A. Property Owner: Richard D. Merkel
Violation Address: 2944 Sea Oats Circle in Daytona Beach Shores, FL
Code Enforcement Case #: PCDEF2021-20
Volusia County Tax Parcel ID #: 5327 14 12 0640

Mr. Merkel was in attendance and requested a continuance as he was out of town for the holidays and would like time to prepare.

SM deLaroche granted a continuance until the next meeting on February 16, 2023.

- B. Property Owners: Charles Ghobeira and Paul Ghobeira
Violation Address: 2008 S. Atlantic Ave. in Daytona Beach Shores, FL

Attorney Jessica Gow, from Cobb Cole Law, was in attendance as the property representative. 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 Attorney Gow provided documents for the agenda packet as well. This is a Second compliance hearing for a case that began three years ago. Initially, there were 11 violations and 6 interior deficiencies. The case began in January 2020 and the Initial Hearing was held on October 21, 2020. The property was given 90 days for compliance. There were only two compliant violations after the 90 day re-evaluation. The property became fully compliant on July 7, 2022. A few slides were shown of additional violations the property representative had to take care of before a CC-VP could be issued due to pipes falling, an accident an exterior door being removed, and additional unpermitted work being performed. For example, a car crashed through the front window in March 2021. Ms. Herstein requested either Order #12 or #13 be issued. The total fines were \$133,250.00. Reimbursement of the Administrative Fees in the amount of \$243.26 were also requested. Ms. Herstein questioned Building Official Steve Edmunds about the accuracy of the documents and slides shown. He replied they were true and accurate. He had no changes or additions.

Attorney Jessica Gow spoke for the property. She explained that the property manager, Sandy Bethune, had passed away during the renovation. The firm had been brought in to assist with the case. She stated that the general repairs did take a long time. The owner spent over \$72,000 on repairs. SM deLaroche asked Attorney Gow to determine how many days she felt were not the client's fault for delays. After reviewing her notes, she provided a number of 109 days that could be eliminated for permit review, work stopped because of the impact of the car crash, and the contractor was hospitalized for 30 days. SM deLaroche issued Order #13 reducing the fine by 97 days not attributable to the property owner for a new total due of \$110, 000 for supply chain and general contractor issues, payable in 6 months or the entire fine is due. The Administrative Fee of \$243.26 is due within 30 days.

- C. Property Owner: LTG-DBS, 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

This item was removed from the agenda.

5. INITIAL HEARINGS

- A. Property Owner: Oceanside Inn Condominium Association, Inc.
Violation Address: 1909 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: PCDEF2022-55
Volusia County Tax Parcel ID #: 5316 31 00 0001

There was no one in attendance to represent the property. SM deLaroche inquired about Violation C nada if it was close to a collapse situation. Chief Building Official Steve Edmunds stated that he hadn't seen it recently as the area is cordoned off. It was his opinion that it didn't appear to be near a collapse, but needed repair soon. Ms. Herstein reported that

Attorney Leanne Wagner would attend the next meeting in February and had requested a continuance. She requested that all the documents and slides be accepted into evidence for the case but SM deLaroche declined since the property representative was not in attendance.

SM deLaroche granted the continuance until February 16th or the next regularly scheduled meeting.

- B. Property Owners: Beachside Coastal LLC
Violation Address: 3150 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: PCDEF2022-61
Volusia County Tax Parcel ID #: 5334 00 02 0080

Marie Hansen, a resident at the property, explained she was present to hear the case. She stated that water had been getting turned off and a rat came through her wall. There was no authorized representative for the property in attendance. Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. The case is an Initial Hearing and the three violations were noted for work without a permit. On September 9, 2022, a complaint was received regarding the work being done and a Stop Work Order was issued. The property is a long-term rental and Units 1-3, 14 and 15 were being impacted. On September 27, 2022, another complaint was received that water was being turned off regularly so work on the plumbing lines could be done. At the time, there were no permit applications submitted. In early October, another complaint came in that water was turned off all day for plumbing work. There were times that the water was not turned back on at night. More complaint calls were received, but residents were reluctant to give their names for fear of eviction. Ms. Herstein was able to obtain the manager's name of Mike Bretzel. When she called, he explained that the owner was out-of-state and he was frustrated with trying to manage the units damaged by Hurricane Ian. After another complaint was received in the office, Unit 1 of the property was inspected on October 28, 2022. There were several holes in the walls of the bathroom area and the exterior trench for the plumbing line was exposed. On November 3rd, a second Stop Work Order was issued for additional work with no permits on Units #14 and 15. A Notice of Violation was sent and the property was posted. Good service was achieved. After 30 days, the property was re-evaluated and there were still no permit applications. A Statement of Violation/Request for Hearing and Notice of Hearing were generated. Good service was achieved, but there was still no additional contact with the manager or the owner. Slides were shown of the units that had been inspected by Ms. Herstein. Ms. Herstein questioned Building Official Steve Edmunds as to his involvement in the case. He verified that he had issued the two Stop Work Orders. 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. Michael Bretzel, the property manager, arrived during the hearing. The Special Magistrate swore him in to ask questions. It was determined that he had been the property manager for 4-5 years. When asked why the Stop Work Order was not heeded, his response was that they had stopped the plumbing work but other work continued. The reason the units were in bad shape was due to the time it took to obtain a contractor. Mr. Bretzel explained that the owner lived in Canada and the legal address in North Carolina just receives mail. Staff requested an Order #7 allowing 30 days for permits and another 30 days for compliance with an approved final inspection. Reimbursement of the \$149.09 in Administrative Fees was also requested.

Special Magistrate deLaroche issued Order #7 with less than 30 days - until - (February 15, 2023) to obtain the required permits (because he wanted an update at the February 16th meeting) and until March 20, 2023, to gain compliance or a fine of \$250 per day would begin.

He ordered reimbursement of the Administrative Fee in the amount of \$149.09 payable by February 15, 2023.

6. CLOSING REMARKS

- A. Brief overview by city staff of the effects of Hurricanes Ian and Nicole in Daytona Beach Shores

This item was postponed to an undetermined date.

- B. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, February 16, 2023, at 9:00 a.m.

- C. March's meeting is scheduled for Thursday, March 16, 2023, at 9:00 a.m.

The SM requested that the March meeting be changed to March 23rd. City staff had no issue with the date change.

- D. April's meeting is scheduled for Thursday, April 20, 2023, 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