

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
February 16, 2023
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

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

2. OPENING REMARKS

3. MINUTES

A. Code Enforcement Special Magistrate Minutes January 19, 2023

SM deLaroche approved the minutes from January 19, 2023.

4. ADVANCED HEARINGS (Post-Initial Hearings)

A. Update regarding code enforcement case #PCDEF2022-61 for 3150 S. Atlantic Ave.

Michael Bretzel provided an update on the property at 3150 S. Atlantic Avenue. He stated that permits would be pulled for construction by Grimaldi Plumbing within the next day or so. The Administrative Fees were paid on February 15, 2023. There were no permit obtained by February 15th as directed.

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

Witnesses were sworn in by the Special Magistrate for the day's hearings.

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 Second Compliance Hearing. The case originally began in 2020 due to work being done without a permit. The Initial Hearing was held on July 21, 2021. Mr. Merkel was present at the hearing and the SM allowed three months for compliance. Both building and electrical permits were needed. The property was evaluated on October 19, 2021 and found to be non-compliant. A fine of \$200 per day was imposed. On March 15, 2022, the building permit was issued and on August 5, 2022, the electrical permit was obtained. At this point, the property was now compliant. Due to Hurricanes Ian and Nicole, there were no meetings held in October, November or December. The case was noticed for the January 19, 2023, meeting and good service was achieved. At the January hearing, Mr. Merkel requested a continuance as he had been out of town and wanted to prepare for the hearing. The case

was granted a continuance to the February hearing. 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. Ms. Herstein noted that there were 289 days of non-compliance with a total fine due of \$57,800. She requested reimbursement of additional Administrative Fees in the amount of \$128.03. She noted that there were still unpaid fees of \$85.53. Mr. Merkel did submit two pages as evidence for the hearing.

Richard Merkel apologized to the SM for not completing the work on time. He felt the initial 90 days were sufficient. He had trouble with obtaining a general contractor to finish the work he started. The pandemic hit and he explained that his wife was medically compromised, so they were very cautious of others entering their home during that time. This stalled the work inside the house. Regarding the amount of time to pick up the permits, he stated that he didn't realize that a power of attorney was needed. SM deLaroche inquired why he wasn't keeping the city updated. Mr. Merkel responded that he had another home in the Villages and was trying to keep his wife safe there. SM deLaroche noted that the order was only for obtaining the required permits, not completing the work. Mr. Merkel was allowed some time to calculate the number of days he would like the fine reduced due to circumstances beyond his control. This case was adjourned from 9:26 am until 9:57 am.

Mr. Merkel explained that the Covid pandemic raged in his world for 1.5 years. The project got more complicated than he had anticipated. He felt that from January 2022 to March 2022, the building permit was ready but never picked up. The electrical permit wasn't picked up until August 2022. The SM responded that he could reduce the fine by 150 days (5 months) for permitting inactivity with a new fine amount due of \$27,800. Mr. Merkel explained that he could not afford a fine that high. SM deLaroche stated that he had no concrete evidence (facts) for any further reductions. There were no signed contracts or deposits shown for justification. Mr. Merkel requested another 6 months reduction for down time due to Covid. The SM replied that he could remove another 60 days with a new fine amount of \$15,800 due.

SM deLaroche issued Order #13 reducing the fine by 210 days not attributable to the property owner for a new total due of \$15,800 for general contractor issues and the Covid pandemic, payable in 9 months or the entire fine is due. The Administrative Fee of \$213.56 is due within 30 days or the full fine is due in the amount of \$57,800.

5. INITIAL HEARINGS

- A. Property Owner: SA 2011, LLC
Violation Addresses: Vacant lot at the SW corner of S. Atlantic Ave. & Dahlia Ave. in Daytona Beach Shores, Florida **and** adjacent vacant lot at the SE corner of Cardinal Blvd. & Dahlia Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2022-63
Volusia County Tax Parcel ID #s: 6302 05 09 0010 **and** 6302 05 09 0020

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. There was no one in attendance for this case. This is an Initial Hearing and the property is a vacant lot. One correction to the record was noted. Page 5-A-14 has the correct parcel id but the physical address is not correct. The property is actually two vacant lots owned by the same owner. There were five violations read for the record regarding trash, dry vegetation and debris that were found on

both lots. The violations were discovered after Hurricane Ian. On December 6, 2022, a Notice of Violation was generated and good service was achieved. There has been no contact from the property owner. The property was reinspected on January 30, 2023, with no improvement. A Statement of Violation/Request for Hearing and Notice of Hearing were sent and good service was achieved. A week later, Ms. Herstein walked the property with Crystal Andersen of Oceans Luxury Realty. Options were discussed for compliance with Ms. Andersen. Staff requested an Order #7 allowing 60 days for compliance. Reimbursement of the \$162.89 in Administrative Fees was also requested. Special Magistrate deLaroche issued Order #7 with 60 days to gain compliance or a fine of \$200 per day would begin. He ordered reimbursement of the Administrative Fee in the amount of \$162.89 payable within 30 days.

- B. 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

Ms. Herstein requested that all the documents and slides be accepted into evidence. Attorney Leeann Wagner, was present for the hearing and had no objection. The Special Magistrate accepted the evidence with no objection. This was an Initial Hearing for a property that is considered to be a condotel. There had been renovation work ongoing in the lobby area. A complaint was received from the manager of the property in late July 2022 regarding leaks and exposed rebar. After speaking with the contractor for the project, he requested to be removed as the contractor of record. Upon inspection, work was also being done in the kitchen, bar, and conference area. A Notice of Violation was sent and good service was achieved. On January 3, 2023, a Statement of Violation/Request for Hearing and Notice of Hearing were prepared and sent. Good service was achieved. The case was placed on the January 19th agenda but was continued due to board members being out of town. Slides showing permit activity were displayed for the SM. Ms. Herstein questioned Building Official Steve Edmunds as to his involvement in the case. He was questioned about the accuracy of the documents and slides shown. He replied they were true and accurate. He provided a history on the slides that were shown of the rebar. There are concrete block walls on both sides of the elevator shaft for the structure and he recommended temporary shoring. Staff requested an order #7 be issued to include signed and sealed drawings from a FL licensed engineer that identify any areas for shoring before 3/20/23. All violations must be corrected by June 16, 2023.

Attorney Leeann Wagner spoke for the board members. She explained that this property was not designed for permanent residents. It is mostly investment property and the board keeps changing. Engineer Peter Zahn was also present. He reviewed the property and stated that there is spalling evident in the elevator shaft. He recommended repairing it from the bottom by shoring and replacing all of the materials. He felt that the rebar was also in bad shape. He could complete the permit drawings within the month timeframe given. He explained that he was having a hard time finding a contractor to do the work and he would have to go out for bids. Ms. Herstein inquired what time frame he felt was more appropriate. Mr. Zahn stated that it could be 6 months to begin the work and another 4-6 weeks for construction. The time for any shoring work to be completed was hard to gauge. Possibly 90 days was reasonable for shoring. The Chief Building Official was in agreement with the timeframe. He did note that the order included all expired permits as well. They will need to abandon all existing permits for the renovation. After a brief discussion between Attorney Wagner and Engineer Zahn, they felt that a total of eight months would be adequate to complete the work.

Special Magistrate deLaroche issued Order #7 allowing 8 months (October 16, 2023) to gain compliance or a fine of \$250 per day would begin. He ordered reimbursement of the Administrative Fee in the amount of \$162.89 payable in 30 days.

- C. Property Owner: John Michael Staton & Shan Jones Staton
Violation Address: 2987 S. Atlantic Ave., Unit 902, in Daytona Beach Shores, Florida
Code Enforcement Case #: PCDEF2021-74
Volusia County Tax Parcel ID #: 5327 08 05 H020

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence with no objection. This was an Initial Hearing for a building permit that had expired without obtaining a final inspection. The permit began in July 2019 to replace three windows and two sliding glass doors. The work was completed but could not be final approved due to the labels on the windows being removed. In March 2020, the permit expired. During 2021 and 2022 there were repeated calls from the glass company and the property owner. The owner stated that one window was not installed correctly as it does not open. On October 11, 2021, a Notice of Violation was sent and good service was achieved. In May 2022, a replacement permit application was submitted but it was never picked up and expired in January 2023. On January 30, 2023, a Statement of Violation/Request for Hearing and Notice of Hearing were sent and good service was achieved. On February 6th, a third permit application was submitted. The permit was picked up on February 15, 2023. Staff requested Order #4 - No Fine/Standing Order be issued for Permit 20190983. The SM inquired about the window stickers. It was explained that new windows come with a sticker on them that states information needed for the inspector regarding product details. They can be removed by the homeowner after inspection takes place.

Special Magistrate deLaroche issued Order #4 - No Fine/Standing Order for Permit 20190983. The Administrative Fee of \$162.89 is due and payable within 30 days.

6. CLOSING REMARKS

Ms. Herstein reviewed the upcoming meeting dates of March 23rd, April 20th, and May 18th.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 10:28 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab