



City of Daytona Beach Shores

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AGENDA

CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING

MAY 18, 2023

9:00 AM, Shores Community Center, 3000 Bellemead Drive
Daytona Beach Shores, FL 32118

Notice is hereby given to all interested parties that if a person should decide to appeal any decision made at the aforementioned meeting of the Code Enforcement Special Magistrate, such person will need a recording of the proceedings conducted at such meeting, and for such purpose or she may need to ensure that a verbatim record of the proceedings was made; such record to include testimony and evidence upon which any appeal shall be based. NOTE: individuals covered by the American with Disabilities Act of 1990 in need of accommodations for this public meeting should contact the Office of the City Clerk at the City Hall of Daytona Beach Shores or by telephone at 763-5353 at least seven working days prior to the meeting.

1. CALL TO ORDER

- A. Opening Statement by Special Magistrate deLaroche
- B. Swearing in Witnesses

2. OPENING REMARKS

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

3. MINUTES

- A. Special Magistrate Code Enforcement Minutes April 20, 2023

4. ADVANCED HEARINGS (Post-Initial Hearings)

- A. Property Owner: Christine Josephine Harvey & Theresa Michelle Henns
Violation Address: 125 Esmeralda Avenue in Daytona Beach Shores, FL

5. INITIAL HEARINGS

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, June 15, 2023, at 9:00 a.m.
- B. July's meeting is scheduled for Thursday, July 13, 2023, at 9:00 a.m.
- C. August's meeting is scheduled for Thursday, August 17, 2023, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
April 20, 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 February 16, 2023

SM deLaroche approved the minutes from February 16, 2023.

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

4. ADVANCED HEARINGS (Post-Initial Hearings)

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

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 was a First Compliance hearing. The Initial Hearing was held on January 19, 2023, and was given until February 15, 2023, to obtain permits for the work necessary and until March 20, 2023, to complete the work with final inspections. The building and plumbing permits were obtained on March 10, 2023. Upon reading the case notes, SM deLaroche stated for the record that he knew the contractor, John Banks. Fines accrued for 22 days at \$250 per day for the first compliance date. Fines began again on March 21st regarding the second compliance date, since no final inspection had been approved. An Affidavit of non-compliance was created. The notice for the hearing was sent and good service was achieved. Ms. Herstein requested an Order #11 be issued finding the property non-compliant. At this time, there are 53 days total of non-compliance. She requested reimbursement of the additional Administrative Fees in the amount of \$85.53. Special Magistrate deLaroche issued Order #11 stating that the property remained in violation and the fine of \$250 per day would be imposed. He ordered reimbursement of an additional Administrative Fee in the amount of \$85.53, payable within 14 days.

B. Property Owner: Christine Josephine Harvey & Theresa Michelle Hennis

Violation Address: 125 Esmeralda Avenue in Daytona Beach Shores, FL
Code Enforcement Case Number: CDEF2020-43
Volusia County Tax Parcel ID #: 5335 01 05 0300

Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence. The SM accepted the 30 pages of evidence submitted previously by Ms. Christine Harvey. Ms. Harvey submitted two more pages into evidence during the hearing about a lawsuit with a handyman dated 6/10/2020. Ms. Herstein indicated this was a Second Compliance Hearing. The case began in 2019 with nine violations and a Stop Work Order. The Initial Hearing took place in October 2020, and was given 90 days for compliance. The First Compliance Hearing was on February 17, 2021, and the property was found to be non-compliant and fines of \$250 per day accrued. Throughout the next year, the violations were slowly brought into compliance. In February 2023, Ms. Harvey called the office to check in and stated that the violations had been completed for a while. With no evidence of non-compliance after May 25, 2022, an Affidavit of Compliance was generated effective May 26, 2022. A Notice of Second Compliance Hearing was sent and good service achieved. Ms. Herstein requested either Order 12 or 13 be issued after hearing from the property owner. She stated that the original Administrative Fees of \$254.02 were still unpaid. An additional \$121.13 was due for the day's hearing for a total of \$375.15. Christine Harvey stated that she had bought the property with her mother in July 2019, and began work on it. A handyman filed suit against her mother and they had to find another contractor to do the work. Covid hit in 2020 and their finances were low. She also stated that there were change orders occurring and she wasn't able to live in the area, which made it hard to do any work. SM deLaroche explained how he could consider reducing the fine if she could produce evidence showing delays were not the fault of the homeowner. He also inquired why the original Administrative Fee was not paid. Ms. Harvey stated that she was not aware it was due. SM deLaroche continued the case until the May 18th hearing for Ms. Harvey to produce further evidence. He ordered the Administrative Fee of \$333.18 payable within 2 days.

5. INITIAL HEARINGS

- A. Property Owners: RMS Properties, L.L.C.
Violation Address: 3046 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2023-01
Volusia County Tax Parcel ID #: 5327 06 03 0160

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 the former Bank of America building that is now vacant. This was an Initial Hearing with six violations. A previous Notice of Violation was sent in August 2022, after the sign was damaged by a motorcycle. The recent hurricanes also caused more damage. A new Notice of Violation was sent on January 30, 2023. There was no contact from the owners. The property was reinspected in April 2023 and no violations have been rectified. A Statement of Violation/Request for Hearing and a Notice of Hearing were sent and the property was posted. Property Rep. Peter Bairaktaris, came into the office and met with Building Official Steve Edmunds to determine what needed to be done. Staff requested Order #7 be issued allowing 60 days to gain compliance and asked for reimbursement of Administrative Fees in the amount of \$162.89. Mr. Bairaktaris was present for the meeting but he did not have a

signed authorization form with him from the owner. The SM swore Mr. Bairaktaris in so he could answer a few questions. He felt the time was adequate to take care of the sign violations. When asked what the owners intend to do with the property, he responded they will rent it out at some point. 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 2 days.

6. CLOSING REMARKS

The upcoming meeting dates were reviewed and the meeting in July was changed to the 13th.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 9:56 am

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab



CODE ENFORCEMENT CASE SUMMARY MAY 18, 2023 AGENDA

TO: The Code Enforcement Special Magistrate

FROM: Gwyn Herstein, Code Enforcement Coordinator

PREPARED BY: Gwyn Herstein, Code Enforcement Coordinator

SUBJECT: Property Owner: Christine Josephine Harvey & Theresa Michelle Henns

Violation Address: 125 Esmeralda Avenue in Daytona Beach Shores, FL

Code Enforcement Case Number: CDEF2020-43

Volusia County Tax Parcel ID #: 5335 01 05 0300

TYPE OF HEARING:

Second Compliance Hearing

CODE(S) CITED:

The Code of Ordinances of the City of Daytona Beach Shores, Chapter 13, Section 13-5. and Appendix "G" - Land Development Code, Chapter 5, Section 5-6. Building Code adopted. which refers, in part, to the Florida Building Code - Sixth Edition (2017), Chapter 1, Section 105.1 Required. and Chapter 14, Section 14-52.9.(B)(16) and (D)(1), (4), & (12).

VIOLATION(S) FOUND:

- a) *Grass and weeds over 12" high on property - brought into compliance May 25, 2022 (490 fined days)*
- b) *Multiple exposed wood and plywood surfaces are not protected by exterior paint or an equivalent substance - brought into compliance May 26, 2022 (491 fined days)*
- c) *Block wall paint has been partially removed, first floor, west building face - brought into compliance August 27, 2021 (219 fined days)*
- d) *Paint peeling from wood near front entrance - brought into compliance May 25, 2022 (490 fined days)*
- e) *Building does not "present a neat and fresh appearance" in that paint is deteriorated, discolored, over-sprayed, and/or absent in places - brought into compliance May 26, 2022 (491 fined days)*
- f) *Window broken on second floor, south building face - brought into compliance July 1, 2021 (162 fined days)*
- g) *Landscaping is not in a "neat and well-maintained condition" - brought into compliance May 25, 2022 (490 fined days)*
- h) *Unpermitted work "General Construction - Remodel in house" identified in a Stop Work Order issued September 5, 2019, has not been permitted - brought into compliance May 19, 2022 (484 fined days)*

i) Unpermitted work "Electrical wiring" identified in a Stop Work Order issued September 5, 2019, has not been permitted - brought into compliance May 19, 2022 (484 fined days)

REQUESTED ORDER(S):

#12. Second Compliance Hearing, impose entire fine
OR

#13. Second Compliance Hearing, reduce or rescind fine

POSSIBLE ORDERS:

1. Continuance

#12. Second Compliance Hearing, impose entire fine

#13. Second Compliance Hearing, reduce or rescind fine

SUPPLEMENTARY INFORMATION:

Initial Hearing Date: October 21, 2020

Ordered Compliance Date: January 19, 2021 (date was 90 days from the Initial Hearing)

Ordered Fine: \$250.00 per day

Date Full Compliance was Achieved: May 26, 2022

Fined Days: January 20, 2021, through May 26, 2022 (491 days)

Total Accrued Fine: \$122,750.00

Special Magistrate Approved Administrative Fees: \$161.59 (IH), \$92.43 (FCH), and \$79.16 (Continued SCH) were paid April 20, 2023

Additional Administrative Fees Requested: \$121.13 (SCH)

Please see supplementary document packet

ATTACHMENT: None