

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
May 18, 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 9:00 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

There were no cases removed from the agenda.

3. MINUTES

A. Special Magistrate Code Enforcement Minutes April 20, 2023

SM deLaroche approved the minutes from 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
Code Enforcement Case Number: CDEF2020-43
Volusia County Tax Parcel ID #: 5335 01 05 0300

This item was continued from the last meeting. SM deLaroche acknowledged receiving 64 pages submitted by Christine Harvey for the hearing. Ms. Herstein requested that all the documents and slides be accepted into evidence. The Special Magistrate accepted the evidence. The SM inquired if the Administrative Fee from the previous hearing was paid within 48 hours as instructed. Ms. Herstein replied that all previously imposed administrative fees had been paid. It was noted for the record that this was a Second Compliance Hearing. There were nine violations that began accruing fines on January 20, 2021. The fines accrued

for a total of 491 days with a total due of \$122,750. Ms. Herstein requested an Additional Administrative Fee of \$121.13 and either Order 12 or 13 be issued. There were no questions of staff by Ms. Harvey.

SM deLaroche explained to Ms. Harvey that he needed evidence and proof before he could dismiss any days for the current fine. Ms. Harvey passed out three additional pages as a demonstrative aid. They included a timeline and written statement. Ms. Harvey stated that, after closing on the home with a HUD loan, she had to work with an inspector named Glenn. A handyman was hired to begin work in August 2019, and he stayed until May 2021. He performed unauthorized work and during that time, Hurricane Dorian hit the area and created additional issues inside the home. SM stated that the fines began in 2021 and advised Ms. Harvey to start her narrative at that point in time. Ms. Harvey stated that the damage from the storm made it harder to obtain a contractor, and she feared he was doing work that was not allowed with her HUD loan, so she had no trust in the handyman now. She felt the HUD inspector missed many issues in her home during his initial inspection. She was afraid she would lose her loan if work wasn't constantly making progress. Ms. Harvey was made aware that the HUD Inspector, Glenn, passed away around May 2021. The initial handyman was removed from the premises and a contractor named Kayla was hired. The background was provided that Ms. Harvey's mother was also on the loan as a co-signer and the new contractor, Kayla, was only communicating with her. SM deLaroche asked Ms. Harvey to explain how it took 490 days to gain compliance for the first violation of grass and weeds over 12" high. Ms. Harvey explained that the yard contained many coquina rocks and concrete pavers that made it hard for a lawnmower to get through. She stated that she wasn't living there during the construction but she tried to mow the yard when she was in town. She attempted to hire a lawn maintenance company but, after hitting a rock, they quit. Ms. Harvey thought the yard looked better now than when she first purchased it. SM deLaroche asked Ms. Harvey to explain what happened to Glenn, the HUD Inspector. Ms. Harvey stated that Glenn passed away some time in October 2020. She was not made aware of this until Kayla, the contractor, advised her in March 2021. After that time, the contractor met the inspector and submitted the reports. Ms. Harvey stated she was not made aware of the inspections any longer. The SM inquired why Ms. Harvey didn't bring Kayla today for the hearing. She replied that Kayla probably would not have shown up. Ms. Harvey explained that during the time of the violations, she had three surgeries, one that entailed traveling to Colombia for dental implants. Ms. Harvey's explanation for violation f- a broken window for 162 days was that Kayla is a forgetful person. She was trying to help manage the project but also stated that the workers were loopy. Ms. Harvey explained that she didn't want to paint the house too early before the construction was complete. She felt she would just have to repaint again. She was very inexperienced and didn't understand the ramifications of the violations and potential fine. She was constantly worried about losing her HUD loan if work wasn't continually progressing. SM deLaroche asked Ms. Harvey how many days she felt were out of her control and could be removed. Ms. Harvey answered 484 days. Ms. Herstein, after reviewing the explanation with evidence submitted by Ms. Harvey and eliminating overlaps of identified issues, provided a number of days which had been justified. That number was 373, leaving 118 days with a fine. The SM asked Ms. Harvey if she would accept the city's offer and she answered affirmatively. SM deLaroche issued Order #13 reducing the fine by 373 days not attributable to the property owner for a new total due of \$29,500 for general contractor issues, personal health and the Covid pandemic, payable in 12 months or the entire fine is due. The Administrative Fee of \$121.13 is due within 60 days.

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

The meeting ended at 10:44 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab