

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
October 19, 2023
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

A. Opening Statement by Special Magistrate deLaroche

SM deLaroche called the meeting to order at 9:08 am.

B. Swearing in Witnesses

The witnesses were sworn in for the day's hearings.

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. Code Enforcement Special Magistrate Minutes September 21, 2023

SM deLaroche approved the minutes from September 21, 2023.

4. ADVANCED HEARINGS (Post-Initial Hearings)

- A. Property Owner: Daytona Ocean Investment Corp
Violation Address: 2601 S. Atlantic Ave. in Daytona Beach Shores, FL
Code Enforcement Case #: SCDEF2023-11
Volusia County Tax Parcel ID #: 5322 00 04 0010

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The Special Magistrate accepted the documents with no objection. The Initial Hearing was held on July 13, 2023, and the property owner was given two months to comply. The property was inspected on Sept. 13th and the sign remained. An Affidavit of Non-Compliance was generated. On Sept. 21st, the property owner, Jai Motwani,

sent an email with pictures showing the sign had been removed. That same day, the sign electrical cap permit was submitted and obtained. It was final inspected and approved on Sept. 22nd. An Affidavit of Compliance was generated as of Sept. 21st. The Notice of First and Second Compliance Hearings were sent and the property was posted. Good service was achieved. There were 9 days of non-compliance for a total fine of \$1,350. The initial Administrative Fee of \$149.09 remains unpaid. Staff requested reimbursement for an additional Administrative Fee in the amount of \$142.19. Staff requested Order #11 Imposing Fine/Lien and either Order #12 or 13. The total Administrative Fees due are \$291.28. Mr. Motwani explained that his property had serious hurricane damage and his financial resources were spent on repairs. With his redevelopment plans, relocating the sign was not an early option. He stated that he couldn't make the July hearing due to personal reasons and requested the fine be waived but he would pay the Administrative Fees. SM inquired how long he owned the property and Mr. Motwani answered since 2015. The SM asked why he had not taken the sign down during the grant period and the response was he liked the exposure of the taller sign and the property was going to be redeveloped. SM deLaroche issued Order 11 finding that the Respondent failed to comply with the Code Enforcement Order of July 13, 2023 and imposed a daily fine of \$150.00 through and including September 21, 2023. SM deLaroche issued Order 13, reducing the fine by one day (\$150), for a total fine of \$1,200. The reduction is due to the city not having scheduling availability for the electrical final inspection until the day after the work was completed. He ordered that both Administrative Fees be paid for a total of \$291.28.

- B. Property Owner: Beachside Coastal LLC
Violation Address: 3150 S. Atlantic Ave. in Daytona Beach Shores, FL
Code Enforcement Case #: CDEF2023-05
Volusia County Tax Parcel ID #: 5334 00 02 0080

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The Special Magistrate accepted the documents with no objection. She added that the office received an Authorization to Answer questions form regarding the case for Mike Bretzel. This was a First Compliance Hearing. The Initial Hearing took place on July 13, 2023. There were 7 violations ordered to be brought into compliance by September 12, 2023. The property was inspected on Sept. 26th, and only two violations (a and g) of the seven were completed. Ms. Herstein completed an *Affidavit of Compliance, Partial* and an *Affidavit of Non-Compliance* for the remaining five violations. A Notice of Hearing was sent, the property was posted and good service was achieved. Slides showing the violations after the compliance date were shown. Staff requested Order 11 be issued and the reimbursement of \$92.43 in additional Administrative Fees. It was noted that the initial fees of \$162.89 were still due.

Mike Bretzel explained that he believed the fees had been paid and would check with his office staff immediately. There was a misunderstanding on his part between FPL and Parks Electric, his contractor, on the mast arms.

SM deLaroche issued Order #11 finding that the Respondent failed to comply with the Code Enforcement Order of July 13, 2023, and imposed a daily fine of \$250.00. The past due Administrative Fee of \$162.89 must be paid within seven days and the additional Administrative Fee of \$92.43 paid within 30 days.

5. INITIAL HEARINGS

- A. Property Owner: 72-74 Lafayette Avenue Realty Corp.
Violation Address: 2624 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: SCDEF2023-14
Volusia County Tax Parcel ID #: 5322 00 04 0150

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent or their rep. The Special Magistrate accepted the documents with no objection. Daniel Nathan was present as property owner. This was an Initial Hearing for a non-conforming sign. The sign faces were damaged and removed after the 2022 hurricanes. After inspecting the property in July 2023, a Notice of Violation was sent and good service was achieved. A sign permit was obtained from Permacraft in mid-August. On October 3, the work had not been completed and a Statement of Violation/Request for Hearing and Notice of Hearing were sent and the property was posted. The property failed its final inspection yesterday as the sign did not match the approved plans. 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 had no changes or additions. Regarding yesterday's inspection, Inspector Matt Thomas and Building Official Steve Edmunds measured the sign. The height was 9' 4" instead of the allowed 8 feet. Ms. Herstein asked if the sign as it stood, matched the submitted approved plans and Mr. Edmunds responded they did not. He explained there were a few options available to the owner and advised him to meet with the City Planner. Mr. Nathan stated that he was working with the city and attempting to save most of his existing sign. Staff requested Order #7 be issued with 90 days for compliance or a fine of \$150 per day be assessed. Reimbursement of the Administrative Fee in the amount of \$162.89 was also requested. SM deLaroche issued Order #7 with 90 days to gain compliance to include approved final inspections or a fine of \$150 per day would begin. He ordered reimbursement of the Administrative Fee in the amount of \$162.89 payable within 30 days.

- B. Property Owner: Halifax Investment Services, LLC
Violation Address: 3225 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2023-24
Volusia County Tax Parcel ID #: 5335 01 02 0030

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence most of which have been provided to the Special Magistrate and all of which have been presented to the Respondent's attorney. James Pickens, who was present for the Respondent. The Special Magistrate accepted the documents with no objection. It was noted that an additional 9 pages were submitted by Deborah Gorney, a neighbor of the property. Attorney Pickens stated for the record he would stipulate that the property was in violation without needing the full presentation shown. Staff provided a recommendation of just over six months for compliance, by April 30, 2024, the last day before Turtle Season begins. It also requested copies of the final engineering certification and monthly evaluations, signed and sealed by the engineer stating the building is safe to remain in place, be submitted to the City's Building Division. If the property owner decides the east building will be demolished, that must be accomplished, with all debris removed and the demolition permit final inspected and

approved, with the new seawall and backfill complete and a copy of the final engineering certification submitted to the Code Enforcement Office, along with obtaining approved final inspections on all required permits by April 30, 2024. Reimbursement of the Administrative Fee in the amount of \$162.89 was requested. Ms. Herstein stated that not all previously submitted reports/letters from the engineer were signed and sealed. Staff believes someone is staying on the property to monitor it and wants assurance that it is safe. Attorney Pickens requested the engineer report be required only every other month, beginning in December. SM deLaroche issued Order #7 finding the property in violation and ordered the Respondent to correct violations a) through f), i) through m), and o) through t) on or before April 30, 2024, including full completion of the new seawall with backfill complete and a copy of the final engineering certification submitted to the Code Enforcement Office, along with obtaining approved final inspections on all required permits or a fine of \$250 per day would begin. If the property owner decides the east building will be demolished, that must be accomplished, with all debris removed and the demolition permit final inspected and approved, with the new seawall and backfill complete and a copy of the final engineering certification submitted to the Code Enforcement Office, along with obtaining approved final inspections on all required permits by April 30, 2024. He ordered reimbursement of the Administrative Fee in the amount of \$162.89 payable within 30 days. The SM accepted the engineer report coming in bimonthly beginning in December. If that is not working acceptably, he would revisit the requirement.

- C. Property Owner: Gold Mountain Investment LLC
Violation Address: 3619 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: SCDEF2023-15
Volusia County Tax Parcel ID #: 6302 05 03 0090

Ms. Herstein requested that each of the documents included in the PowerPoint file, whether presented during the hearing or not, by the City for this case be accepted as evidence, most of which have been provided to the Special Magistrate and all of which were available to the Respondent. The Special Magistrate accepted the documents with no objection. There was no one present for the Respondent. This was an Initial Hearing for a non-conforming sign. The owner wanted to keep the sign but it violates the sign ordinance in multiple ways. On September 20th, a permit was obtained for the sign's demolition and removal. A Statement of Violation/Request for Hearing and Notice of Hearing were sent and good service was achieved. Staff recommended Order #7 and allow 60 days for full compliance. Reimbursement of the Administrative Fee in the amount of \$162.89 was requested.

SM deLaroche issued Order #7 with 60 days to gain compliance to include final inspections or a fine of \$150 per day would begin. He ordered reimbursement of the Administrative Fee in the amount of \$162.89 payable within 30 days.

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, December 7, 2023, at 9:00 a.m.

B. January's meeting is scheduled for Thursday, January 18, 2024, at 9:00 a.m.

C. February's meeting is scheduled for Thursday, February 15, 2024, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 10:03 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab