

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
March 21, 2024
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

SM deLaroche called the meeting to order at 9:00 am.

A. Opening Statement by Special Magistrate deLaroche

B. Swearing in Witnesses

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

2. OPENING REMARKS

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

There were no cases removed from the agenda.

3. MINUTES

A. Code Enforcement Special Magistrate Minutes February 15, 2024

SM deLaroche approved the minutes from February 15, 2024.

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 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. It was noted that this was a Second Compliance Hearing that had been continued from the February agenda. There were three violations for non-permitted work with a final compliance date of March 20, 2023. The total fine due is \$60,000 for 240 days of non-

compliance. Ms. Herstein requested \$128.03 in reimbursement for Administrative Fees for the day's hearing. All previous Administrative Fees were paid in full. Both Attorney Victoria Zinn and property manager Mike Bretzel were present for the case. Attorney Zinn stated that she was given 17 pages of compliance worksheets and 19 pages of weather documents just before the hearing began to present them as evidence to support a request for a fine reduction. The SM inquired why they were not provided in advance as stated in the hearing notice. She reiterated that she had just been provided the documents that morning.

Due to the amount of evidence just provided, SM deLaroche continued the case until the next scheduled meeting on April 18th.

5. INITIAL HEARINGS

- A. Property Owner: Holiday Shores Condominium Association, Inc.
Violation Address: 2617 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: SCDEF2023-40
Volusia County Tax Parcel ID #: 5322 21 00 0001

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. This was an Initial Hearing with six violations that began with the hurricanes in 2022 which caused seawall and deck damage. Slides were shown of the violations and staff recommended Order #7 be issued with a compliance date of January 21, 2025. Reimbursement of the Administrative Fee in the amount of \$162.89 was requested. If not compliant by the ordered date, a fine of \$250 per day would begin. The property manager, Robert McGregor, was in attendance and authorized to answer questions. He stated that he had recently been hired and felt that the recommendation was reasonable. This is a timeshare property with 34 units, but only 80 owners have been paying the required maintenance fees. He explained that he had hired both contractors and engineers for the seawall project.

SM deLaroche issued Order #7 granting until January 21, 2025, to gain full compliance including full completion of the new seawall with backfill complete and a copy of the final engineering certification submitted to the Daytona Beach Shores Building Division office along with obtaining approved final inspections on all required City of Daytona Beach Shores permits or a fine of \$250 per day would begin. He ordered reimbursement of the Administrative Fee in the amount of \$162.89 payable within 30 days.

- B. Property Owner: 3159 South Atlantic, LLC
Violation Address: 3159 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: SCDEF2023-45
Volusia County Tax Parcel ID #: 5334 00 02 0110

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. This was an Initial Hearing with four violations related to sea wall damage and sand erosion from the hurricanes in 2022. A Notice of Violation was sent by certified mail in November 2023, but it was returned as unclaimed. The notice was sent again in January by First Class mail and the property was posted per Florida Statutes. On March 9, 2024, a Statement of Violation/Request for Hearing and Notice of Hearing were sent by mail and posted on the property per Florida Statutes. Good service was achieved. The property owner called the office and explained the delays he was encountering. This is a vacant lot and is on the lowest priority list for permits. He was just issued a temporary FDEP permit for placing trap bags. Pictures of the violations were shown for the record. Additional pictures were shown of people accessing the beach from this property by walking down the sand dunes. Building Official Steve Edmunds explained that the sand erosion was causing an issue with the public walkway on the neighboring St. Croix property. The walkway has become unsafe. Staff requested the Special Magistrate issue Order #7 as follows: place temporary large sand bags as permitted with FDEP under permit number "VO-2241 AR E" by April 30, 2024, and correct the violations identified as a) through d) on or before January 21, 2025, including full completion of the new seawall and all backfill and a copy of the final engineering certification submitted to the Daytona Beach Shores Building Division office, along with obtaining approved final inspections on all required City of Daytona Beach Shores permits, by January 21, 2025, and pay an Administrative Fee of \$149.09. In the event the Respondent does not comply with this order, a fine of \$250 per day will be imposed for each and every day any of the violations continue past the aforesaid date. Edwin Peck, contractor for the Respondent, was in attendance and authorized to answer questions. He explained that the property owner was concerned because the contractor working next door had brought equipment across the lot and dug a trench to work on their property. A defined path has been created for equipment to get on the beach. He stated that he has drawings for a permanent seawall, and, subject to government approval, can meet the deadlines suggested.

The Special Magistrate issued Order #7 as provided with temporary sandbags in place by April 30, 2024 and the permanent seawall finished and approved by January 21, 2025. The Administrative Fee of \$149.09 is due within 30 days.

6. CLOSING REMARKS

- A. The next Code Enforcement Special Magistrate Meeting is scheduled for Thursday, April 18, 2024, at 9:00 a.m.
- B. May's meeting is scheduled for Thursday, May 16, 2024, at 9:00 a.m.
- C. June's meeting is scheduled for Thursday, June 20, 2024, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 9:49 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab