

MINUTES
CODE ENFORCEMENT SPECIAL MAGISTRATE MEETING
June 20, 2024
3000 Bellemead Drive Daytona Beach Shores, FL 32118

1. CALL TO ORDER

A. Opening Statements by Special Magistrate deLaroche

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

B. Swearing in Witnesses

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

2. OPENING REMARKS

A. Notification of Items Removed from Agenda by City Staff

There were no items removed from the agenda.

3. MINUTES

A. Code Enforcement Special Magistrate Minutes May 16, 2024

SM deLaroche approved the minutes from May 16, 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: 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. This was a Second Compliance Hearing that was continued from the May meeting. There were two compliance dates originally ordered at the July 13, 2023, Initial Hearing. Of the original 24 violations, only six accrued fines. There was a total of 156 days

with a fine total of \$39,000. Slides were shown of the violations, noting the compliance date of each one. Staff requested an Order #11 be issued for non-compliance with the SM's second ordered compliance date of January 15, 2024. The second Order needed is at the Special Magistrate's discretion. Reimbursement of the Administrative Fees in the amount of \$141.83 was requested for the day's hearing. Ms. Herstein questioned Chief Building Official, Steve Edmunds. 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. SM deLaroche inquired about Violation P - electrical mast, and why it took 149 days for compliance. Mr. Edmunds explained that an electrician would need to be hired and then schedule a visit with FPL to disconnect and reconnect the power.

Attorney Victoria Zinn was in attendance for the Respondent. The SM questioned the documentation provided by them as it alluded to plumbing work and there were no violations involving plumbing. She explained that due to the heavy rain, the electrical work couldn't be completed. She stated that the 149-day delay occurred while they went back and forth attempting to schedule FPL to disconnect the power. The delay for the door was due to shipping time from Home Depot. Violation W - took 36 days because the fixture had to be replaced, not just a bulb change. It took time to get the electrician out to do the work.

Attorney Zinn requested the 149 days be removed, and only be fined for 36 days total. The date on the Home Depot receipt was smudged, and he asked for clarification. Property Manager, Mike Bretzel, stated the date was November 14, 2023. The door was picked up that day, but it did not have a new frame. He went back to get one with a frame, and they were out of stock. That took a few weeks to come in. Ms. Herstein clarified the door installation. The first inspection called in was on December 20, 2023, and it failed due to improper installation. It passed on December 28th. Mr. Edmunds explained that the product approval list that was turned into the department, showed the correct number and location of screws. It was initially installed improperly.

SM deLaroche issued Order #11 finding that the Respondent failed to gain full compliance by the second compliance date of January 15, 2024. He ordered reimbursement of additional Administrative Fees in the amount of \$141.83 payable in 30 days.

SM deLaroche issued Order #13 reducing the fine by 43 days (\$10,750) which is the difference between the door and the electrical mast issue. He stated it was not the City's fault that the Respondent failed to call FPL properly. The new fine due is \$28,250.

- B. Property Owner: WLW Capital LLC
Violation Address: 3738 S. Atlantic Ave. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2023-06
Volusia County Tax Parcel ID #: 6302 05 08 0180

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 property is the Famous Shores Motel. The Initial Hearing was August 24, 2023. The First Compliance Hearing was on February 15, 2024, and the property was found non-compliant with four violations still outstanding. Pictures of the violations with their compliant date were shown. There were 107 days of non-compliance for a fine of \$26,750.00. Staff requested either Order #12 or #13 be issued at the SM discretion. Reimbursement of the Administrative Fees in the amount of \$128.03 was requested. Attorney Will Williams, property owner, had a few questions for Ms. Herstein. During her inspection, were there any conversations with JNL Roofing? She replied in the negative. She stated that she had spoken on the phone with the GC regarding the violations. She referred

Attorney Williams to her follow-up log that listed all interactions. Attorney Williams had a brief ppt to show. It provided the background history of why the repairs were needed. The motel got hit by Hurricane Ian during September 2022. All the units were rentals and the tenants had to be moved out. Numerous roofing contractors assessed the property, but none wanted to do the work due to the mansard in front. At one point, scaffolding appeared, and the owner was billed for it, but no work ever occurred. A construction consultant, Mario Scorpio, was hired to manage the work on the four violations, but that was a complete waste of time. General Contractor, David King, was hired on 2/15/24 and work finally started. Ms. Herstein confirmed that Mr. Scorpio completed the stucco work and pool enclosure. Attorney Williams questioned Cindy Brooks, who is part owner of the property. She confirmed the damage from Hurricane Ian and the trouble obtaining a roofing contractor. SM deLaroche issued Order #13 with a reduction of 86 days due to the fact you were very diligent. The total fine due is \$5,250. Reimbursement of the Administrative Fee in the amount of \$128.03 is due within 30 days.

5. INITIAL HEARINGS

- A. Property Owner: Debra Ann Nifong for the Debra Ann Nifong Life Estate
Violation Address: 3727 Cardinal Blvd. in Daytona Beach Shores, Florida
Code Enforcement Case #: CDEF2023-07
Volusia County Tax Parcel ID #: 6302 05 08 0131

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 10 violations. The home was damaged during the 2022 hurricanes. Most of the roof was gone, and the tenants moved out. The home has sat empty while the owners battled with their insurance company. The violations were read for the record and pictures were shown. Staff recommended issuing an Order #7 with a fine of \$200 per day for non-compliance after December 20, 2024. Reimbursement of the Administrative Fee in the amount of \$149.09 was requested. Both the property owner, Debra Nifong and her son, Jonathon Miller, were in attendance. They submitted a one-page timeline to the Special Magistrate. It is their intent to repair the property, but they have not been able to secure a general contractor to do the work. They had met with three previous ones, but none would follow through. The SM stated he would allow an extra 30 days to secure the general contractor and six months to complete the repairs. The Special Magistrate issued Order #7 as provided with obtaining approved final inspections of all required City of Daytona Beach Shores permits by January 20, 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, July 18, 2024, at 9:00 a.m.

- B. August's C.E.S.M. Meeting is scheduled for Thursday, August 22, 2024, at 9:00 a.m.
- C. September's C.E.S.M. Meeting is scheduled for Thursday, September 19, 2024, at 9:00 a.m.

7. SPECIAL MAGISTRATE COMMENTS

8. ADJOURNMENT

The meeting ended at 11:20 am.

Special Magistrate, Steven deLaroche

Recording Secretary, Cheri Schwab