



**CITY OF SOUTH DAYTONA  
SPECIAL MASTER CODE ENFORCEMENT  
Minutes**

February 10, 2022 at 9:00 AM  
CITY COUNCIL CHAMBERS  
1672 S. Ridgewood Avenue, South Daytona, Florida

**SPECIAL MASTER: Attorney Matthew Branz, Esquire**

**STAFF:**

Josh McEnany, Code Compliance Manager  
Bret Steele, Code Compliance Officer  
Beverly Abrahamson, Code Compliance Officer  
Becky Witte, Deputy City Clerk  
Attorney Garrett Olsen, Vose Law Firm (City Attorney)

**I. CALL TO ORDER:** Special Master Matthew Branz called the City of South Daytona's Special Master Code Enforcement Hearing to Order at South Daytona's City Hall, City Council Chambers, 1672 S. Ridgewood Ave, South Daytona, Florida at 9:01 am.

Special Master Branz welcomed those in attendance to the City of South Daytona Code Enforcement Special Master hearing. He said that today's proceedings are quasi-judicial in nature. Formal rules of evidence do not apply, but fundamental due process will be observed and govern all proceedings, he explained. Mr. Branz said that all testimony is under oath and will be recorded. There is no "public comment" portion of these proceedings and all participants must have an active role in the case such as staff, respondent, and/or a witness, he said.

Special Master Branz continued to explain that at the conclusion of each hearing, he shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted to the Code Enforcement Special Master. The order may include a notice that it must be complied with by a specified date, and that a fine may be imposed, he said.

Special Master Branz advised that if any party decides to appeal any decision made at this meeting, they will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based, per section 286.0105, Florida Statutes.

**II. PLEDGE OF ALLEGIANCE**

**III. OATHS OF THE CITY OFFICIAL, RESPONDENTS AND WITNESSES:**

Executed by Deputy City Clerk, Becky Witte

**IV. APPROVAL OF MINUTES FOR: January 6, 2022.** Attorney Branz approved the minutes as submitted by Deputy City Clerk Becky Witte.

**OFFICIAL BUSINESS:**

**New Cases:**

**Case # 22-000001**

**Location:** 1903 S. Ridgewood Avenue, South Daytona  
**Owner:** Shoebox Saloon LLC

**VIOLATION(S):**

1. City of South Daytona Land Development Regulations 8.2(D), Signage Permit Required  
Comments: Not permitted banners (flags) on exterior structure wall.

2. Consolidated Land Development Regulations 8.2(F)(6)(a), Signs that communicate obscenity or indecency.

Comments: Flag on property contains obscenity.

**Status: Non-compliance**

**Findings of Fact, Conclusions of Law and Order**

Bret Steele, Code Compliance Officer presented the case and requested that the respondent be found in violation. Code Compliance Manager Josh McEnany provided testimony.

Respondent was in attendance and provided testimony.

Special Master Branz finds based on the case and testimony presented that the property is found in violation of:

City of South Daytona Land Development Code 8.2(D): Permits required. Any person wishing to construct, erect, alter, move or post a sign in the city shall first secure a permit after submitting plans and specifications to the community development department (hereinafter known as the "department"). An application form provided by the department shall require the applicant to include the following information: size, type, structure, heights, proximity to building, rights-of-way, streets and general location.

City of South Daytona Land Development Code 8.2(F)(6)(a): Prohibited signs. All signs not specifically permitted or exempted by this Code, including, but not limited to: (a) Signs that communicate obscenity or indecency.

Special Master Branz clarified that the violation is the manner in which the flags are hung.

Special Master Branz ordered that the Respondent correct the violation on or before February 20, 2022. If the Respondent fails to comply with this Order, a fine of \$ 100.00 per day will be imposed for each day the violation continues past the date as prescribed. If the Respondent fails to comply with this Order, the City is authorized to begin abatement proceedings as outlined in the Findings of Fact, Conclusion of Law and Order.

Special Master Branz signed the Findings of Fact, Conclusion of Law and Order.

A hearing to impose fine will be scheduled for March 10, 2022.

**Case # 22-000004**

**Location:** 1035 Sheri Blvd, South Daytona  
**Owner:** Bui Kim Chung

**VIOLATION(S):**

1. City of South Daytona Land Development Regulations Sec. 5.6. R Shipping Containers, Shipping Containers

Comments: Shipping containers located on property do not meet required criteria within City Code. Shipping Containers must be removed from the property.

**Status: Non-compliance**

**Findings of Fact, Conclusions of Law and Order**

Josh McEnany, Code Compliance Manager presented the case and requested that the respondent be found in violation.

Respondent was in attendance Kim Chung Bui (1035 Sheri Blvd, South Daytona) with Legal Counsel Nika Hosseini (Cobb and Cole, 231 N. Woodland Blvd, DeLand) and testimony was provided.

Special Master Branz continued the case to the April 14, 2022 Hearing.

**VII. OLD BUSINESS:**

**Case # 21-000101**

**Location:** 700 Ridge Blvd, South Daytona  
**Owner:** Smyser, Pamela L

**VIOLATION(S):** International Property Maintenance Code 304.7, Roofs and drainage

**Status:** Request Order Imposing Fine/Lien

Beverly Abrahamson, Code Compliance Officer and Josh McEnany, Code Compliance Manager presented that this case came on for public hearing before the Special Master on October 14, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated October 14, 2021, the property was found in violation.

Respondent was in attendance, Pamela Smyser (700 Ridge Blvd) and provided testimony.

Special Master Branz continued the case until March 10, 2022.

**VI. REQUEST FOR REDUCTION OF FINES:**

**Case # 14-244**

**Location:** 2268 Kenilworth Avenue, South Daytona  
**Owner:** McCowin, Shelia

**Status:** Request for reduction of fines

Josh McEnany, Code Compliance Manager presented the case and the request for fine reduction as outlined in City of South Daytona, Code of Ordinances, Section 2-303. - Administrative fines and liens. Mr. McEnany said that given the history of this property through prior Code Compliance Violations, multiple community complaints, and innumerable hours of staff time all in efforts of reaching

compliance for the betterment of our Community, Code Compliance recommends that Special Master Branz not reduce the fine of this property.

Property Owner Sheila McCowin was in attendance with legal counsel Tanner Andrews (Tanner Anders, PA, 112 W New York Avenue #203, Deland) and testimony was provided.

Josh McEnany, Code Compliance Manager provided an outline of City of South Daytona costs as well as Property Values and the Volusia County Property Appraiser's current valuation.

Josh McEnany, Code Compliance Manager called a witness, Richard Phinney (2306 Oriole Lane) as well as a letter from a neighbor.

Special Master Branz reiterated Section 2-303 - Administrative fines and liens, Item 4. In considering whether to grant a fine reduction and the amount of the reduction, the guiding principle should be the city's primary goal in code enforcement is to attain code compliance and to recoup the expenses incurred by the city. The special master shall consider all factors considered relevant in making such a determination, including but not limited to, the following: (4) (a). The costs incurred by the city in investigating and prosecuting the code violation, including staff time, recording costs and attorney fee. (4) (b). The responsiveness and cooperation of the property owner in correcting the violation and mitigating reasons for any lack of cooperation such as age, physical disabilities or financial limitations. (4) (c). Prior code enforcement actions by the city against the same owner or an entity directly or indirectly under the control of the same person.

Special Master Branz reduced the fine/lien to a total of \$49,388.10. In the event the reduced fine is not paid by May 11, 2022 the fine will revert back to the full amount of \$656,040.00 plus recording fees.

Special Master Branz signed the Amended Findings of Fact, Conclusion of Law and Order.

**Case # 21-00153**  
Daytona

**Location:** 2279 S. Ridgewood Avenue, South

**Owner:** Lai Lam Van

**Status:** Request for reduction of fines

Josh McEnany, Code Compliance Manager presented the case and the request for fine reduction as outlined in City of South Daytona, Code of Ordinances, Section 2-303. - Administrative fines and liens. Mr. McEnany said that given the history of this property through prior Code Compliance Violations, multiple community complaints, and innumerable hours of staff time all in efforts of reaching compliance for the betterment of our Community, Code Compliance recommends that Special Master Branz not reduce the fine of this property.

Property Owner's Representative Glen Cowel (Property Manager) provided testimony. Legal counsel Scott Siverson (Siverson Law Firm, 1150 E Plant St, Ste E, Winter Garden) was present.

Special Master Branz reiterated Section 2-303 - Administrative fines and liens, Item 4. In considering whether to grant a fine reduction and the amount of the reduction, the guiding principle should be the city's primary goal in code enforcement is to attain code compliance and to recoup the expenses incurred by the city. The special master shall consider all factors considered relevant in making such a determination, including but not limited to, the following: (4) (a). The costs incurred by the city in investigating and prosecuting the code violation, including staff time, recording costs and attorney fee. (4) (b). The responsiveness and cooperation of the property owner in correcting the violation and mitigating reasons for any lack of cooperation such as age, physical disabilities or financial limitations. (4) (c). Prior code enforcement actions by the city against the same owner or an entity directly or indirectly under the control of the same person.

Special Master Branz reduced the fine/lien to a total of \$ 5,000.00. In the event the reduced fine is not paid by March 12, 2022 the fine will revert back to the full amount of \$9,040.00 plus recording fees.

Special Master Branz signed the Amended Findings of Fact, Conclusion of Law and Order.

**Recess** from 10:55 am to 11:10 am

**NEW BUSINESS:**

Special Master Branz announce that Counsel from both sides discussed, and the cases will be presented in a consolidated manner, but three separate orders will be issued.

**Case # 21-000355**

**Location:** 802 Big Tree Road, South Daytona  
**Owner:** Yelvington Big Tree LLC

**VIOLATION(S):**

1. Code of Ordinances City of South Daytona 5-7, Permit required for fences, walls, obstructions

Comments: Stop Work Order issued on November 10, 2021, fence construction without permit.

**Status: Non-compliance**

**Findings of Fact, Conclusions of Law and Order**

Josh McEnany, Code Compliance Manager requested the case be dismissed. Special Master Branz confirmed no objection from the respondent and so ordered dismissal.

Special Master Branz called cases # 21-000354, # 21-000356, and # 21-000357.

**Cases 21-000354, 21-000356, 21-000357**

**Location:** 802 Big Tree Road, South Daytona  
**Owner:** Yelvington Big Tree LLC

Josh McEnany, Code Compliance Manager presented cases # 21-000354 and requested that the respondent be found in violation. Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) was in attendance and provided testimony and representation accordingly.

Respondent Chad Collins (Yelvington Big Tree, LLC, 802 Big Tree Road) was in attendance with Legal Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) and provided testimony and representation for case # 21-000354.

Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) introduced exhibit R-A.

Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) re-directed Josh McEnany, Code Compliance Manager.

Assistant City Attorney Garrett Olsen referenced photograph from the City's presentation taken on January 11, 2022.

Special Master Branz clarified that the violation does not exist today but was not in compliance by January 11, 2022.

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) questioned Josh McEnany, Code Compliance Manager.

Assistant City Attorney Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) questioned Respondent Chad Collins (Qualified Beneficiary and Property Manager of Yelvington Big Tree, LLC, 802 Big Tree Road).

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) re-questioned Respondent Chad Collins (Qualified Beneficiary and Property Manager of Yelvington Big Tree, LLC, 802 Big Tree Road).

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) introduced exhibit R-B.

Josh McEnany, Code Compliance Manager presented cases # 21-000356 and # 21-000357 and requested that the respondent be found in violation. Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) was in attendance and provided input.

Assistant City Attorney Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) re-directed Josh McEnany, Code Compliance Manager.

Respondents Legal Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) provided an opening statement for cases # 21-000356 and # 21-000357.

Assistant City Attorney Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) provided an opening statement for cases # 21-000356 and # 21-000357.

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) questioned Josh McEnany, Code Compliance Manager.

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) introduced exhibit R-C. Finding of Fact, Conclusions of Law and Order and Lien dated July 8, 2021. Mr. Sheppard referenced City of South Daytona Code, Section 2.2, Terms Defined, Line 190 and 207. Mr. Sheppard introduced exhibit R-D, Aerial photographs.

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) questioned Respondent Chad Collins (Qualified Beneficiary and Property Manager of Yelvington Big Tree, LLC, 802 Big Tree Road).

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) introduced exhibit R-E, historical photographs; exhibit R-F, photograph of inside of on-site shipping container; exhibit R-G, historical aerial photographs; exhibit R-H, photographs of relocation of Shipping Containers on site (later received by emailed, shown on Mr. Sheppard's phone) during his questioning of Respondent Chad Collins.

Assistant City Attorney Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) questioned Respondent Chad Collins (Qualified Beneficiary and Property Manager of Yelvington Big Tree, LLC, 802 Big Tree Road).

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) re-questioned Respondent Chad Collins (Qualified Beneficiary and Property Manager of Yelvington Big Tree, LLC, 802 Big Tree Road).

Special Master Branz requested clarification on the following:

- Non-conforming use
- Structures
- Any use that has been abandoned, enlarged or expanded
- Shipping containers not being allowed within the city

Assistant City Attorney Garrett Olsen (Assistant City Attorney for the City of South Daytona, Vose Law Firm, 324 W Morse Blvd, Winter Park) clarified the above points for Special Master Branz.

Respondents Counsel Cliff Sheppard (Shepard, Smith, Kohlmyer & Hand, P.A, 2300 Maitland Center Parkway, Suite 100, Maitland) clarified the above points for Special Master Branz.

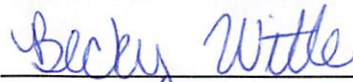
Special Master Branz announced that he is not going to rule on these matters at this hearing and requested written closing arguments from both Attorney's for the April 14, 2022 hearing. Special Master Branz said the statements should include why shipping containers could not be enforced previously, remedies and how the remedies will affect the legal non-conforming use.

**VIII. NEXT MEETING:** March 10, 2022

**IX. ADJOURNMENT**

The meeting was adjourned at 2:40 pm.

Respectfully submitted,



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Becky Witte, Deputy City Clerk