



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

December 9, 2021 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

Matt Miavez, Code Compliance Officer – Rental Housing

Becky Witte, Deputy City Clerk

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 9:00 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: November 4, 2021.

Attorney Branz approved the minutes as submitted by Deputy City Clerk Becky Witte.

OFFICIAL BUSINESS:

NEW BUSINESS:

Case # 21-000309

Location: 2507 Florida Blvd, South Daytona

Owner: Garcia, Venus L.

VIOLATION(S):

1. Florida Building Code 105.1, Permit Required

Comments: No permit on file for structural renovations, stop work order issued.

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.

Respondent Venus Garcia (2507 Florida Blvd) was in attendance and discussed the case with the Special Master.

Special Master Branz found the respondent in violation of: City of South Daytona Code of Ordinances, Article II – Building Code, Section 5-20 – Adoption of Florida Building Code. Florida Building Code 105.1, Permit Required.

Special Master Branz ordered a compliance date of January 3, 2022, and failure to comply will result in a fine of \$150.00 per day.

Next hearing set for January 6, 2022.

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

Case # 21-000334

Location: 927 Beville Road, South Daytona

Owner: 338 Starr Realty LLC

VIOLATION(S):

1. Code of Ordinances City of South Daytona Sec. 20-140.4, Enforcement

Comments: Backflow prevention device removed.

Status: Non-compliance

Findings of Fact, Conclusions of Law and Order

Bret Steele, Code Compliance Officer requested the case and be dismissed, and Special Master Branz so ordered.

Case # 21-000337

Location: 2285 Colfax Drive, South Daytona

Owner: Stramondo, Patricia

VIOLATION(S):

1. City of South Daytona Code of Ordinances 9-2, keeping junk in residential or commercial section

Comments: Accumulation of debris on property.

2. International Property Maintenance Code 302.1, Sanitation

Comments: Accumulation of debris on property.

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.

Respondent was not in attendance.

Special Master Branz found the respondent in violation of:

City of South Daytona Code of Ordinances 9-2. No person shall keep, store or allow to remain on any property within any residential or business section of the city, any dismantled, partially dismantled, nonoperative, or discarded machinery, vehicles, boats or parts thereof, scrap metal or junk.

International Property Maintenance Code 302.1. Sanitation – Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.

Special Master Branz ordered a compliance date of January 3, 2022 and failure to comply will result in a fine of \$150.00 per day until the violations are corrected as well as authorization for the city to abate with a \$125.00 administrative fee plus any costs incurred during the abatement process.

Next hearing set for January 6, 2022.

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

VII. OLD BUSINESS:

Case # 21-000251

Location: 2047 Brian Ave, South Daytona

Owner: Whedbee, Billy J

VIOLATION(S):

1. City of South Daytona Code of Ordinances 14-36(a), Maintain ROW including mowing, edging, cutting & trimming

Comments: Street gutter and driveway require edging.

2. International Property Maintenance Code 304.7, Roofs and drainage

Comments: Tree debris and vegetation on the roof and in the gutters.

Status: Request Order of Compliance

Beverly Abrahamson, Code Compliance Officer 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.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by December 8, 2021.

Special Master Branz signed the Order of Compliance, and no fines shall be imposed.

Case # 21-000266

Location: 2710 S. Ridgewood Ave, South Daytona
Owner: A P Enterprises of Daytona, LLC

VIOLATION(S):

3. City of South Daytona Code of Ordinances 7-6(d), Garbage and trash storage facilities and enclosures

Comments: Damaged trash enclosure on property.

4. City of South Daytona Land Development Regulations 8.2(D), Signage Permit Required

Comments: Remove all temporary signage on property, i.e. feather flag, sign on trash enclosure and signs on bollards.

5. City of South Daytona Code of Ordinances 5-216 (17), Conditions constituting public nuisance: Care of premises

Comments: Remove all exterior debris on property, i.e. sandbags, junk, disabled gas pump.

6. City of South Daytona Land Development Regulations 8.4(C), South Ridgewood Avenue Corridor Design Guidelines

Comments: Newspaper dispensers do not comply with CRA Guidelines. Section 4.6 Site Furnishings, Sub Section 4.6.5 Newspaper Dispensers

Status: Request Order of Compliance

Bret Steele, Code Compliance Officer presented that this case came on for public hearing before the Special Master on November 4, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated November 4, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by November 30, 2021.

Special Master Branz signed the Order of Compliance, and no fines shall be imposed.

Case # 21-000284

Location: 2425 S. Ridgewood Ave, South Daytona
Owner: Realty Income Properties 19

VIOLATION(S):

1. City of South Daytona Code of Ordinances 14-36(a), Maintain ROW including mowing, edging, cutting & trimming

Comments: Not maintained right-of-ways, violation height weeds and grass.

2. City of South Daytona Land Development Regulations 7.3(E)(3)(a), Maintenance

Comments: Not maintained, overgrown water retention areas.

Status: Request Order of Compliance

Bret Steele, Code Compliance Officer presented that this case came on for public hearing before the Special Master on November 4, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated November 4, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in Compliance by December 7, 2021.

Special Master Branz signed the Order of Compliance, and no fines shall be imposed.

Case # 21-000286

Location: 716 Boston Ave, South Daytona
Owner: Capaldo, Michael A

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation

Comments: Any and all junk, trash and rubbish throughout the exterior property.

2. International Property Maintenance Code 302.4, Weeds

Comments: Overgrown grass, weeds and plants.

3. International Property Maintenance Code 302.7, Accessory structures

Comments: Fence has trees growing through it

4. International Property Maintenance Code 304.2, Protective Treatment

Comments: Exterior surfaces shall be maintained in good condition. Staining or discoloration shall be removed.

5. International Property Maintenance Code 304.7, Roofs and drainage

Comments: Roof shall be maintained in good repair and free from obstructions.

6. City of South Daytona Land Development Regulations 7.6(E)(6)(a)(2), Tree protection criteria for removal

Comments: Remove or top off to safe level dead and dangerous tree in front yard.

Status: Request Order Imposing Fine/Lien

Beverly Abrahamson, Code Compliance Officer 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. On November 4, 2021, the respondent requested additional time and Special Master Branz granted a continuance until the December hearing.

Respondent Michael Capaldo, 716 Boston Avenue, was in attendance and discussed the case with the Special Master.

Based on the testimony and evidence received, the Special Master finds that the property was not in Compliance by November 2, 2021.

The property remains in violation and accordingly, a fine of \$250.00 per day for violation of the following shall be imposed:

1. International Property Maintenance Code 302.1, Sanitation: Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
2. International Property Maintenance Code Section 302.4 : Premises and exterior property shall be maintained free from weeds or plant growth in excess of 12 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
3. International Property Maintenance Code 302.7: Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

4. International Property Maintenance Code 304.2 : Exterior surfaces, including but not limited to, doors, door and windows frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
5. International Property Maintenance Code 304.7 : The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
6. 7.6(E)(6)(a)(2) City of South Daytona Land Development Regulations: The tree is diseased, injured, in danger of falling, too close to existing or proposed structures, interferences with existing utility services, creates unsafe vision clearance or conflicts with other ordinances or regulations.

These fines shall begin on November 2, 2021 and continue to accrue against the property 716 Boston Avenue, South Daytona, FL 32119 until said property is brought into compliance.

Special Master Branz signed the Order Imposing Fine/Lien.

Case # 21-000305

Location: 608 Ridge Blvd, South Daytona

Owner: Figgins, Scot Alan

VIOLATION(S):

1. International Property Maintenance Code 302.4, Weeds

Comments: PROPERTY NEEDS MAINTAINED ON A REGULAR BASIS. PROPERTY HAS OVERGROWN TREES AND GRASS

2. International Property Maintenance Code 302.8, Motor vehicles

Comments: VEHICLE ON PROPERTY DOES NOT HAVE A CURRENT TAG

Status: Request Order Imposing Fine/Lien

Josh McEnany, Code Compliance Manager presented that this case came on for public hearing before the Special Master on November 4, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated November 4, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in not Compliance by December 6, 2021 but the city abated the violation on December 7, 2021. Code Compliance Manager McEnany asked that no fines be assessed, only the administrative fee plus the cost of the abatement.

Special Master Branz signed the Order of Compliance and with a onetime administrative fee of \$125.00 plus cost of abatement of \$1,250.00 which totaled \$1,375.00.

Case # 21-000310

Location: 309 Olive Street, South Daytona

Owner: Nelson Investment Properties LLC

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation

Comments: Premises has junk, debris and construction material on side yards and back yard.

2. International Property Maintenance Code 304.7, Roofs and drainage

Comments: Roof is leaking into bedroom; Holes in roof and soffit area

3. International Property Maintenance Code 604.3, Electrical System Hazards

Comments: Main electrical box is not labeled; bedroom lighting not wired correctly and does not turn on

4. International Property Maintenance Code 304.13, Windows, skylight and door frames

Comments: Back door frame is not fastened; Window is cracked on rear side of property

5. International Property Maintenance Code 304.14, Insect screens

Comments: Windows on property do not have screens

6. International Property Maintenance Code 504.1, General; plumbing fixtures

Comments: Main kitchen shut off valve leaking; master bath leaking

7. International Property Maintenance Code 602.3, Heat Supply

Comments: Tenants only supplied with a Window Unit Air Conditioner; No heat available to structure

Status: Request Order Imposing Fine/Lien

Josh McEnany, Code Compliance Manager presented that this case came on for public hearing before the Special Master on November 4, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated November 4, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was not in Compliance by November 29, 2021.

The property remains in violation and accordingly, a fine of \$250.00 per day for violation of the following shall be imposed:

1. International Property Maintenance Code Section 302.1: Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
2. International Property Maintenance Code Section 304.7: The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
3. International Property Maintenance Code Section 604.3. Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

4. International Property Maintenance Code Section 304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
5. International Property Maintenance Code Section 504.1 General. Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
6. International Property Maintenance Code Section 602.3 Heat supply. Every owner and operator of any building who rents, leases, or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from November 15th to March 15th sufficient to maintain a temperature of not less than 68 degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms.

These fines shall begin on November 30, 2021 and continue to accrue against the property 309 Olive Street, South Daytona, FL 32119 until said property is brought into compliance.

Special Master Branz signed the Order Imposing Fine/Lien.

Case # 21-000322

Location: 1967 Menger Circle, South Daytona

Owner: Lavallee, Eugene E. Jr.

VIOLATION(S):

City of South Daytona Land Development Regulations 7.5(B)(10)(c)(2), Miscellaneous parking regulations MRE

Comments: All MREs must be parked on side yard behind front plane of house, or in garage or carport.

Status: Request Order of Compliance

Josh McEnany, Code Compliance Officer presented that this case came on for public hearing before the Special Master on November 4, 2021, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated November 4, 2021, the property was found in violation.

Based on the testimony and evidence received, the Special Master finds that the property was in timely Compliance.

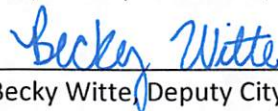
Special Master Branz signed the Order of Compliance, and no fines shall be imposed.

VIII. NEXT MEETING: January 6, 2022

IX. ADJOURNMENT

The meeting was adjourned at 9:49 a.m.

Respectfully submitted,


Becky Witte, Deputy City Clerk