



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

January 12, 2023 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, Matt Miavez, Code Compliance Officer, 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.

II. PLEDGE OF ALLEGIANCE.

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.

III. **APPROVAL OF MINUTES FOR: November 3, 2022.** Attorney Branz approved the minutes with as provided by Deputy City Clerk. *Note the December Hearing was canceled.*

IV. OATHS OF THE CITY OFFICIAL, RESPONDENTS AND WITNESSES:

Executed by Deputy City Clerk, Becky Witte

V. NEW BUSINESS:

Case # 21-000377

Owner: NSTONEWORLD LLC

Location: 2014 Graham Street, South Daytona

VIOLATION(S):

1. City of South Daytona, Code of Ordinances, Article II. Building Code, Section 5-20, Adopting the Florida Building Code. Florida Building Code 105.1, Permit Required.
Comments: No permit for renovation work

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 not in attendance.

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

City of South Daytona, Code of Ordinances, Article II. Building Code, Section 5-20, Adopting the Florida Building Code. Florida Building Code 105.1, Permit Required.

Special Master Branz ordered that the Respondent correct the violation on or before January 27, 2023. If the Respondent fails to comply with this Order, a fine of \$250.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fine will be scheduled for February 9, 2023.

Case # 22-000247

Owner: TJP PROPERTIES LLC

Location: 1848 Palmetto Avenue, South Daytona

VIOLATION(S):

1. International Property Maintenance Code 302.1, Sanitation
Comments: exterior of property should be free of trash, junk, and debris
2. International Property Maintenance Code 308.1, Accumulated rubbish or garbage
Comments: exterior of property should be free of trash, junk, and debris

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, Douglas Kusarek (1848 S. Palmetto Avenue representative of TJP Properties) was in attendance and provided testimony.

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

City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. 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.

City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 308.1, Accumulated rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

Special Master Branz ordered that the Respondent correct the violation on or before January 27, 2023. 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.

A hearing to impose fine will be scheduled for February 9, 2023.

Case # 22-000263 Owner: SAI RAM ENTERPRISES INC
Location: 901 Big Tree Road, South Daytona

VIOLATION(S):

1. Code of Ordinances 3.5-128, Gambling Machines
Comments: Gambling Machines discovered during inspection of Fire Marshal

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, Mahesh Patel (property owner of 901 Big Tree Road) was in attendance and provided testimony.

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

City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-125. Definitions.

City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-128. - Prohibition of simulated gambling devices: It shall be unlawful in the City of South Daytona for any person to manage, maintain, own, possess, operate or use one or more simulated gambling devices in a commercial or nonprofit establishment, or to knowingly lease, operate or maintain any premises for the use of simulated gambling devices.

Special Master Branz ordered that the Respondent correct the violation on or before January 27, 2023. If the Respondent fails to comply with this Order, a fine of \$250.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fine will be scheduled for February 9, 2023.

Case # 22-000264 Owner: MICH & JIMS ENTERPRISES INC
Location: 2027 S. Ridgewood Avenue, South Daytona

VIOLATION(S):

1. Code of Ordinances 3.5-128, Gambling Machines
Comments: Gambling Machines discovered during inspection of Fire Marshal

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.

Fire Marshal Paul Nelson provided testimony.

Respondent was not in attendance, but a letter was provided and entered into the record:

Email dated 1/10/2023 from Gary St. Jean, Property Manager for Property Owner was submitted into the record.

Special Master Branz denied the request for dismissing the case which was requested within the email/letter.

Special Master Branz discussed the Code Enforcement process.

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

City of South Daytona, Code of Ordinances, Chapter 3.5 Amusements and Entertainments, Article II. Simulated Gambling, Sec. 3.5-128. - Prohibition of simulated gambling devices: It shall be unlawful in the City of South Daytona for any person to manage, maintain, own, possess, operate or use one or more simulated gambling devices in a commercial or nonprofit establishment, or to knowingly lease, operate or maintain any premises for the use of simulated gambling devices.

Special Master Branz ordered that the Respondent correct the violation on or before January 27, 2023. If the Respondent fails to comply with this Order, a fine of \$250.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fine will be scheduled for February 9, 2023.

VI. OLD BUSINESS:

Case # 22-000004 **Owner:** BUI KIM CHUNG
Location: 1035 Sheri Blvd, SOUTH DAYTONA FL 32119

Special Master Branz granted the continuance with no objection from the City. The hearing will be held on February 9, 2023.

Case # 22-000140 **Owner:** NOVA FOUNTAIN BUSINESS
Location: 2841 S NOVA RD , SOUTH DAYTONA FL 32119

VIOLATION(S):

1.City of South Daytona Code of Ordinances 5-217 (3), Minimum standards: Nonfunctional elements

Comments: Damaged double pole sign by the road.

2.City of South Daytona Code of Ordinances 7-6(b), Doors and openings shall be closed

Comments: Garbage enclosure is rarely closed and the dumpster does not fit into the enclosure because of all the trash outside of the dumpster.

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

Comments: Any sign constructed, erected, altered, moved or posted first requires a permit.

4.City of South Daytona Land Development Regulations 8.2(F)(4), Sign maintenance

Comments: Sign by the road needs to be repaired.

Status: Request Order of Imposing Fine/Lien

Josh McEnany, Code Compliance Manager presented the case came on for public hearing before the undersigned Special Master on September 8, 2022, pursuant to the Special Master's Order, titled Findings of Facts, Conclusion of Law and Order, dated September 8, 2022, where the property was found in violation. Mr. McEnany said the property was brought into compliance by September 27, 2022.

Respondent was not in attendance.

Based on the testimony and evidence received, the Special Master found that the property was in Compliance by September 27, 2022 for violation of the following:

1. City of South Daytona, Code of Ordinances, Article IX. Housing, Section 5-189, Adopting the International Property Maintenance Code. International Property Maintenance Code 304.1, General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

The Special Master declared the property to be in compliance and that pending violation proceedings before the Special Master are concluded with no fines due.

Special Master Branz recalled the case as the respondent had arrived.

Case # 21-000377 Owner: NSTONEWORLD LLC
Location: 2014 Graham Street, South Daytona

VIOLATION(S):

1. City of South Daytona, Code of Ordinances, Article II. Building Code, Section 5-20, Adopting the Florida Building Code. Florida Building Code 105.1, Permit Required.
Comments: No permit for renovation work

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, Wahab Olacunji (955 Cascades Park Trail, DeLand, Florida) was in attendance and provided testimony.

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

City of South Daytona, Code of Ordinances, Article II. Building Code, Section 5-20, Adopting the Florida Building Code. Florida Building Code 105.1, Permit Required.

Special Master Branz ordered that the Respondent correct the violation on or before March 2, 2023. If the Respondent fails to comply with this Order, a fine of \$250.00 per day will be imposed for each day the violation continues past the date as prescribed.

A hearing to impose fine will be scheduled for March 9, 2023.

VIII. NEXT MEETING: February 9, 2023

IX. ADJOURNMENT. Hearing adjourned at 10:28am.

Respectfully submitted,



Becky Witte Deputy City Clerk