

A Special Magistrate Hearing was held on **January 25, 2023**,
was called to order at *1:32 PM* , Adjourned *2:50 PM*.

Present:

Kevin Wagner, Special Magistrate
Lawonda Warren, Assistant City Attorney
Chantale Jean-Baptist, Code Officer
Jude LeConte, Code Officer
Welinton Payano, Code Officer
Brad Hasseler, Cross-Connection Control Program Administrator
Demetrius Smith, Cross-Connection Control Specialist
Henry Thompson
Omar Abusittu
Amy Alvarez, Principal Planner
Matthew Scott, Attorney
Larry Stevens, Client

23-670

Fifth Avenue Delray LLC
Corporation Service Company R/A
Property Address: 152 SE 5th Avenue

Lawonda Warren, the Assistant City Attorney for the City of Delray Beach questioned city employee Amy Alvarez who works for the Planning Department as Principal Planner. Lawonda Warren asked if Amy as a role of Principal Planner if she had any awareness of the approvals of the property located on 152 SE 5th Avenue. Amy Alvarez mentioned that there was a Zoning Certificate that was issued in 2019 for multiple services at the property, and that it was initially denied, and it was specified that it was retail only and the Tara Card reading could not occur at that site. There are certain sights that Tara Card reading can be provided, but not at this location. Later the application she believes was amended, and it was subsequently approved because the applicant indicated that they would not be offering Tara Card readings at the site. Lawonda asked mentioned that there are areas in the city that Tara Card reading is permitted, and Amy mentioned that there is and that it is very specific in the code. Tara Cards are permitted to be sold in this location, but readings are not. Lawonda introduced the exhibits 1A and B into evidence. Kevin Wagner asked whether there was any objections, and the lawyer said no. Kevin Wagner, Special Magistrate admitted them into evidence. Lawonda asked Amy how this violation came about, and that it came on her radar through a complaint, which Amy said that was correct. Once the complaint came through, they sent it over to Code Enforcement to initiate Code Enforcement proceedings. Matthew Scott, the lawyer asked Amy how this complaint came about. Amy Alvarez mentioned that the complaint initiated with neon signage at the other business, and after talking back and forth with city staff that is how both locations became evident. The lawyer, Matthew Scott that the complaint was actually for another address, and not for 152 SE 5th Avenue that started the inquiry.

Lawonda called Code Officer Chantale Jean-Baptiste to testify. She came to witness on behalf of the violation on 152 SE 5th Avenue. Chantale introduced seven (7) photographs into evidence. Lawonda asked to introduce exhibits 2-6 into evidence. Matthew Scott did not have objection to introducing the

photos, but wanted a discussion as far as the weight of the evidence. Kevin Wagner, Special Magistrate placed them into evidence, and mentioned to the lawyer he will give him time to discuss them further. The lawyer questioned Code Officer Chantale Jean-Baptiste about what she mentioned previously about what the location offered. He also asked her if she observed the act of the reading of Tara Cards at the property, and she said no.

Matthew Scott, the lawyer provided an introduction concerning the case, and then he had a few questions for his client to testify. Mr. Scott mentioned that his client understands that Tara Card reading is not allowed on the property. His client has a couple other properties in the city, and has had extensive communications back and forth with the city concerning what is and what is not allowed. Mr. Scott had receipts of crystals, and other things that they buy for the store. The phone number that was shown on one of the photos is the stores number, and also for my clients wife to be able to provide Tara Card readings at other locations to schedule that service. The lawyer went on to say that there is no evidence that has been presented on this case that the act of doing readings is taking place.

Matthew Scott, Lawyer called his client Larry Stevens to testify on behalf of his case. He was asked the name of his shop, and Mr. Stevens said it is "Tara Card and Astrology Gift Shop" and he is a partner with his wife. He testified that they have receipts of everything they sell in the gift shop. Mr. Scott asked Mr. Stevens if he or his wife do Tara Card reading in the shop, which the answer was no, they do not. The lawyer continued to say that the city has no evidence to proof of readings being done on this property, and that this case be dismissed.

Lawonda Warren cross examined Mr. Stevens asking him about the sign with the phone number and if that was the contact number to book readings with his wife, and he said yes.

Matthew Scott mentioned that the phone number on sign is not proof enough, and that that the Instagram posting was from years ago, and the website is old.

Kevin Wagner, Special Magistrate prolonged his decision making until he was able to look it over with greater detail. The decision was made by Kevin Wagner that the city be given thirty days (30) to present additional evidence that the respondent is engaging in activities on the premises that are beyond the scope on its certificate of use in violation of 4.4.9 (H) (3)

Case 22-13608

Delray Masonic Lodge #275

Property Address: 85 NW 5th Avenue

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The

exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Chantale Jean-Baptist, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance

22-14373

Woodbrooke Condominium Association Inc

James Jarrett R/A

Property Address: 929 SW 20th Court

Service Address: 875 SW 20th Court

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Jude Leconte, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar

(\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance

22-14487

Lakeview Greens Condo Association A Inc
Danny Wilson R/A
Property Address: 3015 W Linton Blvd
Service Address: 3011 W Linton Blvd 101D

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Chantale Jean-Baptist, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance

22-14500

Lakeview Greens Condo Association A Inc
Danny Wilson R/A
Property Address: 3015 W Linton Blvd
Service Address: 3001 W Linton Blvd 101C

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Chantale Jean-Baptist, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

22-14502

Lakeview Greens Condo Association A Inc
Danny Wilson R/A
Property Address: 1600 Dover Road 101B

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Chantale Jean-Baptist, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation

indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance

22-14625

Delray Lakes Homeowners Association
Gary Budd R/A Crest Management Group Inc
Property Address: 1200 Delray Lakes Drive

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Welinton Payano, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

22-14718

Rainberry Bay Master Association Inc
Sachs Sax Caplan R/A
Property Address: 1015 Rainberry Circle E

Lawonda Warren, the Assistant City Attorney for The City of Delray Beach, questioned Brad Hasseler and Demetrius Smith in reference to proper notice.

Brad Hasseler, Cross Connection Control Program Administrator for The City of Delray Beach, testified that notices were sent to owner on record and customer, and that no backflow device had been installed at this location. Demetrius Smith also testified as Cross-Connection Control Specialist that no device had been installed at this location.

Attorney Lawonda Warren entered into evidence city composite exhibits into evidence; notices sent by utilities, code enforcement, and the utilities PowerPoint slide showing that no backflow was installed. The exhibits were accepted into evidence by Special Magistrate Kevin Wagner.

Welinton Payano, Code Office for The City of Delray Beach, testified that notices were sent to owner of record by utilities and code enforcement, and notices were also posted at the property with the violation indicating that no backflow had yet been installed at this location.

City suggests: 30 days to apply for a permit, 60 days to obtain an approved permit. Failure to meet either deadlines could be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Special Magistrate, Kevin Wagner stated that good notice was given, and that the violation of code section 52.83 (A) (B) (C) & (D) still exists. Thirty days (30) will be given to apply for a permit, and sixty days (60) to obtain a permit. Failure to meet either deadlines will be subject to Two Hundred dollar (\$200.00) daily fine, and the city will be given authorization to disconnect water services for noncompliance.

Code Enforcement Special Magistrate
January 25, 2023 (Minutes)

The undersigned is the Secretary of the Special Magistrate and the information provided herein is the minutes of the meeting of said Special Magistrate on January 25, 2023 which minutes were formally approved and adopted by the Magistrate on March 15, 2023.

ATTEST:



SPECIAL MAGISTRATE

NOTE TO READER: If the minutes you have received are not completed as indicated above, this means they are not the official minutes of the (Board Name). They will become official minutes only after review and approval, which may involve some amendments, additions, or deletions.