



SPECIAL MAGISTRATE - CODE ENFORCEMENT MEETING CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

Monday, June 12, 2023
10:00 AM

Call to Order
Pledge of Allegiance

CASE DOCKET

1. Administration of Oath
2. Cases Complied or Continued
 - A. Case No. 20230162 REHEARING**
City of St. Pete Beach v. Schwind, Edward M
Address: 280 72nd Ave. St. Pete Beach FL 33706
Sec. 9.2. - Permitted principal uses and structures.
Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-2 Residential District are as follows:
(a) *Residential dwellings*—Detached single-family only. Such dwellings shall not be used for transient occupancy.
3. New Cases
4. Old Cases
5. Repeat Violation
6. Lien Reductions
7. Next Meeting:
8. Adjournment -

APPEAL: Florida Statutes Chapter 286.0105 Notices of meetings and hearings must advise that a record is required to appeal. Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AMERICANS WITH DISABILITIES ACT: Florida Statutes 286.26. Accessibility of public meetings to the physically handicapped. In accordance with the Americans with Disabilities Act and Florida Statutes, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than forty-eight (48) hours prior to the meeting for assistance.

CODE OF ORDINANCES, SECTION 1-15: Award of attorney's fees and other costs. In all instances where a lawsuit is instituted or defended on behalf of the city to enforce any provision of the Code of Ordinances, to collect fees, liens, assessments or fines, or otherwise secure compliance with any provision of the Code of Ordinances, the city shall be entitled to recover all costs incurred, including reasonable attorney's fees and court costs through the trial and appellate levels. This section shall apply to all instances where the city is required to defend an appeal from any order, notice or determination by the city or its officials.

For meetings that require materials to be submitted, the deadline to submit materials to the City is a minimum of 24 business hours in advance of the meeting. Materials including electronic media are to be submitted to cityclerk@stpetebeach.org. The Clerk's Office will then scan the agenda packet with the new documents and repost on the website for transparency purposes.

All agenda material is available for review at City Hall.

SPECIAL MAGISTRATE - CODE ENFORCEMENT MEETING CITY OF ST. PETE BEACH

Agenda Report

Issue Considered: Case No. 20230162 REHEARING
City of St. Pete Beach v. Schwind, Edward M
Address: 280 72nd Ave. St. Pete Beach FL 33706

Date: June 12, 2023

Prepared By: Luis Cruz, Code Enforcement Officer

Through: Michelle Gonzalez, Community Development Director
Peyt Dewar, Code Enforcement Manager

Summary of Issue: **Sec. 9.2. - Permitted principal uses and structures.**
Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-2 Residential District are as follows:
(a) *Residential dwellings*—Detached single-family only. Such dwellings shall not be used for transient occupancy.

Property is being advertised online for short-term rental, which is prohibited in the zoning district.

Funding: N/A

Requested Motion: N/A

Attachments:

1. Special Magistrate Order 2023
2. Special Magistrate Order 2018
3. Notice of Repeat Violation
4. Evidence
5. Affidavit of Posting
6. Notice of REHEARING

**CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF ST. PETE BEACH**

CITY OF ST. PETE BEACH,

Petitioner,

v.

**CASE NO.: CE20230162
ADDRESS: 280 72nd Ave.**

SCHWIND, EDWARD M.,

Respondent(s).

_____ /

**FINAL ADMINISTRATIVE ORDER AND
ORDER IMPOSING FINES**

This case came before the Special Magistrate on May 8, 2023, and after hearing testimony and receiving evidence, the Special Magistrate makes the following findings of fact and issues the following order:

1. The City was represented by Assistant City Attorney Matthew McConnell and Code Enforcement Officer Luis Cruz.
2. Respondent failed to appear, and no one appeared on his behalf.
3. Respondent owns the subject property, and legally required notice of this proceeding was served on Respondent in accordance with applicable law.
4. Respondent was notified of the following repeat violation of the City's Land Development Code but failed to bring the property into compliance as required by the City.

Section 9.2 – Permitted principal uses and structures.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-2 Residential District are as follows:

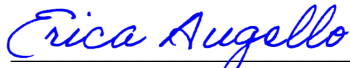
- (a) ***Residential dwellings- Detached single-family only. Such dwellings shall not be used for transient occupancy.***
5. The City presented evidence establishing the property had been advertised for transient occupancy.

6. The City presented evidence that Respondent had been in violation of the same code provision within five (5) years by way of a Special Magistrate Order dated August 23, 2018.

BASED UPON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED AS FOLLOWS:

7. Respondent and the subject property were in violation of the cited provision, and the violation constitutes a repeat violation. A fine of \$500 per day will be assessed from March 12, 2023, to March 21, 2023. In addition, Respondent will be responsible for the reasonable costs of the City incurred to investigate and prosecute this case.
8. Respondent is ordered within ten (10) days of the date of this order to provide the City with rental logs or other proof demonstrating the property has no active bookings of less than thirty (30) days.
9. It is Respondent's responsibility to notify the City when the property has been brought into compliance, if applicable.
10. Respondent is ordered to immediately cease advertising or renting the property for a term less than thirty (30) days.
11. Pursuant to Section 22-279 (a) of the City's Code of Ordinances, Respondent may request a hearing to challenge the fine amount within twenty (20) days of the date of the original order.
12. Should Respondent be found to be in violation of the same provision within five (5) years of the date of this Order, it may be considered a repeat violation and Respondent may be subject to a fine of up to \$500 per day for each day the violation exists.

Order entered on May 8, 2023.


Erica F. Augello, BCS
Special Magistrate

A copy of this Order was sent via US Mail to Respondent at 280 72nd Ave., St. Pete Beach, FL 33706-1911 on May 8, 2023.

APPEALS

An aggrieved party, including the local governing body, may appeal a final administrative order issued by the Special Magistrate to the circuit court. The appeal will not be a hearing de novo but shall be limited to appellate review of the record created before the Special Magistrate. An appeal

shall be filed within 30 days of the execution of the order that is being appealed. The person or entity filing the appeal shall be responsible for the submitting the record of proceedings including a verbatim transcript of the hearing. Section 162.11 and Section 286.0105, Florida Statutes.

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF ST. PETE BEACH

CITY OF ST. PETE BEACH,

CASE NUMBER: 20180189

Petitioner,

vs.

LORES SCHWIND and
EDWARD SCHWIND,

Respondents.
_____ /

FINDINGS OF FACT AND ORDER

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on August 13, 2018, after due notice to the Respondent, and the Special Magistrate having heard testimony under oath, received evidence, and otherwise being advised in the premises, hereby issues this Findings of fact, Conclusions of Law, and Order:

The Special Magistrate makes the following findings of fact:

1. The City was represented by the City Attorney, Andrew Dickman and its Code Enforcement Officer, Peyt Dewar.
2. No one was present at the hearing on behalf of the Respondents (hereinafter the "Respondent").
3. The property in question, located at 280 72nd Avenue, St. Pete Beach, Florida 33706 ("Property"), is owned by the Respondent.
4. Proper notice was served upon the Respondent via certified mail, regular mail, posting or hand delivery in accordance with Chapters 162 and 166, Florida Statutes.
5. The Respondent was notified that Respondent was in violation of the following sections of the Code of Ordinances of the City of St. Pete Beach to wit:

Sec. 9.2. Permitted principal uses and structures.

Subject to the provisions or restrictions contained in this section and elsewhere in this Code, permitted uses and structures in the RU-2 Residential District are as follows:

(a) Residential dwellings—Detached single-family only. Such dwellings shall not be used for transient occupancy.

6. The violations set forth in Paragraph 5 above existed as of the date of the Notice of Violation herein, but all activities to lease the Property on a short term basis ceased immediately prior to the hearing. As such, the Property is currently no longer in violation.

BASED UPON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED AND ADJUDGED:

1. That the Respondent and the property at the above mentioned location was found to be in violation of Section 9.2(a), of the Code of Ordinances of the City of St. Pete Beach, but such violation has been cured and the Property is now in compliance.

2. That any further violation of Section 9.2(a), of the Code of Ordinances of the City of St. Pete Beach, shall be deemed a repeat violation and a fine in the amount of Five Hundred and 00/100 Dollars (\$500.00) per day shall be imposed.

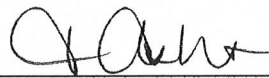
3. The Special Magistrate does hereby retain jurisdiction over this matter to enter such other and further orders as may be just and proper.

DONE AND ORDERED this 23rd day of August, 2018.



Amber Ashton
Special Magistrate

A true and correct copy of this Findings of Fact and Special Magistrate Order was delivered by certified mail and regular mail to: **Lores and Edward Schwind, 280 72nd Avenue, St. Pete Beach, Florida 33706**, on this 23rd day of August, 2018.



Amber Ashton

APPEALS

An aggrieved party, including the local governing body, may appeal a final administrative order of a Special Magistrate to the circuit court. Such an appeal shall not be a hearing de nova but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed. Ss. 162-11.



The Sunset Capital of Florida

155 Corey Avenue St. Pete Beach, FL 33706 www.stpetebeach.org

NOTICE OF REPEAT VIOLATION

3/20/2023

SCHWIND, EDWARD M.
280 72ND AVE
ST PETE BEACH FL 33706-1911

RE: Case Number 20230162
Violation: Sec. 9.2
Violation Address: 280 72ND AVE
Parcel ID#: 363115050940400040

Dear Property Owner:

Your property is being advertised online for short term rental which is prohibited in your zoning district. You are in violation of Section 9.2 - Permitted principal uses and structures.

Your property was found in violation by the Special Magistrate on 8/23/2018, for the same violation (Sec. 9.2). This constitutes a repeat violation of the section mentioned above and will not be allowed to continue. Once you are cited for a violation of the Code for a specified activity, such citation remains in effect for repeat violations.

Please be advised that this matter is being referred to the Special Magistrate for hearing on 04/10/2023 at 10am.

If you require further information, please contact Code Enforcement at (727) 363-9211 or (727) 363-9209 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Sincerely,

Luis Cruz
Code Enforcement Officer

CE20230162

- Respondent(s): Edward M Schwind**
- Violation address: 280 72nd Ave.**
- Violation(s) description: The property was being advertised as transient occupancy in the RU-2 zoning district, in violation of section 9.2 (A) of the Land Development Code of the City of St. Pete Beach**

CE20230162

Case Summary

- Initial inspection: 03/12/2023**
- Notice of Repeat Violation dated: 03/20/2023**
- Compliance date: 03/21/2023**
- Notices of Hearing dated and posted on the property: 05/09/2023**

CE20230162

Affidavit of Posting



280 72nd Ave

CE20230162

Online ad

Beach House - Must see!, walk to x

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1678673350_IKyqGvIEhmBJmaqD#availability-c...

Show all photos

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

Dedicated workspace
A private room with wifi that's well-suited for working.

Self check-in
Check yourself in with the lockbox.

aircover
Every booking includes free protection from Host cancellation or other issues like trouble checking in.
[Learn more](#)

Beach living, steps to everything; shopping, live music, restaur

Select dates
Minimum stay: 14 nights

\$215 night [2 reviews](#)

CHECK-IN
MM/DD/YYYY

CHECKOUT
Add date

March 2023

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April 2023

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10:09 PM
3/12/2023

280 72nd Ave

CE20230162

Online ad

The screenshot shows an Airbnb listing for a 'Beach House' hosted by Ed. The listing details include 6 guests, 2 bedrooms, 4 beds, and 2 baths. It features a 'Dedicated workspace' and 'Self check-in'. A date selection calendar is overlaid on the listing, showing March and April 2023. The calendar has a 'Select dates' header and a 'Minimum stay: 14 nights' requirement. The calendar shows the dates from March 1 to April 30, with the 10th of March highlighted. The price is listed as '\$215 night' with '2 reviews'. The 'aircover' logo is also visible. The Windows taskbar at the bottom shows the time as 10:32 AM on 3/13/2023.

Beach House - Must see!, walk to x

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1678717922_slTgq7dH0ILXVsBC&guests=1&ad...

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

Dedicated workspace
A private room with wifi that's well-suited for working.

Self check-in
Check yourself in with the lockbox.

aircover

Every booking includes free protection from Host cancellation or other issues like trouble checking in.

[Learn more](#)

Beach living, steps to everything; shopping, live music, restaurant. Community center - health club, pool, movies in the park, activities on the beach. Stop at all the resorts/bars/live music along the beach.

Select dates

Minimum stay: 14 nights

\$215 night [2 reviews](#)

CHECK-IN 4/10/2023 x CHECKOUT Add date

March 2023 April 2023

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10:32 AM 3/13/2023

280 72ndAve

CE20230162

Online ad

The screenshot shows an Airbnb listing for a 'Beach House' hosted by Ed. The listing includes details about the property (6 guests, 2 bedrooms, 4 beds, 2 baths) and features like a dedicated workspace and self check-in. A calendar overlay is displayed, showing the month of March 2023 and April 2023. The price is listed as \$215 per night. The URL in the browser's address bar is circled in red. The Windows taskbar at the bottom shows the system clock as 9:03 AM on 3/14/2023, which is also circled in red.

Beach House - Must see!, walk to x

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1678798963_jJDfItlGyD3TMSP#availability-calend...

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

Dedicated workspace
A private room with wifi that's well-suited for working.

Self check-in
Check yourself in with the lockbox.

aircover
Every booking includes free protection from Host cancellation or other issues like trouble checking in.
[Learn more](#)

Beach living, steps to everything; shopping, live music, restaurant
Community center - health club, pool, movies in the park, activities

Select dates
Minimum stay: 14 nights

\$215 night [2 reviews](#)

March 2023

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April 2023

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9:03 AM
3/14/2023

280 72nd Ave

CE20230162

Online ad

Beach House - Must see!, walk to ...

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679007228_16JDME0%2Bu60wiF...

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

\$215 night [2 reviews](#)

Select dates

Minimum stay: 14 nights

CHECK-IN
MM/DD/YYYY

CHECKOUT
Add date

aircover

Every booking includes free protection from H... inaccuracies, and other issues like trouble che...

[Learn more](#)

6:54 PM
3/16/2023

280 72nd Ave

CE20230162

Online ad

Beach House - Must see!, walk to ...

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679057991_OJj3YdT1qOWm4Are#avail...

Show all photos

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

 \$215 night [2 reviews](#)

Select dates
Minimum stay: 14 nights

CHECK-IN
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Add date

March 2023

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April 2023

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aircover

Every booking includes free protection from Host cancellation or other issues like trouble checking in.

[Learn more](#)

Beach living, steps to everything; shopping, live music, restaur...

9:00 AM
3/17/2023

280 72nd Ave

CE20230162

Online ad

Beach House - Must see!, walk to ...

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679146314_K4... This site has coupons!

Show all photos

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

 \$215 night [2 reviews](#)

Select dates
Minimum stay: 14 nights

CHECK-IN
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Add date

< March 2023 April 2023 >

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aircover

Every booking includes free protection from Host cancellation or other issues like trouble checking in.

[Learn more](#)

Beach living, steps to everything; shopping, live music, restaur...

Type here to search

9:32 AM 3/18/2023

280 72nd Ave

CE20230162

Online ad

Beach House - Must see!, walk to ...

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679233240_YwDvGhFH0lpI7OTH#avail...

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths

Dedicated workspace
A private room with wifi that's well-suited for working.

Self check-in
Check yourself in with the lockbox.

aircover
Every booking includes free protection from Host cancellation or other issues like trouble checking in.
[Learn more](#)

Beach living, steps to everything; shopping, live music, restaurant
Community center - health club, pool, movies in the park, activities

Select dates
Minimum stay: 14 nights

\$215 night [2 reviews](#)

CHECK-IN
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CHECKOUT
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March 2023

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April 2023

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9:40 AM
3/19/2023

280 72nd Ave

CE20230162

Online ad

Beach House - Must see!, walk to ...

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679319663_f55wO8syLZ7MHroc#avail...

Show all photos

Entire home hosted by Ed

6 guests · 2 bedrooms · 4 beds · 2 baths



\$215 night 2 reviews

Select dates
Minimum stay: 14 nights

CHECK-IN
MM/DD/YYYY

CHECKOUT
Add date

aircover

Every booking includes free protection from Host cancellation or other issues like trouble checking in.

[Learn more](#)

Beach living, steps to everything: shopping, live music, restaur...

9:41 AM
3/20/2023

280 72nd Ave

CE20230162

Compliant Online ad

The screenshot shows an Airbnb listing for a 'Beach House' with the URL https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679417608_y%2BXLPvFmA6nQ94i%2B.... The listing includes tabs for Photos, Amenities, Reviews, and Location. A date selection modal is open, showing a calendar for March and April 2023. The modal displays a price of \$196 per night and 2 reviews. The date selection interface includes a 'Select dates' section with a 'Minimum stay: 30 nights' requirement, a 'CHECK-IN' field with a placeholder 'MM/DD/YYYY', and a 'CHECKOUT' field with a placeholder 'Add date'. The Windows taskbar at the bottom shows the system time as 12:54 PM on 3/21/2023.

Beach House - Must see!, walk to x

https://www.airbnb.com/rooms/599292861236316375?source_impression_id=p3_1679417608_y%2BXLPvFmA6nQ94i%2B...

Photos Amenities Reviews Location

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12 13 14 15 16 17 18 9 10 11

19 20 21 22 23 24 25 16 17 18

26 27 28 29 30 31 23 24 25

30

2 reviews

Average rating will appear after 3 reviews

Select dates

Minimum stay: 30 nights

CHECK-IN
MM/DD/YYYY

CHECKOUT
Add date

March 2023 April 2023

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12:54 PM
3/21/2023

280 72nd Ave

NOTICE

The Notices of Hearing and of Violation contained herein are being posted pursuant to chapter 162, Florida Statutes, and a chapter 22, article IX, City Code.

If you have any interest in this property or know the party responsible for this property, you may want to contact them and inform them of this posting as significant liabilities may result from the continuance of violations of the City Code at this address: 280 72ND AVE

POST AT: City Hall 155 Corey Ave St. Pete Beach, FL 33706

Name of Property Owner(s): SCHWIND, EDWARD M

Case No.: 20230162 Code Enforcement Officer: Luis Cruz

Hearing Date: 06/12/2023 at 10 a.m.

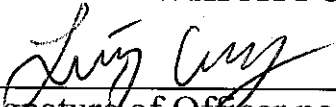
AFFIDAVIT OF POSTING

I HEREBY CERTIFY that copies of the attached Notices of Hearing and Violation were posted on the date and at the address noted below by the undersigned designated official of City of St Pete Beach in accordance with the requirements of Chapter 162. 12, Florida Statutes, and

DATE OF POSTING 05/09/2023

ADDRESS AT WHICH POSTED 155 Corey Ave St. Pete Beach, FL 33706

X



Signature of Officer posting

Luis Cruz

Print Name

**CITY OF ST. PETE BEACH
CODE ENFORCEMENT SPECIAL MAGISTRATE**

CITY OF ST. PETE BEACH,
Petitioner,

Case Number: 20230162

vs.
SCHWIND, EDWARD M
Respondent(s)

NOTICE OF REHEARING

Dear Owner(s)/Violator(s):

The Special Magistrate was created pursuant to Chapter 162, Florida Statutes and Chapter 22, Article IX, City of St. Pete Beach Code of Ordinances. The purpose of the Special Magistrate is to conduct hearings and issue Orders having the force of the law to command whatever steps are necessary to bring a violation into compliance. The Special Magistrate may also impose fines and other non-criminal penalties to provide and equitable, expeditious, effective method of enforcing the City of St. Pete Beach Code of Ordinances.

YOU ARE HEREBY FORMALLY NOTIFIED that on **06/12/2023** at 10 a.m., there will be a Special Magistrate Hearing held at:

**City of St. Pete Beach Commission Chambers
155 Corey Ave
St Pete Beach, Florida 33706**

The hearing is in reference to your violation(s) of the City of St. Pete Beach Code of Ordinances as further described in the attached Affidavit of Violation and Request for Hearing.

YOU ARE HEREBY ORDERED to appear before the Special Magistrate on the above date to answer these charges and to present your side of the case. Failure to appear may result in the Special Magistrate proceeding in your absence and an Order being entered against you.

Should you be found in violation of any section of the City of St. Pete Beach Code of Ordinances and/or Land Development Code, the Special Magistrate has the power, by law, to levy fines of up to \$250.00 per day against your property located at **280 72ND AVE** for every day that each violation continues beyond the date set by the Special magistrate for compliance.

If the violation is correct and then recurs, or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the Special Magistrate, even if the violation has been corrected prior to the Special Magistrate hearing, pursuant to section 162.06(2), Florida Statutes,

Any violation of the same code of Respondent(s) within five (5) years from the date an Order is imposed shall be treated as a repeat violation. As a repeater violation, the Special Magistrate may impose a fine of up to \$500.00 per day. Cases involving repeat violations may be presented to the Special Magistrate even if the repeat violation has been corrected prior to the Special Magistrate hearing. If the repeat violation has been corrected, the Special Magistrate retains the right to determine administrative fines and costs and impose the payment of reasonable enforcement fees.

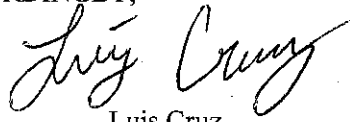
Should you desire, you have the right to obtain an attorney, at your own expense, to represent you before the Special Magistrate. You also have the right to present witnesses, as well as question the witnesses testifying against you at this Hearing. Please be prepared to present evidence at the Special Magistrate Hearing

concerning the amount of time necessary to correct the alleged violation(s), should you be found in violation of the City Code of Ordinances.

If you wish to have any witnesses subpoenaed, or if you have any other questions, please contact the office of the Special Magistrate Administrative Division within five (5) business days of this notice, at 727-363-9211.

PLEASE GOVERN YOURSELF ACCORDINGLY,

DATED 05/09/2023

A handwritten signature in black ink, appearing to read "Luis Cruz", is written over the printed name.

Luis Cruz
Code Enforcement Officer
CITY OF ST. PETE BEACH

ADVICE TO THE PUBLIC: Any party wishing to appeal a decision made with respect to any matter considered at the above Special Magistrate Hearing, will need a verbatim record of the proceedings, including the testimony and evidence, which record is not provided by the City of St. Pete Beach.

Persons with disabilities needing assistance to participate in any of these proceedings should contact City Hall at (727) 367-2735 no later than four (4) days prior to the meting for assistance.