

**BEFORE THE SPECIAL MAGISTRATE  
OF THE CITY OF DELTONA, FLORIDA**

CASE NO.: **DEL-22-087; DEL-22-088; DEL-22-090 MASSEY & DEL-14-178 Repeat of DEL-13-108 & DEL-12-105 Repeat of DEL-11-021**

**CITY OF DELTONA**, a municipal corporation of the State of Florida,

Petitioner,

vs.

**James Lynn Mars & Elizabeth A. Mars; James L. and Elizabeth A. Mars Revocable Trust  
779 Tulip Street  
Deltona, FL 32725-3517,**

Respondent.

Property Location: **779 Tulip Street, Deltona, FL 32725**

Parcel No: **813003430190**

Lien Reduction Requested by: **Carlos Antonio Henriquez-Monserrate**

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**RECOMMENDATION FOR PARTIAL REDUCTION OF LIEN(S)**

**THIS CAUSE** came to be reviewed and heard on September 25, 2024 upon the Respondent's application for release of lien in accordance with Section 2-156 of the Deltona City Code. The Respondent was present and did provide testimony. The Special Magistrate, having reviewed the application and having applied the factors codified under the City of Deltona Code, based upon the evidence and testimony presented at the hearing under oath, finds:

1. The property located at **779 Tulip Street, Deltona, FL 32725** ("Property") is currently owned by Carlos Antonio Henriquez-Monserrate. Mr. Monserrate acquired the Property on February 14, 2024 and has requested a release or reduction of the code enforcement liens that accrued as a result of violations that were not corrected by the prior owner(s) of the property.
2. James Lynn Mars & Elizabeth A. Mars, husband and wife, acquired the Property in February 2002 and then conveyed it to the James L. and Elizabeth A. Mars Revocable Trust in May 2008. On numerous occasions, the City's Special Magistrate found either James Lynn Mars & Elizabeth A. Mars or their Revocable Trust violated the City's Code. For ease of reference the prior owners are collectively referred to herein as "Mars." Specifically:

- In DEL 22-087, the Special Magistrate found Mars in violation of Section 18-5 of the City Code, adopting the latest edition of the International Property Maintenance Code, Section 304.7, which states the roof and flashing shall be sound and tight and not have defects that admit rain. The violation arose due to the roof being in disrepair. The Special Magistrate ordered Mars to correct the violation by May 27, 2022. The property remained in violation at the Massey Hearing on June 22, 2022, and the Special Magistrate issued an Order, recorded in the Volusia County Official Records, Book 8278, Page 1968. The property came into compliance on October 30, 2023. A total lien of **\$26,100.00** accrued as result of this violation.
- In DEL 22-088, the Special Magistrate found Mars in violation of Section 37-10 of the City Code, Public Nuisance, which states all blighted and distressed real properties are declared to be a public nuisance. The violation arose from the failure to dispose of or properly store household furniture, boxes, and junk inside an enclosed building. These items were stored in an unenclosed carport. The Special Magistrate ordered Mars to correct the violation by April 29, 2022. The property remained in violation at the Massey Hearing on May 25, 2022, and the Special Magistrate issued an Order, recorded in the Volusia County Official Records, Book 8272, Page 1235. The property came into compliance on October 30, 2022. A total lien of **\$37,000.00** accrued as result of this violation.
- In DEL 22-090, the Special Magistrate found Mars in violation of Section 18-5 of the City Code, adopting the latest edition of the International Property Maintenance Code, Section 302.7, which states all accessory structures, including detached garages, fences and walls, shall be maintained and kept in good repair and sound structural condition. The violation arose due a shed in disrepair. The Special Magistrate ordered Mars to correct the violation by May 4, 2022. The property remained in violation at the Massey Hearing on May 25, 2022, and the Special Magistrate issued an Order, recorded in the Volusia County Official Records, Book 8272, Page 1237. The property came into compliance on October 30, 2022. A total lien of **\$22,200.00** accrued as result of this violation.
- In DEL 14-178 (Repeat of DEL 13-108), the Special Magistrate found Mars in violation of Section 38-114 of the City Code, which states that furniture outside must be designed to be placed outdoors or stored inside a covered structure. In additional, storage of materials relating to residential use, children's play toys, firewood, brush, logs or any other material intended to be used in fireplaces or other permitted burning facilities, shall be permitted only in the rear yard to the rear wall of the home. The Special Magistrate ordered Mars to correct the violation and found that the Property remained in violation at the Massey Hearing on August 27, 2014. The Special Magistrate imposed a fine of \$50.00 per day, to be effective on June 24, 2014, to run until in compliance or a cap of \$20,000.00 was met. The Special Magistrate's Order is recorded in the Official Records of Volusia County, Book 7032, Page 1531. The lien capped out at **\$20,000.00**.
- In DEL 12-105 (Repeat of DEL 11-021), the Special Magistrate found Mars in violation of Section 38-110(2) of the City Code, which states that accumulation

of waste, yard trash, rubble and/or debris are declared to be a nuisance. The Special Magistrate ordered Mars to correct the violation and found that the Property remained in violation at the Massey Hearing on June 27, 2012. The Special Magistrate imposed a fine of \$100.00 per day, to be effective on May 17, 2012, to run until in compliance or a cap of \$20,000.00 was met. The Special Magistrate's Order is recorded in the Official Records of Volusia County, Book 6735, Page 2404. The lien capped out at **\$20,000.00**.

3. As of the September 25, 2024 hearing date on the lien reduction request, all violations were in compliance, having accrued a total of **\$125,300.00**.

4. Code Enforcement Officer Todd Meade testified that the City's cost of enforcement for all of the above cases totaled **\$10,266.44**. City staff requested the fine be reduced to **\$62,650**, half of the **\$125,300**.

5. Mr. Monserrate, an Army veteran and father of three children, testified that he purchased the Property knowing of the liens that had accrued. However, Mr. Monserrate continued with the purchase for a specific reason, which was to allow his elderly and infirm step-father and mother to live in the house next door to him so that he could better care for their health. Mr. Monserrate testified that his stepdad requires 24-hour a day care due to a stroke and an open-heart surgery, leaving him wheelchair bound and requiring speech and physical therapy. Mr. Monserrate stated that the realtor informed him that the house had outstanding fines but that they could formally request a reduction or forgiveness of the total owed to the Special Magistrate.

6. In accordance with section 162.09(3), Florida Statutes, once the Orders imposing liens was recorded against the 779 Tulip Street Property, the Orders constitute a lien not only against the land on which the violation exists but also "upon any other real or personal property owned by the violator." Elizabeth A. Mars, as Trustee of the James L. and Elizabeth A. Mars Revocable Trust, purchased property located at 1447 Eden Drive in Deltona, Florida, on February 24, 2020, pursuant to that Warranty Deed to Trustee, recorded in the Official Records of Volusia County at Book 7820, Page 2691. Accordingly, the liens are also imposed against the property located at 1447 Eden Drive, Deltona, FL 32738.

7. The Special Magistrate is required to make a recommendation on requests for a reduction of code enforcement liens. Pursuant to Section 2-165.03, the Special Magistrate must consider the following factors in making a recommendation:

- (a) The gravity of the violation;
- (b) The time in which it took the violator/property owner to come into compliance;
- (c) The accrued amount of the code enforcement fine or lien;
- (d) Any previous or subsequent code violations;

(e) Any financial hardship; and

(f) Any other mitigating circumstances which may warrant the reduction or satisfaction of the penalty or fine.

8. The Special Magistrate recommends the lien be reduced to **\$10,266.44 as to the 779 Tulip Street Property only**, which represents the costs the code enforcement department incurred in prosecuting the numerous cases above. The Special Magistrate finds that Mr. Monserrate did not create the conditions on the Property forming the basis for the code enforcement liens and that the mitigating circumstances related to Mr. Monserrate's family's medical needs warrant reduction of the fine. The partial reduction will ensure that the City recovers its costs related to the 779 Tulip Street Property.

9. To the extent allowed by law, the remainder of the lien not reduced should remain cross-attached to the property at 1447 Eden Drive in Deltona, Florida.

**NOW, THEREFORE**, the Special Magistrate Kristin Eick hereby makes a recommendation to the Deltona City Commission as required by Section 2-156 of the City Code to **approve the partial reduction of the lien to \$10,266.44 for only the property located at 779 Tulip Street, Deltona, FL 32725.**



Special Magistrate Kristin N. Eick

WITNESS my hand and official seal, this 22<sup>nd</sup> day of October, 2024



Notary Public, Renée Cairney

My Commission Expires: December 7, 2024

Seal



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing **RECOMMENDATION FOR REDUCTION OF LIEN(S)** has been furnished by mail to: **Carlos Antonio Henriquez-Monserrate, 779 Tulip Street, Deltona, FL 32725**, this 22<sup>nd</sup> day of October, 2024.



Renée Cairney, Hearing Clerk

**In accordance with Sec. 2-156.04, the City Clerk or designee shall place the application for reduction or releases of lien(s) on the agenda of the next regularly scheduled City Commission meeting. The City Commission has the sole authority to hear and decide requests for reduction or waiver of code enforcement fines/liens.**