

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA**

APPELLATE DIVISION

ANDREW WILFRED LEMAY,
PO Box 2240, Litchfield Park, AZ 85340

Petitioner,

v.

CASE NO. SMG 03-26-46
THE CITY OF DAYTONA BEACH
a Florida Municipal corporation,

Respondent.

_____ /

PETITION FOR CERTIORARI

Petitioner, ANDREW WILFRED LEMAY *pro se*, pursuant to Florida Rule of Appellate Procedure 9.100, petitions this Court for a Writ of Certiorari to review Respondent's Case No. SMG 03-26-46 and quash the:

- 1) "Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine", rendered following the April 14, 2026 Hearing; and
- 2) "Order Denying Respondent's Motion to Vacate the Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of a Fine Dated April 10, 2026", rendered following the May 12, 2026 Hearing.

This Petition is based, in part, upon violations of Petitioner's constitutional right to procedural due process under the Fourteenth Amendment to the United States Constitution and Article 1, Section 9 of the Florida Constitution, including insufficient and improper service, inadequate notice, lack of meaningful opportunity to be heard, enforcement of an ordinance that is unconstitutionally vague, and failure to inform Petitioner of the right to appeal.

Petitioner requests the reviewing court:

1. Issue a Writ of Certiorari
2. Stay enforcement pending review;
3. Vacate the "Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine";
4. Prohibit and remove the imposed fine of Five Thousand (\$5,000) Dollars arising from the Order;
5. Prohibit and remove the imposed lien arising from the Order;
6. Vacate the "Order Denying Respondent's Motion to Vacate the Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of a Fine Dated April 10, 2026";
7. Dismiss the alleged violations with prejudice;
8. Order Respondent to repay all associated court costs incurred upon Petitioner¹.

¹ Florida Statute 57.041: https://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0061/Sections/0061.16.html

Respectfully submitted,

ANDREW WILFRED LEMAY

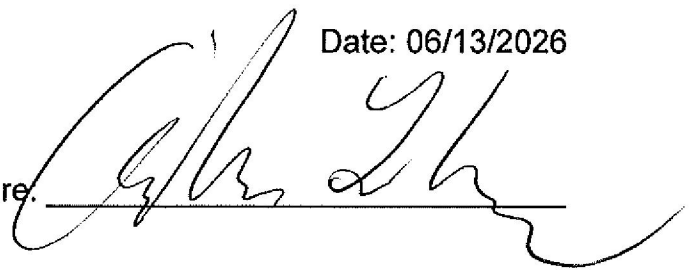
PO Box 2240

Litchfield Park, AZ 85340

Petitioner, Pro Se

Date: 06/13/2026

Signature. _____

A handwritten signature in black ink, appearing to read 'Andrew Wilfred Lemay', is written over a horizontal line. The signature is stylized with large, flowing letters and a long, sweeping underline that extends to the right.

PETITIONER STATEMENT / BASIS FOR CERTIORARI

I. STATEMENT OF THE CASE

This Petition arises from the February 20th ORDER that usurps the City's original verified, certified, notarized affidavits and sworn testimony stating Petitioner violated "Article 3, Section 4.S.1." with the Magistrate's new violation of "Article 3, Section 3.4. S.1". In addition to finding the new violation as fact, the Magistrate Ordered a fine of Five Thousand (\$5,000) Dollars, and Ordered a lien against Petitioner's property based on the new violation. At no point has Petitioner received notice for Article 3, Section 3.4, S.1 violation, which is itself a violation of Petitioner's 5th and 14th Amendment rights to procedural due process.

II. JURISDICTION

This Court has jurisdiction pursuant to Article V, Section 5(b) of the Florida Constitution and Rule 9.100, Florida Rules of Appellate Procedure. The Orders under review constitutes a final quasi-judicial action of a local governmental body.

III. PARTIES

a) Now Petitioner, Andrew Wilfred Lemay; was the Respondent in the proceedings below.

b) Now Respondent, City of Daytona Beach, Florida; was the Petitioner in the proceedings below.

IV. FACTS

- 1) On February 17, 2026, Respondent delivered a sworn, signed, and notarized affidavit for Notice of Violation to the Petitioner citing: "Article 3, Sec. 4.S.1." ².
- 2) From February 17 to April 14 of 2026, every sworn, signed, and notarized document from Respondent stated Petitioner violated: *Article 3, Section 4, S 1*.
- 3) On April 14, 2026 at the Special Magistrate Hearing, the City swore: "The case before you concerns a significant violation of **Article 3, Section 4. S. 1** at 254 Jefferson Street" ³.
- 4) To date, no party has been able to locate LDC *Article 3, Section 4, S 1* online or off.
- 5) On April 20, 2026, with a witness, the Daytona Beach Special Magistrate signed and entered an "Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine" against Petitioner in Case No. SMG 03-23-46 for violating "LDC Art.3, Sec.3.4.S.1" ⁴.
- 6) The Order is the first document accusing Petitioner of violating the Land Development Code *Article 3, Section 3.4, S, 1*.
- 7) The Order imposed a Five Thousand Dollar (\$5,000.00) fine against our Petitioner and imposed a lien against his property.
- 8) On April 28th, 2026, Petitioner filed a "Motion to Vacate Order of Non-Compliance and Imposition of Fine Based on Void-For-Vagueness Doctrine and to Preserve Appellate Rights."

² See Exhibit A: Notice of Violation

³ See Exhibit B: Special Magistrate Hearing April 14, 2026 - Transcript, p.2 @ 02:29:40.

⁴ See Exhibit C: April 20, 2026 - Order

9) On May 12, 2026, at the Hearing our Petitioner first argues: "I was never actually properly served for article 3, section 3.4, S 1." ⁵

10) At the Hearing, Petitioner motions the Special Magistrate "to vacate the April 14th, 2026 order and find the proceedings null and **void for improper service** of the alleged violation of the City Land Development Code, Article 3, section 3.4, S.1; granting all relief requested in [Petitioner's] April 28th motion to vacate." ⁶

11) At the Hearing, Petitioner asks the Special Magistrate: "What ordinance am I fighting ... article 3, section 4, S 1, or ... article 3, section 3.4, S 1?" ⁷

12) At the Hearing, the Special Magistrate answered no questions.

13) On May 14, 2026, absent either violation, Respondent filed an "Order denying Respondent's Motion to Vacate the Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of a Fine Dated April 20, 2026" ⁸.

V. GROUNDS FOR PETITION

A: VIOLATION OF PROCEDURAL DUE PROCESS

The Order should be vacated because Petitioner was deprived of procedural due process guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Florida Constitution.

Due process requires:

1. Proper notice;

⁵ See Exhibit D: Special Magistrate Hearing May 12, 2026 - Transcript, p.4, @ 02:54:20.

⁶ See Exhibit D: Special Magistrate Hearing May 12, 2026 - Transcript, p.8, @ 02:59:40.

⁷ See Exhibit D: Special Magistrate Hearing May 12, 2026 - Transcript, p.8, @ 03:00:37.

⁸ See Exhibit E: May 14, 2026 - Order

2. Meaningful opportunity to be heard; and
3. Fair and impartial proceedings.

Respondent failed to provide constitutionally adequate service and notice reasonably calculated to apprise Petitioner of the proceedings and alleged violations for "Article 3, Section 3.4. S.1". Any order entered without proper notice is fundamentally defective and subject to vacatur. Florida courts consistently hold that defective service deprives a tribunal of jurisdiction and renders resulting orders null and void.

B: IMPROPER SERVICE

The record reflects at no point was the Petitioner given notice nor aware of the Special Magistrate's new violation of LDC "Article 3, Section 3.4. S.1" until after the Special Magistrate's April 20, 2026 Order was created. Notices of Violations sent to Petitioner were verified, certified, notarized and sworn for the ordinance "Article 3, Section 4.S.1." which is a void, invalid and un-enforceable law failing to satisfy constitutional standards and applicable procedural requirements.

Where service is defective:

1. Jurisdiction is lacking;
2. Due Process is violated; and
3. Enforcement orders cannot stand.

Because the proceedings moved forward without valid service and meaningful notice, the resulting Orders are null and void or voidable as a matter of law.

C: VOID-FOR-VAGUENESS DOCTRINE

The City's original verified, certified, notarized affidavits and sworn testimony claiming Respondent violated the non-existent ordinance "Article 3, Section 4.S.1." is non-enforceable; but the Special Magistrate's new un-noticed ordinance violation of "Article 3, Section 3.4.S.1" is too general and fails to provide clear standards sufficient to inform ordinary persons of exactly what conduct is prohibited.

A law is unconstitutionally vague when:

1. Persons of common intelligence must guess at its meaning; or
2. Enforcement is left to arbitrary or discriminatory interpretation.

D: LACK OF COMPETENT SUBSTANTIAL EVIDENCE

The findings and fines imposed were not supported by competent substantial evidence demonstrating:

1. A clearly defined violation;
2. Proper Notice;
3. Lawful Enforcement Procedures; and
4. Jurisdictionally valid proceedings.

VI. ORDERS TO BE REVIEWED:

1) "Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine", rendered following the April 14, 2026 Hearing; and

2) "Order Denying Respondent's Motion to Vacate the Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of a Fine Dated April 10, 2026", rendered following the May 12, 2026 Hearing.

VII: RELIEF REQUESTED

Petitioner respectfully requests the reviewing court:

1. Issue a Writ of Certiorari to Respondent;
2. Order a stay enforcement pending review;
3. Reverse and vacate both Orders above;
4. Order Respondent to Vacate all fines, imposed liens, and penalties arising from the Orders above;
5. Dismiss the alleged violations with prejudice;
6. Order Respondent to repay all associated court costs incurred upon Petitioner⁹ as the court sees fit.

⁹ Florida Statute 57.041: https://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0061/Sections/0061.16.html

INDEX:

The documents attached coincide with the header under "**IV. FACTS**" above and are listed by Exhibit and document title.

Fact 1: Exhibit A: Notice of Violation (2 pages)

Fact 3: Exhibit B: Special Magistrate Hearing: April 14, 2026 – Transcript (8 pages)

Fact 5: Exhibit C: April 20, 2026: Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine (1 page)

Fact 5, 6, 7: Exhibit D: Special Magistrate Hearing: May 12, 2026 – Transcript (9 pages)

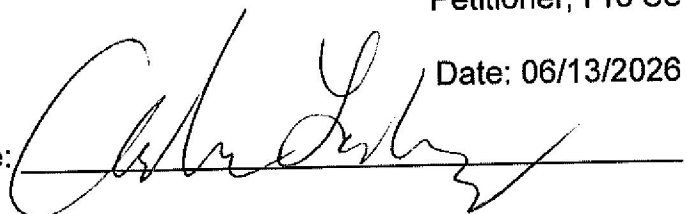
Fact 13: Exhibit E: May 14, 2026: Order Denying Respondent's Motion to Vacate the Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of a Fine Dated April 20, 2026 (1 page)

Respectfully submitted,

ANDREW WILFRED LEMAY
PO Box 2240
Litchfield Park, AZ 85340
Petitioner, Pro Se

Date: 06/13/2026

Signature: _____

A handwritten signature in black ink, appearing to read "Andrew Lemay", is written over a horizontal line. The signature is fluid and cursive.

EXHIBIT

A

THE CITY OF DAYTONA BEACH, FLORIDA
SPECIAL MAGISTRATE/CODE ENFORCEMENT BOARD PROCEEDING

THE CITY OF DAYTONA BEACH
A Florida municipal corporation,
Petitioner

CASE NO: VL2026-0020

Vs.

LEMAY ANDREW WILFRED
PO BOX 2240
LITCHFIELD PARK, AZ 85340

Respondent(s) /

NOTICE OF VIOLATION

Pursuant to Chapter 162, Florida Statutes, The Land Development Code and City Codes and/or Ordinances, the City of Daytona Beach, Florida, hereby notifies you of the following violation(s): Art 9 Sec 9.2.A Intl Property Main Code Adopted. The International Property Maintenance Code, most recent edition, with local amendments as set forth in subsection B below, is hereby adopted as a supplement to the Florida Building Code.

Property Location: 254 Jefferson St (Parcel ID: 533882000330)

Violation(s)

- Article 3, Sec. 4.S.1. - General. | Failure to obtain a permit for removal of Oak tree.

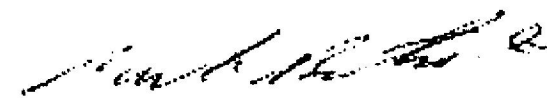
Date of Violator First Notified of Violation: 02/11/2026

Date of Inspection Date: 2/6/2026

RESULTS OF INSPECTION: Irreparable/Irreversible

I HEREBY SWEAR the above facts are true to the best of my knowledge and that the aforesaid violation should be referred to the Special Magistrate/Code Enforcement Board for a public hearing on this matter.

Sincerely,



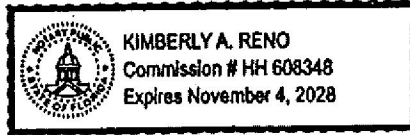
Mark E Bostwick
Daytona Beach Police department Code Division
(386) 671-8169
bostwickmark@daytonabeach.gov

THE CITY OF DAYTONA BEACH, FLORIDA
SPECIAL MAGISTRATE/CODE ENFORCEMENT BOARD PROCEEDING

CASE NO: VL2026-0020

PERSONALLY APPEARED before me, the undersigned authority, Mark E Bostwick , who is personally known to me, and acknowledged that he or she did execute the foregoing Affidavit. SWORN TO AND SUBSCRIBED before me this 17th day of February, 2026

Kimberly A. Reno
Notary Public, State of Florida
My commission expires:



EXHIBIT

B

Special Magistrate Hearing: April 14, 2026:

TRANSCRIPT:

Transcribed from the Official YouTube channel of Daytona Beach:

<https://www.youtube.com/watch?v=1sRQh5I3u-Q&list=PLuX7ZFsjN02DN9nxq5LbQOhn6BhC0fQFn&index=2>

Shortened URL with time stamp:

<https://tinyurl.com/SMG03-26-46>

SPECIAL MAGISTRATE:	Honorable David A. Vukelja
RESPONDENT:	Andrew Wilfred LeMay
THE CITY:	Inspector Mark E. Bostwick
ASSISTANT CITY ATTORNEY:	Melissa Diaz

----- START -----

02:28:40 SPECIAL MAGISTRATE:

Case number 34, Andrew Wilfred LeMay. And we have a Zoom attendee for this one. Yes, sir. If you would please state your name and be sworn.

02:28:54 RESPONDENT:

Andrew Wilfred LeMay

02:28:58 COURT REPORTER

Your right hand. You swear from the testimony you're about to provide is the truth, the whole truth, nothing but the truth.

02:29:03 RESPONDENT:

I do.

02:29:04 COURT REPORTER:

Thank you.

02:29:08 SPECIAL MAGISTRATE

All right. We have an irreparable, irreversible violation. So, for starters, are you Mr. LeMay?

02:29:28 RESPONDENT:

Yes, sir.

02:29:29 SPECIAL MAGISTRATE:

And did you obtain a permit to remove the oak tree?

02:29:32 RESPONDENT:

No, I did not. It wasn't necessary.

02:29:36 SPECIAL MAGISTRATE:

Okay. All right, then. Let's hear from the city.

02:29:40 THE CITY:

All right. The case before you concerns a significant violation of Article 3, Section 4. S. 1 at 254 Jefferson Street failure to obtain a required permit prior to the removal of a oak tree. Under the land development code article 6, section 6, any tree removal requires a separate permit and specific

measures must be taken to preserve those not authorized for removal. Furthermore, the code dictates that all site activity including, demolition, must be conducted to minimize adverse impacts like sedimentation, erosion, wind-blown dust to adjacent lands. All right. The initial violation um took place on February 6th of 2026. The first official notification was on February 11th of 2026. Prior was posted. Um the city contends that the removal of this historic tree is is irreversible and irreparable due to the willful nature of the removal and the irreparable damage, staff recommends the imposition of a onetime fine in the amount of 15,000.

02:30:52 ASSISTANT CITY ATTORNEY:

I have a quick procedural thing. Uh the Respondent emailed today like 7 in the morning some exhibits.

02:31:00 THE CITY

Last night at 7 o'clock.

02:31:01 ASSISTANT CITY ATTORNEY:

Yeah. Uh, uh, so I just wanted to hand this to you on his behalf. But we can't authenticate or verify them. We are just passing them off as due process for the Respondent. Do you have any objections?

02:31:23 THE CITY:

No.

02:31:27 SPECIAL MAGISTRATE:

All right. So, what was the process that the Respondent was supposed to follow if he wanted to remove this tree?

02:31:34 THE CITY:

He needed to hire an arborist. Okay. An arborist need to sign off that this tree was dead errr or for whatever reason and then they would need to go down to the permit office and apply. None of that was done.

02:31:50 SPECIAL MAGISTRATE:

And when it comes to trees such as this, what are permissible reasons for their removal?

02:31:54 THE CITY:

The only way that a oak tree can be removed if is if it's dead.

02:32:00 ASSISTANT CITY ATTORNEY:

Yeah. There's also a state statute that doesn't apply in this case that would also allow him to remove the tree without a permit if he gets the licensed um lands uh licensed landscape architect or a certified arborist to determine that the tree poses a danger to persons or property um and that that wasn't obtained to our knowledge.

02:32:21 SPECIAL MAGISTRATE:

Okay. All right. What say Mr. LeMay?

02:32:27 RESPONDENT:

Um, uh, the city claims that there, it was a historic tree um under article 6 section 15 A5 B um it is um has to be deemed, I'm sorry article 6 15 A7 A2 an existing tree of any specific uh species with a diameter at breast height of 36 inches or greater that the city commission determines to be unique or intrinsic value to the general public because of its size age historic association or ecological value. Um the city actually owned the land, it was turned over to them um due to um I believe they have 11 liens on the property. I had to pay \$1,900 dollars uh in January to clear those liens. They were between the um years of 2013 and 2018 Um, I sent in exhibits, that would be exhibits J. Um and uh it was since it was in the cities they owned it. At no point has anyone presented to me that the city did anything to say that that tree was a historic tree. They didn't do a survey. They didn't do uh anything to say that tree is historic or to claim it's, they're claiming it's historic, but there is no paperwork involved. Um I purchased the property. Uh, I only have 30 feet of frontage. Um, according to article 615 A5B for single family and duplex development, it has to be at least one tree for every 40 linear feet and I only have 30 linear feet. For some reason, I don't know why, um there is only 30 on my property and the property south has 50 feet. So, I don't feel that um the tree is necessary, historic, or that I needed a permit to even take it out.

02:34:38 SPECIAL MAGISTRATE:

Why did you remove it?

02:34:40 RESPONDENT:

Uh cuz I don't have enough land to make a parking... parking structure. There's no there's only 30 feet of land. I only have I think it's 2900 square feet and it's dead set right in the middle of the property. I can't I can't park anything. It has to I can't because if it's all the way to the right it goes basically it would have they had they would have run into the house and if it goes all the way to the left I'm getting into my neighbor's property. I'd already talked to the house owner and he was okay with me doing that. Uh I had looked at the area. I you see that last picture, um I believe that was in um the city actually had sent uh a uh uh lien for that and they didn't do a survey when they took out any of the trees. So, looking at that and saying, okay if the city isn't going to abide by their own rules, you know, I did my best in and recently purchasing the property, I feel that I by making the property a valid parking area, well, I haven't, as you can see in my most recent I think it's I sent them last night to it's exhibit L. That's the most recent, I talked to Inspector Bostwick. He said that I needed to have no parking signs up.

I put four no parking signs up. I put bushes in the front. I have, you know, nice landscaping. I have an egress towards it's not going to...

02:36:16 ASSISTANT CITY ATTORNEY

We're objecting to relevance.

02:36:21 SPECIAL MAGISTRATE

Hey, I'm lost. What? So, you have a piece of property that only had 30 feet of frontage.

02:36:26 RESPONDENT

Yes, sir.

02:36:28 SPECIAL MAGISTRATE

What were you going to use the property for?

02:36:29 RESPONDENT

Uh well the city wants me to do they said for parking RL5 or RD5 it's a redevelopment zone and so they're hoping they, according to the redevelopment zone they approved parking.

02:36:43 SPECIAL MAGISTRATE

Parking for what?

02:36:45 RESPONDENT

Cars. There's a ah uh Bathune-Cook College is right next to it so they're looking for parking I believe. So you have Bathune-Cook College there I think you have Bathune Grill is next to it there's it's a redevelopment zone. If you look north of that picture, Bathune-Cook Grille is there. Uh, I had a local, uh a local tree guy. He took it out. So, I'm in Phoenix, Arizona. I've done, I've personally done no work on there, I've only um I've only employed people from Daytona.

02:37:22 SPECIAL MAGISTRATE

I mean, did you have a site plan or some sort of a parking facility on this location?

02:37:26 RESPONDENT

I have nothing at the moment. There's, there's I, I have to go through the city to get it zoned parking. But they've already they've already uh said that it's a redevelopment zone and they had they put parking on the redevelopment designs and so they have plans, they want it to be parking. So, I still, I'm still waiting to get a hold of the the city planner. I keep reaching to them, but I can't I keep missing them. So, um, I just need to, it's currently zoned as a vacant lot. I put up the no parking signs like Inspector Bostwick asked.

02:37:59 ASSISTANT CITY ATTORNEY

So, again, objection to relevance. It's not relevant to the cited violation of removing the tree without a permit.

02:38:08 SPECIAL MAGISTRATE

I'm still trying to understand why you cut the tree down? In this day and age, you should now you don't just go around cutting trees down anymore. They're saf... (RESPONDENT – unintelligible), Huh?

02:38:16 RESPONDENT

I mean, at what at what point does it become a historic tree? It's just a...

02:38:23 THE CITY

It's an oak tree.

02:38:23 RESPONDENT

It's just a tree.

02:38:25 THE CITY

Oak trees require a permit in the state of Florida for removal.

02:38:30 RESPONDENT

Yes, sir. But you claim it was a historic tree? It was in the city's purview.

02:38:37 THE CITY

Also, Mr. Vukelja, let me clear up a couple things. These liens that the liens that he paid were called lot clearance liens. Okay? The city never owned that lot, ok. The city used to go out there and clean those lots, you know, back in the day. So...

02:38:49 RESPONDENT

So, the city cleaned the lot?

02:38:52 THE CITY

The city cleaned those lots because the previous owners were not maintaining the lot. Okay.

02:38:56 RESPONDENT

Okay.

02:38:56 THE CITY

So, that is what he paid.

02:38:59 RESPONDENT

Did you get a permit to clean the lot?

02:39:00 SPECIAL MAGISTRATE

All right. Hold on a second. Madam Attorney, is there any merit to these statutes that he's arguing somehow disqualify me from?

02:39:08 ASSISTANT CITY ATTORNEY

I don't believe he's citing a statute because the only state statute that would apply is 163.045, but that doesn't apply here because he didn't claim the different unacceptable risk. So, state statutes don't govern. It would be our local code that governs and land development code. As our inspector already testified, he needed a permit. He didn't obtain one. I don't know what he's talking about, about us having to deem it an historical tree. Oak trees are by their nature uh deemed uh trees that require a permit. um as the inspector said, everything else is irrelevant. We're only here for the citation of the irreparable and irreversible of the removal of the tree.

02:39:48 RESPONDENT

Okay, did the did you look at exhibit D, did the state get a permit to remove the oak tree that's there? There's currently a small oak tree in, there was in exhibit D from September of 2017 provided by the city of Daytona Beach. You look there's a...

02:40:09 ASSISTANT CITY ATTORNEY

It's not relevant to his violation.

02:40:10 THE CITY

Mr. Vukelja the pictures that I have, um, on file shows the history from starting back in 2017, that's the...

02:40:18 RESPONDENT

Right there! That's the picture right there.

02:40:19 SPECIAL MAGISTRATE

Okay. I'm done.

02:40:21 THE CITY

That's the picture...

02:40:21 **SPECIAL MAGISTRATE**

I fine that the Respondent's in violation. Uh, I find that the damage is irreparable and irreversible and I'm finding the Respondent the sum of \$5,000. Okay.

02:40:34 **THE CITY**

Thank you, sir.

-----END-----

EXHIBIT

C

THE CITY OF DAYTONA BEACH, FLORIDA
SPECIAL MAGISTRATE PROCEEDING

THE CITY OF DAYTONA BEACH
a Florida municipal corporation,
Petitioner

CASE NO.: SMG 03-26-46

vs.

Andrew Wilfred Lemay
Po Box 2240
Litchfield Park, AZ 85340

Respondent(s) _____/

**ORDER OF NON-COMPLIANCE AND FINDING OF IRREPARABLE AND
IRREVERSIBLE VIOLATION AND IMPOSITION OF FINE**

THIS CAUSE came for a public hearing before the Daytona Beach Special Magistrate on April 14, 2026, after due notice to Respondent(s), at which time the Special Magistrate heard testimony under oath, received evidence, and issued his Findings of Fact and Conclusions of Law and thereupon issued his Order as follows:

FINDING OF FACT

Based on testimony taken under oath on April 14, 2026, the Respondent was found to have violated LDC Art. 3 Sec. 3.4.S.1 by Failure to obtain a permit for removal of Oak tree. and the Special Magistrate found that the violation was irreparable and irreversible in nature.

CONCLUSIONS OF LAW

The findings of fact constitute violations of LDC Art. 3 Sec. 3.4.S.1 of the City of Daytona Beach.

ORDER

THAT BASED ON THE FOREGOING PREMISES AND BY THE AUTHORITY OF SECTION 162.09, Florida Statutes, and Article 2, Section 2.8 of the Daytona Beach Land Development Code:

IT IS HEREBY ORDERED, the Respondent, Andrew Wilfred Lemay, must pay to the City of Daytona Beach, a fine in the amount of Five Thousand (\$5,000.00) Dollars for violation of Art. 3 Sec. 3.4.S.1 by Failure to obtain a permit for removal of Oak tree., within thirty (30) days from the date of this order. This Order shall be recorded in the Official Records of the Clerk of the Circuit Court in Volusia County, Florida, and such recordation shall constitute a lien against the Respondent's real or personal property in Volusia County, Florida, said property to include that described as follows, to wit:

38-15-33 N 30 FT OF LOT 33 WATSON SUB MB 8 PG 161 EXC 100% SUBSURFACE RIGHTS PER OR 4765 PG 0803 PER OR 5692 PG 0042 PER OR 6106 PGS 3254-3256 PER OR 8496 PG 0828 PER OR 8801 PG 2487. of the Public Records of Volusia County, Florida

254 Jefferson St, Daytona Beach, Florida

SHORT PARCEL ID # 5338-82-00-0330

FOR ANY REPEAT VIOLATION, RESPONDENT(S) WILL BE RETURNED TO A SUBSEQUENT MEETING FOR CONSIDERATION OF A FINE UP TO FIFTEEN THOUSAND (\$15,000.00) DOLLARS PER OCCURANCE.

DONE AND ORDERED this 03rd day of April, 2026 at Daytona Beach, County of Volusia, Florida.

DAYTONA BEACH SPECIAL MAGISTRATE

By: _____

David A. Vukelja

Attest: _____

Kimberly A. Reno, Secretary

EXHIBIT

D

Special Magistrate Hearing: MAY 12, 2026:

Continuation of CASE #: SMG 03-26-46

TRANSCRIPT:

Transcribed from the Official YouTube channel of Daytona Beach:
<https://www.youtube.com/live/bFqHF2yBlkQ?t=10055s>

Shortened URL with time stamp:
<https://tinyurl.com/SMG03-26-46C>

SPECIAL MAGISTRATE:	Honorable David A. Vukelja
RESPONDENT:	Andrew Wilfred LeMay
THE CITY:	Inspector Mark E. Bostwick
ASSISTANT CITY ATTORNEY:	Melissa Diaz

----- START -----

02:47:35 SPECIAL MAGISTRATE:

Okay. Do we have any other business to be brought before the Special Magistrate? Oh yes miscellaneous, what's miscellaneous?

02:47:48 ASSISTANT CITY ATTORNEY:

You here in person? Oh, you want...

02:47:53 SPECIAL MAGISTRATE:

Request for board action?

02:47:58 ASSISTANT CITY ATTORNEY:

I have um...

02:48:02 COURT REPORTER:

Wait till we call...

02:48:11 SPECIAL MAGISTRATE:

Do we have a motion to vacate process?

02:48:16 ASSISTANT CITY ATTORNEY:

Yeah, and once this case is called, I have something to enter into the record as well. He did file a motion. (in audible) I guess.

02:49:10 SPECIAL MAGISTRATE:

All right. Well, now that I've read the A.I. motion, what am I supposed to do with it?

02:49:15 ASSISTANT CITY ATTORNEY:

Um, the City uh I have a mo... the city motions to enter into the record a copy of this. I had a copy for the Respondent, but he's not here. It's a copy of my written statement uh opening statement, a copy of the notice. That's Exhibit 1; and then Exhibit 2 is a copy of the definition section of our land development code. If, I motion to enter into the record. I have a copy for the Clerk. Um and I can read it into the record whenever you're ready.

02:49:50 SPECIAL MAGISTRATE:

Go right ahead. Well, first off, do we...

02:49:55 COURT REPORTER:

Yea, I need to swear him in. State your name for the record, please.

02:49:58 RESPONDENT:

Oh, you got I'm sorry. Uh, Andrew LeMay.

02:50:05 COURT REPORTER:

Raise your right hand. Do you swear and affirm the testimony you're about to provide is the truth, the whole truth, nothing but the truth?

02:50:12 RESPONDENT:

I do.

02:50:13 SPECIAL MAGISTRATE:

All right, we are here... to hear the Respondent's Motion to Vacate my finding of an irreparable and irreversible fine. And with that, we have the written motion to vacate submitted by the Respondent which I've reviewed and we will proceed with the City's presentation. Then we'll hear from the Respondent and go from there. All right. So, what say the City?

02:50:54 ASSISTANT CITY ATTORNEY:

Uh good morning. Um, the Respondent in his motion to vacate is claiming that the five thousand dollar fine and the land development code section 3.4, S 1 violation against him should be dismissed for vagueness. However, in consideration in considering due process, a law is not vague if the law gives a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by statute. I want to note that I use the case that he cited in his brief. I don't necessarily think that that's the most on point case, um, but for fairness sake, I'm using the law that he cited... here, but it is applicable. I would have just used a different one from this circuit. Um, saying the same thing. Here, the land development code section 3.4, S 1 states that a building permit is required before construction. This language is also listed in the noticed violation which is City Exhibit A, uh dated February 10th, 2026 that the Respondent received via certified mail. The land development code section 11.5 defines construction as the erection of any structure or any preparations including land disturbing activities for the same. [02:52:10] The Respondent violated these provisions by clearing the land, removing an oak tree, and preparing the property for construction of a parking lot or whatever he was building there without first obtaining the required building permit. Unlike an impermissibly vague ordinance that leaves enforcement to subjective interpretation, the code here contains objective standards that clearly identify and define when a permit is required and what activities constitute construction. A person of ordinary intelligence would understand that clearing land and performing site preparation activities for a future construction constitutes preparations and land disturbing activities related to construction as defined under our code. Accordingly, the land development code provides fair notice of the prohibited conduct and is not

unconstitutionally vague. [02:52:58] Moreover, it is a long-standing principle of law that ignorance of the law does not excuse non-compliance. This is Reason V. Motorola. Uh, ignorance of the law is not an excuse and does not constitute good cause for failure to comply with the law. Florida courts consistently hold that individuals are on a constructive notice of duly enacted ordinances and are presumed to know their contents. In town of Fort Lauderdale by the Sea verses Meritzky, the court held the property owners were on constructive notice of the contents of the ordinance and are presumed to have constructive knowledge of the nature and the extent of the powers of the governmental agency who issue permits. And then also citing Amnos v. Okeechobee City uh County. Accordingly, the Respondent was on constructive notice of land development code section 3.4, S 1 by virtue of its publication and bound to follow its mandate. That's all. Thank you.

02:54:26 SPECIAL MAGISTRATE: [Jump Link: <https://tinyurl.com/SMG03-26-46D>]

All right. What say the Respondent?

02:54:29 RESPONDENT:

Um, the assistant attorney general general talks about um or uh she talks about uh due process. Um, I was never actually properly served for article 3, section 3.4, S 1.

02:54:47 ASSISTANT CITY ATTORNEY:

You were served via certified mail as uh required by uh chapter 162 of Florida Statutes.

02:54:52 RESPONDENT:

If you could please see um, if you could please see Exhibit K.

02:54:59 ASSISTANT CITY ATTORNEY:

One second.

02:55:03 THE CITY:

Mr. Vukelja this property was posted on February 11th, 2026. City Hall was posted on February 11, 2026. And the Respondent was um sent a general letter and also a certified letter.

02:55:16 SPECIAL MAGISTRATE:

I assume you sent the notice of violation.

02:55:19 THE CITY:

Yes, sir.

02:55:20 SPECIAL MAGISTRATE:

It specifically mentions article 3, section 4, S 1.

02:55:23 RESPONDENT:

Yes, it does. It does not mention article 3, section 3.4, S 1.

02:55:32 SPECIAL MAGISTRATE:

Article 3, section 4, S 1. Article 3, section 4, S.1.

02:55:38 ASSISTANT CITY ATTORNEY:

The notice of violation does include that, what is he saying?

02:55:40 SPECIAL MAGISTRATE:

I don't know.

02:55:42 ASSISTANT CITY ATTORNEY:

Uh, it's if you look at City's exhibit um it's article 3, 4, S 1. It's listed on the notice.

02:55:52 RESPONDENT:

Article 3, section 4, S 1 does not exist.

02:55:56 ASSISTANT CITY ATTORNEY:

Okay.

02:55:57 RESPONDENT:

It cannot be found online.

02:56:00 ASSISTANT CITY ATTORNEY:

This is a citation thing. When you go to...

02:56:02 RESPONDENT:

I am a man of ordinary intelligence. I'm a bartender in Phoenix, Arizona. When you say article 3, section 4, S 1; that's the charge... yes.

02:56:13 ASSISTANT CITY ATTORNEY:

Yes. Section four of Article three. This is, this is uh...

02:56:19 RESPONDENT:

There is no such article.

02:56:21 ASSISTANT CITY ATTORNEY:

I will pull it up.

02:56:23 RESPONDENT:

Article 3, section 4, S 1 does not exist. Article 3, section 3.4, S 1 does exist.

02:56:29 ASSISTANT CITY ATTORNEY:

That's the problem with the citation for the...

02:56:34 RESPONDENT:

Well, it says here I contacted Inspector Bostwick twice. He said look at your initial, he told me to look at...

02:56:45 ASSISTANT CITY ATTORNEY:

So since the Respondent isn't here in person, I can't show him, but I can show the magistrate. So...

02:56:50 RESPONDENT:

What do you mean the Respondent, I am the Respondent.

02:56:53 ASSISTANT CITY ATTORNEY:

I'm not present. So I can't really show you my screen. So I'm going to show the Respondent... um, the the magistrate. I mean so blue book citation for the development code is to site article three and then here is section four of article three and go all the way past. Here. So even if he couldn't get to it himself he copied and pasted it.

[Jump Link: <https://www.youtube.com/live/bFqHF2yBIkQ?si=YYNsn79YjFM9pmC>]

02:57:21 SPECIAL MAGISTRATE:

Scroll down to where it says building permits are approved and issued by city staff.

02:57:46 ASSISTANT CITY ATTORNEY:

So, also this is directly copy and paste in full into the violation. Someone of ordinary intelligence could have gone to article three, seen the bottom number four, went to S 1.

02:58:03 SPECIAL MAGISTRATE:

Okay.

02:58:05 RESPONDENT:

The second notice of violation also states article 3, section 4, S 1. Which is, which is, Kimberly A. Reno basically signed as well.

02:58:23 SPECIAL MAGISTRATE:

Okay. Anything else?

02:58:25 RESPONDENT:

Uh, I'm looking at the conclusion of law and facts. It says article 3, section 3.4, S.1 .

02:58:35 ASSISTANT CITY ATTORNEY:

I'm sorry, where are you reading? Is it in your...

02:58:38 RESPONDENT:

The... I am reading, if you look at Exhibit N, which is the order of non-compliance finding of irreparable and irreversible violation and imposition of fine. It says that I have violated article 3, section 3.4, S.1 . This is the first time that I've ever been given that violation, which is a violation of my due process. How am I supposed to know?

02:59:09 ASSISTANT CITY ATTORNEY:

Can you give me a copy of that? Thank you, I don't have it in front of me. This is, this is semantics. This is at best a scrivener's error.

02:59:23 RESPONDENT:

No, that's not semantics. I'm a person of ordinary intelligence. I'm a bartender.

02:59:28 ASSISTANT CITY ATTORNEY:

At best, I would argue the scrivener's error. We copied and pasted the code verbatim. If he even bothered to open the code, he would have found it.

02:59:36 RESPONDENT:

There's no such code.

02:59:38 ASSISTANT CITY ATTORNEY:

Try. So I...

02:59:40 RESPONDENT [Jump Link: <https://tinyurl.com/SMG03-26-46E>]

I motion this court to vacate the April 14th, 2026 order and find the proceedings null and void for improper service of the alleged violation of the City Land Development Code, Article 3, section 3.4, S.1; granting all relief requested in Respondent's April 28th motion to vacate.

03:00:03 ASSISTANT CITY ATTORNEY:

So in the argument that he is a person of ordinary intelligence and couldn't, you know, wasn't, you know, he's arguing he's a bartender and couldn't understand this, he did put together a well prepared motion, exhibits. Um, if he would have even bothered to look at the land development code, he would have seen that there's four sections and he would have seen the verbatim text that we copied into the notice. I don't know how clear we could have been.

03:00:27 RESPONDENT

Not clear enough.

03:00:30 SPECIAL MAGISTRATE:

Anything further?

03:00:33 RESPONDENT

Come again?

03:00:35 SPECIAL MAGISTRATE:

Anything further?

03:00:37 RESPONDENT:

Uh, what am I, what law, what ordinance am I fighting? Am I fighting article 3, section 4, S 1 or am I fighting article 3, section 3.4, S 1?

03:00:48 SPECIAL MAGISTRATE:

Okay. The motion to vacate is denied.

03:00:52 THE CITY

Thank you, sir.

03:00:53 THE RESPONDENT

Could you please extrapolate why, for the, for the appeal?

03:00:56 SPECIAL MAGISTRATE:

Have a good day, sir. We're done.

-----END-----

EXHIBIT

E

**THE CITY OF DAYTONA BEACH, FLORIDA
SPECIAL MAGISTRATE PROCEEDING**

THE CITY OF DAYTONA BEACH,
a Florida municipal corporation,
Petitioner,

CASE NO. **SMG 03-26-46**

vs.

Andrew Wilfred Lemay
Po Box 2240
Litchfield Park, AZ 85340
VI2026-0020 / SMG 03-26-46

Respondent(s) _____/

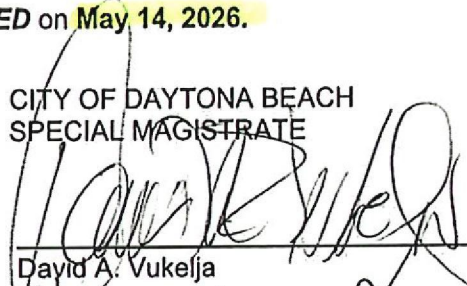
**ORDER DENYING RESPONDENT'S MOTION TO VACATE
THE ORDER OF NON-COMPLIANCE AND FINDING OF IRREPARABLE AND
IRREVERSIBLE VIOLATION AND IMPOSITION OF A FINE DATED APRIL 20, 2026**

The Special Magistrate for the City of Daytona Beach having heard argument from counsel at a public hearing on the above styled case on **May 12, 2026**, ordered as follows:

1. This matter upon Respondent's motion to vacate of the Special Magistrates **Order of non-compliance and finding of irreparable and irreversible violation and imposition of a fine dated April 20, 2026**. After consideration of the testimony presented at the Special Magistrate proceeding, the documentary evidence proffered, the legal memorandums and arguments submitted by the parties, the Respondent's motion being the same is hereby *denied*.

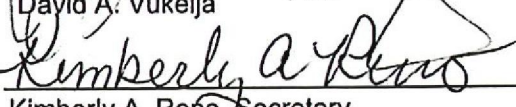
DONE AND ORDERED on **May 14, 2026**.

CITY OF DAYTONA BEACH
SPECIAL MAGISTRATE



David A. Vukelja

Attest:



Kimberly A. Reno, Secretary

Cc: Andrew Wilfred Lemay Po Box 2240 Litchfield Park, AZ 85340

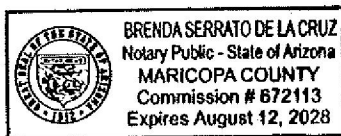
NOTORIAL ACKNOWLEDGEMENT

STATE OF ARIZONA
COUNTY OF MARICOPA

On this 13th day of June, 2026, before me personally appeared Andrew Wilfred LeMay,

(signature) _____

whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be and acknowledged that he or she signed the attached document.



B.S. [Signature]
NOTARY PUBLIC:

August 12, 2028

MY COMMISSION EXPIRES:

Description of the Attached Document

Title of Document: PETITION FOR CERTIORARI

Date of Document: 06/13/2026

Number of Pages: 37

Signer(s) /Other than Named Above Document: _____