

SPECIAL MAGISTRATE
THE CITY OF NEW SMYRNA BEACH

EMAJIN OPERATIONS LLC TR, S SEA
MIST 4393 LAND TRUST 4-26-24 – TR, and/
Entity,

CASE NO.: CCSM – 0715 - 2024

Respondent/Appellant.

vs.

CITY OF NEW SMYRNA BEACH,
Florida, a municipal corporation,

Petitioner/Appellee.

_____ /

AMENDED NOTICE OF APPEAL¹

NOTICE IS GIVEN that Emajin Operations LLC TR and S Sea Mist 4393 Land Trust 4-26-2024 – TR, and/or entity, Appellant, appeals to the Circuit Court, Seventh Judicial Circuit, in and for, Volusia County, Florida, the Order rendered on May 28, 2025, by Special Magistrate, Jessica Gow of the New Smyrna Beach Code Compliance in Case No.: CCSM – 0715 – 2024, a conformed copy of which is attached hereto as Exhibit A. The nature of the Order is a final order finding violation and imposing a fine and is being appealed pursuant to Florida Rules of Appellate Procedure 9.190(b)(3) and 9.110(c).

¹ Amended only to attach correct conformed copy of Order entered in Case No.: CCSM-
[REDACTED]

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Counsel for Respondent/
Appellant
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(386) 265-5221

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original copy of the foregoing has been filed with **Teresa Merck**, as Clerk of the New Smyrna Beach Code Compliance by hand delivery to 210 Sams Ave. New Smyrna Beach, Florida 32168 this 26th day of June 2025 pursuant to Fla. R. App. Pro. 9.110(c) and 25(a), and a true and correct copy of the foregoing has been served on **Fred Cleveland** as Mayor of the City of New Smyrna Beach, Florida by hand delivery to 210 Sams Ave. New Smyrna Beach, Florida 32168 this 26th day of June 2025 pursuant to Fla. R. App. Pro. 25(a).

SNELL LEGAL PLLC
Counsel for Respondent/
Appellant
By: /s/ Gregory D. Snell
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EXHIBIT A

SPECIAL MAGISTRATE
THE CITY OF NEW SMYRNA BEACH

City of New Smyrna Beach,
Florida, a municipal corporation,
Petitioner,

CASE NO.: CCSM [REDACTED]

VS.

EMAJIN OPERATIONS LLC TR and S SEA MIST 4393 LAND TRUST 4-26-24 - TR, and/or entity,
Respondent(s)

ORDER FINDING VIOLATION AND IMPOSING A FINE

This case was heard on May 28, 2025, before the Special Magistrate at a public hearing, after due notice to Respondent(s). The Respondent/Representative ____ did __X__ did not attend the hearing.

The City of New Smyrna Beach Special Magistrate hereby finds that Respondent(s) was/were duly served with notice of the Order dated March 26, 2025, and has/have failed to comply with the Order and the Respondent remains in non-compliance at the time of this hearing.

The Respondent(s) are/is found in violation of:

LDR 604.051. - Tree Preservation

Per the Special Magistrate's Order of Compliance on March 26, 2025- A minimum of twenty (20) four-to-six-inch caliper trees (of similar species as previous- Live Oaks; Sand Live Oaks) were to be planted on this parcel and Land Development Conservation (LDC) Mitigation and evaluation completed.

The case, having come before the Special Magistrate for final hearing on May 28, 2025, and having considered the testimony and evidence presented, hereby finds as follows:

The Special Magistrate hereby issues the following Order:

Landscape plans must be submitted with any building permit or site plan submittal that shows compliance with the required tree mitigation for the site. No Certificate/s of Occupancy may be issued until compliance is achieved by the property owner meeting the requirements set in place by the Planning Department which are summarized as follows:

A set number of trees, to be determined in compliance with the City's Land Development code, have been donated to the Land Development Conservation, in place of the trees that were removed without a permit. The number of trees removed from both parcels equal a total of 38 trees with a value of \$110,759.00. Another requirement from the Planning Department was a set number of trees which are to be planted within the property, which shall include four-to-six-inch caliper trees of similar species which were previously removed from these parcels.

IT IS RESPONDENT'S BURDEN TO REQUEST A RE-INSPECTION TO DETERMINE WHETHER COMPLIANCE IS ACHIEVED AFTER THE DATE OF THIS ORDER.

A certified copy of this Order may be recorded in the Public Records of Volusia County, Florida. Upon recording, the fine shall accrue and constitute a lien against the following property:

Address of property: 4393 S. SEA MIST DR, NEW SMYRNA BEACH 32169

Parcel Number: 742601160020

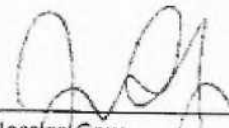
Legal description of property: 26-17-34 LOT 2 BLK 16 ATLANTIC HEIGHTS SUB MB 6 PG 171 MB 11 PG 134

and any other real or personal property owned by Respondent(s) pursuant to Section 162.06 and 162.09, Florida Statutes.

This Order may be appealed to the Circuit Court within 30 days of its execution.

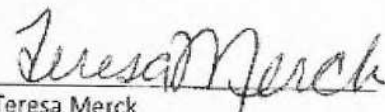
DONE AND ORDERED on May 28, 2025.





Jessica Gow
Special Magistrate

ATTEST:



Teresa Merck
Code Compliance Clerk



Witness Signature

Alanna Smith

Witness Typed/Printed Name



Witness Signature

Brooke Ball

Witness Typed/Printed Name

CERTIFICATE OF SERVICE: I hereby certify that the foregoing Order was served on the above-named Respondent(s) at 5224 W SR 46 STE 243, SANFORD FL 32771 9230 by:

- ☒ Certified Mail, Return Receipt Requested, Receipt #: 9214 8901 9403 8315 9173 16
☒ Post
☐ Hand Delivery



STATE OF FLORIDA, VOLUSIA COUNTY
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office. This
June 26, 2025

Clerk of Circuit Court

By: Shakyia Reed Deputy Clerk
e-signed 06/26/2025



By: Teresa Merck, Code Compliance Clerk
Date: May 29, 2025