

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

December 13, 2011 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Manager
Ofc. Sherri Siracusa
Ms. Colleen Miles, Zoning Officer
Ms. Barbara Collins, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Mr. Edwin Lopez, Code Inspector
Mr. John Stenson, Code Inspector
Mr. Denzil Sykes, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____

Special Magistrate

Mr. Vukelja called the Hearing to order at 9:10 a.m.

Mr. Vukelja approved the November 8, 2011 Regular Meeting Minutes.

Ms. Hampton swore in members of staff.

Mr. Vukelja asked if there were any announcements.

Mr. Jackson announced the following cases were in compliance:

CASE NO 17 SMG 12-11-123 – Lincoln Trust Company is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **547 Division Street** - Violation(s) – No occupational license for rental - First Notified – 9/28/2011.

COMPLIANCE 12/13/2011

CASE NO 1 SMG 12-09-86 – 400 Beach Street Acquisitions, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IMPC 301.2, 302.4, 304.2, 304.6, 304.7, 304.9, 304.13, 305.3, and 605.1), at **300 N. Beach Street** - Violation(s) – Owner responsible to maintain structures and exterior of property in compliance with IPMC requirements; weeds; protective treatment; exterior walls; roofs and drainage; overhang extensions; window, light and door frames; interior surfaces; electrical equipment and wiring shall be properly installed and maintained - First Notified – 9/14/2009.

Mr. Fitzgerald testified on behalf of the City and presented the case history, violations and exhibits.

Ms. Colleen Miles stated the Respondents were going to go before the downtown redevelopment board for site plan approval and further requested a progress report for the next month's meeting.

Ruling

Mr. Vukelja amended the previous order of non-compliance to include a progress report at the February 14, 2012 meeting. The compliance date remained the same.

CASE NO 2 SMG 07-11-75 – William Helfrich Bittorf is cited for failure to correct violations of the Land Development Code, Art. 1. Sec. 5.3, at **400 E. International Speedway Blvd.** - Violation(s) – Failure to remove the games of skill and all signage advertising the sweepstakes games - First Notified – 2/26/2011.

William Henry Bittorf and William Helfrich Bittorf came forward and were sworn. Mr. Bittorf stated there were no sweepstakes machines out at the business.

Ms. Miles recommended 10 days for compliance and that compliance consisted of no machines that played arcade games.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 23, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day.

CASE NO 8 SMG 10-11-108 – ADJ & SRJ Investments, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 303.2, 304.13, 304.6.), at **215 Kingston Avenue** - Violation(s) – Windows/doors; Peeling Paint; Exterior surfaces - First Notified – 7/26/2011 (posted 2nd time).

Mr. Darren Jafroodi came forward and was sworn. Mr. Jafroodi stated he was trying to cooperate with the City.

Ms. Miles stated that a permit has been pulled and recommended 60 days for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until February 8, 2012 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 3 SMG 09-11-95 – OPC Investments, LLC is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **834 School Street** - Violation(s) – No occupational license - First Notified – 3/3/2011.

COMPLIANCE 11/29/2011

CASE NO 4 SMG 11-11-113 – Jerry King is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.2, 302.8); Art. 18 Sec. 5.13(a), 5.5(a)(b); Art. 18 Sec. , 7.3.1, 7.3.3, 7.4.2, and 7.4.4); and Ch. 90-297(a) Code of Ordinances, at **210 S. Grandview Avenue** - Violation(s) – Peeling paint, faded paint, dirt and grime, weeds, ground covering, outside storage, damaged concrete steps, inoperative or unlicensed motor vehicles stored in rear; and no occupational license - First Notified – 4/20/2011.

Mr. Garcia testified on behalf of the City and provided the case history, violations and exhibits. Mr. Garcia advised he has spoken with the Respondent who advised his wife was having surgery and further stated all violations have been corrected except for the rental license. Mr. Garcia recommended amended the compliance date until the next cut-off for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 4, 2012 to come into compliance or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 5 SMG 11-11-114 – Peter W. Bandemer is cited for failure to correct violations of 90-297(a) Code of Ordinances, at **117 Westwood Drive** - Violation(s) – No occupational license - First Notified – 2/22/2011.

Mr. Garcia testified on behalf of the City and provided the case history, violations and exhibits. Mr. Garcia advised the Respondent has applied for the license, but that it failed the inspection. Mr. Garcia recommended amended the compliance date until the next cut-off for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 4, 2012 to come into compliance or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 6 SMG 11-11-115 – Nazar and Ovsanna Kasparian is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2), at **313 N. Wild Olive Avenue** Violation(s) – Peeling paint on retaining wall along fence - First Notified – 8/17/2011.

COMPLIANCE 11/29/2011

CASE NO 7 SMG 06-11-56 – James W. Corwin and David Schweibish is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **1129 Hillcrest Drive** - Violation(s) – Renovations without permits - First Notified – 4/19/2011.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson advised the property was recently sold and recommended adding Mr. David Schweibish as a Respondent as he was the purchaser.

Ruling

Mr. Vukelja amended the previous order of non-compliance to add David Schweibish as an additional Respondent and further allow the Respondent until January 4, 2012 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 9 SMG 10-11-110 – Daniel W. Chambers is cited for failure to correct violations of City Ordinance 90-297(a), at **536 Ruth Street** - Violation(s) – No occupational license for rental - First Notified – 7/19/2011.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits.

Mr. Louis Della Camera appeared on behalf of Daniel Chambers and was sworn. Mr. Della Camera advised he had applied for the license but had to get the property vacated first to allow for an inspection and the property is currently under an eviction.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until February 18, 2012 to come into compliance or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 10 SMG 11-11-116 – John H. Mitchell is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3 and Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8, 304.7, 304.13, 304.2, and 304.15), at **717 Indiana Street** - Violation(s) – Outside storage, junk vehicle (boat/trailer), roof and drainage, broken windows, peeling paint/dirt and grime, exterior doors - First Notified – 8/12/2011.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson advised that the property has been in probate for several years and was finally transferred to the son of Mr. Mitchell. Mr. Stenson requested Alkin E. Harris be replaced as the Respondent. Mr. Stenson recommended amending the previous order of non-compliance to allow the Respondent until February 8, 2012 or an automatic fine of \$200 per day be imposed.

Respondent was not present.

Ruling

Mr. Vukelja amended the previous order of non-compliance to replace the Respondent as Alkin E. Harris and further allow the Respondent to come into compliance by February 8, 2012 or be automatically fined the amount of \$200.00 per day effective December 7, 2011 to continue each day until compliance is achieved or reached the maximum amount of \$10,000.00.

CASE NO 11 SMG 11-11-117 – David Walker is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **147 Kingston Avenue** - Violation(s) – Outside storage - First Notified – 9/6/2011.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson stated he has had minimal contact from the Respondent and recommended a fine be imposed of \$100.00 per day with a maximum amount of \$10,000.00.

Mr. David Walker came forward and was sworn. Mr. Walker advised he did not receive the Notice until October because he lives in Jacksonville. Mr. Walker further stated he believed he did what he was supposed to do to come into compliance.

Ms. Cynthia Casavant came forward and was sworn. Ms. Casavant stated she resided next door to 147 Kingston and for the past 4 years and has had several problems.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 20, 2011 to come into compliance or be automatically fined the amount of \$200.00 per day effective December 7, 2011 to continue each day until compliance is achieved or reached a maximum amount of \$10,000.00.

CASE NO 12 SMG 11-11-118 – Ceola Webb, Life Estate is cited for failure to correct violations of the City Ordinance 90-297, at **425 N. Lincoln Street** - Violation(s) – No occupational license - First Notified – 8/18/2011.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson stated he has not had any contact from the Respondent and recommended imposing a fine.

Respondent was not present.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective December 13, 2011 for failure to obtain a rental occupational license.

CASE NO 13 SMG 11-11-119 – Kelly E. Scofield & Ronald R. Fleischman is cited for failure to correct violations of the Land Development Code, Art 18 Sec. 7.3; Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.7, 304.13, 304.14, 304.15, 304.8, 605.1), at **525 Madison Avenue** - Violation(s) – Outside storage, dilapidated fencing, broken windows, missing/damaged screens, exterior doors, skirting, electrical equipment installation, vacant and unsecure structure - First Notified – 7/21/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson stated the property was still in non-compliance and recommended a fine of \$150.00 per day be imposed with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$150.00 per day against the Respondents effective December 7, 2011 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 14 SMG 11-11-120 – Aaron R. Mitchell is cited for failure to correct violations of City Ordinance 90-297, at **531 Model Street** - Violation(s) – No occupational license - First Notified – 8/25/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson stated the property was still in non-compliance and recommended imposing a one-time administrative fine of \$250.00 for failure to obtain a rental license.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective December 13, 2011 for failure to obtain a rental occupational license.

CASE NO 15 SMG 11-11-121 – Paul Protentis is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.13, 305.6, 504.1, 304.14, 304.15, 302.4, 304.3); City Ordinance 90-297, at **532 Fairmount Road** - Violation(s) – Broken windows, interior doors, plumbing fixtures, screens, exterior doors, fencing, receptacles, weeds, identification numbers, no occupational license for rental - First Notified – 8/25/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and provided the case history, violations and exhibits. Mr. Stenson stated the property was still in non-compliance and recommended a fine of \$100.00 per day be imposed with a maximum of \$15,000.00 plus a one-time administrative fine of \$250.00.

Ruling

Mr. Vukelja imposed a fine of \$100.00 per day against the Respondents effective December 7, 2011 to continue until compliance is achieved or reached the maximum amount of \$15,000.00 plus a one-time administrative fine of \$250.00 for failure to obtain a rental license.

CASE NO 16 SMG 12-11-122 – GEA Seaside Investments, Inc. is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7(a); Art. 1 Sec. 4.3 (c); City Ordinance 90-297, at **508 Eastwood Lane** - Violation(s) – Parking in yard; Dorm living; No occupational license for rental - First Notified – 6/15/2011.

Attorney Michael Woods appeared on behalf of GEA Seaside Investments, Inc. and stated the parking in the yard still remained.

Mr. Sykes testified on behalf of the City and stated the case history, violations and exhibits. Mr. Sykes stated on November 18, 2011 the Respondent received the rental license and he also received an affidavit stated the tenants are related so the dorm living is in compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by February 8, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 18 SMG 12-11-124 – Naomi Brown is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.8, 304.1, 304.6, 307.1), at **644 Division Street** - Violation(s) – Major exterior wall damage; junk vehicle; trash; debris - First Notified – 10/7/2011.

COMPLIANCE 12/7/2011

CASE NO 19 SMG 12-11-125 – Roy & Janet P. Lesage is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.2), at **116 S. Grandview Avenue** - Violation(s) – Failure to scrape, prime and repaint all areas where paint is peeling or flaking in color to match existing. Failure to paint all bare wood in color to match - First Notified – 5/12/2011.

Ms. Janet Lesage came forward and was sworn. Ms. Lasage presented a letter and stated she should be completed by February.

Ms. Collins testified on behalf of the City and presented the case history, violations and exhibits. Ms. Collins stated she agreed with a February cut-off date.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by February 8, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 20 SMG 12-11-126 – Robert James Spano Life Estate is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.2, 304.6, 304.7), at **117 S. Halifax Avenue** - Violation(s) – Failure to replace all rotten wood; Failure to paint the exterior walls, fascia, soffits, window frames, steps and bare wood; Failure to repair roof; Failure to replace missing fence slates and make upright - First Notified – 6/16/2011.

Ms. Collins testified on behalf of the City and presented the case history, violations and exhibits. Ms. Collins stated the property was in non-compliance and recommended the next cut-off for compliance.

Mr. Robert Spano came forward and was sworn. Mr. Spano stated he has replaced the rotten wood and the window frames. Mr. Spano further stated he was out of money and was waiting on bike week to come before he could make more money because he was on disability.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by February 8, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

Miscellaneous Business

1. There was no miscellaneous business.

ADJOURNMENT

The meeting was adjourned at 10:15 a.m.