

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

January 10, 2012 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. Barbara Collins, Code Inspector
Mr. Daniel Garcia, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. John Stenson, 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 December 13, 2011 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 19 SMG 01-12-10 – Rick W. Titus is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **224 Kingston Avenue** - Violation(s) – Working without permits- First Notified – 10/21/2011.

Compliance 1/9/2012

CASE NO 4 SMG 09-11-93 – Terry & Russell W. Claunch is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4(j); Art. 18 Sec. 7.3.3; Art. 19 Sec. 1.1. (Ref. FBC Supp IPMC 304.2), at **202 Harvey Avenue** - Violation(s) – Discolored/faded paint; rotted wood and poor landscaping - First Notified – 5/18/2011.

Compliance 1/5/2012

Addendum – Miscellaneous Business Case 1 was withdrawn.

Hearing of Cases:

CASE NO 1 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; Non-conforming use.- First Notified – 2/26/2011.

Mr. William Henry Bittorf came forward and was sworn.

Ms. Collins testified on behalf of the City and stated the property was in compliance but the City was seeking a Will Fine Order.

Mr. Vukelja explained the ramifications of a Will Fine Order.

Mr. Bittorf stated he understood but was seeking all legal options available to him.

Ruling

Mr. Vukelja found the Respondents in compliance and ordered that for any future repeat violations the Respondent shall be returned to a subsequent meeting for consideration of a fine up to \$5,000 per occurrence.

CASE NO 2 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 working with the City and was pulling permits and believed he would make the current compliance date set for the next month.

CASE NO 3 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 presented the case history, violations and exhibits. Mr. Stenson advised last month they added Mr. Schweibish to the case and he was sent the paperwork for the existing violations. Mr. Stenson stated the property was in non-compliance as no permits were obtained and further recommended imposing a fine of \$50.00 per day with a maximum of \$15,000.00.

Respondent was not present.

Ruling

Mr. Vukelja ordered a fine of \$50.00 per day be imposed against the Respondent effective January 4, 2012 to be continued until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 5 SMG 09-11-94 – Flippo Properties, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4 (c),(h),(i),(j); Art. 18 Sec. 5.13(a) & (b); Art. 18 Sec. 5.4(b); Art. 18 Sec. 5.5(a) & (b), at **715 E. International Speedway Blvd.** - Violation(s) – Peeling/faded paint; damaged concrete soffit, holes, rust, poor landscaping, overgrown weeds, exposed wires - First Notified – 4/14/2011.

Respondent was in compliance December 7, 2011.

CASE NO 6 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.

No Respondent was present.

Mr. Garcia testified on behalf of the City and presented the case history, violations and exhibits. Mr. Garcia stated all violations have been corrected except the occupational license. Mr. Garcia recommended imposing the one-time fine of \$250.00.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective January 10, 2012.

CASE NO 7 SMG 11-11-114 – Peter W. Bandemer is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **117 Westwood Drive** - Violation(s) – No occupational license - First Notified – 2/22/2011.

Respondent was not present.

Mr. Garcia testified on behalf of the City and presented the case history, violations and exhibits. Mr. Garcia stated all violations have been corrected except the occupational license. Mr. Garcia recommended imposing the one-time fine of \$250.00.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective January 10, 2012.

CASE NO 8 SMG 07-11-80 – Walter W. White, III; Robert H. White and Frederic C. White is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.2, 304.7 and 304.14), at **37 S. Wild Olive Avenue** - Violation(s) – Presence of mold, mildew and peeling paint; deteriorated and rotted exterior wood; damaged, rusted, deteriorated gutters and downspouts - First Notified – 4/27/2011.

Respondent was not present.

Ms. Lankford testified on behalf of the City and presented the case history, violations and exhibits. Ms. Lankford stated the Respondent has been in constant contact with her and he was doing a complete remodel. Ms. Lankford recommended amending the compliance date until the next cut-off date.

Ruling

Mr. Vukelja amended the previous order of 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 9 SMG 08-11-82 – Vandall of Daytona, Inc. is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.13 & 5.13(b); Art. 18 Sec. 5.4 & 5.4(a)(b)(d); Art. 18 Sec. 5.5 & 5.5(a); Art. 18 Sec. 5.6 & 5.6(b), at **614 E. International Speedway Blvd.** - Violation(s) – Peeling paint; mold and mildew on exterior of building; damaged/deteriorated exterior walls; damaged, broken paving in parking area; overgrowth weeds; trash and debris on site; deteriorated fencing; damaged window; rust on exterior of building - First Notified – 5/26/2011.

Respondent was not present.

Ms. Lankford testified on behalf of the City and presented the case history, violations and exhibits. Ms. Lankford stated the property was in non-compliance and recommended imposing a small fine at this point to have a resolution to the case and the Respondents could return for a lien review.

Ruling

Mr. Vukelja imposed a fine of \$25.00 per day effective January 4, 2012 to continue each day until compliance is achieved or reached the maximum amount of \$20,000.00.

CASE NO 10 SMG 01-12-01 – Julius Horvath is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, 7.3.1 & City Ordinance 90-297, at **1014 Berkshire Road** - Violation(s) – Outside material storage; no occupational license for rental property - First Notified – 10/26/2011.

Respondent was not present.

Ms. Lankford testified on behalf of the City and presented the case history, violations and exhibits. Ms. Lankford stated most of the outside storage was gone but there was no application for an occupational license. Ms. Lankford recommended the Respondent be found in non-compliance and be allowed until the next cut-off date for 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 plus a one-time administrative fine of \$250.00.

CASE NO 11 SMG 01-12-02 – Horak & Lugar Properties, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp. IPMC 302.4, 304.13, 304.14, 304.2); City Ordinance 90-297, at **45 N. Hollywood Avenue** - Violation(s) – Mold/mildew and dirt/grime on front retaining wall and stairs; damaged retaining wall; high weeds and grass on sidewalk area; missing, damaged insect screens; peeling paint; no occupational license for rental - First Notified – 7/20/2011.

Respondent was in compliance January 3, 2012.

CASE NO 12 SMG 01-12-03 – Gilbert Myara 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, 304.2, 305.4), at **127 N. Hollywood Avenue** - Violation(s) – Site appearance standards: Accessory structures (i.e. fences, walls, garages) not maintained structurally sound or in good repair; Windows, doors, and frames not in good repair or sound condition; Missing or torn insect screens; Exterior surfaces not main - First Notified – 8/5/2011.

Mr. Gilbert Myara came forward and was sworn. Mr. Myara stipulated to the violations.

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

CASE NO 13 SMG 01-12-04 – GEA Seaside Investments, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.4, 304.13, 304.15, 304.2), at **229 N. Hollywood Avenue** - Violation(s) – Yards must be maintained (high weeds/grass); windows and doors not in sound condition and weather tight; doors not in good condition/deteriorated; All exterior wood surfaces must be free of peeling and damaged paint. - First Notified – 9/12/2011.

Mr. Michael Woods, Attorney, appeared on behalf of the Respondent. Mr. Woods stipulated to the violations and agreed with the March cut-off date for compliance.

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

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 7, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 14 SMG 01-12-05 – GEA Seaside Investments, Inc. 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 302.4, 304.2, 304.6); Art. 8 Sec. 2.7, at **231 N. Hollywood Avenue** - Violation(s) – Lawns must be maintained (high grass/weeds); All exterior surfaces much be maintained in good condition (peeling paint); Exterior walls must be free of deteriorated/rotting materials, must be weatherproof; parking on an unimproved surface is prohibited- First Notified – 8/8/2011.

Mr. Michael Woods, Attorney, appeared on behalf of the Respondent. Mr. Woods stipulated to the violations and agreed with the March cut-off date for compliance.

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

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 7, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 15 SMG 01-12-06 – George T. Caffery & Joseph Weiberth is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.2), at **312 N. Hollywood Avenue** - Violation(s) – Rotted/deteriorated wood, peeling paint - First Notified – 9/12/2011.

Respondent was not present.

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

CASE NO 16 SMG 01-12-07 –Edmonson Asgil is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7; Art. 19 Sec.1.1 (Ref. FBC 105.1 Supp IPMC 504.3, 304.14, 704.2, 304.13), at **527 Fulton Street** - Violation(s) – Appearance standards; plumbing system hazard; screens; smoke detectors; exterior doors; working without permits - First Notified – 10/7/2011.

Mr. Edmonson Asgil came forward and was sworn. Mr. Asgil stipulated to the violations.

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

CASE NO 17 SMG 01-12-08 – George Stafford, II & Marjorie Stafford is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7; Art. 19 Sec.1.1 (Ref. FBC Supp. IPMC 302.8), at **537 Heineman Street** - Violation(s) – Junk vehicle; parking in the yard - First Notified – 11/9/2011.

Ms. Marjorie Stafford came forward and was sworn.

Mr. George Stafford, II came forward and was sworn.

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

CASE NO 18 SMG 01-12-09 – David Walker is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **147 Kingston Avenue** - Violation(s) – Expired permits - First Notified – 5/2/2011.

Respondent was initially not present but appeared and was sworn after testimony began on this case.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended the next cut-off date for compliance.

Mr. Jackson asked for the imposition of a fine since the violation was a repeat violation.

Cindy Casavant, neighbor, came forward and was sworn. Mr. Casavant supported the imposition of a fine based on the history of the Respondent.

Mr. Walker came forward and was sworn. Mr. Walker stated work had been done on the property but not since the permits expired.

Ruling

Mr. Vukelja continued the case to the February 14, 2012 meeting to allow the City to provide a supplement to the Notice of Violation of all the outstanding violations that exist since the Respondent's permit has lapsed.

CASE NO 20 SMG 01-12-11 – Theresa M. Arias is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7 and 304.7), at **427 McGee Street** - Violation(s) – Outside storage; dilapidated fencing; dilapidated roof - First Notified – 10/20/2011.

Respondent was not present.

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

CASE NO 21 SMG 01-12-12 – William D. Carson, Sr. is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **209 Pierce Avenue** - Violation(s) – Outside storage - First Notified – 10/31/2011.

Mr. William Carson came forward and was sworn. Mr. Caron stated he cleaned up the yard and removed the trailer and did not understand what was still in non-compliance.

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

CASE NO 22 SMG 01-12-13 – Stamenko & Dusanka Angelov is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp. IPMC 302.4, 302.7, 304.2, 304.6, 304.10, 304.13, and 304.15), at **503 N. Ridgewood Avenue** - Violation(s) – Weeds; fencing; paint; exterior surfaces; stairs; windows; exterior doors -First Notified – 9/10/2011.

Mr. Stamenko Angelov came forward and was sworn. Mr. Angelov stipulated to the violations.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits and stated the property was in non-compliance and recommended the March cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 7, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 23 SMG 01-12-14 – James S. Singleton, III is cited for failure to correct violations of City Ordinance 90-297, at **547 N. Ridgewood Avenue** - Violation(s) – **No rental license** - First Notified – 10/24/2011 – Posted 10/24/2011.

Mr. James Singleton came forward and was sworn. Mr. Singleton advised he was not aware of the violations until the week prior to the meeting and should be able to be in compliance by February 8, 2012.

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

Miscellaneous Business

Case 1: **SMG 05-10-74 – 507 N. Ridgewood Avenue (Previous Owner – Woodlea Investment Co., LLC) Requestor – Vinny Sagrani, Floridian Bank:** Order Imposing Fine/Lien of \$75.00 per day imposed 8/4/2010. **Total amount of Lien: \$20,000.00 (reached the maximum).**

This case was withdrawn.

ADJOURNMENT

The meeting was adjourned at 10:08 a.m.