

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

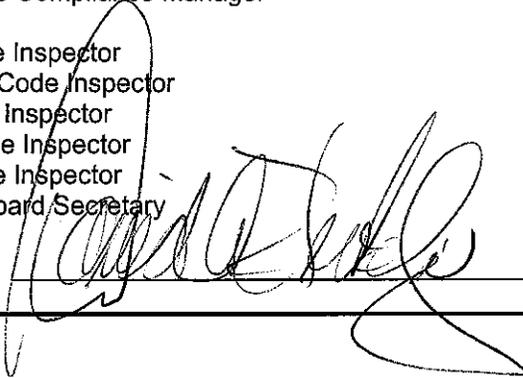
September 11, 2012 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Manager
Ofc. Sherri Siracusa
Mr. Daniel Garcia, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Edwin Lopez, 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 9:05 a.m.

Mr. Vukelja approved the August 14, 2012 Meeting Minutes.

Ms. Hampton swore in members of staff.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton advised there were no announcements.

CASE NO 1 SMG 08-12-56 – Georgia Washington Jackson Estate is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.2; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 304.14, 307.1, 505.1); City Ordinance 90-297, at **338 Fulton Street** - Violation(s) – Trash, junk and debris; no water connection; insect screens torn; no business tax receipt/occupational license - First Notified – 6/12/2012.

Respondent was not present.

Mr. Lopez testified on behalf of the City and stated the property was still in non-compliance and recommended imposing a fine of \$100.00 per day with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$100.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 2 SMG 08-12-57 – Raymond A. Brewster is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.2, 304.3, 304.6, 105.1), at **341 Fulton Street** - Violation(s) – Exterior wall damage; protective treatment; premises identification; no building permits - First Notified – 6/19/2012.

Respondent was not present.

Mr. Lopez testified on behalf of the City and stated the property was still in non-compliance and the owners still had not obtained permits. Mr. Lopez recommended imposing a fine of \$100.00 per day with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$100.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 3 SMG 08-12-59 – Oscar & Leola Pope is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.2 & 304.13), at **520 S. Martin Luther King Blvd.** - Violation(s) – Missing window slats; exterior chipped paint and debris - First Notified – 5/8/2012.

Respondent was in compliance September 5, 2012.

CASE NO 4 SMG 08-12-60 – Mildred A. Barth is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 307.1, 305.1), at **645 S. Segrave Street** - Violation(s) – Damaged fence; barb wire; debris stored on property - First Notified – 5/18/2012.

Respondent was not present.

Mr. Lopez testified on behalf of the City and stated the property was still in non-compliance and recommended imposing a fine of \$100.00 per day with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$100.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 5 SMG 03-12-41 – O’Neill Family W&H LP and John Burch are cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **755 Berkshire Road** - Violation(s) – Exceeding the scope of permits
First Notified – 2/7/2012 (posted).

Mr. Stenson testified on behalf of the City and presented the case history and exhibits. Mr. Stenson stated on July 6, 2012 Mr. Burch applied for a permit but a permit had not been issued as of this date.

Mr. Vukelja requested an overview and explanation of the case and also asked if the 60% rule applied with this case.

Mr. John Burch came forward and was sworn. Mr. Burch stated he had submitted his plans and hired an architect and there were some other things that needed to be included before they would issue the permit but he was working on them with the architect. Mr. Burch advised he would be getting a permit upon submitting a survey.

Mr. Jackson stated the City's position was that the 60% rule would not be applied in this case. Mr. Jackson stated the status of the permit is that corrections are required before the permit will be issued.

Mr. Vukelja asked the City if they knew whether a permit would be issued or not and also what relief the City was looking for at this time.

Mr. Stenson stated he could not say whether or not a permit would be issued, only that one was applied for and corrections needed to be made before a permit would be issued.

Mr. Vukelja inquired if a permit would be issued by the next hearing date.

Mr. Hector Garcia stated he had a Technical Review Notes from the Building Official and stated if Mr. Burch satisfies the recommendations and corrections the permit would be issued in 30 days.

Ruling

Mr. Vukelja continued the case until October 9, 2012 meeting regarding status of the permit and further ordered that no work be done without permits and the exterior shall be maintained.

CASE NO 6 SMG 08-12-63 – Nael & Majda Hannoush and Suntrust Bank is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.3; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 301.3, 304.14, 304.6, 303.1); City Ordinance Ch. 22 Sec. 22-48, at **2 Lionspaw VII Noble** - Violation(s) – Landscaping; screens, exterior surfaces, unmaintained and unsecured pool; unsecured property - First Notified – 6/9/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits. Mr. Stenson stated the screen had been repaired but the pool was still dirty and unmaintained. Mr. Stenson recommended imposing a fine of \$100.00 per day with a cap of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$150.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 7 SMG 08-12-64 – Myra & Lindsey Morris is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.3), at **1313 Milton Drive** - Violation(s) – Wrong address numbers - First Notified – 5/9/2012.

Respondent was in compliance September 5, 2012.

CASE NO 8 SMG 08-12-65 – Mary F. Kinsler 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 and 304.7), at **740 White Street** - Violation(s) – Tree debris in front yard; dilapidated fencing; dilapidated roof - First Notified – 6/28/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits. Mr. Stenson stated the tree violation has been corrected but the roof and fence still remain in violation. Mr. Stenson recommended imposing \$100.00 per day with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$100.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 9 SMG 02-12-19 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4; Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 604.3 and 302.7 IPMC); Art. 19. Sec. 1.1 (ref. FBC 105.1); Art. 19 Sec. 1.1 (ref. FBC Supp NFPA 1, 13.6.6.8.3); City Ordinance 90-297, at **10 Alison Lane - Common Areas - Violation(s)** – Commercial appearance standards; outside storage; property landscaping and maintenance; electrical system hazards; accessory structure (all fencing); working without permits; fire extinguishers; no occupational license - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the last inspection occurred on September 5, 2012. Mr. Stenson stated the property was still in non-compliance and little progress has been made. Mr. Stenson stated the dumpster was supposed to have an enclosure around it and the power box was hazardous. Mr. Stenson recommended imposing a fine of \$500.00 per day with a maximum of \$15,000.00.

Mr. Vukelja inquired of the City as to how he arrived at the \$500.00 per day recommendation.

Mr. Stenson stated the City's recommendation was based on the egregious nature of the violations and the failure of cooperation of the Respondent.

Mr. Jackson stated based upon the record and history there have been minimal effort by the Respondent to comply.

Mr. Vukelja inquired if the City was comfortable with the amount of the fine being imposed.

Mr. Jackson advised the City was comfortable with the \$500.00 fine.

Ruling

Mr. Vukelja imposed a fine of \$500.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 10 SMG 02-12-20 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **105 Alison Lane - Violation(s)** – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the violations of broken windows and illegal stairs still remained. Mr. Stenson recommended imposing a fine of \$500.00 per day with a maximum of \$15,000.00.

Mr. Vukelja stated the violations seemed less egregious than the previous case.

Mr. Stenson stated the fact the windows were screwed shut caused a life safety issue.

Ruling

Mr. Vukelja imposed a fine of \$500.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 11 SMG 02-12-22 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **10 Alison Lane (Trailer # 111)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance with broken windows and mold. Mr. Stenson recommended imposing a \$500.00 per day fine with maximum of \$15,000.00.

Mr. Vukelja asked if there were any life safety issues and requested the City explain their reasoning for requesting the \$500.00 fine.

Mr. Stenson stated there were no life safety issues but lack of progress and cooperation from the Respondent warranted the fine.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

Mr. Vukelja stated he wanted the minutes to reflect that as they go through the cases that Mr. Jafroodi is not present and that the City has testified to the results of a recent inspection and the City is testifying to a range of violations from mechanical repairs to life safety issues which are all going to be taken into consideration when formulating the amount of the fines being imposed.

CASE NO 12 SMG 02-12-24 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **10 Alison Lane (Trailer # 111 - Madison Avenue Side)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. – First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he has not been able to re-inspect the interior of the property because it was vacant and has been screwed shut. Mr. Stenson stated the property manager at the location at the time of the re-inspection told them the owner did not provide him keys to the vacant trailers.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00. Mr. Vukelja further stated the order was without prejudice to any new violation that may arise once the City is provided access to the interior.

CASE NO 13 SMG 02-12-27 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **10 Alison Lane (Trailer # 125)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the violations still existed and that they were health issues but not life safety. Mr. Stenson recommended imposing a \$500 per day fine with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$500.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 14 SMG 02-12-28 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **10 Alison Lane (Trailer # 102)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the violations that remained were broken and inoperative windows, awning, electrical issues, and the windows were screwed shut. Mr. Stenson requested a fine of \$500.00 per day with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$500.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 15 SMG 02-12-36 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **10 Alison Lane (Trailer # 135 - west end of park)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was vacant and had broken windows.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 16 SMG 02-12-38 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **10 Alison Lane (Trailer # 117-rear south side of property)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the violations consisted of dilapidated windows and improper stairs. Mr. Stenson also stated he was not permitted access to the interior.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00. Mr. Vukelja further stated the order was without prejudice to any new violation that may arise once the City is provided access to the interior.

CASE NO 17 SMG 02-12-40 – Ali Darren Jafroodi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 304.9, 304.10, 304.13, 304.14, 304.15, 305.3, 305.6, 308.1, 504.1, 504.3, 604.3, 605.1 and 704.1); See Attached Fire Inspector's Violations as Exhibit "1"; See Attached Building Inspector's Violations as Exhibit, at **127 Madison Avenue (Trailer # 127)** - Violation(s) – Exterior walls; metal awnings; stairs; windows; screens; exterior doors; interior surfaces; interior doors; infestation; plumbing fixtures; plumbing system hazard; electrical system hazard; electrical equipment; wiring; smoke alarms. - First Notified – 12/16/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he was not permitted to access the interior to verify compliance.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00. Mr. Vukelja further stated the order was without prejudice to any new violation that may arise once the City is provided access to the interior.

CASE NO 18 SMG 03-12-43 – ADJ & SRJ Investments, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.14, 304.15, 605.1, 605.2, 305.2, 308.1, 704.2, 504.1, 504.3, 304.3) & Ch. 90-297 City Code, at **215 Kingston Avenue (Green Building, Units 1-5)** - Violation(s) – Broken/inoperative windows; missing inoperative screens; dilapidated exterior doors; electrical wiring; receptacles; interior surfaces; infestation; smoke detectors; plumbing fixtures; plumbing hazard system; permises identification numbers; no occupation - First Notified – 6/25/2010; 7/26/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he was not permitted to access the interior to verify compliance however he did note that no permits had been obtained and there had been no activity on the property.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00. Mr. Vukelja further stated the order was without prejudice to any new violation that may arise once the City is provided access to the interior.

CASE NO 19 SMG 03-12-44 – ADJ & SRJ Investments, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.14, 304.15, 605.1, 605.2, 305.2, 308.1, 704.2, 504.1, 504.3, 304.3) & Ch. 90-297 City Code, at **215 Kingston Avenue (Beige Building, Units 6-10)** - Violation(s) – Broken/inoperative windows; missing inoperative screens; dilapidated exterior doors; electrical wiring; receptacles; interior surfaces; infestation; smoke detectors; plumbing fixtures; plumbing hazard system; permises identification numbers; no occupation - First Notified – 6/25/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the infestation and interior surfaces violations still remained. Mr. Stenson recommended imposing a fine of \$500.00 per day with a maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$500.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 20 SMG 03-12-45 – ADJ & SRJ Investments, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.14, 304.15, 605.1, 605.2, 305.2, 308.1, 704.2, 504.1, 504.3, 304.3) & Ch. 90-297 City Code, at **215 Kingston Avenue (Burgandy Buildings, Units 11-15)** Violation(s) – Broken/inoperative windows; missing inoperative screens; dilapidated exterior doors; electrical wiring; receptacles; interior surfaces; infestation; smoke detectors; plumbing fixtures; plumbing hazard system; permises identification numbers; no occupation - First Notified – 6/25/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the violations still existed on the property. Mr. Stenson recommended imposing a fine of \$500.00 per day with the maximum of \$15,000.00.

Ruling

Mr. Vukelja imposed a fine of \$500.00 per day against the Respondent effective September 5, 2012 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

Miscellaneous Business

There was no miscellaneous business.

Adjournment

The meeting was adjourned at 10:00 a.m.