

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

November 13, 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
Hector Garcia, Code Compliance Manager
Mr. David Newell, Fire 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 9:03 a.m.

Mr. Vukelja approved the October 9, 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.

Lien Review 1

CEB 07-12-72 – 201 N. Wild Olive Avenue – 201 N. Wild Olive Land Trust: was cited for failure to correct violations of Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.3, 303.6, and 304.12 Violation(s): Dilapidated handrails, walkways and exterior wall. Order Imposing Fine/Lien of \$50.00 per day imposed 8/9/2012. Compliance date September 28, 2012 = \$2,500.00

Candy Jaworski came forward and was sworn. Ms. Jaworski stated she did bring the property into compliance but it took her longer than the City requested because of not having enough funds. Ms. Jaworski stated she had tenant problems and when they left she had to fix up the inside so it could be rented again and once the cash flow came in from having tenants she was able to fix the outside. Ms. Jaworski stated the during the Summer she was able to get the property taxes caught up and her mortgage payments current and the code violations completed. Ms. Jaworski stated this was all work she had to hire outside contractors to repair.

Mr. Garcia testified on behalf of the City and recommended a reduction of the lien to the amount of \$500.00 payable within 30 days or the fine reverts back to the original amount.

Ruling

Mr. Vukelja ordered the lien be reduced to the amount of \$250.00 payable within 30 days or the lien reverts back to the original amount plus interest.

Lien Review 2 & 3

SMG 07-07-119 – 437-439 S. Segrave – Barry & Penny Compton: was cited for failure to correct violations of Ch. 22-28 Violation(s): Abandoned building. Order Imposing Fine/Lien of \$250.00 per day imposed 9-18-07 for failure to secure; Property Secured 11-29-07 = \$250.00 per day x 47 days = \$14,250.00; Order Imposing Fine/Lien of \$200.00 per day imposed 10-3-07 for non-compliance. Compliance date November 1, 2012 = Lien Maximized at \$15,000.00.

SMG 03-10-49 – 437 S. Segrave – Barry & Penny Compton: was cited for failure to correct violations of Land Development Code Art. 8 Sec. 3 Violation(s): No permit for fence. Order Imposing Fine/Lien of \$100.00 per day imposed 4-6-2010 Compliance date October 12, 2012 = Lien Maximized at \$10,000.00.

Mr. Barry Compton came forward and was sworn.

Mr. Vukelja reviewed the case.

Mr. Compton stated he initially acquired the property and sold the property to Ms. Hutchinson and now he has acquired the property back from Ms. Hutchinson via deed in lieu. Mr. Compton was requesting an elimination of the lien because he was not involved in the initial violations. Mr. Compton stated he was the owner now and advised the Magistrate of what corrections he has completed.

Mr. Garcia testified on behalf of the City and stated the City recommended to combine both cases for Lien Review 1 & Lien Review 2 and reduce the liens to the total amount of \$3,000.00 payable within 30 days or the lien reverts back to the original amount.

Mr. Compton asked for some additional time to pay on the lien.

Mr. Vukelja inquired of the City if they would agree to allow additional time to the Respondent.

Mr. Garcia advised the City would agree to a maximum of 90 days to allow the lien to be paid.

Ruling

Mr. Vukelja ordered the liens be combined and reduced to the amount of \$3,000.00 payable within 90 days or the lien reverts back to the original amount plus interest.

Hearing of Cases

CASE NO 1 SMG 03-12-41 – O'Neill Family W&H LP and John Burch is 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. John Burch came forward and was sworn. Mr. Burch submitted a paper from the architect saying the plans were not done due to illness. Mr. Burch stated the architect has been paid.

Mr. Vukelja inquired as to the status of the permit and reviewed an email from the Interim Building Official Ron Roberts.

Mr. Vukelja read the letter from Strictly Cad provided by Mr. Burch.

Mr. Stenson testified on behalf of the City and presented a letter from Mr. Ron Roberts regarding what additional items needed to be brought to the City before a permit could be issued. Mr. Stenson stated he continues to receive constant complaints on the property, it is a tremendous eyesore and the Respondent

still has not submitted everything needed to acquire a permit. Mr. Stenson stated there is a significant amount of outside storage is on the property. Mr. Stenson stated the City recommended imposing a fine of \$250.00 per day with a maximum amount of \$15,000.00.

Mr. Burch stated he met with the higher city officials who stated he was going to be provided a permit. Mr. Burch stated he believed the property was getting better instead of getting worse.

Mr. Vukelja reviewed all the information and stated to Mr. Burch that he has provided a significant amount of time for Mr. Burch to acquire a permit.

Mr. Vukelja inquired as to the amount of fine the City was requesting.

Mr. Stenson advised the City was requesting a fine of \$150.00 per day.

Ruling

Mr. Vukelja announced based on the testimony presented, the report from Mr. Roberts and the fact the Respondent does not have a permit per the October order, Mr. Vukelja imposed a fine of \$150.00 per day effective November 13, 2012 to continue each day until the property comes into compliance or reaches the maximum amount of \$15,000.00.

CASE NO 2 SMG 10-12-66 – ARC of Daytona, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.3(10); Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.8, 304.7 and 304.15), at **769 Alabama Street** - Violation(s) – Dumpsters, outside storage; junk vehicle; roof; exterior doors - First Notified – 7/19/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance with all violations and recommended a fine of \$75.00 per day with a maximum amount of \$15,000.00.

Ruling

Mr. Vukelja ordered a fine of \$75.00 per day be imposed against the Respondent effective November 7, 2012 to continue each day until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 3 SMG 11-12-77 – Harbourside Sunsets Condominium Association, Inc. is cited for failure to correct violations of the Land Development Code, Ar. 19 Sec. 1.1 (Ref. FBC Supp NFPA 72, 70, 101, 26.3.4.3, 4.6.12.1, 31.3.4.5 & FAC 69-60.0031); City Code 90-297, at **900 S. Peninsula Avenue** - Violation(s) – Provide annual fire alarm inspection paperwork; Fire alarm system in trouble and have active alarms - provide key for panel and recent inspection report; Install breaker lock on the breaker for the fire alarm panel; Fire alarm sounders in units are painted and many tenants have stated they are inoperable - produce paperwork showing devices are compliant with NFPA 72; Must have a key for the fire alarm panel - must obtain a knox box for that key; Unit 303 must have an ADA compliant - need smoke detector in compliance with ADA; Repair emergency light by unit 203, 302; All smoke detectors in the two unit split plan units must have hard wired smoke detectors inside or outside each room and interconnected. In the units where both rooms are next to each other, only one hard wired detector is required outside the bedrooms. All smoke detectors in the bedrooms can be battery operated and not required to be hard wired. Units 107, 109, 11, and 307 are not hard wired. Units 102, 101, 105, 108, 111, 203, 308, 301 and 106 had detectors not working. Units 105, 106, 200, 202, 203, 210, 300, 304 and 307 had no detector. Need Light Weight Truss Sign (R); and No valid license posted on site. First Notified – 9/30/2012.

Mr. Newell appeared on behalf of the City and stated the violations consisted of smoke detectors missing; batteries in smoke detectors when they should be hardwired and further the Respondents have not had a fire alarm inspection. Mr. Newell recommended 5 days for compliance and if not in compliance a special hearing on November 20, 2012 for imposition of a fine.

Sajay Maquez appeared on behalf of the Respondent, came forward and was sworn. Mr. Maquez stipulated to the violations and stated they should be able to have everything in compliance by the deadline.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent to come into compliance by November 18, 2012 or be returned to a meeting on November 20, 2012 for consideration of the imposition of a fine upon to \$1,000 per day.

CASE NO 4 SMG 11-12-70 – Cathy E. Smith is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.10, 304.6, 304.13), at **510 Arthur Avenue** Violation(s) – Dilapidated stairs; exterior surfaces; windows - First Notified – 9/10/2012.

Ms. Cathy Smith came forward and was sworn. Ms. Smith stipulated to the violations.

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

Ms. Smith stated she left town for a funeral and while she was gone her grandson and his friends had built the steps. Ms. Smith stated she would work on trying to come into compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 5, 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 5 SMG 11-12-71 – Karen Ann Fisher Barrett 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 304.13, 302.7, 307.7), at **1057 Berkshire Road** - Violation(s) – Outside storage; dilapidated/missing exterior doors (rear); dilapidated fencing; dilapidated roof (fascia) - First Notified – 5/23/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance with the outside storage, dilapidated broken windows, exterior doors, windows, and roof (fascia boards). Mr. Stenson stated the property is secured but the violations still exist. Mr. Stenson recommended the cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 5, 2012 or be returned to a subsequent meeting for consideration of the imposition of a fine up to \$1,000 per day.

CASE NO 6 SMG 11-12-72 – Halifax Habitat For Humanity, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1. (Ref. FBC Supp IPMC - see sections on attached Housing Inspection Form), at **735 Flanders Avenue** - Violation(s) – **Unsafe Structure - See attached Housing Inspection Form** - First Notified – 4/20/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits. Mr. Stenson stated he has been in contact with the director of Halifax Habitat and informed her that the property and advised it should be demolished. 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 December 5, 2012 or be returned to a subsequent meeting for consideration of the imposition of a fine up to \$1,000 per day.

CASE NO 7 SMG 11-12-73 – Jack Morris, Jr. is cited for failure to correct violations of the Land Development Code, Art.18 Sec. 7.3; Art. 19 Sec. 1.1 (Ref. Supp IPMC 302.8, 304.7 and 304.2), at **708 Kingston Avenue** - Violation(s) – Outside storage; junk vehicle; dilapidated roof; peeling paint - First Notified – 9/19/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented the case history, exhibits and violations. Mr. Stenson advised the violations consisted of outside storage, junk vehicle and dilapidated roof and peeling paint. Mr. Stenson stated only some of the outside storage has been removed and therefore 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 December 5, 2012 or be returned to a subsequent meeting for consideration of the imposition of a fine up to \$1,000 per day.

CASE NO 8 SMG 11-12-74 – C.K. & Lana E. Fletcher is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 303.1, 304.14, 504.1, 604.1, 604.2, 604.3, 704.2); City Ordinance 90-297, at **146 Lee Street** - Violation(s) – Dirty pool; screens; plumbing fixtures; no power; insufficient power; electrical system hazard; no smoke detectors; no rental license. - First Notified – 8/22/2012.

Mr. Chris K. Fletcher came forward and was sworn. Mr. Fletcher stipulated to the violations.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits and further stated that as of yesterday the pool has been cleaned and is being maintained. Mr. Stenson recommended the next cut-off date for compliance.

Mr. Fletcher stated there is power and water on the property. Mr. Fletcher stated he has had tenant problems and was not allowed on the property because of lawsuits. Mr. Fletcher stated he was allowing someone to stay there for free. Mr. Fletcher stated he now currently has back possession of the property and there should not be any violations on the interior of the house.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 5, 2012 or be returned to a subsequent meeting for consideration of the imposition of a fine up to \$1,000 per day.

CASE NO 9 SMG 11-12-75 – Raymond Barrett & Jamie Gay is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.111, at **654 Madison Avenue** - Violation(s) – No permit for yard sales - First Notified – 9/21/2012.

Ms. Jamie Gay Barrett came forward and was sworn. Ms. Barrett contested the violations and stated she did obtain a permit.

Mr. Stenson stated the case was in compliance but the City was seeking a Will Fine Order.

Ms. Barrett stated she has two addresses on the property and could have up to 6 garage sales a year but she does not. Ms. Barrett also states she has 10 signatures from her neighbors that have no problems with her and that she does not have any issues.

Ruling

Mr. Vukelja found the Respondent in compliance as of November 13, 2012 and denied the City's request for a Will Fine Order based on the fact she is allowed 6 per year.

CASE NO 10 SMG 11-12-76 – Renee L. Forbes & Bessies B. Fobes, JTRS is cited for failure to correct violations of the Land Development Code, Ar. 19 Sec. 1.1 (Ref. FBC Supp IPMC 301.1 & 303.2), at **141 Point O'Woods Drive** - Violation(s) – Umaintained swimming pool; unsecure pool enclosure - First Notified – 9/25/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented the case history, exhibits and violations. Mr. Stenson advised the violations consisted of a dirty and unsecured pool. Mr. Stenson 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 December 5, 2012 or be returned to a subsequent meeting for consideration of the imposition of a fine up to \$1,000 per day.

Miscellaneous Business

There was no miscellaneous business.

Adjournment

The meeting was adjourned at 10:07 a.m.