

CITY OF DAYTONA BEACH MINUTES

**SPECIAL
MAGISTRATE
HEARING**

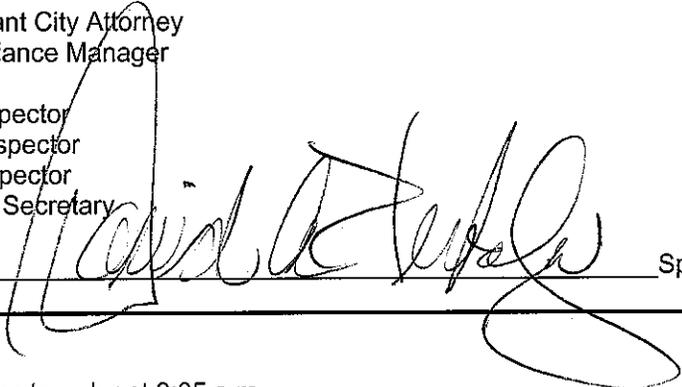
**April 9, 2013 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida**

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Hector Garcia, Code Compliance Manager
Officer Sheri Siracusa
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 9:05 a.m.

Mr. Vukelja approved the March 19, 2013 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton advised the following case was in compliance:

CASE NO 2 SMG 04-13-17 – William McIntyre & Byron Espittia is cited for failure to correct violations of the City Ordinance 90-297, at **909 Madison Avenue** - Violation(s) – No rental license - First Notified – 2/15/2013.

COMPLIANCE 4/8/2013

Ms. Hampton swore in members of staff who would be testifying.

Lien Review 1

SMG 07-08-130 – 815 Vernon Street – Brenda Brundidge (Requested by New Owner – Adesola Gbadamosi): was cited for failure to correct violations of the Land Development Code Art. 8 Sec. 2.7 - Violations: Parking in the grass. Order Imposing Fine/Lien of \$100.00 per day imposed 8/6/2008. Compliance date = 12/16/2008. **Lien maximized at \$10,000.00 per Resolution 10-204.**

Mr. Gbadamosi came forward and was sworn.

Mr. Vukelja reviewed the case file and history.

Mr. Jackson provided the case summary and history and further stated staff recommended a reduction to the amount of \$500.00.

Mr. Gbadamosi stated he acquired the property via Quit Claim Deed and paid the back taxes to get it out of tax deed sale. Mr. Gbadamosi stated he did roofing and flooring repairs. Mr. Gbadamosi stated he is selling the house and needed to take care of the lien prior to selling. Mr. Gbadamosi stated he would agree with the \$500.00 reduction.

Ruling

Mr. Vukelja ordered the lien be reduced to the sum of \$500.00 payable within 30 days or the lien reverts back to the original amount.

Hearing of Cases

CASE NO 1 SMG 03-13-16 – Carl Woods is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **535 Brentwood Drive** - Violation(s) – Outside Storage - First Notified – Will Fine Entered 4/12/2011.

Respondent was in compliance April 2, 2013.

CASE NO 3 SMG 04-13-18 – Sealevel Properties, LLC is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 4.3 (c); Art. 18 Sec. 7.3.1; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 304.13, 304.15, 304.2, 304.7, 505.1) City Ordinance 90-297(a), at **142 N. Peninsula Drive** - Violation(s) – Dorm living; outside storage; damaged fence; peeling paint; dirt & grime; missing glass; missing soffits; no running water; no occupational license - First Notified – 10/2/2012.

Respondent was not present.

Mr. Jackson presented the case information and called Inspector Daniel Garcia for testimony.

Mr. Garcia stated he has spoken with the property manager who secured the building and boarded up the broken windows. Mr. Garcia stated the windows and peeling paint should be fixed by the next cut-off. Mr. Garcia stated the damaged fence has been repaired and the outside storage has been removed. Mr. Garcia stated there was no dorm living or occupational license violation at this time as the property is now unoccupied and they are going to sell the property. Mr. Garcia 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 May 8, 2013 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 4 SMG 04-13-21 – Main Street Properties One, LLC is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 4.3 (c), at **211 Fairview Avenue** - Violation(s) – Dorm living - First Notified – 1/26/2013.

Mr. Jackson presented the case information and called Inspector Garcia

Mr. David Desautels came forward and was sworn. Mr. Desautels stipulated to the finding of non-compliance.

Mr. Vukelja inquired of the City when the Respondent should be in compliance.

Mr. Garcia stated the next cut-off date for compliance.

Mr. Desautels apologized for the violation and stated when he received notice of the violation he applied for a license at the City but was rejected but then he received a phone call stating he was approved so he

mistakenly thought the dorm living was approved. Mr. Desautels stated he would like more time to explore his options through the City.

Mr. Garcia stated there was a married couple in the front, a tenant in the back and four other tenants and none are related. Mr. Garcia stated the upstairs has been converted into four different rooms like living units with individual door locks.

Mr. Desautels stated there are five unrelated people living at the house.

Mr. Garcia stated he would need to restore the building into a single family home.

Mr. Desautels stated he would like six months to come into compliance and also work with the City of Daytona to look at changing the law about dorm living.

Mr. Jackson stated one of the issues is that until the violation is remedied the Respondent would not be able to apply for any permits and it is a non-conforming use.

Mr. Desautels stated two of the five people would be out by the end of May and there is another tenant whose lease is up in August.

Mr. Jackson stated the June cut-off would be a more reasonable cut-off date for compliance, whether the Respondent was seeking evictions or variances.

Mr. Vukelja stated he recognized the reality is there are tenants in the building and if they have leases then the question to the Respondent was how long before the dorm living can be cured.

Mr. Desautels stated August would be good because he would like to pursue ordinance changes and zoning changes.

Ruling

Mr. Vukelja found the Respondent in non-compliance and continued the case to the July 9, 2013 meeting date for the determination of a compliance date.

CASE NO 5 SMG 04-13-19 – Levander A. Miley is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.1; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13 & 304.8), at **805 Kathy Street** - Violation(s) – Outside storage; damaged window; damaged trim/shutter - First Notified – 2/13/2013.

Mr. Levander Miley came forward and was sworn. Mr. Miley stipulated to the violations.

Ms. Lankford testified that the outside storage has been taken care of and the only thing remained was a window and a damaged shutter. Ms. Lankford stated he could come into compliance within two weeks.

Mr. Miley stated it would take more time than two weeks because he is struggling financially. Mr. Miley did not understand how the board in the window was an eyesore.

Ms. Lankford stated she would be willing to allow until June 5, 2013.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by June 5, 2013 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 6 SMG 04-13-20 – Julian D. Pompei 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 302.4), at **243 Wellington Drive - Violation(s) – Lack of lawn and landscaping maintenance (high weeds); Failure to maintain yard in a reasonable manner - First Notified – 3/1/2013.**

Mr. Julian Pompei came forward and was sworn. Mr. Pompei stipulated to the violations.

Mr. Jackson announced the case and called Inspector Lankford for testimony.

Ms. Lankford stated the property was currently in compliance but because of the history of violations and frequency of calls on the property she was requesting a will fine order.

Mr. Vukelja asked Mr. Pompei to explain why he should not qualify for will fine status.

Mr. Pompei stated his lawn equipment was now repaired and he should not have a problem keeping it mowed.

Mr. Jackson stated there has been eight lot clearance notices since April 2010.

Ms. Pat Franklin, President of the Georgetown Homeowner's Association, came forward and was sworn.

Ms. Franklin stated all the HOA was asking was that the yard be regularly cut, trimmed, edged and weed-eated on a regular basis. Ms. Franklin stated the property was continuously overgrown and at one point the grass was so overgrown it was over the sidewalk. Ms. Franklin stated the property looks great now and there is no reason it cannot be done on a consistent basis.

Mr. Pompei stated it was hard to keep up with the yard on a regular basis because he works two full time jobs and the lawn mower was broken but was now fixed.

Ruling

Mr. Vukelja found the Respondent previously in non-compliance but currently in compliance and for any future repeat violation be returned to a subsequent meeting for consideration of a fine up to \$5,000 per occurrence.

Miscellaneous Business

There was no miscellaneous business.

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