

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

June 11, 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 9:10 a.m.

Mr. Vukelja approved the April 9, 2013 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton advised there were no announcements.

Ms. Hampton swore in members of staff.

Lien Review 1

SMG 12-10-137 - 241 Jefferson Street – Harriet Foreman Estate (Requested by New Owner – Daytona Limos, LLC c/o Byron Hebert): was cited for failure to correct violations of the Land Development Code Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 504.3) - Violations: Plumbing system hazard (No water service). Order Imposing Fine/Lien of \$75.00 per day imposed 1/5/2011. Compliance date = April 16, 2013. Lien maximized at \$10,000.00 per Resolution 10-204.

Mr. Byron Hebert came forward and was sworn.

Mr. Vukelja reviewed the case history of the property.

Mr. Hector Garcia testified on behalf of the City and recommended a reduction to the amount of \$1,500.

Mr. Hebert stated he requested an elimination of the lien however if the City was offering \$1,500 he would accept that.

Ruling

Mr. Vukelja ordered the lien be reduced to the amount of \$1,500 subject to being paid within 30 days or the lien reverts back to the original amount.

Lien Review 2

SMG 01-12-01 – 1014 Berkshire Road – Julius Horvath (Requested by Jefferson Street – Harriet Foreman Estate (Requested by Ken Palesh, Co-Representative for the Estate of Julius Horvath)): was cited for failure to correct violations of the Land Development Code Art. 18 Sec. 7.3 and 7.3.1 an City Ordinance 90-297 - Violations: Outside storage and no occupational license for rental property. Order Imposing Fine/Lien of \$250.00 per day plus one-time administrative fine of \$250.00 imposed 2/8/2012. Compliance date = February 29, 2012 2013. Total amount including interest and costs: \$5,836.15.

Mr. Beau Warren came forward and was sworn. Mr. Warren was appearing on behalf of the Co-Representative of the Estate of Julius Horvath.

Mr. Vukelja reviewed the case file and request for reduction submitted by the Co-Representatives for the estate.

Mr. Garcia stated in light of the circumstances the city was recommending a reduction to the amount of \$500.00.

Ruling

Mr. Vukelja ordered the lien be reduced to the amount of \$500 subject to being paid within 30 days.

Hearing of Cases

Mr. Jackson requested Mr. Vukelja call case # 5.

CASE NO 5 SMG 02-13-12 – Deep Lounge, Inc. is cited for failure to correct violations of the Land Development Code, Art. 1 Sec.5.3; Art. 17 Sec. 2.13(b); Art. 18 Sec. 6.6; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.5 and 308.1); City Code 42-211(b), at **509 Seabreeze Blvd.** - Violation(s) – Non-conforming use as a bar instead of a restaurant; Alcoholic beverages primarily being served; illegal signage; rodent harborage; infestation; amplified noise violation - First Notified – 1/25/2013 (handwritten).

Mr. Jackson presented the case on behalf of the City and reviewed the case history.

Attorney David Hood appeared on behalf of the Respondents. Mr. Hood stipulated to non-compliance and agreed to the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by July 3, 2013 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 1 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.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City and reviewed the case history and violations and stated the window was still in non-compliance and recommended a fine of \$25.00 per day with a maximum of \$5,000.00.

Ms. Lankford stated the window was the only thing that remained in violation.

Ruling

Mr. Vukelja ordered a fine of \$25.00 per day be imposed effective June 5, 2013 to continue until the fine reaches the maximum of \$5,000 or compliance is achieved whichever occurs first.

CASE NO 2 SMG 12-12-82 – Gemy A. Hana & Hany Nassif, JTRS is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.6), at **108 Boysenberry Lane** - Violation(s) – Exterior surfaces (stucco) - First Notified – 8/31/2012.

Respondent, Hany Nassif came forward and was sworn. Mr. Nassif stated the only thing that remained was the garage door and the front door which should be completed within 2 days.

Mr. Jackson presented the case on behalf of the City and reviewed the case history and violations. Mr. Jackson stated they were making good progress but needed a little bit more time.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until July 3, 2013 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 01-13-07 – David Nourachi is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.15, 304.14, 304.7, 504.1, 605.5, 603.1, and 704.2) City Code 90-297, at **425 Walker Avenue** - Violation(s) – Broken/inoperable windows; exterior doors; screens; dilapidated roof; plumbing fixtures; electrical outlets; appliances; smoke detectors; no occupational license for rental - First Notified – 9/28/2012.

Mr. Leo Nourachi came forward and was sworn. Mr. Nourachi stated he was appearing on behalf of his brother, David.

Mr. Jackson presented the case on behalf of the City and reviewed the case history and violations. Mr. Jackson stated the City found a Quit Claim Deed to another owner and were concerned about ownership arrangement and because the case has gone on for so long the City was requesting a fine of \$100.00 per day with a \$15,000 maximum and the one-time \$250.00 fine for failure to obtain an occupational license.

Mr. Stenson stated the remaining issue was missing screens. Mr. Stenson stated the Respondent has the screens they just are not put up.

Mr. Nourachi stated he has permits and stated the screens are in except for one screen because the air conditioning units are going to be put back in when the property is rented. Mr. Nourachi stated he would have the screens put in.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until June 18, 2013 to replace the screens or be automatically fined the amount of \$25.00 per day effective June 18, 2013 to continue until compliance is achieved or the fine reaches the amount of \$15,000.00.

CASE NO 4 SMG 02-13-13 – Abraham Kamaly and Two Six Five, LLC d/b/a Bishop's Lounge is cited for failure to correct violations of the Land Development Code, Art. 1 Sec.5.3; Art. 17 Sec. 2.13(b); Art. 18 Sec. 6.6; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.5 and 308.1); City Code 42-211(b), at **512 Seabreeze Blvd.** - Violation(s) – Non-conforming use as a bar instead of a restaurant; Alcoholic beverages primarily being served; illegal signage; rodent harborage; infestation; amplified noise violation - First Notified – 1/25/2013.

Respondent was not present; however, the Attorney Mr. Hartley requested a continuance.

Mr. Jackson stated the City stipulated to a continuance to the hearing for a determination of a will fine order.

Ruling

Mr. Vukelja ordered the case be continued to the July 16, 2013 meeting.

CASE NO 6 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 history, progress and current status of the property. Mr. Jackson stated the Inspector was requesting amending the compliance date until the next cut-off. Mr. Jackson called Inspector Garcia to testify.

Inspector Daniel Garcia came forward and stated he spoke with Deborah Jarrard who is the property manager who told him the property has been put up for sale and therefore requested amending the compliance date until the next cut-off. Mr. Garcia stated the remaining violations were missing soffits, dirt and grime and peeling paint around the windows.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until July 3, 2013 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 7 SMG 05-13-22 – David Desautels is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 4.3 (c); Art. 1 Sec. 5.3; Art. 19 Sec. 1.1. (Ref. FBC 105.1), at **216 Fairview Avenue** - Violation(s) – Dorm living; Non-conforming use of single family home as multi-family; no building, plumbing, electrical, and mechanical permits - First Notified – 3/27/2013.

Respondent was in compliance May 31, 2013.

CASE NO 8 SMG 05-13-23 – Pinchas & Eva Mamane is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.3, 304.15, 304.2, 304.6, and 304.7), at **511 Main Street** - Violation(s) – Ceiling damage; peeling paint; cracks/holes; rotted wood - First Notified – 6/20/2013.

Respondent was not present.

Mr. Jackson presented the case for the City and reviewed the case history and violations and called Inspector Garcia to testify. Mr. Jackson asked for a finding of non-compliance and the next cut-off for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 3, 2013 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 05-13-26 – Eric N. Stack is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **380 Jefferson Street** - Violation(s) – No permit for renovations/construction work - First Notified – 3/13/2013.

Mr. Jackson presented the case on behalf of the City and reviewed the case information and violations. Mr. Jackson stated the Inspector is requesting a finding of non-compliance and order the permits be obtained within 5 working days.

Mr. Lopez stated the owners were doing major exterior and heavy interior work but he has not inspected inside the property.

Discussions were held regarding the time frame for applying and obtaining a permit.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent to apply for a permit within 5 days and further obtain permits by July 3, 2013, failing either requirement, be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 10 SMG 05-13-27 – HFDB, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.3, 304.2, 304.6, and 307.1), at **100 N. Nova Road** - Violation(s) – Peeling paint; Trash; Junk; Debris scattered; Pot holes on and around rear parking area - First Notified – 3/5/2013.

Attorney Walter Foster appeared on behalf of the Respondent and stipulated to non-compliance.

Mr. Jackson presented the case on behalf of the City stated the inspector and attorney have agreed to 60 days for compliance.

Ruling

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

CASE NO 11 SMG 05-13-29 – Ellys E. Ramos is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 302.8, & 307.1), at **523 Park Drive** - Violation(s) – Damaged wood fence; excessive yard debris; dead tree; inoperable vehicle - First Notified – 3/12/2013.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City stated the case history and violations and stated the Code Inspector was requesting the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 3, 2013 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 12 SMG 05-13-30 – Tudja & Kalval, LLC d/b/a Heritage Inn 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, 304.13.1, 304.13.2, 304.14, 304.15, 304.2, 304.6, 304.7, 305.3, 305.4, 305.5, 305.6, 306.1, 307.1, 307.2.1, 307.2.2, 307.3.2, 308.2, 506.1, 506.2, 601.2, 602.2, 603.1, 605.1, 605.3, 704.2.); Art. 18 Sec., at **1100 S. Ridgewood Avenue** - Violation(s) – Over grown weeds and plant growth throughout the property; Accessory structures: Fencing is broken or fallen on premises; Window and Door Frames: rotten or decayed wood throughout premises - every window and door frame shall be in sound condition; Glazing materials: window glass is cracked and/or broken; All windows required to open and hold in open position by window hardware; Torn and missing insect screens on windows; Exterior Doors: repair all exterior doors that are cracked or broken; Protective treatment: peeling paint, and oxidation throughout premises; Exterior Walls: cracks, breaks, and holes in exterior walls throughout premises. Roofs and drainage: roof shingles are weathered and deteriorated; Interior surfaces: peeling paint on interior walls, windows and doors; Stairs and walking surfaces: stairway towards rear of property needs railing installed - all handrails and guards that are loose need to be tightened and sturdy. Additionally, every exterior flight of stairs having more than four risers shall have a handrail on one side of the stair; Interior doors: currently improper fit for doors in the door frames, doors need to close securely and be flush with door frames per manufacturer standards; Accumulation of rubbish or garbage; Rubbish storage facilities are inadequate; Owner required to supply covered containers for rubbish on the premises; Refrigerators: refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises – there are numerous refrigerators being used as a planters; Extermination: pest control and extermination required by owner before leasing or renting – evidence of roaches; Plumbing disconnected under sinks throughout premises - all plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system, every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstruction; Electrical appliances, and electrical outlets are not working - owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements; Air Conditioning units that have heat are deteriorated and in poor condition - dwelling shall be provided with heating facilities capable of maintaining a room temperature of 68 degrees; Cooking appliances and water heating appliances shall be properly installed and maintained; All electrical equipment, wiring and appliances shall be properly installed and maintained; Missing and broken luminary fixtures: - every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room shall contain at least one electrical luminaries; Smoke alarms: single or multiple station smoke alarms shall be installed and maintained; Property owner and tenant shall be jointly and severally responsible for maintenance of all required landscape, irrigation and hardscape improvements as originally approved on your site plan. - First Notified – 3/1/2013.

Respondent, Pravin Patel came forward and was sworn. Mr. Patel stated he is the owner and stated he agreed to non-compliance.

Mr. Vukelja asked the City for how much time the Respondent needs to come into compliance.

Mr. Lopez stated it could be done within 30 days.

Mr. Vukelja asked if there were any life safety issues.

Mr. Hector Garcia stated not at this time however there were some ceilings that were hanging down and each time they have been out to inspect the property there have been band-aid fixes.

Mr. Vukelja stated he was willing to allow additional time than the City requested because he wanted the work done and he wanted it done well.

Ruling

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

Miscellaneous Business

Mr. Jackson stated there was a face conference that was going to be held in June 2013 and wondered if Mr. Vukelja wanted to attend.

Adjournment: The meeting was adjourned at 9:55 a.m.