

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

November 12, 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
Mr. Hector Garcia, Code Compliance Manager
Mr. Michael Garrett, Chief Building Official
Officer Sheri Siracusa
Mr. Daniel Garcia, 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 9:03 a.m.

Mr. Vukelja approved the October 8, 2013 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated there were no announcements.

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

Lien Review 1

SMG 04-13-18 – 142 N. Peninsula Drive – Sealevel Properties, Inc. was cited for failure to correct violations of 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, 304.14, 304.15, 304.2, 304.7, 505.1) and Ch. 90-297 (a) City Code - Violations: Dorm living; outside storage; damaged fence; peeling paint; dirt & grime; missing glass; missing soffits; no running water; no occupational license. Order Imposing Fine/Lien of \$50.00 per day imposed on 7/3/2013. Compliance on October 14, 2013. Total amount of lien \$5,181.43.

Mr. Dexter Copp came forward and was sworn. Mr. Copp stated he is a realtor who was appearing on behalf of the owner who resides in Georgia. Mr. Copp stated the owner believed she did not have to correct the violations because she was under contract for sale. Mr. Copp recommended a reduction to the amount of \$4,000.00.

Mr. Hector Garcia testified on behalf of the City and stated the City was willing to accept the offer of the reduction to \$4,000.00.

Ruling

Mr. Vukelja ordered the lien be reduced to the sum of \$4,000 subject to being paid within 30 days or at closing whichever occurs first.

Lien Review 2 & Lien Review 3 *Heard simultaneously

SMG 02-06-12 – 558 N. Ridgewood Avenue – HSI Copy Systems, Inc. (New Owner – Ridgewood Avenue Trust), was cited for failure to correct violations Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.8, 303.2, and 303.13) - Violations: Failure to repair/correct peeling/fading paint, remove unlicensed/junk vehicle, repair broken windows. Order Imposing Fine/Lien of \$150.00 per day imposed on 4/7/2006. Compliance on March 23, 2007. Total amount of lien \$17,045.00.

SMG 11-06-170 – 558 N. Ridgewood Avenue – HSI Copy Systems, Inc. (New Owner – Ridgewood Avenue Trust), was cited for failure to correct violations Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 604.1) - Violations: No electrical or water service to occupied dwelling. Order Imposing Fine/Lien of \$1,000.00 per day imposed on 2/7/2007. Compliance on March 23, 2007. Total amount of lien \$20,000.00.

Attorney Lawrence Borns appeared on behalf of the new owner Ridgewood Avenue Trust.

Ms. Danica Lakic, on behalf of Ridgewood Avenue Trust, came forward and was sworn. Ms. Lakic stated she would request the lien be reduced to \$2,000 because of the amount of money they have put into the property bringing it up to code.

Mr. Jackson stated the City's request is that the lien be reduced to 10% of each lien which would be \$3,704.50. Mr. Jackson further stated they appreciate the new owner's efforts and recognize them as investors in the community but due to the history of the property and the fact the owner benefits from compliance the City would request the amount remain at \$3,704.50.

Ruling

Mr. Vukelja ordered the lien amount of the two cases be combined the total amount of the two liens reduced to the sum of \$3,000 subject to being paid within 30 days.

Hearing of Cases

CASE NO 1 SMG 08-13-42 – Mark Petrane is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **33 N. Peninsula Drive** Violation(s) – Working without demo, building, plumbing and electrical permits First Notified – 2/21/2013.

Mr. Mark Petrane came forward and was sworn.

Mr. Jackson presented the case history and violations. Mr. Jackson stated the permits have been applied for and they are under review. Mr. Jackson stated the City was requesting an amendment until the next cut-off date.

Mr. Petrane stated the front property has been corrected and he obtained the permit he was now waiting on the permit to demolish the rear building.

Mr. Garcia stated he needed a final inspection for the front building windows.

Ruling

Mr. Vukelja ordered the case be continued to the December 10, 2013 meeting for a progress report.

CASE NO 2 SMG 09-13-53 – Mayan Ocean Waters, 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, 304.1, 304.10, 304.15, 304.2, 304.4, 304.5, 304.6, and 403.5), at **103 S. Ocean Avenue** - Violation(s) – Structural deficiencies - structural members, exterior walls, foundation walls, balconies, doors, driveway and walkway; peeling paint; clothes dryer exhaust - First Notified – 7/10/2013.

Mr. Mike Yebba came forward and was sworn. Mr. Yebba stated he was the project manager for the Mayan Inn Project.

Mr. Jackson reminded the Magistrate about what occurred at the last meeting and stated they had just received the proposed time line and report from the Respondents and had not had time to review it. Mr. Jackson stated they have reviewed the report and asked Mr. Garrett to speak about the progress/timeline for compliance.

Mr. Michael Garrett Chief Building Official stated the work being done currently is on the balcony repairs and further stated he believed they were following the schedule as provided.

Mr. Yebba stated the time line for completion of the entire project is May 2015. Mr. Yebba states the job scope and nature of the repairs were tedious and time consuming and believed they were running ahead of schedule. Mr. Yebba stated he is constantly updated the original job matrix with the scope of work that needs to be completed. Mr. Yebba stated at this time they are focusing on the structure of the building which consists of footers, columns and balconies.

Mr. Garcia stated the balconies are a time consuming process to repair.

Mr. Jackson stated based upon the fact the City permits and licensing department and Chief Building Official was monitoring the progress, the City would ask the Respondents to come back on a quarterly basis for progress reports.

Ruling

Mr. Vukelja ordered the case appear on the February 11, 2014 Agenda for a progress report.

CASE NO 3 SMG 07-13-37 – Randall K. Neland is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.13, 304.10, 304.14, 304.7, 304.6, 304.4, 304.15, 304.1), at **145 Kingston Avenue** - Violation(s) – Windows, decks, screens, roof, exterior surfaces, structural members, exterior doors, general exterior structure, property is unsecure. First Notified – 5/29/2013.

Mr. Randall Neland came forward and was sworn.

Mr. Jackson stated the Inspector has advised him the progress insufficient at this time and called Inspector Stenson to testify.

Mr. Stenson stated there is still rotten wood on the front porch, missing fencing, boarded windows and further provided descriptions of all violations as the pictures were being shown. Mr. Stenson said progress is sporadic and usually occurs shortly before meetings.

Mr. Neland stated there has been considerable progress on the property. Mr. Neland stated there has been a lot of improvements on the property and the time frame on his permit would allow him until the end of January.

Discussions were held about the condition of the interior of the property.

Mr. Vukelja asked if he could order the house not be occupied until such time as the interior is inspected by the City.

Mr. Jackson and Mr. Neland both agreed that could be ordered.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 7, 2014 to come into compliance or be automatically fined the amount of \$200 per day effective January 7, 2014 to continue until compliance is achieved or the fine reaches the amount of \$15,000.00. It was further ordered the structure not be occupied, rented, or otherwise utilized until such time as the City inspects in the interior and the City is satisfied the interior is in compliance.

CASE NO 4 SMG 10-13-55 – Gary F. Zebrowski Estate and U.S. Bank NA as Trustee EP-MN-WS3D 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 304.3, 304.13, 304.7, 304.6, 302.7, 302.4, 304.15, 304.2, 302.7, 304.15); City Code Chapter 22 Section 22-27 & Section 22-48, at **620 Cannon Street** - Violation(s) – Outside storage; missing address numbers; broken windows; dilapidated roof; exterior walls; dilapidated fencing; weeds/landscaping; exterior doors; maintenance and security requirements responsibility of mortgagee as required by Code. First Notified – 8/15/2013.

Mr. Jackson stated the Inspector reports there has been no change on the property and therefore the City was requesting a fine be imposed of \$200 per day with a maximum of \$15,000.00.

Attorney Morgan Swenk appeared on behalf of U.S. Bank NA and stated the property is in foreclosure and the bank cannot demolish the property while it is still in the owner's name. Ms. Swenk stated the property has been registered and address numbers have been placed on the property and they were in the process of removing the debris. Ms. Swenk stated they estimate the foreclosure should be completed with the certificate of title obtained in 60 days.

Mr. Jackson stated the City would be agreeable as long as the exterior of the property was being maintained and the debris is removed.

Ruling

Mr. Vukelja ordered the case be continued to the January 14, 2014 meeting and further ordered the exterior is to be maintained and the debris removal is to be completed.

CASE NO 5 SMG 10-13-56 – 448 Martin Luther King Trust dtd 9/17/09 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, 304.6, 304.7, 304.15, 304.14, 302.7, 504.3); City Code Ch. 90-297, at **448 N. Martin Luther King Blvd.** Violation(s) – Outside storage; broken windows; exterior surfaces; dilapidated roof; exterior doors; torn/missing screens; accessory structure (shed); plumbing system hazard (inadequate service); no rental license - First Notified – 8/8/2013.

Respondent was not present.

Mr. Jackson stated the property was occupied and there has been no progress regarding compliance. Mr. Jackson stated the City was requesting a fine of \$200 per day to a maximum of \$15,000.

Mr. Stenson stated he has performed numerous inspections on the property and the property remains in non-compliance with no progress.

Ruling

Mr. Vukelja ordered a fine be imposed against the Respondent in the amount of \$200.00 per day effective November 6, 2013 to continue each day thereafter until compliance is achieved or the fine reaches the amount of \$15,000.00.

CASE NO 6 SMG 10-13-58 – John Willard Stephen is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **1300 Suwanee Road** - Violation(s) – No permit for new driveway - First Notified – 8/15/2013.

Respondent was not present.

Mr. Jackson reviewed the case and called Mr. Stenson to provide testimony.

Mr. Stenson stated the violation was the extension of a driveway without permits. Mr. Stenson stated he was told by the owner the contractor was going to apply for the permits. The contractor did not apply for the permit and now the homeowner has applied for permits and they are still under review. Mr. Stenson stated the City was requesting a fine at this point.

Mr. Jackson stated because the permit is still under review with the City, the City was requesting to amend to the next cut-off date.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 4, 2013 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 7 SMG 10-13-59 – David Partington is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7 & 7.3, at **360 Wilson Avenue** Violation(s) – Unmaintained landscaping; outside storage. First Notified – 7/26/2013.

Respondent was in compliance October 21, 2013.

CASE NO 8 SMG 11-13-60 – M N M S Holdings, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.16 (c); Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13 and 307.1); Further reference to Chapter 22 Section 22-27 and 22-27(a)3;,, at **123 S. Coates** - Violation(s) – Structure damage by fire, broken windows, trash & debris; repair or demolish - First Notified – 7/24/2013.

Respondent was not present but sent in a letter that was reviewed by the Magistrate.

Mr. Vukelja stated based upon the letter the Respondent stipulated to non-compliance.

Mr. Garcia stated the next cut-off would be sufficient for the owner to determine whether he was going to demolish the property or make the repairs. Mr. Garcia suggested a progress report at the December meeting with the January cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by January 7, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved and further ordered a progress report for the December 10, 2013 Special Magistrate Agenda.

CASE NO 9 SMG 11-13-63 – Cyril Javurek is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7; Art. 18 Sec. 7.3; Art. 19 Sec. 1.1. (Ref. FBC Supp IPMC 304.3), at **1023 Cadillac Drive** - Violation(s) – Parking in the yard; outside storage; premises identification numbers - First Notified – 8/9/2013.

Respondent was not present.

Mr. Jackson stated the property was in non-compliance but the Inspector has had contact with the Respondent and they should be in compliance by the next cut-off date.

Mr. Stenson stated he spoke with the owner and he understands there is some remaining outside storage that needs to be removed and then he will be in compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 4, 2103 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 10 SMG 11-13-64 – Robert Murphy Sr., Sean G. Murphy, Yvonne Robinson and Robert L. Murphy, Jr. as JTRS is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7), at **626 Cannon Street** - Violation(s) – Dilapidated roof - First Notified – 8/6/2013.

Robert Lee Murphy, Jr. came forward and was sworn.

Mr. Stenson stated the roof was in violation as there is a blue tarp on the roof and there is a section of soffit that needs repaired.

Mr. Murphy stated there was a section of the roof where the birds go in and nest.

Mr. Stenson stated the City would recommend the next cut-off.

Mr. Murphy stated he was in town to help his father and his father who lived in the house. Mr. Murphy stated he did remove the tarp and needed to know what other items need to be removed. Mr. Murphy stated his father was 70 years old and he would talk to him about fixing the roof.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by January 7, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 11 SMG 11-13-65 – Helen Soard is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.6), at **228 Dahoon Holly Drive** - Violation(s) – Exterior Walls (failing stucco) - First Notified – 8/8/2013.

Respondent was not present.

Ms. Hampton provided a letter Ms. Soard sent in as she could not attend the meeting.

Mr. Stenson stated the stucco on the house above the front door was peeling. Mr. Stenson stated based upon Ms. Soard's hardships the City would be willing to allow until the January cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by January 7, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 12 SMG 11-13-66 – Hunter Verbal Truth is cited for failure to correct violations of the Land Development Code, Art. 19. Sec. 1.1 (Ref. FBC Supp IPMC - as listed on the Housing Inspection Form attached), at **815 Julia Street** - Violation(s) –Listed on Housing Inspection Report attached to Notice of Violation - First Notified – 8/27/2013.

Respondent was not present.

Mr. Jackson reviewed the case information and called Inspector Stenson to testify and provide the violations.

Mr. Stenson stated the house structure was severely dilapidated and has become a police issue with vagrants. Mr. Stenson said a neighbor did correct the over growth. Mr. Stenson stated the City would be willing to allow until the January cut-off date.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by January 7, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

Miscellaneous Business

1. There was no miscellaneous business.

Adjournment: The meeting was adjourned at 10:28 a.m.