

# CITY OF DAYTONA BEACH MINUTES

## SPECIAL MAGISTRATE HEARING

December 10, 2013 at 9:00 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida

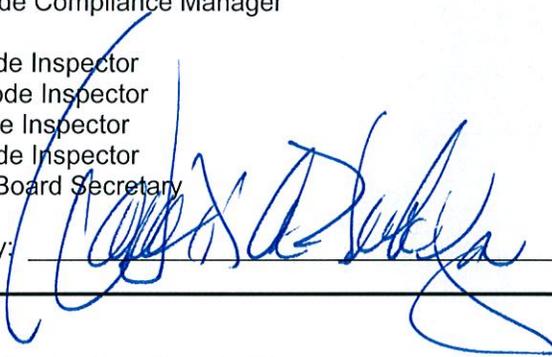
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### ATTENDEES:

Mr. David Vukelja, Special Magistrate

### STAFF:

Anthony E. Jackson, Assistant City Attorney  
Mr. Hector Garcia, Code Compliance Manager  
Officer Sheri Siracusa  
Mr. Daniel Garcia, Code Inspector  
Ms. Vicki Lankford, Code Inspector  
Mr. Edwin Lopez, Code Inspector  
Mr. John Stenson, Code Inspector  
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  \_\_\_\_\_ Special Magistrate

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Mr. Vukelja called the Hearing to order at 9:13 a.m.

Mr. Vukelja approved the November 12, 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 04-13-19 – 805 Kathy Street – Levander Miley.** was cited for failure to correct violations of Art. 18 Sec. 7.3.1; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13 & 304.8) - Violations: Outside Storage; damaged window; damaged trim/shutter. Order Imposing Fine/Lien of \$25.00 per day imposed on 6/5/2013. Compliance on November 18, 2013. Total amount of lien \$4,173.88.

Mr. Levander Miley came forward and was sworn.

Mr. Vukelja reviewed the case file.

Mr. Miley requested a reduction of the code lien as it was a minor issue that he did fix he just neglected to call for a re-inspection.

Mr. Jackson presented the case on behalf of the city and stated the City's recommendation based upon the violation was a reduction to the sum of \$500.00.

**Ruling**

Mr. Vukelja ordered the lien be reduced to the sum of \$500.00 subject to being paid within 30 days or the lien reverts back to the original amount plus interest.

**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. Vukelja reviewed the case history with the Respondent and stated the case was before him for a progress report and requested the status.

Mr. Petrane stated he obtained the permit to demolish the back building and he was going to hire a contractor to demolish the building.

Mr. Garcia stated Permits in Licensing needed to do a final inspection of the front building and he needs to demolish the back structure to be in compliance. Mr. Garcia stated Mr. Petrane could be in compliance by the next cut-off date.

Mr. Petrane stated he agreed he should be able to bring the property into compliance by January 7, 2014.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 7, 2014 to bring the property into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 2 SMG 09-13-52 – Theodora E. Keeling** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7), at **1030 Alice Drive** - Violation(s) – Dilapidated roof - First Notified – 6/28/2013.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City and requested to amend the compliance date until the next cut-off as the Respondent had a death in the family and requested an extension.

**Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 7, 2014 to bring the property into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 3 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 presented the case on behalf of the City and stated the violations consisted of a driveway extension that was constructed without a permit. The Respondent sought administrative approval for the driveway and it was not approved

Mr. Stenson stated the City denied the permit because of set-backs and stated he was going to apply for a variance but he has not applied yet and therefore the City was requesting a fine be imposed of \$75.00 per day with a maximum of \$10,000.

Mr. Vukelja inquired that if the work was completed how the Respondent would be able to come into compliance.

Mr. Stenson stated two ways for compliance would be obtaining a permit or removing the driveway extension. Mr. Stenson stated the permit was applied for with the City but the zoning officer said it needed corrections that the footprint of the driveway was too large to meet set back requirements and therefore the permit was denied.

Mr. Jackson stated the Respondent would be able to apply for a variance but has yet to apply for one.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 7, 2014 or be automatically fined the amount of \$75.00 per day will be imposed each day thereafter until compliance is achieved or reached the amount of \$10,000.00.

**CASE NO 4 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.

Ms. Hampton stated the Respondent sent an email to her late last night that she provided to staff.

Mr. Jackson called Inspector Garcia to address the progress of the case.

Mr. Garcia stated the Respondent needs to decide on whether he is going to pull a demolition permit to demolish the structure or repair the structure. Mr. Garcia stated the property was now registered on the trespass arrest site program and also the exterior was being maintained.

Mr. Jackson provided

**CASE NO 5 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 in compliance November 21, 2013.

**CASE NO 6 SMG 12-13-67 – January Kearse** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13.2 and 307.1), at **528 Cedar Street** - Violation(s) – Openable windows - every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware; accumulation of rubbish or garbage - First Notified – 10/9/2013.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City and stated the property was vacant and has problems with vagrants. Mr. Jackson stated the City's request was a finding of non-compliance and next cut-off date for compliance.

Mr. Vukelja inquired as to if any contact with the Respondent.

Mr. Lopez stated the property was posted.

### **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.

**CASE NO 7 SMG 12-13-68 – Janie B. Hill Adams** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.13.2, 304.15, 504.1, 602.3, 603.1, 704.2); City Ordinance 90-297(a), at **424 Jefferson Street** - Violation(s) – Window and door frames; Exterior doors; Plumbing fixtures; heat supply; mechanical appliances; smoke alarms; no rental license - First Notified – 10/22/2013.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City. Mr. Jackson stated the property is tenant occupied and the City's request was a finding of non-compliance and the next 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 plus a one-time fine of \$250.00.

**CASE NO 8 SMG 12-13-69 – Cathy E. Smith** 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 302.8), at **533 Arthur Avenue** - Violation(s) – Outside storage; Accessory Structure (fencing); Junk vehicles - First Notified – 9/7/2013.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City and stated the case arrived from neighbor complaints. Mr. Jackson stated the City was asking for a finding of non-compliance and requested the next 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.

**CASE NO 9 SMG 12-13-70 – Petra North, Inc.** 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, 304.3, 304.15, 304.13, 605.1, 704.2, 305.3, 305.6, 504.1, 603.1, 304.2, 304.6, 604.3, 304.7, and 302.7) Art. 19 Sec. 1.1 (Ref. FBC 105.1); City Code 90-297, at **812 Berkshire Road** - Violation(s) – Outside storage; accessory structure (fencing); address numbers; exterior doors/garage door; broken/inoperable windows; electrical fixtures; smoke detectors; interior doors; plumbing fixtures; inoperable appliances; peeling paint; exterior surfaces; electrical system hazard; dilapidated roof; accessory structure (shed); work done without permits (side garage door blocked up); no rental license - First Notified – 8/21/2013.

Mr. Bassam Al-Khateb came forward and was sworn. Mr. Al-Khateb stated he was the owner of the corporation and the registered Agent. Mr. Al-Khateb stipulated to the violations.

Mr. Jackson presented the case on behalf of the City and stated the violations were a result of a tenant complaint and now it appears the tenant has been removed some progress is being made.

Mr. Al-Khateb requested 90 days to come into compliance as he needs some time to have the funds to repair the property and is in the process of hiring a contractor.

Mr. Vukelja inquired as to the City's opinion on the Respondent's request for 90 days.

Mr. Jackson stated the City believes they would be generous to recommend 60 days and as prior to this date, there has been little progress at this point.

Mr. Vukelja stated he was inclined to grant the Respondent the time requested as the renovations seemed extensive and he would be leaving the property unoccupied during the time of the repairs.

### Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 5, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. It was further ordered the property not be rented, occupied or otherwise utilized until compliance is achieved and the exterior is to be maintained.

**CASE NO 10 SMG 12-13-71 – James Cortazar** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.6, 302.7, 304.7, 504.1, 605.1, 305.3, and 603.1); Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **1041 Berkshire Road** - Violation(s) – Damaged exterior surfaces; accessory structure (fencing); dilapidated roof; plumbing system and fixtures; electrical wiring; interior surfaces; air conditioner installation; working without permits - First Notified – 9/3/2013.

Ms. Rosie Williams, Mr. Cortazar's cousin, appeared on behalf of James Cortazar, came forward and was sworn. Ms. Williams stipulated to the violations.

Mr. Jackson presented the case on behalf of the City and stated there has been no action to date and the City was requesting the next cut-off for compliance and the tenant/complainant was present.

Ms. Danielle D'Ambrosio the tenant came forward and was sworn. Ms. D'Ambrosio stated they were currently putting rent into an escrow account and withholding rent because of the condition of the house but the landlord has filed for eviction. Ms. D' Ambrosio stated she has an attorney who was working with her to help with the eviction. Ms. D'Ambrosio stated the house is in bad shape and the contractor's who have come and inspected the house have told her that there is too much work to be done.

Mr. Jackson stated the contractor was present and requested to be heard.

Mr. Darryl Lucas came forward and was sworn. Mr. Lucas stated he has inspected the house but he wasn't sure what needed to be repaired as far as the violations because the Notice is vague.

Mr. Vukelja asked the Inspector his estimate regarding compliance.

Mr. Stenson stated he believed the property could be in compliance with diligent effort in 60 days.

Mr. Lucas stated he believed 60 days could be possible with cooperation from the tenant.

Mr. Williams believed they could have the work completed in 60 days.

Mr. Vukelja inquired as to how long she believed it would take to repair all the violations.

Ms. D'Ambrosio stated she did not believe it was possible to repair everything in 60 days but could not honestly say how long she believed it would take to correct everything.

Mr. Vukelja stated he was willing to continue the case to the January 14, 2014 for a progress report and at the progress report he would be allowing another 30 days if there is a lack of satisfaction on the progress or he would be willing to allow another 60 says if satisfactory progress was being made and everyone was working together in good faith effort towards compliance.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent return to the January 14, 2014 Special Magistrate meeting for a progress report and determination of a compliance date.

Mr. Vukelja cautioned Ms. Williams that he was going to be looking to her to see that this was going to get done.

Mr. Lucas stated the problems he was having was that he was not being let in by tenants to inspect the property or they only say work can be completed 9 to 5 Monday through Friday without on Saturday.

Mr. Vukelja stated because the fact he property was occupied it was going to be a tough job and work around a family living there however if he believed the tenant was sand bagging the progress he would deal with that and cut whatever slack needs to be deserved.

**CASE NO 11 SMG 12-13-72 – Loland, LLC** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 304.13, 305.3, 504.1, 504.3, 605.2, 604.3, 305.3, 605.1, and 308.1); City Code 90-297, at **928 Berkshire** - Violation(s) – Accessory structure (fencing); broken/inoperable windows; dilapidated shed; interior surfaces (garage); plumbing fixtures; inoperable receptacles; electrical system hazard; interior surfaces (inside house); electrical fixtures; infestation; no rental licence - First Notified – 10/17/2013.

Mr. Mark Oslizlo came forward and was sworn. Mr. Oslizlo stated he was the managing member of the LLC. Mr. Oslizlo stipulated to the violations.

Mr. Jackson stated the complaint was tenant based and as of this date no progress is being reported by the inspector and the City was requesting a finding of non-compliance and the next cut-off date for compliance.

Mr. Oslizlo stated he believed everything was completed and remedied now.

**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 plus a one-time administrative fine of \$250.00.

**CASE NO 12 SMG 12-13-73 – Henry Mitchell** 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, 304.15, 304.13, 302.3, 504.3); City Code 90-297, at **545 Spruce Street** - Violation(s) – Outside storage; accessory structure (fencing); exterior doors; broken/inoperable windows; dilapidated sidewalks; plumbing system hazard (no water services); no rental license - First Notified – 8/6/2013.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City and stated the property was in non-compliance and recommended the next cut-off date for compliance.

Mr. Vukelja asked if there was any contact with the Respondent.

Mr. Stenson stated there has been no contact with the Respondent as of this 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.

**CASE NO 13 SMG 12-13-74 – John Nicholson** is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 505.1), at **411 N. Grandview aka 413 1/2 N. Grandview** - Violation(s) – No water service supply to tenant - First Notified – 11/20/2013 at 10:30 a.m.

Respondent was not present.

Mr. Jackson presented the case on behalf of the City and called Inspector Lankford for testimony.

Ms. Lankford stated she received a tenant complaint the landlord had turned off the water service. Ms. Lankford stated when she inspected the property the water was turned back on but when they left the water was turned back off. Ms. Lankford stated as far as she knew the tenant was still occupying the property but she has been unable to make contact to verify that.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 13, 2013 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 14 SMG 12-13-75 – Deep Lounge, Inc. and Another Plan B, Inc. d/b/a 509 Supper Club & Lounge** is cited for failure to correct violations of the Land Development Code, City Ordinance Ch. 42 Section 42-215, at **509 Seabreeze Blvd.** - Violation(s) – Noise Violation - Sound meter reading 85 decibels at 11:46 p.m. - First Notified – 5/28/2013.

Respondent was not present, however Attorney David Hood, sent in a written request for continuance based upon his unavailability for the meeting.

Mr. Steve Barnes came forward and stated he was a resident in the Seabreeze neighborhood.

Mr. Vukelja stated to the witnesses who were present in the audience that he has received a request for a continuance by the Attorney for the Respondent and that he routinely grants one-time continuances. Mr. Vukelja stated he would be willing to hear the witnesses speak today or he could hear the testimony at the next meeting.

### **Ruling**

Mr. Vukelja continued the case until the January 14, 2014 meeting.

### **Miscellaneous Business**

1. There was no miscellaneous business.

**Adjournment:** The meeting was adjourned at 10:22 a.m.