

CITY OF DAYTONA BEACH MINUTES

**SPECIAL
MAGISTRATE
HEARING**

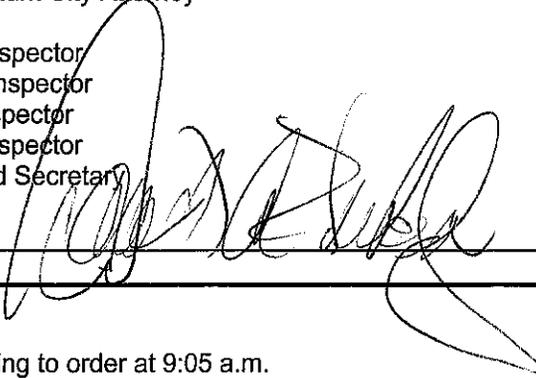
February 11, 2014 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
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

Mr. Vukelja called the Hearing to order at 9:05 a.m.

Mr. Vukelja approved the January 14, 2014 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton announced the following cases in compliance:

CASE NO 9 SMG 02-14-11 – Dennis & Terri Prescott is cited for failure to correct violations of City Ordinance Ch. 90 Sec. 90-297, at **1328 Imperial Drive** - Violation(s) – No business tax receipt (rental license) - First Notified – 9/25/2013.

COMPLIANCE 2/4/2014

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

Lien Review 1

SMG 12-13-69 – 533 Arthur Avenue – Cathy E. Smith was cited for failure to correct violations of Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7 & 302.8) - Violations: Outside Storage; Accessory Structure (fencing); junk vehicles. Order Imposing Fine/Lien of \$100.00 per day imposed on 1/8/2014. Compliance on January 27, 2014. Total amount of lien \$1,915.71.

Ms. Cathy Smith came forward and was sworn. Ms. Smith stated she had numerous hardships and could not afford to pay the fine. She requested a reduction due to the fact she was on a fixed income and that she corrected everything except the fence posts that were sunk in the ground with concrete. Ms. Smith stated had to remove the fence herself and also had a few family members help.

Mr. Vukelja asked the respondent when she removed the junk vehicles.

Ms. Smith stated she removed the vehicles in September or October.

Attorney Anthony Jackson appeared on behalf of the city and recommended a reduction to the amount of \$500.00 payable within 30 days.

Ruling

Mr. Vukelja ordered the lien be reduced to the amount of \$190.00 payable within 90 days or the lien reverts back to the original amount plus interest.

Hearing of Cases:

CASE NO 1 SMG 01-14-01 – John Nicholson is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3; Art. 19 Sec. 1.1 (Ref. FBC 105.1); Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.1, 302.4, 302.5, 302.7, 304.1, 304.10, 304.11, 304.12, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 304.18, 304.2, 304.3, 304.4, 304.6, 305.2, 305.3, 307.1, 307.2, 308.1, 504.1, 504.3, 505.1, 602.1, 602.2, 602.3, 605.1, 701.2, 704.1, 704.2); City Code Ch. 90 Sec. 297 (a) Failure to obtain Business tax receipt for Rental., at **413 N. Grandview Avenue** - Violation(s) – : Non-conforming use – Number of units exceeds allowed amount of 3; No permit for constructing over 3 units and no permit for fence erected; Remove all trash and debris from the exterior of the property; Damaged, broken driveways and sidewalks; maintain landscaping in a reasonable manner, removing all weeds, dead tree trunks and overgrowth. Remove all materials, inside and out that contribute to rodent harborage; Violation 302.7: repair/replace fence to be upright, free of defects or remove completely. (note permits required to replace fence in its entirety; Damaged siding, peeling and fading paint; Stairways, decks and porches to be structurally sound and in good repair; Repair/replace existing chimney and all exposed surfaces to be protected from elements (painted or similar surface treatment; Handrails; Deteriorated window and door frames; Broken glazing (glass) on all windows. Replace plywood at windows with glazing; Repair/replace all windows to easily open and be able to stay open by window hardware; window screens; Exterior surfaces, including but not limited to walls, window and door frames, to be free of decay and protected from the elements; Install approved address numbers; All structural columns to be free of deterioration and capable of supporting imposed load.; Repair all exterior walls to be free of defects, holes, breaks and loose or rotting materials. All exterior walls to be weatherproof; Violation 305.3: Repair, replace, clean all interior surfaces that are not clean and sanitary, that have mold, peeling or chipped paint or plaster, all surfaces to be in good, clean and sanitary condition; dispose of all rubbish in a clean, sanitary manner and in approved containers; Exterminate property to remove all insect and rodent infestation; Repair/replace all plumbing fixtures and supply lines to be in operable condition, including but not limited to vent pipes and water heaters.; Ensure water heaters in all units are properly installed, vented and safe, free of hazards; Repair, replace water heater so that units have access to hot and cold water; Provide heating facilities to all units; Repair, replace all electrical equipment, to be safe and maintained in a proper manner; Provide and maintain fire safety facilities and equipment, to include fire extinguishers; Provide smoke detectors to all units. Obtain current Business Tax Receipt for rental properties.
First Notified – 11/13/2013.

Mr. Nicholson came forward and was sworn.

Mr. Vukelja stated the case was before him for the determination of a compliance date as well as the number of permitted units and what would be required to come into compliance.

Attorney Anthony Jackson appeared on behalf of the city. Mr. Jackson read a response from the City's Development Services Division, Rose Askew, who provided a statement regarding the property from a zoning perspective. Mr. Jackson stated Ms. Askew stated the property was located in the Main Street Redevelopment Area and the zoning designation is RP which is residential professional and the land use is Office Transitional. The zoning and land use allows a maximum of 4 units provided all LDC requirements can be met for the multifamily use. For example landscaping, parking etc. Mr. Jackson

CASE NO 5 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 303.1 and 304.7), at **1030 Alice Drive** Violation(s) – Dilapidated roof; unsanitary pool - First Notified – 6/28/2013.

Respondent was not present.

Mr. Jackson stated the respondent was supposed to be in compliance with unsanitary pool by January 22, 2014 and as of this date the pool is still dirty. Mr. Jackson stated the city was asking that a fine be imposed of \$150 per day to a maximum of \$15,000 for the dirty pool. Mr. Jackson reminded Mr. Vukelja the respondent had until March 5th to come into compliance with the roof.

Mr. Vukelja asked if the pool was secured and while looking at the pictures asked if the pool still looked in the same condition.

Mr. Stenson stated the pool was secured and the fence was locked. Mr. Stenson stated the water in the pool was still dirty.

Ruling

Mr. Vukelja ordered a fine be imposed against the respondent in the amount of \$250 per day effective January 22, 2014 to continue until compliance is achieved or the fine reaches the amount of \$15,000.

CASE NO 6 SMG 02-14-08 – Exit Strategy December 12, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7, 605.1, 305.3, and 704.2); Art. 19 Sec. 1.1 (Ref. FBC 105.1); City Ordinance Ch. 90 Sec. 90-297, at **1325 Ginsberg** - Violation(s) – Dilapidated roof; electrical wiring; interior surfaces; no working smoke detectors; working without permits; no occupational license for rental - First Notified – 12/5/2013.

Justin Kielbon came forward and was sworn. Mr. Kielbon stated he was employed by Right Buy Properties and the property owner does not have the funds to correct the violations and they were working on trying to find a new location for the tenant to move.

Mr. Jackson stated the city was requesting an order of noncompliance with the compliance date of the next cutoff.

Mr. Larry Shavers came forward and was sworn. Mr. Shavers stated he was the tenant and the property was in horrible condition and he has gone to the landlords every week and he keeps getting blown off. Mr. Shavers asked if he still needed to pay for the house and he was seeking legal advice.

Mr. Kielbon stated the corporate office did not know about the violations until about a month ago and since then they have taken actions to find out how much it would cost to make the repairs and they do not have the funds to repair the violations.

Mr. Jackson stated the board secretary would provide Mr. Shavers with the phone number for community legal services.

Ruling

Mr. Vukelja found the respondents in noncompliance and ordered the respondents come into compliance by March 5, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day until compliance is achieved.

CASE NO 7 SMG 02-14-09 – Richard & Theresa Ball is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.2), at **178 Lee Street** - Violation(s) – Protective treatment (exterior paint) - First Notified – 9/20/2013.

Mr. Richard Ball came forward and was sworn. Mr. Ball stipulated to the violations.

Mr. Jackson stated the city recommended the compliance date of the next cut off.

Mr. Ball stated he could not financially afford to bring the property into compliance until he received his tax refund which would be approximately another 12 weeks. Mr. Ball further stated he had medical issues and was doing the work himself.

Mr. Jackson stated the city would be willing to stipulate to 60 days compliance considering the respondents medical condition and financial situation.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by May 7, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day until compliance is achieved.

CASE NO 8 SMG 02-14-10 – Laverne Bell is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.8 and 304.13), at **1021 Cadillac Drive** Violation(s) – Junk vehicle; Broken window - First Notified – 8/15/2013.

Ms. Laverne Bell came forward and was sworn. Ms. Bell stipulated to the violations.

Mr. Jackson stated the property was in noncompliance and the staff was recommending a compliance date by the next cut off.

Ms. Bell stated she agreed she could have the property in compliance by the March cutoff date.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by March 5, 2014 or be returned to subsequent meeting for consideration of a fine of up to \$1000 per day until compliance is achieved.

Miscellaneous Business

There is no miscellaneous business.

Adjournment: The meeting was adjourned at 10:48 a.m.