

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

July 8, 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. Tom Clig, Code Inspector

Mr. Daniel Garcia, Code Inspector

Ms. Vicki Lankford, Code Inspector

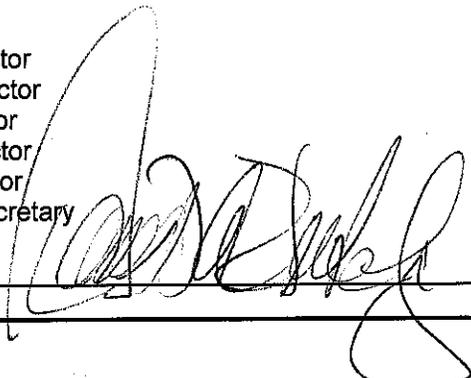
Mr. Eddie Lopez, Code Inspector

Mr. John Stenson, Code Inspector

Mr. Denzil Sykes, 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 June 10, 2014 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated there were no announcements.

Ms. Hampton swore in members of staff.

Hearing of Cases:

CASE NO 1 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. Jackson asked Mr. Vukelja if they could pass on this case to allow staff to get someone from the building department to come testify.

Mr. Vukelja stated the case would be moved to the end of the Agenda.

CASE NO 2 SMG 06-14-40 – Adeyemi & Rabetu Abel is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7 and 307.1), at **845 Magnolia Avenue** - Violation(s) – Accessory structures-all accessory structures, including fences and walls, shall be maintained structurally sound and in good repair; accumulation of rubbish or garbage - First Notified – 4/23/2014.

Respondent was in compliance July 1, 2014.

CASE NO 3 SMG 04-14-26 – Helena W. Montgomery Revocable Trust dtd 12/17/09 is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 304.2, 304.3, 304.7, 304.13, 304.14, 304.15, 305.1, 305.3, 307.1, 504.1, 601.2, 603.1, 605.1, 605.2, 704.2); City Code 90 Sec. 90-297, at **756 Fairmount Road** - Violation(s) – See Premises Inspection Report - accessory structures; protective treatment; premises identification; roofs and drainage; Windows skylight and door frames; insect screens; exterior doors; interior surfaces; accumulation of rubbish or garbage; general plumbing fixtures; mechanical and electrical requirements; mechanical appliances; electrical equipment wiring and appliances; receptacles; smoke detectors; no business tax receipt - First Notified – 11/22/2013.

Attorney Michael Clower appeared on behalf of Ms. Montgomery.

Ms. Helena Montgomery came forward and was sworn.

Ms. Lauren Nassar came forward and was sworn.

Mr. Jackson appeared on behalf of staff and stated that initially the Inspector was not receiving any contact from the owner and when there was contact made the property was immediately listed for sale. Mr. Jackson stated the property remained in noncompliance and the city was asking for the imposition of a \$200 per day fine up to a maximum of \$15,000.

Mr. Vukelja asked if any of the violations have been remedied.

Mr. Stenson stated the outside storage, accessory structure and the fencing have been removed but all other interior violations still exist.

Mr. Clower stated the outside has been taken care of and the inside of the house has been cleaned of all the trash the tenants left in the house. Mr. Clower stated the tenants informed his client they had 3 children but then his client found out they actually had 13 children and completely trashed the house. Mr. Clower stated they were stealing water and also messed up the electrical box and outlets. Mr. Clower stated it took some time to finally get the tenants out of the property because they filed an appeal to the eviction. Mr. Clower stated his client has not rented the property to anyone and now has listed the property for sale. Mr. Clower stated the tenants were finally removed April 28, 2014.

Mr. Jackson stated the City would agree the exterior has been corrected but the inspector advises he was unaware the interior has been cleaned and has not had an opportunity for inspection. Mr. Jackson asked if the interior violations have been repaired at all.

Mr. Clower stated his client had a contractor perform an estimate and the cost of repair is too much so she has elected to sell it "as is".

Mr. Jackson stated the staff does not have a practice of allowing properties to sit and wait to be sold that are still in a condition of non-compliance.

Mr. Stenson stated the violations that are indicated are not violations that would create risk of the structure however it should not be occupied or used in anyway.

Mr. Jacksons stated the inspector believed the violations could be corrected by the next cut-off however he has not been inside since November when the tenants filed the complaint.

Ruling

Mr. Vukelja found the problems cause by the tenant caused or attributed to the delay of the Respondent being able to come into compliance. Mr. Vukelja continued the case to the August 12, 2014 meeting to allow for the code inspector to inspect the interior to determine the scope of a compliance date and further ordered the property not be rented occupied or otherwise utilized until such time as compliance is achieved and also ordered the exterior shall be maintained.

CASE NO 4 SMG 06-14-41 – Richard W. & Lilia O. Morgan is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7, 305.3, and 704.2); City Code Sec. 90-297, at **619 Aberdeen Street** - Violation(s) – Dilapidated roof; interior surfaces; missing smoke detectors; no valid business tax receipt (BTR) - First Notified – 3/28/2014.

Respondent was not present.

Mr. Jackson stated staff has informed him there has been little progress on the property and staff was asking for the imposition of a fine.

Mr. Stenson stated that there has been an update since he last spoke with Mr. Jackson and there has been more progress including the roof being completed and only a few minor interior things remained. Mr. Stenson requested the compliance date be amended until the next cut off.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until August 6, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

CASE NO 5 SMG 06-14-42 – Charles W. Mecklem Revocable Trust dtd 9/26/03 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 2.7), at **515 Brentwood Drive** - Violation(s) – Outside storage; parking in the yard - First Notified – 4/15/2014.

Respondent was not present.

Mr. Jackson stated that the property was still in noncompliance and the staff was recommending the imposition of a fine of \$200 per day to a maximum of \$15,000.

Mr. Stenson stated the parking is a constant issue.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until July 18, 2014 to come into compliance or an automatic fine of \$200 per day shall go into effect and will continue until compliance is achieved or the fine reaches the maximum of \$15,000.

CASE NO 6 SMG 06-14-43 – Elmer L. & Sarah A. Flanary 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 302.7 and 302.8); Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **1356 Continental Drive** - Violation(s) – Parking in yard; outside storage; accessory structure (shed); junk vehicle; new fence erected without permits - First Notified – 3/31/2014.

Respondent was in compliance July 1, 2014.

CASE NO 7 SMG 07-14-46 – Jae Louise Gates & Genesis Karma Mesiano, as JTRS is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3 (a), at **222 N. Hollywood Avenue** Violation(s) – Non-conforming use of single family home - Tattooing in the garage - First Notified – 6/2/2014.

Respondent was not present.

Mr. Jackson stated the violations consisted of tattooing in the garage of a single family home and basically staff was looking for a finding of noncompliance as the property was now in compliance.

Ruling

Mr. Vukelja found the respondent previously in noncompliance and currently in compliance and for any future repeat violation be subject to the imposition of a fine of up to \$5,000 per occurrence.

CASE NO 8 SMG 07-14-47 – Eddie Bell is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.1, at **1135 Raiford Avenue** - Violation(s) – Failure to remove outside storage
First Notified – 4/24/2014.

Respondent was in compliance June 24, 2014.

CASE NO 9 SMG 07-14-48 – Eric N. & Kimberly D. McGill is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7 and 304.13), at **1201 Essex Road**
Violation(s) – Dilapidated fencing; broken windows; property is vacant and unsecured - First Notified –
5/27/2014 and 6/2/2014

Respondent was not present

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

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by August 6, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

CASE NO 10 SMG 07-14-49 – Paul B. Porter 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 304.7, 304.15, 302.7, 305.3, 305.6, 605.1, 504.1 and 605.2), at **1208 Imperial Drive** - Violation(s) – Parking in yard; outside storage; dilapidated roof; exterior front door; dilapidated fencing; interior surfaces; interior doors; plumbing fixtures; inoperable appliances; inoperable receptacles - First Notified – 4/26/2014.

Mr. Paul Porter came forward and was sworn.

Ms. Betty Bullington came forward and was sworn.

Mr. Porter stipulated to the violations.

Mr. Jackson stated the Inspector indicates the complaint was generated from the tenants and this is the first time the Inspector has seen the owner. Mr. Jackson stated staff was recommending the next cut-off date for compliance.

Mr. Porter stated he has hired a contractor but the tenants will not let the contractor or himself in the property.

Ms. Bullington stated she helps Mr. Porter as a friend and has tried to contact the tenant and to gain access for the contractor but has been unable to. Ms. Bullington stated they were able to remove the fencing from outside and was not sure what the outside storage was. Ms. Bullington stated the tenant's names were Esther Johnson and Tiffany Ferguson and they have refused to allow them access.

Mr. Porter stated the tenants did a walk through when they signed the lease and they acknowledged there was no damage and everything was working.

Ruling

Mr. Vukelja found the respondent in noncompliance and continued the case to the August 12, 2014 meeting in order to allow the Respondent to get his contractor into the interior of the property.

Mr. Vukelja stated if at the next meeting the tenants still have not allowed the contractor inside he will be agreeable to allow more time. Mr. Vukelja stated if the tenant wants to appear to explain the circumstances are different than what is being presented then they are welcome to do that.

CASE NO 11 SMG 07-14-44 – Protogroup, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 110.1, 302.1, 302.3, 302.9, 303.1, 304.2, 304.10, 305.3, 306.1, 307.1, 501.2, 601.2, 701.2), at **500 N. Atlantic Avenue** - Violation(s) – General demolition orders; sanitation - exterior not in a clean or sanitary condition; sidewalks and driveways - not in a proper state of repair; defacement - graffiti on pool and wall; pool - pool is empty but not maintained clean or in good repair; protective treatment - windows, doors, walls, to be free of defects; stairways, decks, porches and balconies not in good repair; interior surfaces - not in good repair (mold & paint); handrails and guardrails in disrepair; accumulation of rubbish or garbage; responsibility of owner to provide plumbing facilities in good working condition; responsibility of owner to provide working mechanical and electrical facilities; responsibility of owner to provide fire safety facilities - First Notified – 6/4/2014.

Mr. Robert W. Kuehn, property manager came forward and was sworn. Mr. Kuehn stipulated to noncompliance.

Mr. Jackson stated that the property needed to be demolished and it was his understanding the owners anticipated demolishing but it has been delayed.

Inspector Clig stated that a permit has been issued for the demolition on June 28, 2014 and some minor cosmetic issues as far as repairing the fence, securing some exterior doors and signing up for the Trespass Arrest site have been completed. Mr. Clig stated the City was requesting a demolition date with a progress report each month until compliance. Mr. Clig stated there were police complaints and commissioner complaints about the property.

Mr. Jackson stated the issues have reached a matter of public discussion and it has risen to the level of commissioners.

Mr. Kuehn stated that Samsula has commenced with asbestos abatement and also notified the EPA for the intent to demolish and FDEP still has some outstanding permit review items and comments as related to the historical significance to the property. Mr. Kuehn stated the civil engineer has requested the comments be cleared before demolition starts. Mr. Kuehn stated they will do their best to comply by September 3rd and notwithstanding outside forces believes they could be close to that.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by September 3, 2014 or be returned to subsequent meeting for consideration of a fine of up to \$1000 per day. It was further ordered the case appear on the August 12, 2014 agenda for a progress report.

CASE NO 12 SMG 07-14-45 – Gary & Darleen Bowie is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3, at **1502 Ocean Dunes Terrace** - Violation(s) – Non-conforming use of single family home as a short term rental - First Notified – 6/2/2014.

Attorney Michael Woods appeared on behalf of the respondent. Mr. Woods stipulated to noncompliance.

Mr. Jackson stated the city was requesting 10 days to come into compliance which would be on or before July 18, 2014.

Mr. Woods stated with regard to the nature of the use his client has removed the advertisement.

Mr. Clig stated that even though the advertisement has been pulled people have still been coming to the house.

Mr. Jackson stated clarifying what the Inspector said the City would request the respondent just make sure any future bookings have been canceled.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent to come into compliance by July 18, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 1 SMG 09-13-53 – Mayan Ocean Waters, LLC/ Mayan Inn 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.

Respondent was not present.

Mr. Robert Snowden came forward and was sworn Mr. Snowden stated he was the chief building inspector. Mr. Snowden state there is an expired permit as of April 7, 2014 regarding the spaulding and balcony repair. Mr. Snowden stated on that same day GC Contractors applied for an additional permit and the City provided comments but they have not responded. Mr. Snowden stated currently there is no active permit.

Mr. Vukelja asked if work was being done.

Mr. Snowden stated he has not been by there personally to observe if any work is being done but typically they shut down repairs during the summer to push room occupancy.

Mr. Jackson requested that the magistrate order that the respondent have permits in hand by the next cutoff date. The comments are things that can be remedied in a reasonable time for them to acquire the permit.

Mr. Jackson stated he does have an email from Mr. Ziegler on behalf of the Mayan Inn regarding what progress has been made. Mr. Jackson presented that to Mr. Vukelja.

Mr. Vukelja inquired what was lacking other than permits to satisfy the project was being completed in a timely manner.

Mr. Jackson asked Mr. Snowden if there were routine inspections performed or notifications the City should have received.

Mr. Snowden stated they do a final inspection but are provided engineer reports during the process.

Ruling

Mr. Vukelja ordered a progress report for the August 12, 2014 meeting and requiring a representative of the respondent to appear and requested the progress shall be in regards to the status of the permits and any inspections that may be needed.

Miscellaneous Business

Mr. Jackson introduced the rental inspection staff and stated he would be seeing some rental cases on next month's meeting.

Adjournment: The meeting was adjourned at 10:11 a.m.