

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

September 9, 2014 at 9:30 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 Sherri Siracusa

Mr. Tom Clig, Code Inspector

Mr. Michael Fitzgerald, Code Inspector

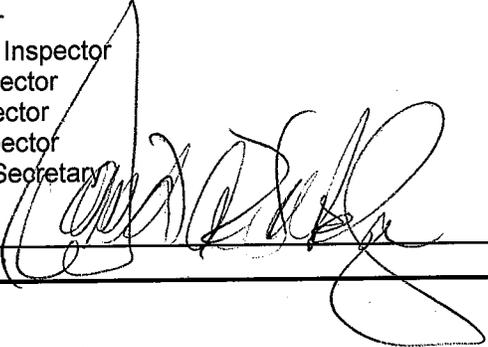
Mr. Daniel Garcia, Code Inspector

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 9:45 a.m.

Mr. Vukelja approved the August 12, 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.

Lien Review 1

SMG 12-13-70 – 812 Berkshire Road – Petra North, Inc. was cited for failure to correct Violations: 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); Art. 19 Sec.1.1 (Ref. FBC 105.1); City Code Sec. 90-297; Outside storage; accessory structure (fencing); address numbers; exterior doors/garage door; broken 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. Order imposing Fine/Lien of \$50.00 per day imposed on April 4, 2014. Compliance on May 13, 2014. Lien amount \$2,050.00, plus recording \$12.00 costs and interest \$31.74 = Total amount of lien \$2,093.74.

Mr. Vukelja reviewed the case file.

Mr. Jackson stated that staff's recommendation was to reduce the amount of the fine to \$1,046.

Mr. Bassam Al Khateeb came forward and was sworn. Mr. Al Khateeb stated that the damage was done deliberately by the tenants and that during that time he was suffering from financial hardship because he was self-employed. Mr. Al Khateeb stated that he went to several contractors before the property was able to be brought into compliance.

Mr. Jackson stated the first notification date was August 1, 2013 and the property did not come into compliance until May 2014 which would be 9 months.

Mr. Stenson stated there was a tenant that needed to be removed.

Mr. Vukelja inquired if they knew when the tenant was removed.

Mr. Al Khateeb stated he believes the tenant was removed in September or October of last year.

Mr. Vukelja inquired what the property looked like now.

Mr. Al Khateeb showed Mr. Vukelja pictures on his phone.

Ruling

Mr. Vukelja reduced the amount of the fine to the sum of \$250 subject to being paid within 30 days.

CASE NO 1 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 Kuehn came forward and was sworn.

Mr. Jackson stated that the property was still in noncompliance with a few minor issues to correct. Mr. Jackson stated the structure has been demolished and the staff was recommending amending the compliance date to the next cutoff.

Mr. Clig stated the building was down but the property needs to be re-sodded and a construction fence needs to be erected.

Mr. Kuehn stated the sodding and fence should be completed by the end of next week.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until October 8, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1000 per day.

CASE NO 2 SMG 05-14-29 – Cynthia Wachtman is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1. (Ref. FBC 105.1); Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.13, 304.2, 304.5, 304.6, 304.7), at **139 S. Peninsula Dr.** - Violation(s) – Expired building permits; peeling paint; rotted wood; holes; boarded and covered up windows - First Notified – 12/6/2013.

Respondent was in compliance August 29, 2014.

CASE NO 3 SMG 08-14-50 – Jonathan I. Rotstein and Mason Avenue Pawn is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6.6; Art. 18 Sec. 6.6 (a)4; Art. 18 Sec. 6.6 (a)6; Art. 18 Sec. 6.6 (a)8; Art. 18 Sec. 6.6 (a)9, at **347 Mason Avenue** - Violation(s) – Prohibited signs; sign on pole column not permitted; "open" sign cannot be flashing; sandwich board or A-frame signs prohibited; no pennants and other signs which move in the wind; vehicle may not be used as primary purpose for advertising - First Notified – 6/23/2014.

Respondent was in compliance September 9, 2014

CASE NO 4 SMG 08-14-51 – Community Dynamics, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13.1), at **501 S. Martin Luther King Blvd.** - Violation(s) – All glazing materials shall be maintained free from cracks and holes - First Notified – 5/21/2014.

Respondent was not present.

Mr. Jackson stated that the property was still in noncompliance but the Respondent did fix some windows but not all windows.

Mr. Lopez stated that the property is a vacant commercial building where the windows were broken and fixed by the Respondent but they have since been broken again.

Mr. Vukelja asked why the windows could not be boarded if the property was vacant.

Mr. Jacksons explained that boarded windows were a violation of code and the Inspector provided alternative ideas to the Respondent such as using plexi-glass instead of glass to help prevent the windows from getting broken.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until October 8, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 5 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.

Respondent was not present.

Mr. Jackson stated the property was in noncompliance and no action has been taken by the owner. Mr. Jackson further stated there was an eviction but no further action was taken after the eviction and therefore staff was requesting imposing a fine.

Mr. Stenson corrected Mr. Jackson and stated the property was recently vacated and the owner was working on the violations now and his contractor was making the repairs. Mr. Stenson stated the property should be in compliance by the next cutoff date.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until October 8, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1000 per day.

CASE NO 6 SMG 08-14-53 – Navarra Construction, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.15, 305.3, 304.13, 504.1, 305.6, 605.1, 304.14), at **521 Pine Street** - Violation(s) – Exterior doors (garage door); interior surfaces; broken windows; broken plumbing fixtures; dilapidated interior doors; electrical fixtures; missing screens; property is unsecured - First Notified – 5/19/2014.

Respondent was not present.

Mr. Jackson stated the property remained in noncompliance and staff was recommending a fine be imposed of \$100 per day to maximum of \$15,000.

Mr. Stenson stated there has been no communication with the owner and the only progress was that the garage door has been closed.

Ruling

Mr. Vukelja imposed a fine against the respondent in the amount of \$100 per day effective September 4, 2014 to continue each day thereafter until compliance is achieved or the fine has reached the maximum amount of \$15,000.

CASE NO 7 SMG 09-14-55 – Grover J. Dezern is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13, 304.14, 304.2, 304.4, 304.6, 304.7, and 304.9), at **733 Mulberry** - Violation(s) – Fading and peeling paint; roof structural members rotten; exterior walls cracks, loose, missing and rotting materials; roof and flashing; gutters; rust and corrosion or missing parts and growing vegetation; overhang extension, rot or decay or rust; broken window glass; windows damaged or broken; ripped, torn or missing screens - First Notified – 4/3/2014.

Respondent was not present.

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

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by October 8, 2014 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 8 SMG 09-14-56 – King Cerame Properties, Inc. is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.4, 7.4.1, 7.4.4; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 304, 304.13.1, 304.18.1, 304.7, 305.1, 305.3, 305.6, and 604), at **1238 5th Street** - Violation(s) – Damaged accessory structures garage or shed; broken window glass; damaged exterior door frame; roof leaking; interior surfaces; water damage loose or missing plaster; damaged interior doors; electrical system hazards; appliance damaged or broken; all exterior surfaces which have deteriorated, decayed, disintegrated, or been weathered with dirt and grime - First Notified – 3/17/2014.

Mr. Robert Cerame came forward and was sworn. Mr. Cerame stated the tenants would not let the contractor in to make the repairs. Mr. Cerame stated the inside violations should only take a day or two and there have been several times the contractor has been there to do the repairs but the tenant refuses to let them in.

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

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by October 8, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1000 per day.

CASE NO 9 SMG 09-14-58 – Charles W. Mecklem Trust c/o Charles W. Mecklem, Trustee is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **515 Brentwood Drive** Violation(s) – Parking in yard - First Notified – Order of Non-compliance entered June 13, 2014

Mr. Stenson stated the trailer was parked in the grass which was a repeat violation. Mr. Stenson stated the violation occurred on August 15, 2014 and further the property is now in compliance and the trailer has been removed.

Mr. Jackson stated staff was recommending a fine of \$100 be imposed for the repeat violation.

Mr. Charles W. Mecklem came forward and was sworn. Mr. Mecklem stated that he has written letters to his tenant informing them of the violations which he submitted into evidence.

Ruling

Mr. Vukelja denied the City's request to impose a fine as he was satisfied by the efforts of the owner to try to keep his tenants from violating the code.

****Case No. 10 was moved to the end of the Agenda.**

CASE NO 11 SMG 09-14-60 – Christiana Trust, Trustee c/o Lender Legal Services is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.10, 304.2, 304.4, 304.6, 304.7, 506.2, 704.2, and 305.3), at **315 Cedar Street** - Violation(s) – Deteriorated porch floor; exterior walls - oxidation, dirt, grime, mildew and peeling paint; rotten decay and damaged wood from roof and soffit area; roof, soffit, fascia, drain and gutters; kitchen cabinets - cracked loose, ceiling walls plaster in the bedroom; plumbing lines and toilet and sewer lines; smoke detectors - First Notified – 7/18/2014.

Christina Dinardo came forward and was sworn Ms. Dinardo stated she was the new property manager and further stipulated to noncompliance.

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

Ms. Dinardo asked if she could have 60 days since the bank moves slowly with issuing orders for repairs.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the respondent come into compliance by November 5, 2014 or be returned to subsequent meeting for consideration of a fine of up to \$1,000 per day.

CASE NO 12 SMG 09-14-61 – Blondell M. Ezell is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.8, 304.2, and 302.7), at **647 Clark Street** Violation(s) – Unlicensed or inoperative vehicle; Protective treatment- oxidation stains; Accessory structures - fence in disrepair - First Notified – 7/16/2014.

Ms. Blondell Ezell came forward and was sworn.

Mr. Jackson stated the property was in noncompliance and staff was recommending in next cutoff date for compliance. Mr. Jackson stated the Inspector was having a difficult time getting in contact with the Respondent.

Ms. Ezell stated she works 12-15 hours a day and she needed the additional time to hire someone to help her work on the repairs and therefore she was asking 60 days for compliance.

Ruling

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

CASE NO 13 SMG 09-14-62 – Ormond Beach Property Management, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.7, 304.1, 304.13.1, 304.14, 304.15, and 307.1), at **304 N. Keech Street** - Violation(s) – Concrete accessory wall in disrepair; broken or cracked window glass; torn insect screens; exterior doors; trash, tires, and junk need to be removed from the premises - First Notified – 5/15/2014.

Ms. Cheryl Craig from Arthur Kowitz Realty came forward and was sworn. Ms. Craig stated that on August 29, 2014 the property was sold to Ken Wright.

Mr. Jackson requested the case style be amended to reflect the new owner and has been in communication with the new owner about the violations.

Mr. Kenneth Wright came forward and was sworn. Mr. Wright stated he was the new owner and stipulated to being substituted as the new Respondent. Mr. Wright further asked for 90 days to bring the property into compliance.

Ruling.

Mr. Vukelja ordered Kenneth Wright be substituted as the new owner and further found the respondent in noncompliance and ordered the respondent come into compliance by December 3, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 14 SMG 09-14-63 – Ormond Beach Property Management, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 301.13.1, 304.15, 304.2, 304.6, 307.1) City Code 90-297, at **306 N. Keech Street** - Violation(s) – Cracked or broken window glass; exterior doors; exterior walls (peeling paint and holes, breaks or loose or rotting materials); tires, junk and debris on the premises - First Notified – 5/15/2014.

Mr. Kenneth Wright stated he was the new owner and further stipulated to being substituted as the new Respondent. Mr. Wright further asked for 90 days to bring the property into compliance.

Ruling.

Mr. Vukelja ordered Kenneth Wright be substituted as the new owner and further found the respondent in noncompliance and ordered the respondent come into compliance by December 3, 2014 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 15 SMG 09-14-64 – Richard L. Grice is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 307.1); Art. 8 Sec. 2.7(a), at **575 Live Oak Avenue** - Violation(s) – Accumulation of trash, junk and debris; Parking on an unimproved surface First Notified – 7/3/2014.

Respondent was not present.

Mr. Jackson stated that the property was a rental property and was a citizen complaint. Mr. Jackson further stated the property was in noncompliance and staff was recommending the next cutoff date for compliance.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the Respondent come into compliance by October 8, 2014 or be returned to subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 10 SMG 09-14-59 – John Burch 755, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **755 Berkshire** - Violation(s) – Working without permits (permits expired on 7/10/2014) - First Notified – Order of Non-compliance entered March 13, 2014

Ms. Brenda Burch came forward and was sworn.

Mr. John Burch came forward and was sworn.

Mr. Vukelja stated the matter was before him for a repeat violation of working without permits.

Mr. Vukelja inquired if Mr. Burch agreed with the violation as cited.

Mr. Burch stated he has not done any work since his permit expired and he was out of town.

Mr. Jackson called Mr. Stenson to provide testimony.

Mr. Stenson provided a history of the property. Mr. Stenson stated Mr. Burch went before City Commission and a new permit was issued. Mr. Stenson stated that new permit has since expired.

Mr. Jackson stated since the meeting with the Commission Mr. Burch entered into a Rehabilitation Agreement with the City and therefore a permit was issued. Mr. Jackson further stated he was to be in compliance with the rehabilitation agreement by July 10, 2014 and so he is now in violation of the rehabilitation agreement.

Mr. Vukelja asked what work has been completed without permits.

Mr. Stenson stated there is so much debris and a dumpster on the property so it is hard to tell what has actually changed on the property.

Mr. Vukelja asked what specific work has been done after July 10, 2014 when the City is claiming Mr. Burch's permit expired.

Mr. Stenson stated in comparing the photographs you can see different things have been done with the property but he did not know what specific work has been completed.

Mr. Vukelja stated he was not seeing any evidence of work being done after July 10, 2014.

Mr. Jackson asked Mr. Stenson if he has seen any changes on the property since July 10, 2014.

Mr. Stenson stated he has seen some changes on the property including appliances sitting on the porch and new windows have been put in.

Mr. Vukelja asked what other improvements have been completed after July 10, 2014.

Mr. Stenson stated the only thing he could say to the best of his recollection was the windows were installed.

Mr. Jackson asked about the dumpsters and fence.

Mr. Stenson stated there have been two dumpsters at the property and the fence was open since July and was previously closed and Mr. Stenson further stated the additional outside storage has been since July.

Mr. Vukelja asked the City what they foresee about the property and how it is going to be remedied.

Mr. Jackson stated there was nothing the City believed could be done as far as bringing the property into compliance.

Mr. Burch stated he agreed he had a permit that expired on July 10, 2014 but was out of town and has not been working.

Mr. Vukelja stated the Code Inspector suggested the windows have been installed after July 10, 2014.

Mr. Burch stated the windows were installed with the first permit and that was before July 2014.

Mr. Vukelja inquired if Mr. Burch entered into an agreement with the City.

Mr. Burch stated he did sign an agreement but it was under duress.

Mr. Burch stated his daughter had an eye operation and he was in Jacksonville with her. Mr. Burch stated he asked for an extension of the Rehabilitation Agreement due to his family emergency.

Mr. Burch stated he felt like the City was not being truthful with their explanation of the issues.

Mr. Vukelja stated there were countless orders were entered throughout the history of the case that Mr. Burch failed to comply with.

Mrs. Burch asked why there are still fines if the permits was obtained.

Mr. Vukelja asked what relief the City was requesting.

Mr. Jackson stated the City was requesting a fine of \$1,000 per day to a maximum of \$15,000.

Mr. Vukelja inquired if there were any more witnesses who wanted to come forward.

Mr. John Burch, Jr. came forward and was sworn. Mr. Burch stated he helped put in the windows and it was back in April 2014 which was prior to the expiration date. Mr. Burch further acknowledged his father was out of town and no one has been working on the property.

Ruling

Mr. Vukelja denied the City's request to impose a fine as they failed to prove Mr. Burch performed work beyond the expiration date of the permit.

Miscellaneous Business

There was no miscellaneous business.

Adjournment: The meeting was adjourned at 11:00 a.m.