

CITY OF DAYTONA BEACH MINUTES

**SPECIAL
MAGISTRATE
HEARING**

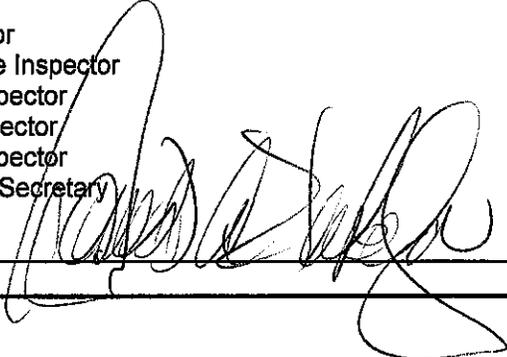
October 14, 2014 at 9:30 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

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 9:20 a.m.

Mr. Vukelja approved the September 9, 2014 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following cases were in compliance:

CASE NO 11 SMG 10-14-66 – Space Coast Credit Union is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 304.13, 304.15, 304.2, 304.6, 304.7, 307 and 307.1), at **200 Main Street** - Violation(s) – Broken windows; peeling paint; cracks; rotted wood; damaged overhang; trash and debris - First Notified – 1/30/2014.

Respondent was in compliance October 13, 2014.

Miscellaneous Business

Case 1

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.

Mr. Vukelja stated it was his understanding there is a stipulation of the parties for this case.

Mr. Jackson stated the City was requesting the automatic fine/lien be vacated and the new owner be added to the case and allow for a December compliance date with a November progress report.

Attorney Michael Clower appeared on behalf of the Respondent.

Ms. Kim Law came forward and was sworn. Ms. Law stated she was purchasing the property for herself and her daughter and was aware there were violations that need to be corrected.

Ruling

Mr. Vukelja ordered the previous order of non-compliance where a fine was imposed be vacated and further amended to allow the Respondent until December 3, 2014 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day plus a progress report at the November 11, 2014 meeting. It was further ordered Ms. Kim Law be added as a Respondent.

Ms. Hampton swore in members of staff.

Lien Review 1 & Lien Review 2

CEB 09-09-163 – 535 Brentwood Drive – Samuel Merrill (Current Owner: SRB Servicing, LLC was cited for failure to correct Violations: Art. 18 Sec. 7.3 – Outside Storage. Order Imposing Fine/Lien of \$150.00 per day imposed on October 8, 2009. Compliance on May 14, 2010. Total amount of lien \$15,000.00.

SMG 06-12-49 – 535 Brentwood Drive – Carl Woods (Current Owner: SRB Servicing, LLC was cited for failure to correct Violations: Art. 18 Sec. 7.3 – Outside Storage. Order Imposing Fine of \$150.00 plus a fine of \$75.00 per day effective June 13, 2012. Compliance on June 22, 2012. Total amount of Lien \$1,020.84. (1st Lien of \$150.00 plus 2nd Lien of \$750.00, plus interest on 1st Lien – \$16.63, Interest on 2nd Lien - \$82.21 and recording costs of \$22.00).

Attorney Brian Kiefer appeared on behalf of the new owner, SRB Servicing, LLC.

Mr. Jackson stated Lien Review 2 and Lien Review 3 are the same property and two separate liens.

Mr. Vukelja reviewed the lien review request form.

Mr. Jackson stated the City was willing to reduce the lien for Case No. CEB 09-09-163 to the amount of \$1,500 and to reduce the lien amount for Case No. SMG 06-12-79 to the amount of \$150.00.

Mr. Kiefer stated he would be agreeable to resolving the issues today for \$1,500.

Ruling

Mr. Vukelja consolidated the two cases and reduced the total amount of the lien to the sum of \$1,500 subject to being paid in 30 days.

Hearing of Cases

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.

Respondent was in compliance October 1, 2014.

CASE NO 2 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 in compliance October 7, 2014.

CASE NO 3 SMG 08-14-54 – Michael A. Huss & Cathy Ann Huss 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 304.6, 304.7, 504.3, 304.14, 605.2, 504.1, 305.3, 305.6, 704.2, 308.1, 302.7); Art. 19 Sec.1.1 (Ref. FBC 105.1), at **506 Brentwood Drive** - Violation(s) – Outside storage; exterior surfaces; dilapidated roof; plumbing system hazard (venting); missing/broken screens; inoperable receptacles; plumbing fixtures; interior surfaces; interior doors; missing/inoperable smoke detectors; insect infestation; dilapidated fencing; roof work with out permits - First Notified – 5/31/2014.

Respondent was in compliance September 19, 2014.

CASE NO 4 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 asked for the City to continue the case until the next meeting date due to a possible certificate of title.

Ruling

Mr. Vukelja continued the case to the November 11, 2014 meeting.

CASE NO 5 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.

Respondent, Keith King came forward and was sworn.

Mr. Jackson stated the property remained in non-compliance and the case arose from tenant problems. Staff indicates there is little effort towards compliance and therefore staff was asking for a fine.

Mr. Fitzgerald stated the violation that has been corrected was the back building was torn down.

Mr. King stated they were in the process of evicting the tenant and she should be out of the house tomorrow. Mr. King stated they have been attempting to get the work done but the tenant would not let the contractor in to make repairs.

Mr. Vukelja inquired how much time it would take to make the repairs after the tenant is removed.

Mr. King stated he believed 30 days should be enough time and their intent was to sell the property after the repairs are made and not rent it.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 3, 2014 to come into compliance 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.

CASE NO 6 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 the property was still in non-compliance.

Ruling

Mr. Vukelja imposed a fine of \$100 per day effective October 9, 2014 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$20,000.

CASE NO 7 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.

Mr. Richard Grice came forward and was sworn.

Mr. Jackson stated the city was requesting a fine be imposed of \$100 per day to maximum of \$15,000.

Mr. Lopez stated as of his last inspection the property still had debris and tires and junk throughout the property. Mr. Lopez further stated he spoke with Mr. Grice who advised the property has been cleaned up and was working on removing the tenants.

Mr. Grice stated the vehicle has been removed, the RV which is owned by the tenant's relative is going to be removed. Mr. Grice stated the tenants have been an issue for him because as soon as they get it cleaned up it goes right back to the debris again. Mr. Grice stated he was working on evicting the tenants so he did not have to worry about the violations returning. Mr. Grice was requesting 60 days for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until November 14, 2014 to come into compliance or a fine in the amount of \$75.00 per day effective November 14, 2014 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

CASE NO 8 SMG 10-14-65 – Scott & Gwen Petersohn is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189(a); Art. 18 Sec. 7.3.1 and 7.3.3; City Ordinance 90-297(a), at **2317 Dodge Drive** - Violation(s) – Parking trailer in the front yard; outside storage of materials; landscaping and grounds not reasonably maintained; No Business Tax Receipt (BTR) for rental - First Notified – 8/9/2014.

Respondent was not present.

Mr. Jackson stated the property was in non-compliance and staff was requesting the next cut-off date for compliance.

Ruling

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

CASE NO 9 SMG 10-14-70 – Ronald L. Helgemo is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.4, 302.7, 302.8, 304.2, 304.6, 307.1, 304.14, 307.2.2), at **416 Marion Street** - Violation(s) – Junk vehicle; Weeds; Accessory Structures; Protective Treatment; Exterior Walls; Accumulation of rubbish or garbage; Insect Screens; Refrigerator and similar equipment not in operation shall not be discarded, abandoned or stored on premises - First Notified – 7/22/2014.

Respondent was not present.

Mr. Jackson stated the property was in non-compliance and staff was requesting the next cut-off date for compliance.

Ruling

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

CASE NO 10 SMG 10-14-71 – Can Doo Man, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1. (Ref. FBC Supp IPMC 302.7; 307.1; 304.13.1); Art. 1 Sec. 5.3; City Code 90-297, at **543 Division Street** - Violation(s) – Accessory structures; accumulation of rubbish or garbage; glazing; Non-conforming use; No business tax receipt (BTR) - First Notified –7/1/2014 (Maintenance Code Violations) 7/23/2014 (non-conforming use/BTR)

Respondent was in non-compliance.

Mr. Jackson stated staff was recommending a continuance until the November meeting as the Respondent was working out issues with permits and licensing.

Ruling

Mr. Vukelja continued the case to the November 11, 2014 meeting.

CASE NO 12 SMG 10-14-67 – Karoona Holdings, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **310 Main Street** - Violation(s) – No building permit - First Notified – 2/20/2014.

Respondent was in compliance October 13, 2014.

CASE NO 13 SMG 10-14-68 – Dorothy M. Knapp is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 308.1), at **216 Mullally Street** - Violation(s) – Infestation of bees - First Notified – 7/24/2014.

Ms. Dorothy Knapp came forward and was sworn.

Ms. Knapp stated she has called numerous places but cannot find anyone to help her and she does not know what she can do.

Mr. Jackson stated bees are imbedded into the structure of the building and there is a nursing home next door and it is representing a risk and danger to the public.

Ms. Knapp stated no one will help her but hopefully within a week she could get ahold of someone.

Mr. Jackson stated city was requesting seven days because of the urgency of the issue.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance within 10 days or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 14 SMG 10-14-69 – Dorothy M. Knapp is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.1; Art. 19 Sec. 1.1 (Ref. FBC 105.1); Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7), at **216 Mullally Street** - Violation(s) – Built ramp without permit; outside storage; peeling paint; damaged fence - First Notified – 4/22/2013.

Ms. Knapp was previously sworn. Ms. Knapp stated the outside storage was removed and further agreed the violations did exist.

Mr. Jackson tendered Mr. Garcia for current status of the property.

Mr. Garcia stated he has not been called back for a reinspection and further advised if a permit was not required they needed to get a letter from the City.

Ms. Knapp stated the ramp did not need a permit and her son is in construction and he built the ramp.

Mr. Jackson stated the code in general states the ramp cannot be there, however the Respondents would have to get with permits and licensing for clarification regarding approval. Mr. Jackson stated staff was requesting the next cut-off date for compliance.

Ruling

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

Adjournment: The meeting was adjourned at 10:15 a.m.