

SPECIAL MAGISTRATE HEARING
for Rental Program Cases
City of Daytona Beach
Commission Chambers, City Hall
301 South Ridgewood Avenue, Daytona Beach, Florida
April 14, 2015

A proceeding for the Special Magistrate for the Rental Cases Program was held on April 14, 2015, at 9:00 a.m. in the Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida. The following were in attendance:

Special Magistrate: David Vukelja

Staff Present: Anthony Jackson, Assistant City Attorney
Jurgen Betz, Housing Inspector
Karen Baum, Rental Property Coordinator
Aimee Hampton, Paralegal

Minutes prepared by Becky Groom

1. Call to Order

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

2. Approval of March 10, 2015 Minutes

Mr. Vukelja reviewed, approved, and executed the minutes of the meeting of March 10, 2015.

3. **Announcements:**

Ms. Baum swore in members of staff.

4. **Hearing of Cases:**

Continued Cases:

1. **CASE NO SMG RI2014-0051–GEA SEASIDE INVESTMENTS INC** is cited for failure to correct violations of the City Code Ordinances, Sec. 26-294, and is cited for failure to correct violations of the City of Daytona Beach Land Development Code, Art. 19 Sec. 1.1(Ref. FBC Supp IPMC 304.7, 304.13.2, 604.3, 605.1, 605.2, and 704.2), **at 358 Nautilus Ave**
Violation(s) – **1. Active leakage in roof covering. Active leakage above both interior living space and carport. 2. Missing smoke detector in bedrooms. 3. Missing electrical outlet in bathroom. 4. Inoperable**

window bottom of stairwell. 5. Exposed wiring along roof of carport where HVAC condenser or package unit was removed. 6. Failure to license residential rental property.

First Notified – Date of first notification 12/04/2014.

Mr. Jackson stated the matter was presented to the city through a tenant complaint. An inspection confirmed the violations as well as failure to license a residential rental property. Staff requests imposition of a fine.

Mr. Betz stated as of April 13, 2015, the property remains in non-compliance. Mr. Betz stated there has been no contact from the property owner and there is no obvious corrective work noted from the exterior of the property.

Special Magistrate Action:

Mr. Vukelja fined the respondent \$100 per day commencing April 9, 2015, and continuing each day thereafter until the property is in compliance or the amount of the fine reaches \$15,000, whichever occurs first.

2. **CASE NO SMG RI2014-0049–GEA SEASIDE INVESTMENTS INC** is cited for failure to correct violations of the City Code Ordinances, Sec. 26-294, and is cited for failure to correct violations of the City of Daytona Beach Land Development Code, Art. 19 Sec. 1.1(Ref. FBC Supp IPMC, 304.4, 304.6, 304.7, 304.13, 304.14, 304.15, 304.18, 305.1, 305.3, 305.6, 308.1, 504.1, 505.1, 505.3, 506.1, 506.2, 604.3, 605.1, 605.2, and 704.2), **at 507 Phoenix Ave**

Volation(s) – **1. Leakage in shingle roof covering. 2. Leakage in shingle roof covering has damaged interior ceiling below. 3. Leakage through floor of upper front balcony. 4. Leakage through upper front balcony floor has damaged structure and garage ceiling below. 5. Active leakage in water supply line within wall cavity of kitchen. 6. Active leakage from fittings in water supply lines within exterior right storage closet. 7. Poor/low water flow from upstairs bathroom sink faucet. 8. Clothes washing drain line discharges onto lawn surface. Needs to connect with sewer. 9. Ongoing leakage from downstairs bathtub faucet. 10. Multiple exposed electrical wire splices and uncovered junction boxes. Most notable in garage, exterior right storage closet and upstairs bathroom access hatch. 11. Intermittent operation of ceiling light fixtures at both upstairs hallway and rear exterior doorway. 12. Inoperable electrical outlets. 13. Missing covers on electrical outlets and switches. 14. Water damaged along interior walls and ceilings; namely family room, kitchen, downstairs left rear bedroom, downstairs bathroom and upstairs living room. 15. Water damaged kitchen base cabinet. 16. Missing smoke detectors. 17. Damaged doors and door frames. 18. Missing window screens. 19.**

Inoperable oven/stove. 20. Active cockroach and rodent infestation. 21. Missing section of fascia and soffit boards along exterior roof overhangs at both rear left and front right of section story. 22. Failure to license residential rental property.

First Notified – Date of first notification 11/24/2014.

Mr. Jackson stated there has been no response from the owner but noted Mr. Betz advises work had begun but the property is not in compliance. Mr. Jackson stated the property owner stated early on that he did not intend to make the repairs and had ordered inspectors to not access the property.

Mr. Betz stated as of April 13, 2015, the property is in non-compliance and there are new tenants in place. Mr. Betz stated he is requesting a fine of \$200 per day be imposed due to the number of deficiencies on the property.

Special Magistrate Action:

Mr. Vukelja imposed a fine of \$200 per day commencing April 9, 2015, and continuing each day thereafter until the property is in compliance or the amount of the fine reaches \$15,000, whichever occurs first.

3. **CASE NO SMG RI2014-0050–GERALDINE DEMARCHIS** is cited for failure to correct violations of the City Code Ordinances, Sec. 26-294, is cited for failure to correct violations of the City of Daytona Beach Land Development Code, Art. 19 Sec 1, (ref. Section 105.1, FBC), and is cited for failure to correct violations of the City of Daytona Beach Land Development Code, Art. 19 Sec. 1.1(Ref. FBC Supp IPMC 304.4, 304.7, 305.3, 504.1, 506.2 and 704.2), **at 511 Lenox Ave**

Violation(s) – 1. Work conducted without necessary permits. This includes the addition of bedroom and living space behind kitchen and both the middle and rear bathrooms. 2. Failure of floor at front porch. Failure caused by rot or deterioration of structure beneath porch floor. 3. Cracked and loose floor tiles throughout middle bathroom. 4. Active roof leak and related damage of ceiling at family room behind kitchen. 5. Improper venting of sink in rear bathroom (soil stack terminates within sink vanity). 6. Missing smoke detector in bedrooms. 7. Utilities (electrical and water) will need to be on when conducting final or re-inspection. Utilities were off at time of our inspection, which limited our inspection. 8. Failure to license residential rental property.

First Notified – Date of first notification 12/03/2014.

Mr. Rodriguez, representing Wells-Fargo stated there is a foreclosure on the property and the property is scheduled for sale in September. Mr.

Rodriguez asked for an extension until the property is sold or Wells Fargo has title.

Mr. Vukelja expressed concern about having the property occupied with the violations noted.

Mr. Betz stated the property was occupied last week; however, he drove by yesterday and it appears to be vacant. Mr. Betz stated he checked with the City's Utilities Department and there is an order to shut the water off.

Mr. Rodriguez stated if the property is vacant, he can have the property secured.

Mr. Jackson suggested delaying action until the next cut-off date.

Special Magistrate Action:

Mr. Vukelja imposed a fine of \$100 per day beginning April 9, 2015, continuing each day thereafter until the property is in compliance or until the amount of the fine reaches \$15,000, whichever occurs first; however, if the property is determined to be vacant and can be secured to city standards, the fine will be discontinued and a request from the lender will be considered at the next meeting to extend action until September 4, 2015.

New Cases:

4. **CASE NO SMG RI2013-0256 – GEA SEASIDE INVESTMENTS INC** is cited for failure to correct violations of the City Code of Ordinances, Sec. 26-294 at **229 N Hollywood Ave**
Violation(s) –**Failure to license residential rental property.**
First Notified – Date of first notification 06/04/14.

Mr. Jackson stated this is a repeat violation on this property and asked for imposition of a fine.

Special Magistrate Action:

Mr. Vukelja fined the respondent \$100 per day commencing April 14, 2015, and continuing each day thereafter until the property is in compliance or the amount of the fine reaches \$15,000, whichever occurs first.

5. **CASE NO SMG RI2015-007 – AUDRA JANES BOWERS** is cited for failure to correct violations of the City of Daytona Beach Land

Development Code, Art. 19 Sec. 1.1(Ref. FBC Supp IPMC 304.6, 304.13, 304.13.2, 304.14, 604.3, 605.2, 704.2), at **532 Eastwood Lane**

Violation(s) –1. Rot along bottom of rear exterior door frame. 2. Rot along exterior roof overhangs, namely rear and right of house. 3. Windows are inoperable. Metal window appear to be painted shut/stuck. Wood windows appear to be caulked shut. 4. Missing window screens. 5. No electrical outlet in hall bathroom. New installation will require GFCI protection. 6. Interior type 30 amp electrical plug present on exterior wall at left rear of building. Plug needs to be removed OR replaced within a weatherproof/exterior type. 7. Missing smoke detectors.

First Notified – Date of first notification 10/25/2013.

Mr. Betz stated 7 violations were noted during an inspection in late 2013. Mr. Betz stated as of April 13, the property owner has repaired everything except the windows and the property owner has stated a contract has been entered into to replace the windows. Mr. Betz stated the property owner intends to be in compliance by the next cut-off date.

Special Magistrate Action:

Mr. Vukelja found the respondent in non-compliance and ordered the respondent to come into compliance by May 6, 2015, or be returned to the Special Magistrate for imposition of a fine.

6. **CASE NO SMG RI2015-004 – GEA SEASIDE INVESTMENTS** is cited for failure to correct violations of the City Code of Ordinances, Sec. 26-294, and is cited for failure to correct violations of the City of Daytona Beach Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.3, 304.4, 304.5, 304.6, 304.7, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 305.3, 305.4, 305.5, 305.6, 306.1, 504.1, 505.1, 506.2, 603.1, 603.2, 604.3, 605.1 and 704.2), at **21 S Peninsula Drive**
- Violation(s) –1. Deteriorated brick foundation wall at front right of house. 2. Buckled load bearing wood post rear left corner of porch. 3. Supports balcony above. 4. Rotted wood siding at housing built around chimney/flue box exterior right of house. 5. Rotted framing along ceiling at rear left corner of upper rear balcony. 6. Loose siding exterior rear wall of powder room. 7. Rotted and cut roof rafter in attic where ridge vent was once located. 8. Drywood termite damage along ceiling joists above second floor, as viewed from attic. 9. Cracked and deteriorated front concrete walkway between sidewalk and house. 10. Unsafe gas fired fireplace. Metal fire box is rusted through. 11. Active leakage in roof above living area. Noted by rotted wood roof sheathing within attic and the visible day light shining through rotted areas of roof sheathing. 12. Holes in metal roof panels above upper rear balcony. Holes will

allow for leakage. 13. Faulty windows. Inoperable, screwed shut, broken sash cords, broken glass panes, cracked glass panes, loose or detached panes. 14. Missing window screens. 15. Rotted/weak sub flooring at right exterior doorway in kitchen. 16. Hole in dining room ceiling from prior leakage at bathroom above. 17. Weak floor by upstairs bathroom commode at prior leak site. 18. Missing hand rail at upper portion of interior stairwell. 19. Missing smoke detector in bedrooms. 20. Inoperable smoke detector upstairs hallway. 21. Large voids between closed doors and frames. 22. Missing drain line on pressure relief valve of water heater. 23. Leakage in waste line below sink in downstairs powder room. 24. Rust holes in cast iron soil/vent stack along exterior rear wall of house. 25. Missing upper section of cast iron soil stack along exterior left of house. 26. Ongoing drip from upstairs bathroom sink faucet. 27. Uncovered electrical junction boxes within attic space. 28. Breaker trips when tenant uses electrical outlet at rear right of dining room. 29. Missing covers on wall switches. 30. Exposed live electrical wire sticking out of lawn in back yard. 31. Renting without rental (RTL) license. Respondent initiated new rental agreement after being sanctioned.

First Notified – Date of first notification 02/16/2015.

Mr. Jackson stated the property was before the Special Magistrate previously for failure to license. Mr. Jackson stated the owner has leased the property to a new tenant and the tenant granted Mr. Betz access to the property for an inspection. Mr. Jackson stated staff recommends the property be found in non-compliance and the respondent be given until the next cut-off date to attain compliance.

Jennifer Nolan stated she was the tenant and was unaware of the previous violation when she rented the property. Ms. Nolan stated she contacted the property owner to ask that repairs be made and he refused to make the repairs. Ms. Nolan stated she worked with Community Legal Services to notify the property owner of the violations and then contacted Mr. Betz to conduct an inspection. Ms. Nolan stated the property owner had her evicted after she had contacted the city.

Special Magistrate Action:

Mr. Vukelja found the respondent in non-compliance and ordered the respondent to be in compliance by May 6, 2015, or be returned to the Special Magistrate for consideration of a fine up to \$1,000 per day.

Mr. Vukelja asked what recourse the city has since the property owner continues to rent the property that has numerous life safety codes.

Mr. Jackson stated the city could move toward foreclosure which is very time consuming or could seek an injunction.

Debbie Hallisky with Community Legal Services of Mid-Florida stated she has met with numerous clients who have rented property from GEA Seaside. Ms. Hallisky stated 6 tenants have been evicted through retaliation by the property owner prior to Ms. Nolan being evicted. Ms. Hallisky stated it would help her if an order could be issued to the property owner prohibiting him from re-renting the property.

Mr. Vukelja stated penalties will be considered at the May meeting.

Mr. Jackson asked if Mr. Vukelja would like to amend his action to include that the property is not to be re-rented until it is in compliance.

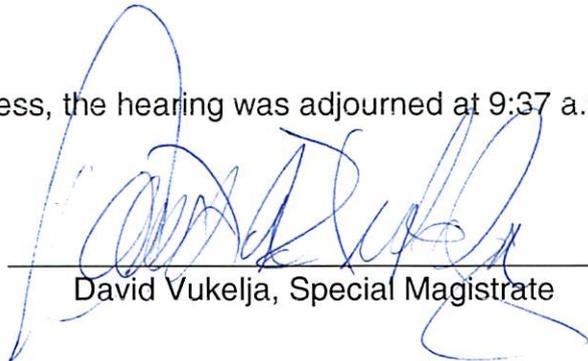
Mr. Vukelja stated he will consider that on May 12, 2015.

5. Miscellaneous Business

There was no miscellaneous business.

6. Adjournment

There being no further business, the hearing was adjourned at 9:37 a.m.



David Vukelja, Special Magistrate