

CITY OF DAYTONA BEACH MINUTES

**SPECIAL
MAGISTRATE
HEARING**

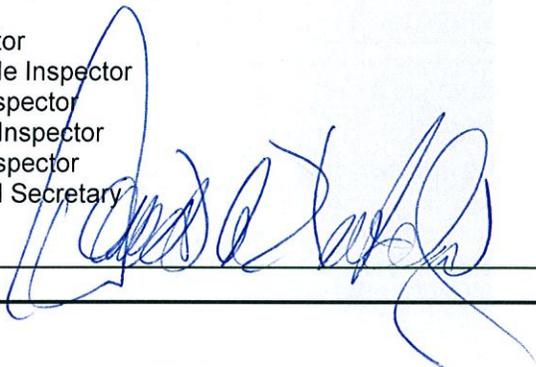
**April 14, 2015 at 9:30 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida**

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Supervisor
Officer Aaron Paro
Mr. Tom Clig, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Mr. Cliff Recanzone, 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 9:49 a.m.

Mr. Vukelja approved the March 10, 2015 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 who would be testifying.

CASE NO 1 SMG 02-15-05 – RSF Properties, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.2), at **633 Mulberry Street** - Violation(s) – Peeling, fading paint - First Notified – 9/10/2014.

Respondent was not present.

Mr. Jackson stated the City was initially going to ask for the imposition of a fine but the inspector is stating the owners have now begun painting.

Mr. Fitzgerald stated four days ago they hired a contractor and began painting.

Mr. Jackson stated since they have begun painting the city was recommending the next cut-off date for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until May 6, 2015 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 2 SMG 02-15-06 – Olive H. Doggett, Life Estate is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC Supp IPMC 302.1, 302.7, 303.13.1, 303.13.2, 303.14, 303.15, 303.7, 303.8, 303.9, 303.10), at **176 Pierce Avenue** - Violation(s) – Sanitation; Sidewalks and driveways are hazardous; Weeds; Rodent harborage; Exhaust vents; Accessory structures; Gates; Handrails and guards; Window, skylight and door frames; Glazing; Openable windows; Insect screens; All exterior doors; Roofs and drainage; Decorative features; Overhang extensions; Stairways, decks, porches and balconies; property is unsecured. - First Notified – 10/29/2014.

Respondent was not present.

Mr. Jackson stated the property remains in non-compliance and staff is requesting a fine of \$375 per day be imposed to a maximum of \$10,000 and staff is asking for the authorization to secure the property to city standards.

Mr. Fitzgerald stated the property is not occupied and he was basing the request for a fine upon the fact that the neighborhood is turning around and improving and this house is a constant source of vagrants and transients and it is a bad eyesore.

Ms. Hampton stated the city cannot find anything in public records in trying to locate the owner.

Ruling

Mr. Vukelja imposed a fine of \$375.00 per day effective April 9, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$10,000. It was further ordered the city is authorized to secure the property to city standards.

CASE NO 3 SMG 03-15-08 – Frank P. Heckman, III is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302, 302.1, 302.6, 302.7, 304, 304.10, 304.12, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 304.18.1, 304.2, 304.6, 304.8, 604, 604.3), at **46 S. Oleander Avenue** - Violation(s) – Exterior paint fading, peeling or missing; exhaust vents broken; porch railing loose or missing pieces; damaged or broken windows; damaged, broken, deteriorated or decayed doors; decorative features; cornices/eaves fascia; exterior walls issues (holes and breaks); cracks, loose, missing and rotting materials; exterior electrical hazard; porch lights broken and/or missing parts - First Notified – 12/5/214.

Mr. Frank Heckman came forward and was sworn.

Mr. Jackson called Mr. Fitzgerald to provide progress.

Mr. Fitzgerald stated the rotten wood is being removed and he has purchased paint and the City was satisfied with the effort. Mr. Fitzgerald stated there were windows that needed to be installed as well.

Mr. Heckman stated it would help him if he could get additional time.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until June 3, 2015 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 4 SMG 03-15-11 – Allen & Deborah Bukowski is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **420 Golf Blvd.** - Violation(s) – No permit for shed - First Notified – 12/18/2014.

Respondent was not present.

Mr. Jackson stated the property remained in non-compliance and that the violation was for no permit for a shed and it has been there for quite some time. Mr. Jackson stated the staff was requesting a fine of \$50 per day to a maximum of \$1500.

Mr. Clig stated the shed was installed by Home Depot ten years ago and they never obtained a permit. Mr. Clig stated he informed the owner and did not know why she has not gotten the permit.

Ruling

Mr. Vukelja imposed a fine of \$50.00 per day effective April 9, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$1,500.00.

CASE NO 5 SMG 03-15-12 – Livingston Miller & Vanessa L. Miller is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **1057 Imperial Drive** - Violation(s) – Parking in the yard - First Notified – 2/2/2015.

Respondent was not present.

Mr. Jackson stated the property remains in non-compliance for parking in the yard and further stated staff was recommending a fine be imposed of \$100 per day with a maximum of \$10,000.

Mr. Stenson stated the parking in the yard has yet to be corrected. Mr. Stenson stated all other violations were corrected except for the parking.

Ruling

Mr. Vukelja imposed a fine of \$100.00 per day effective April 9, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$10,000.

CASE NO 6 SMG 03-15-13 – Samuel Baker 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 302.7 and 304.2); City Ordinance Ch. 90 Sec. 90-297, at **1197 Jimmy Ann Drive** - Violation(s) – Outside storage; dilapidated fencing; peeling paint; no valid Business Tax Receipt (BTR) - First Notified – 11/7/2014.

Respondent was not present.

Mr. Jackson stated there are several violations of outside storage and dilapidated fencing and advised staff was requesting a fine of \$250 per day plus a one-time administrative fine of \$250.00 for failure to obtain business tax receipt (BTR).

Mr. Stenson stated the case began as a neighborhood complaint for fencing. Mr. Stenson stated the property is occupied and sits across the street from Westside Elementary and is highly visible. Mr. Stenson advised he has had no contact with the owner or tenant and he has been dealing with this case for some time.

Ms. Hampton advised that someone did sign for the initial notice of hearing.

Ruling

Mr. Vukelja imposed a fine of \$250.00 per day effective April 9, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000 and additionally imposed a one-time administrative fine of \$250.00 for failure to obtain the business tax receipt.

CASE NO 7 SMG 03-15-14 – Leroy A. Simmons is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **451 Pine Street** - Violation(s) – No permit for roof work - First Notified – 1/23/2015.

Respondent was in compliance March 11, 2015.

CASE NO 8 SMG 04-15-20 – Precious Property Management, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.4, 304.5, 304.6, 304.7, 304.15, 305.2, 604.3), at **2735 N. Atlantic Avenue** - Violation(s) – Exterior structural members, exterior walls, Exterior Roof, Exterior doors, Interior structural members, electrical systems hazards - First Notified – 3/3/2015.

Mr. Elmo Bartolome, Owner, came forward and was sworn.

Mr. David Kittridge, structural engineer, came forward and was sworn.

Mr. Ben Butera, architect, came forward and was sworn.

Mr. Bartolome stipulated to the violations but did not know what the violation was for the exterior door.

Ruling

Mr. Vukelja found the Respondent in non-compliance.

Mr. Clig stated the property is the old Red Lobster that sustained fire damage and the roof collapsed. Mr. Clig stated the back door sometimes is secured and sometimes is not secured. Mr. Clig stated there have been two demo permits obtained but both have expired. Mr. Clig stated there are numerous complaints regarding the condition of the property. Mr. Clig stated the city was requesting permits for demolition.

Mr. Bartolome stated he hired a demolition company who was working on obtaining the permit to demolish the damaged section of the roof. Mr. Bartolome has also hired Mr. Butera as the architect. Mr. Bartolome stated they were working on determining whether they needed to demolish the whole roof or just the damaged portion of the roof and then obtain plans to remodel the property to move in a medical facility. Mr. Bartolome stated his intent was to rehabilitate the property.

Mr. Butera stated they were retained yesterday to look at the building and they are going to do an on-site report on the property regarding what they see. They were asking for a demo permit to remove the damaged portion of the building right now and then determine whether or not they have to demolish the whole thing or rehabilitate the property.

Mr. Jackson stated there is an issue of keeping the property adequately secured and keeping it safe as there have been vagrants and students hopping the fence from Seabreeze and hanging out on the property.

Mr. Vukelja inquired how much time to make the determination to evaluate a report.

Mr. Kittridge stated mid-May.

Ruling

Mr. Vukelja ordered the case be placed on the May 12, 2015 meeting for determination of a compliance date in reliance upon the owner obtaining permits to remove the roof, removing the roof, and maintaining the building secured to city standards.

CASE NO 9 SMG 04-15-16 – Allure Investments, LLC is cited for failure to correct violations of the Land Development Code, **Art. 8 Sec. 2.7 Art. 18 Sec. 7.3 **New Land Development Code eff. 3/1/15 Reference: Art. 6 Sec. 6.2.H.7.a.i and Art. 6 Sect. 6.19.A.3.a.; City Ordinance Ch. 90 Sec. 90-297, at **1020 Audrey Drive** - Violation(s) – Parking in the yard; outside storage; Failure to obtain a Business Tax Receipt (BTR) - First Notified – 2/2/2015.

Mr. Roglio Meza, managing member of Allure Investments, LLC, came forward and was sworn. Mr. Meza stipulated to the violations.

Ruling

Mr. Vukelja found the Respondent in non-compliance.

Mr. Jackson called Inspector Stenson for testimony.

Mr. Stenson stated the violation of no business tax receipt was corrected on 2/17/15 and the parking in the yard and outside storage should be able to be corrected by the next cut-off date.

Mr. Meza stated the violations have been corrected.

Ruling

Mr. Vukelja ordered the Respondent come into compliance by May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 10 SMG 04-15-17 – Doris L. Miles 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 304.2) **New Land Development Code eff. 3/1/2015 Reference: Art. 6 Sec. 6.19.A.3.a. and Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.2), at **1028 Cadillac Drive** - Violation(s) – Outside storage; peeling paint - First Notified – 2/3/2015.

Mr. Madu Chinleo, son of Doris Miles came forward and was sworn. Mr. Chinleo stipulated to the violations.

Ruling

Mr. Vukelja found the Respondent in non-compliance.

Mr. Vukelja asked Mr. Stenson how much time for compliance.

Mr. Stenson advised the property should be in compliance by the next cut-off date.

Mr. Chinelo advised most of the corrections have been made already.

Ruling

Mr. Vukelja ordered the Respondent come into compliance by May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 11 SMG 04-15-18 – AmazingGrace ARNP Solo 401K Trust c/o Grace Pedersen as Trustee

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 304.3, 304.7, 304.13, 304.14, 305.6, 302.7, 308.1, 304.15, 305.3, 605.1, 504.1, 604.3, 704.2, 605.2 and FBC 105.1) **New Land Development Code eff. 3/1/2015 Reference: Art. 6 Sec. 6.19.A.3.a. and Art. 9 Sec. 9.1.A (Ref. FBC Supp IPMC 304.3, 304.7, 304.13, 304.14, 305.6, 302.7, 308.1, 304.15, 305.3, 605.1, 504.1, 604.3, 704.2, 605.2 and FBC 105.1), at **724 Mercedes Avenue** - Violation(s) – Outside storage; no address numbers; dilapidated roof; inoperable windows; missing screens; dilapidated fencing; infestation; dilapidated exterior doors; dilapidated interior surfaces; missing interior doors; inoperable/dilapidated electrical fixtures; dilapidated plumbing fixtures; electrical hazard; missing smoke detectors; inoperable receptacles; working without permits - First Notified – 2/9/2015 (Hand Delivered).

Mr. Thomas Copeland, came forward and was sworn. Mr. Copeland stated he was Ms. Pedersen's fiancée and he has a Power of Attorney on the property. Mr. Copeland stipulated to the majority of the violations.

Ruling

Mr. Vukelja found the Respondent in non-compliance.

Mr. Vukelja asked the inspector how much time for compliance.

Mr. Stenson stated the next cut-off date should be sufficient for compliance.

Mr. Copeland stated a lot of the violations existed due to the previous tenant on the property and she has since left and he should be able to have everything corrected by May 6, 2015.

Ruling

Mr. Vukelja ordered the Respondent come into compliance by May 6, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 12 SMG 04-15-19 – Ingrid Beltran is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.7, 302.8, 304.13, 304.14, 304.15, 305.1, 504.1, 605.1, 505.1, 602.3, 604.3, and 704.1); Art. 18 Sec. 7.3.1; **New Land Development Code eff. 3/1/2015 Reference: Art. 9 Sec. 9.1.A. (Ref. FBC Supp IPMC 302.7, 302.8, 304.13, 304.14, 304.15, 305.1, 504.1, 605.1, 505.1, 602.3, 604.3, and 704.1) and Art. 6 Sec. 6.19.A.3.a, at **309-311 Wisteria Road** - Violation(s) – Deteriorated fencing; inoperable RV; broken windows (glass and not in good repair); missing screens; damaged exterior door, stove and heat defective; plumbing leaks and backs up; faulty electric throughout; defective water heater; no smoke detectors or fire extinguishers
First Notified – 2/19/2015.

Ms. Ingrid Beltran came forward and was sworn. Ms. Beltran stated she agreed most of the violations existed.

Ruling

Mr. Vukelja found the Respondent in non-compliance.

Ms. Lankford stated compliance should take about 30 days.

Mr. Vukelja asked Ms. Beltran if she believed 30 days would be enough time for compliance.

Ms. Lankford stated she had an additional concern about the electrical issues in the back unit and there are no smoke detectors while people are living in the unit.

Mr. Jackson stated the case was before the magistrate last month for imposition of a fine for no business tax receipt and all these issues need to be fixed before a license can be issued.

Mr. Vukelja asked who was living in the back unit.

Ms. Beltran stated her brother has always lived in that unit upstairs and a woman's company lives in the downstairs.

Ms. Lankford stated multiple people are living in the unit.

Ms. Lankford described the layout of the property for the address and explained the rear building is where the life safety issues are occurring.

Ms. Lankford stated the electrical work should take only 2 weeks.

Ms. Beltran stated she believed the electrician could finish everything in 30 days.

Ruling

Mr. Vukelja ordered the Respondent come into compliance by May 6, 2015 or be returned for consideration of a fine up to \$1,000 per day.

Mr. Vukelja stated the priority for Ms. Beltran is to get the life safety issues taken care of and if it takes all the way until May 6, 2015 to complete that he would hear a request for additional time at the next meeting.

Miscellaneous Business

1. Ofc. Paro presented Mr. Vukelja with a service award for 27 years of service to the City.

Adjournment:

The meeting was adjourned at 10:30 a.m.