

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

JUNE 9, 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
Ms. Vicki Lankford, 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 9:24 a.m.

Mr. Vukelja approved the May 12, 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.

Lien Review 1

CASE NO CEB 06-05-257 – 628 Aberdeen Street – William Krug & Robert Krug was cited for failure to correct violations of City Ordinance Chapter 22 Section 22-28 - Violation(s) – Unsafe structure. Order Imposing Fine/Lien of \$200.00 per day effective August 5, 2005. Compliance date: 10/18/2006 = \$87,600.00* Lien maximized at \$15,000.00*. Additional costs related to lot clearance and demolition of property in the amount of \$6,048.37. Total owed: \$21,048.37.

Attorney Robert Kramer appeared on behalf of the Respondent. Mr. Kramer stated his client was trying to get the lien released so he can sell other properties in the county. Mr. Kramer advised the city is out of pocket \$6,048.37 in lot clearance liens and a demolition lien and they were offering to pay that amount in order to get the code lien released.

Mr. Jackson stated the offer that Mr. Kramer suggested does not reference the code enforcement lien at all, only the out of pocket city costs for maintaining the property and demolishing the structure. Mr. Jackson stated the City has been maintaining the property for quite some time and the Respondent did ignore the property for quite some time. Mr. Jackson said in fairness to the Respondent he did acquire the property back through foreclosure and was an investor but still did not correct violations once he took

back the property. Mr. Jackson stated the City was requesting the outstanding balance that was owed for city costs and was willing to reduce the code lien to the amount of \$5,000.00.

Mr. Kramer stated he only had the authority to pay for the \$6,000.00.

Ruling

Mr. Vukelja ordered the code enforcement board lien reduced the amount of \$5,000 subject to being paid within 30 days and the balance of the \$6,048.37 in outstanding costs be paid within 30 days as well.

CASE NO 1 SMG 01-15-04 – Robert & Chantal Pesce 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 Supp IPMC 304.12, 304.13, 304.14, 304.15, 304.2, 304.5, 304.7, 305.3, 305.6, 505.1, 704.2), at **128 S. Wild Olive Avenue** - Violation(s) – Broken windows; rotted wood; smoke detectors; interior surface damage; cracks; toilet bowl; stove; soffits; outside storage and handrail - First Notified – 8/28/2014.

Mike Bowen from GC Contractor's came forward and was sworn. Mr. Bowen stated they have filed for the permit and it was under review and they were waiting on it to be approved. Mr. Bowen said once he receives the permit the property can be in compliance within 60 days.

Mr. Jackson stated the City is in agreement at this stage they have done what they can as it relates to the permit. Mr. Jackson stated the City would ask for a progress report next month with the 60 days compliance to make sure the permit is obtained.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by September 2, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day and further ordered a progress report for the July 14, 2015 meeting related to the status of the permits. Mr. Vukelja further advised that if the permits have been issued then Respondent does not need to appear and if they have not been issued everyone should be at the meeting for further discussion regarding the delay of the permits.

CASE NO 2 SMG 02-15-07 – Grayceland REI Consulting, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.10, 304.11, 304.13, 304.13.1, 304.13.2, 304.14, 304.15, 304.4, 304.5, 304.6, 304.7, 304.8, 304.9), at **158 Madison Avenue** - Violation(s) – Deteriorated structural members; loose, missing or deteriorated foundation walls; exterior walls loose, missing or deteriorated; damaged gutters; roof flashing; eaves, fascia; general cornices and eaves loose, missing or deteriorated; overhang extensions loose, missing or deteriorated; rotting stairways, decks, porches, and balconies; broken windows; ripped, torn or missing window screens; exterior doors and hardware damaged, broken, deteriorated or decayed; no water connections; plumbing fixture damage; no electrical service - First Notified – 11/7/2014.

Mr. Elliot Meadows came forward and was sworn.

Mr. Vukelja inquired as to the status of the property as it relates to being abandoned.

Mr. Jackson stated the issue has been resolved and the follow up information was the property had gone through a very lengthy period of no water services, no business tax for rental, multiple owners after foreclosure and the last water services were December 2010. Mr. Jackson stated his understanding from the time when Mr. Meadows came to seek permits for altering the property it was acknowledged then that the property was rented however it was boarded up but they were letting people inside the back of the building.

Mr. Meadows stated he would like to know the definition of abandonment.

Mr. Vukelja stated he was satisfied with the City's explanation of the property being abandoned.

Mr. Meadows stated he still contested the property was not abandoned.

Mr. Vukelja reviewed the reasons for the property being abandoned as it relates to the zoning laws of City of Daytona Beach and further inquired as to how that impacts the case moving forward.

Mr. Jackson called city zoning expert Rose Askew for testimony.

Ms. Askew came forward and was sworn.

Mr. Vukelja inquired as to what was permitted on the property.

Ms. Askew stated she has not done any research as to what can be done on the property, what she researched was if the use cease to exist and whether or not the use can be re-established. Ms. Askew stated in order for the City to determine what can be used on the property, they will have to submit a survey of a layout of the current property in order to determine how many units he can have. Ms. Askew stated he spoke with the mother of the son that owns the property they explained the process of what they needed to be able to determine what can be allowed.

Mr. Meadows stated he would like to have 30 days to make a determination on whether or not to appeal or submit a survey.

Ruling

Mr. Vukelja continued the case to the July 14, 2015 Agenda for a progress report and determination of a compliance date and further ordered the exterior needed to be maintained and the property should not be rented, occupied or otherwise utilized until compliance is achieved.

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 facia; 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 stated the Inspector was Mike Fitzgerald who informed him the property remains in non-compliance but the city was requesting a fine of \$250.00 per day and also wanted to make the Magistrate aware there is a citizen who wanted to speak.

Mr. Fitzgerald scrolled through the pictures of the property and presented what has been accomplished and what still remained. Mr. Fitzgerald stated they have informed Mr. Heckman the work needed to be done by a contractor but he has been using a handy man and doing the work himself.

Mr. Heckman stated he was aware of the issues and work was being done to make the repairs. Mr. Heckman stated he has been doing the majority of the work and he will be hiring a contractor today.

Mr. Vukelja inquired as to how much time to come into compliance.

Mr. Fitzgerald stated he still needed to pull a permit and hire a contractor and therefore should take 60 days.

Mr. Heckman stated he believed it can be done sooner than 60 days.

Mr. Jackson stated he wanted to reiterate that Mr. Heckman's time has run and while he says he is making an effort there are band aid fixes and not really correcting the problem.

Ms. Darcy Hale came forward and was sworn. Ms. Hale stated she was a neighbor and wanted to speak on the condition of the property. Ms. Hale stated Mr. Fitzgerald put tape on each one of the items that needed to be corrected and she observed Mr. Heckman and his handyman removing the tape and painting over the signs of the violations and is covering over things with boards. Ms. Hale stated she helped him tear down the shed to bring it into compliance. Ms. Hale stated Mr. Heckman's property keeps getting worse and that he is trying to put off making repairs. Ms. Hale stated the condition of his' property has drawn in a criminal element that has made it disruptive to the neighborhood.

Mr. Vukelja inquired if the property was occupied.

Mr. Heckman stated the property was fully occupied.

Mr. Jackson stated the city's position is that time has run out and a fine should be imposed.

Mr. Heckman stated all the units are legal and paid for with the City.

Mr. Vukelja asked Mr. Fitzgerald what work has been completed.

Mr. Fitzgerald stated the shed has been removed and two walls have been painted.

Mr. Garcia stated the case has been going on since December and he and Mr. Fitzgerald have gone there numerous times and shown him what to do to come into compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until August 5, 2015 to come into compliance or an automatic fine of \$250.00 per day will be imposed effective August 5, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$20,000.

CASE NO 4 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.

Elmo Bartolome came forward and was sworn.

Mr. Butera came forward and was sworn.

Mr. Jackson stated the property remained in non-compliance but the building was demolished and the lower structural beam items needed to be removed and the rubble needed to be clear. Mr. Jackson stated the permit had expired and they had to get another permit which the Respondent's just received. Mr. Jackson stated the city was recommending amending the compliance date until the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance and ordered the Respondent come into compliance by July 8, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 5 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) New LDC 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); **Art. 18 Sec. 7.3.1 NEW LDC 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.

Respondent was in compliance June 5, 2015.

CASE NO 6 SMG 05-15-21 – June St. John is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 3.6; Art. 18 Sec. 7.4 (4); *New LDC Effective 3/1/15 reference Art. 6 Sec. 6.8.G and Art. 6 Sec. 6.19.A.4.d., at **408 Wisteria Road** - Violation(s) – Defective fencing; Mold, mildew on exterior surfaces - First Notified – 9/17/2014.

Respondent was in compliance June 14, 2015.

CASE NO 7 SMG 05-15-22 – Roecy House, LC is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.h.7.a.i; Art. 6 Sec. 6.19.A.3.a; Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.7, 302.8, 304.6 and 304.15), at **1245 Essex Road** - Violation(s) – Parking in yard; outside storage; dilapidated fencing; junk vehicle; exterior surfaces; exterior doors (front door) - First Notified – 3/12/2015.

Mr. Cyril Javurek came forward and was sworn.

Mr. Jackson stated the property was in non-compliance and is a police issue and recommended the fine be imposed of \$250.00 per day to a maximum of \$15,000.

Mr. Stenson stated there has been some effort by painting and a new front door was put in but there was no permit pulled and there is a fencing issue and there are still cars on the property.

Mr. Javurek stated the cars on the property were licensed and the house was painted and the door has been replaced and he did find out there was no permit. Mr. Javurek stated he believed the tenants would be removed based upon an eviction.

Mr. Stenson stated there were still parking on the grass, outside storage, and dilapidated fencing.

Mr. Javurek stated the vehicles should be removed with the tenant tomorrow.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by July 8, 2015 or an automatic fine of \$100 per day will go into effect and continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.00.

CASE NO 8 SMG 05-15-23 – Mat Rentals, LLC is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.2; Art. 18 Sec. 7.3; *New LDC eff. 3-1-15 ref. Art. 8 Sec. 8.2.A. and Art. 6 Sec. 6.19.A.3.a; City Code 90 Sec. 90-297, at **500 N. Keech Street** - Violation(s) – Non-conforming use (metal scrapping); outside storage; no valid Business Tax Receipt (BTR) - First Notified – 12/27/2014.

Respondent was previously present.

Mr. Jackson stated the portion that was required to come into compliance was in compliance and the only thing remaining was the BTR which has a compliance date of July 8, 2015.

CASE NO 9 SMG 06-15-25 – Julian D. Pompi is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.3; Art. 19 Sec. 1.1 (Ref. 302.4), at **243 Wellington Drive** - Violation(s) – Failure to maintain lawn in a reasonable manner - First Notified – Order of Non-compliance entered April 10, 2013.

Respondent was not present.

Mr. Jackson stated the violation was a repeat violation of high grass and unmaintained landscaping and there have been numerous complaints from the Home Owner's Association about the condition of the yard. Mr. Jackson stated it has happened again and the City was asking for a fine of \$250.00.

Mr. Vukelja inquired as to if there was a previous fine.

Ms. Hampton stated there was a case last year where a fine of \$25.00 was imposed.

Ruling

Mr. Vukelja imposed a fine of \$250.00 for the repeat violation.

CASE NO 10 SMG 06-15-26 – Julie N. Stokes and Jackie D. Gibson and Cynthia E. Gibson as JTRS is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 8.2.A; Art. 9 Sec. 9.2.A (ref. FBC Supp IPMC 302.8), at **240 Dahoon Holly Drive** - Violation(s) – Non-conforming use as Auto Repair Shop; Junk Vehicles - First Notified – 5/6/2015.

Ms. Christine DiNardo came forward and was sworn. Ms. DiNardo stated she was the property manager for the owner. Ms. DiNardo stipulated to non-compliance.

Mr. Stenson stated the property should be able to be brought into compliance by the next cut-off date.

Ms. DiNardo stated they are relocating the tenant effective June 15th and the tenant is just not understanding he cannot do that in the city.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 8, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 11 SMG 06-15-27 – Grandview Manor DB, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.10, 304.13.2, and 304.14), at **919 N. Grandview Avenue, Unit # 7** - Violation(s) – Unopenable windows; no insect screens; and rotten wood stairways - First Notified – 4/16/2015.

Ms. Donna O'Connor came forward and was sworn. Ms. O'Connor stated she was married to the owner and managed the property. Ms. O'Connor stipulated to the violations.

Mr. Clig stated the next cut-off date should be enough time for compliance.

Ms. O'Connor stated she would like to apologize to the code staff for her tenant's actions which caused the delay of why she could not come into compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 8, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

Miscellaneous Business

There was no miscellaneous business.

Adjournment:

The meeting was adjourned at 10:32 a.m.