

CITY OF DAYTONA BEACH MINUTES

**SPECIAL
MAGISTRATE
HEARING**

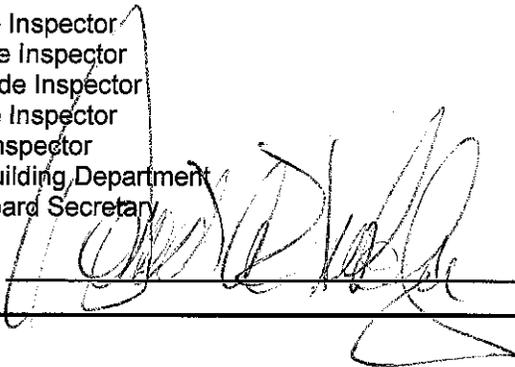
**SEPTEMBER 8, 2015 at 9:30 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida**

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Supervisor
Officer Aaron Paro
Mr. Daniel Garcia, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. Cliff Recanzone, Code Inspector
Mr. John Stenson, Code Inspector
Mr. David Newell, Fire Inspector
Mr. Robert Snowden, Building Department
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: 

Special Magistrate

Mr. Vukelja called the Hearing to order at 9:38 a.m.

Mr. Vukelja approved the July 14, 2015 Regular Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following case was in compliance:

CASE NO 3 SMG 05-15-24 – Chandra L. Washington is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 307, 302.4, 304.14, 305.6, 305.3, 704.2, 308.1, 504.2, 504.1, 504.3, 304.15, 605.1, and 302.7), at **1033 Thunderbird Drive** - Violation(s) – Rubbish; weeds; dilapidated screens; interior doors; interior surfaces; smoke detectors; infestation; plumbing fixture clearance (bathroom); plumbing fixtures; plumbing system hazard; exterior doors; electrical fixtures; accessory structure (fencing); accessory structure (laundry room) - First Notified – 3/20/2015.

Ms. Hampton swore in members of staff who would be testifying.

Lien Review 1

CASE NO SMG 12-13-67 – 528 Cedar Street – January Kearse (Requested by New Owner Bank of America): was cited for failure to correct violations of Land Development Code Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.13.2 and 307.1) – Violation(s) – Openable windows – every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware; accumulation of rubbish or garbage. Order Imposing Fine/Lien of \$100 per day effective January 8, 2014. Compliance date: 2/11/2015 = \$15,000.00 plus recording costs of \$24.00. Total owed: \$15,024.00.

Attorney Dana Anderson came forward and was sworn. Mr. Anderson stated he was representing the bank and the City has offered a settlement of \$3,500 which he was acceptable to.

Mr. Jackson confirmed the settlement offer was acceptable to the City.

Ruling

Mr. Vukelja reduced the lien to the amount of \$3,500 subject to being paid within 30 days or the lien reverts back to the original amount.

Lien Review 2

CASE NO SMG 01-15-03 – 601 Main Street – Michelle Dodani & Talib, LLC c/o Attorney James Morris was cited for failure to correct violations of Land Development Code Art. 18 Sec. 7.3.1 - Violation(s) – Prohibited signs and banners; outside storage. Order Imposing Fine/Lien of \$300.00 per day effective February 5, 2015. Compliance date: 3/27/2015 = \$15,000.00 plus recording costs of \$12.00 and Interest of \$322.00 (through 9/8/15) Total owed: \$15,334.00.

Attorney James Morris appeared on behalf of the property owner and further stated he expected counsel for the tenant is filing a motion to intervene and also a continuance and he has no objection to either as he believes the city in tenant are in negotiations.

Attorney Lisa Elliott appeared on behalf of the tenant Mr. DeRosa.

Mr. Jackson stated the matter before the Magistrate was a lien review and the City has no objection to the continuance or if the tenant is the one directly impacted the city does not have a problem with the tenant becoming part of the case.

Mr. Vukelja inquired if the owner appeared at the first hearing.

Mr. Jackson stated the owner was not present for any hearings and neither was the tenant however the tenant was not noticed.

Mr. Morris stated Mr. Dodani was out of the country during the time of the hearings and he believes the next time the case was before him there will be a proposed settlement agreement for Mr. Vukelja's review.

Mr. Vukelja stated he did not have a problem with the continuance but what he wanted to alert the parties he was familiar with the tenant Mr. DeRosa and is involved in litigation with Mr. DeRosa but he did not believe at this point in the case Mr. DeRosa's involvement would cause him any concern and as far as the merits of the matter right now, what was before him was a lien review stage but he will hear from anyone with regard to mitigation of this case and if it was the desire of the parties he not hear the case, that would be fine with him.

Mr. Morris stated he did not have any concerns regarding Mr. Vukelja hearing the matter.

Lisa Elliott, appeared on behalf of Lou DeRosa and Bad Boys Saloon and stated they were not provided notice and at the purpose of seeking mitigation with regard to the fine reduction because of the lease agreement they would be responsible for fine and also the second issue is the inability to participate in special events.

Ruling

Mr. Vukelja continued the case to the October 13, 2015 Agenda.

Hearing of Cases

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.

Respondent was not present.

Mr. Jackson stated the property remained in non-compliance and it has been a long time and the city has allowed several extensions but they just cannot seem to get the permit.

Mr. Garcia stated he spoke to the contractor who advised him the contractor they hired was out of town and they have not had any drawings yet to submit for the permit.

Ruling

Mr. Vukelja imposed a fine of \$100 per day effective September 3, 2015 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

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.

Respondent was not present.

Mr. Jackson they were still in the TRT process and called Inspector Lankford to testify.

Ms. Lankford appeared on behalf of Inspector Fitzgerald. Ms. Lankford advised they were working on obtaining permits.

Ruling

Mr. Vukelja continue the case to the October 13, 2015 Agenda for a progress report and determination of a compliance date.

CASE NO 4 SMG 07-15-32 – Plantation Acres, LLC is cited for failure to correct violations of the Land Development Code, NFPA 1, 13.6.6.8.3.0., 101, 30.3.6.3, 14.5.5.2.2, 10.4.1.0, 10.4.1, 13.7.1.4.8, 13.7.1.4.8, 4.5.8.1, 11.1.5, 70 406.5, 14.6.3, at **132 Dr. Mary M. Bethune Blvd.** - Violation(s) – Fire extinguisher on second floor with no inspection/tag recertified annually; All doors within a corridor must have a self-closing device; all exit doors leading to the outside are required to have panic hardware - no exit shall have a key on the egress side; all emergency lights must be hard wired with battery back up; no backflow device as required by Florida Statute; Smoke detectors throughout the building are missing or replaced with battery operated detectors instead of hard wired detectors; no hard wired detectors are installed in the managers office living room; sprinkler head in the hallway near manager's office has paint on deflector; sprinkler head in the hallway near/in manager's office is a pendant when it should be up right; extension cords were being utilized for permanent wiring; numerous receptacles with exposed wiring throughout the building; usable space under stairs prohibited except where the fire resistant rating is same as the stairs **Upon reinspection on 6/29/2015 found additional violations: Open and exposed wiring throughout the building; 200 amp service double tapped with a 150 amp panel which could be overloading the circuit; Missing most dead-front panels which expose live wiring; Joints made and

pushed back in the wall and not in a box; Sagging/deflection on the beams located over the front porch area - First Notified – 5/29/2015.

Steve Karp, Managing Member, came forward and was sworn.

Gregory Henry, Electrical Contractor, came forward and was sworn.

Mr. Jackson stated the property was in non-compliance as the electrical inspection failed.

David Newell, Fire Inspector, stated electrical was not complete, the property was not occupied, upon re-inspection there was an area that was not accessible during their previous inspections and no there are portions of domes have detached and now the structure seems compromised. Mr. Newell stated a structural engineer needs to evaluate the property before anyone could re-enter the building.

Bo Snowden, City Building Inspector, stated there is ten times the amount of work needed than originally thought but the electrical work they were getting close to completing.

Mr. Karp stated he was not aware of the structural issues.

Ruling

Mr. Vukelja continued the case to the October 13, 2015 Agenda and the property is not to be rented, utilized, or occupied because of the need for a structural engineer but noted the Respondents were in good shape with the electrical.

CASE NO 5 SMG 08-15-33 – Sharon R. Yates, Estate is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.5, 304.10, 304.2, 304.6, 304.7, 305.1, 305.3, 605.1), at 8 Dowling Court - Violation(s) – Rodent harborage; damaged stairways; porch area; damaged exterior surfaces; dirt & grime; leaking roof/ceiling; damaged floors; interior surface damaged & unsanitary; exposed wires - First Notified – 1/15/2015.

Mr. Jackson stated there was a new owner who purchased the tax deed on August 18, 2015. Mr. Jackson stated the Inspector has been working with the new owner and they were working on the violations so at this time staff is electing to withdraw the case.

The case was withdrawn.

CASE NO 6 SMG 08-15-34 – Tudja & Kaival, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.4, 302.7, 304.2, 304.7, 304.10, 304.12, 304.14, 307.1, 308.1, 603.1, 604.3, 605.1, 704.2), at **1100 S. Ridgewood Avenue** - Violation(s) – Smoke alarms; electrical equipment; electrical system hazards; mechanical equipment; extermination; rubbish & garbage; insect screens; handrails & guards; stairways, decks, porches and balconies; roofs and drainage; protective treatment; accessory structures; weeds - First Notified – 6/12/2015.

Mr. Pravin Patel came forward and was sworn. Mr. Patel stipulated to the violations.

Mr. Recanzone requested the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by October 7, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 7 SMG 09-15-38 – Precious Property Management, LLC is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.1.A (Ref. FBC 105.1), at **2735 N. Atlantic Avenue** - Violation(s) – Expired Demolition Permit - First Notified – 8/4/2015.

Mr. Elmo Bartolome came forward and was sworn. Mr. Bartolome stipulated to the violations.

Mr. Jackson stated the Respondent is working on another project and either will need to go to a new permit or restore the property to the original state. Mr. Jackson stated staff was requesting the next cut-off date to either obtain a new permit to extend the project or restore the property to the original status by finishing the restoration process.

Ms. Lankford appeared on behalf of Inspector Clig and stated it was her understanding he needed to get a new demolition permit and remove the sign or totally restore it with sign down, cement and pad removed.

Mr. Bartolome asked if he had to remove the entire parking lot. Mr. Bartolome stated he has retained an architect to generate the site plan for the project and he was hoping to reutilize the sign, parking spaces and dumpster.

Mr. Vukelja inquired as to the status of the construction fence. Mr. Vukelja stated he has driven by and noticed it was in disrepair.

Mr. Bartolome stated he would drive by and check on the property.

Mr. Jackson stated the City does not disagree there are future plans however those plans have stalled.

Ruling

Mr. Vukelja found the Respondent in non-compliance and continued the case to the October 13, 2015 Agenda for the determination of a compliance date and further ordered the Respondent maintain the fence.

CASE NO 8 SMG 09-15-35 – Dennis Thomas is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i., at **616 North Street** - Violation(s) – Parking in front yard First Notified – Order of Non-compliance issued 4/24/2014.

Ms. Michelle Thomas came forward and was sworn. Ms. Thomas stated there were new tenants in the property who were not aware about the previous parking issues. Ms. Thomas stated the property is clean and has no other issues. Ms. Thomas stated the family is aware now they cannot park in the yard.

Mr. Jackson stated the violation was a repeat violation and staff was requesting \$500.00 which would be \$100 per occurrence. Mr. Jackson stated has at least 5 occurrences of parking in the front yard.

Ruling

Mr. Vukelja imposed a fine of \$100 against the Respondent for the repeat violation.

CASE NO 9 SMG 09-15-36 – Giniya International Corporation d/b/a Valero Gas Station is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.8), at **580 Mason Avenue** - Violation(s) – Junk Vehicles - First Notified – 5/9/2015.

Mr. Syed Uddin came forward and was sworn. Mr. Uddin stipulated to the violations. Mr. Uddin stated he has told the next door neighbor several times to not park on his property.

Mr. Jackson stated staff was recommending 10 days for compliance. Mr. Jackson called Inspector Stenson for testimony.

Mr. Stenson stated the car dealership next door has been parking over flow cars on the gas station lot.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by September 19, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 10 SMG 09-15-37 – The Fai Hung Lo & Hang Lou Lo Revocable Living Trust dtd 2/25/09 and Daytona Auto Sales, Inc is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a.i.; Art. 8 Sec. 8.2.A.; Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.7 and 605.1), at **582 Mason Avenue** - Violation(s) – Parking on unimproved surfaces and right of way; Non-conforming use as a repair shop; commercial appearance standards; accessory structure (fencing); electrical fixtures - First Notified – 7/29/2015.

Mr. Albert Lo came forward and was sworn. Mr. Lo stated he was the son of the owner off the gas station. Mr. Lo agreed on the parking and he met with Mr. Stenson regarding the fence and the electrical and had a question about the electrical.

Mr. Jackson stated staff was recommending 10 days for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by September 23, 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 10:48 a.m.