

SPECIAL MAGISTRATE HEARING
for Rental Program Cases
City of Daytona Beach
Commission Chambers, City Hall
301 South Ridgewood Avenue, Daytona Beach, Florida
September 8, 2015

A proceeding for the Special Magistrate for the Rental Cases Program was held on September 8, 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
Robert Jagger, Deputy City Attorney
Jurgen Betz, Housing Inspector
Karen Baum, Permit Technician
Aimee Hampton, Paralegal

Minutes prepared by Becky Groom

1. Call to Order

Mr. Vukelja called the meeting to order at 9:08 a.m.

2. Approval of July 14, 2015 Minutes

Mr. Vukelja reviewed, approved, and executed the minutes of the meeting of July 14, 2015.

3. **Announcements:**

Ms. Baum swore in members of staff.

4. **Hearing of Cases:**

New Cases:

1. **CASE NO SMG RI2014-0004- BRACY DONALD J & DODGE CAROLYN** is cited for failure to correct violations of The Land Development Code, Art 8 Sec 2.5 and Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.1, 304.2, 304.13.2, 304.18.1, 604.3, 702.3, 704.2 at 918 N Halifax Avenue
Violation(s) –1. Inadequate off street parking. Has parking for 2 vehicles (one driveway). Required to have parking for 2 vehicles per apartment, for 4 parking spaces. 2. No dead bolt locks on exterior doors. 3. Missing smoke detectors in front apartment. 4. Nonfunctional windows in front apartment. Some are screwed shut. Others will not open. 5. Rotted entry door at exterior left rear storage room. 6. Eliminate large voids around wall mounted window type a/c in front apartment. 7. Paint raw wood filler panel around window mounted a/c in rear apartment. 8. Exposed wiring where hard-wired smoke detector was removed between kitchen and family room in front apartment.

First Notified – Date of first notification 07/02/14.

Mr. Jackson stated the property was sold after the initial inspection. Mr. Jackson stated Mr. Betz would like to allow the new property owner time to make the repairs and would like the case continued until the next meeting.

Mr. Betz stated everything has been repaired except the driveway and an additional parking space needs to be installed.

Special Magistrate Action:

The Special Magistrate found the respondent in non-compliance and ordered the respondent to be in compliance by October 7, 2015, or the case will be returned to the Special Magistrate for consideration of a fine up to \$1,000 per day for every day thereafter.

2. **CASE NO SMG RI2015-0012 – SEABREEZE ON THE HALIFAX LTD** is cited for failure to correct violations of the City of Daytona Beach Land Development Code, Article 3, Sec. 3.4.S.1, Art. 19 Sec 1.1 (Ref. FBC Supp IPMC 302.7, 302.8, 304.1, 304.7, 304.13.1, 304.14, 305.1, 307.1, 502.1, 504.1, 505.3, 506.2, 602.1, 704.2) and the City Code of Ordinances, Sec. 26-294 at 612 N Halifax Avenue Violation(s) 1. Dwelling units were increased from 4 to 6 without obtaining necessary building permit or approval from city. Note - Information available to city shows 4 dwelling units at property. City inspected property 12/2006 for BT license and indicated 4 units, property owner has maintained active BT license for 4 units since 4/2007, water department shows as 4 units, there are 4 electric meters on property and the property was advertised as containing 4 units when for sale in 2005-2006. 2. Each dwelling unit required to contain own bathroom (presently units 3 and 6 share same bathroom). 3. Broken glass entry door units #6. 4. Leakage below kitchen sink #6. 5. Water on bathroom floor of #6. Evaluate further for leakage or water intrusion. 6. Missing cover bathroom exhaust fan #6. 7. Improperly plumbed (non-vented) kitchen sink #5. 8. Detached faucet from bathroom sink #5. 9. Torn and damaged flooring entry/kitchen #2. 10. Water on bathroom floor of #2. Evaluated further for leakage or water intrusion. 11. Duct-taped transition between bathtub and sidewalls unit #4. 12. Nonfunctional window left dormer #4 13. Delaminated wall paneling below left dormer windows #4. 14. Missing pressure relief drain line on gas fired water heater in #4. 15. No access to apartment #1. Will require inspection before rental license can be issued. 16. Loose and displaced soffit board material exterior rear gable end of building. 17. Many of the sinks did not have both hot and cold running water (no water flow from cold/right side of faucets). 18. Missing, inoperable smoke detectors. 19. Missing window screens. 20. Units require source of heat. 21. Rust holes in gutter left of building. 22. Missing cement asbestos tiles from edge of roof above left dormer. 23. Missing metal roofing panels and rotted or damaged wood decking below at rear of detached garage. 24. Renting without a rental (RTL) license. Required when property contains 1-4 dwelling units. 25. Outside storage (soda machine, lumber, etc.) 26. Unlicensed RV/camper parked in back yard.

First Notified – Date of first notification 04/21/15.

Sean Duszny was sworn in and stated he is one of the Managers of Seabreeze on the Halifax.

Mr. Betz stated he would like to have compliance by December 2, 2015, and would like a status report on the repairs at the October 13, 2015 meeting.

Special Magistrate Action:

The Special Magistrate ordered this case be returned to the Special Magistrate hearing of October 13, 2015, for a status report and that compliance be attained by December 2, 2015, or the case will be returned to the Special Magistrate for consideration of a fine of up to \$1,000 per day.

3. **CASE NO SMG RI2015-0036 – BEACH BRET M** is cited for failure to correct violations of the 304.13, 304.13.1, 304.13.2, 304.14, 304.18.2, 602.1, 603.1, 604.3, 605.1, 704.2) at 145 City of Daytona Beach Land Development Code, Art. 19 Sec 1.1 (Ref. FBC Supp IPMC 304.6, 145 S Hollywood Avenue
Violation(s) –1. Missing section of soffit board in exterior left roof overhang of second story. 2. Faulty operation of windows (Cannot be opened, have broken balances and therefore will not stay in raised/opened position and others cannot be closed and locked).
3. Missing window screens. 4. Two cracked window panes noted in upstairs apartment. 5. Non-functional baseboard heating units in downstairs apartment. 6. Non-functional burner on stove top of downstairs apartment. 7. Non-functional clothes washer and dryer.
8. Both main exterior main electrical breaker boxes are rusted through and are missing cover. Unsafe condition. 9. Non-functional ceiling fan and light kit in family room and dining room of lower apartment. 10. Missing smoke detectors in both apartments.
First Notified – Date of first notification 03/30/15.

Mr. Jackson stated the inspector has reported the property remains in non-compliance. Mr. Jackson stated the respondent is working on the property and recently had to evict a tenant which is a contested eviction. Mr. Jackson stated staff is requesting compliance be attained by the November cut-off date in order to allow time for the eviction.

Special Magistrate Action:

The Special Magistrate found the respondent in non-compliance and ordered the respondent to come into compliance by November 4, 2015, and if compliance is not achieved by the date, the case will be returned to the Special Magistrate for consideration of a fine of up to \$1,000 per day.

4. **CASE NO SMG RI2015-0029 – GEA SEASIDE INVESTMENTS, INC** is cited for failure to correct violations of the City Code of Ordinances, Sec. 26-294 at 433 N Peninsula Drive
Violation(s) –Failure to license residential rental property.
First Notified – Date of first notification 07/14/15.

Ms. Jane West, attorney representing GEA Seaside Investments, stated GEA Seaside Investments did not receive proper notice. She stated the notice states the first notification date is noted to be the most recent date of non-compliance which is June 12, 2015 but the Trakit case was opened on July 14, 2015 and there has not been an additional notice after that date. She stated the case is subject to litigation in a Federal court case. She stated what is presented has been settled with the City of Daytona Beach and there is a settlement agreement in place. She stated by virtue of the agreement signed by her client, the notices are inappropriate.

Mr. Jackson stated he has not received any communication from the counsel representing GEA Seaside regarding the Code violations. Mr. Jackson stated he was not involved in the litigation; however, he stated even if the violations were addressed in the litigation, the violations are continuing and reoccurring each day. Mr. Jackson asked that the case be continued in order to discuss the case with counsel.

Mr. Vukelja stated he is unaware of the terms of the settlement agreement.

Ms. West stated every GEA Seaside Investments case that had to do with the City's rental inspection program was the cause of action in the Federal litigation. She stated the two cases that are on the agenda today fall within the purview of the litigation.

Robert Jagger, Deputy City Attorney for the City of Daytona Beach, stated he represented the City in the litigation case with GEA Seaside Investments regarding the rental ordinance and stated the case was resolved by voluntary dismissal with the plaintiff's agreement to pay the City's court costs. Mr. Jagger stated the settlement did not dismiss any violations and simply had to do with the ordinance itself and did not in any way relate to Code violations.

Ms. West stated the violations for the two cases on the agenda state failure to license rental property which was the cause of action for the litigation. She stated items presented are subject to the Federal litigation.

Mr. Jackson asked Ms. West if it is her opinion that if the GEA Seaside Investments does not obtain a rental license, the property owner can never be cited.

Ms. West stated if the violations pre-date the litigation, GEA Seaside Investments cannot be cited.

Special Magistrate Action:

The Special Magistrate asked that the GEA Seaside Investments items be tabled until the October 13, 2015, meeting and stated he would like to review a copy of the settlement agreement.

5. **CASE NO SMG RI2013-0163 – GEA SEASIDE INVESTMENTS, INC** is cited for failure to correct violations of the City Code of Ordinances, Sec. 26-294 at 308 N Peninsula Drive
Violation(s) – Failure to license residential rental property.
First Notified – Date of first notification 02/04/14.

Special Magistrate Action:

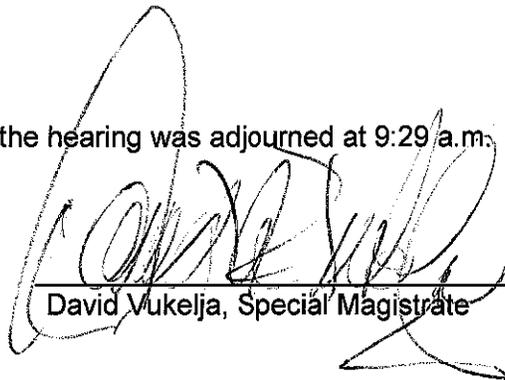
The Special Magistrate tabled this item until the October 13, 2015, meeting.

5. **Miscellaneous Business**

There was no miscellaneous business.

6. **Adjournment**

There being no further business, the hearing was adjourned at 9:29 a.m.



David Vukelja, Special Magistrate