

**CITY OF DAYTONA BEACH MINUTES**

**SPECIAL  
MAGISTRATE  
HEARING**

**OCTOBER 13, 2015 at 9:30 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida**

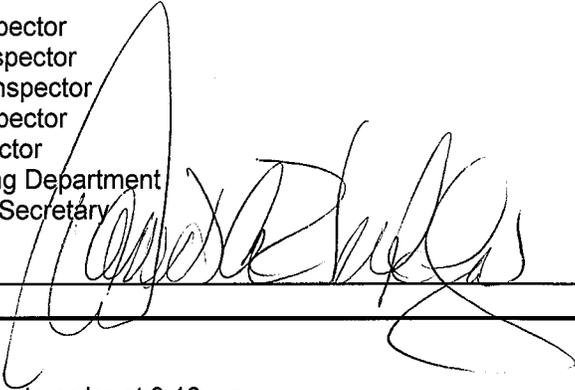
---

**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 9:10 a.m.

Mr. Vukelja approved the September 8, 2015 Rental Meeting Minutes and September 8, 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 07-05-299 – 1014 Cadillac Drive – Owner: Sylvester & Marsha Jones** was cited for failure to correct violations of Land Development Code Art. 19 Sec. 1 (Ref. FBC 104) - Violation(s) – Failure to obtain permit for roof repair. Order Imposing Fine/Lien of \$50.00 per day effective August 5, 2005. Compliance date: 10/18/2007 = \$10,000.00 plus recording costs of \$22.00. Total owed: \$10,022.00.

Mr. Sylvester Jones came forward and was sworn.

Mr. Jackson stated the city is working with the property owner with a City program to help rehabilitate the property in order to make it handicapped accessible and in order for the owners to qualify for the program the lien would need to be removed from the property. Mr. Jackson stated staff's request was to release the lien upon closing and anticipate the closing to happen within the next 30 days.

## Ruling

Mr. Vukelja ordered the lien be released subject to closing occurring within 30 days or the lien shall remain in place.

## 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 Jim Morris appeared on behalf of the property owner. Mr. Morris stated the tenant was present to try and seek some relief from the lien since he is the one who is ultimately responsible for the lien contractually. Mr. Morris asked if the jurisdiction of the Magistrate could be left open if a resolution with the tenant and the City could not be reached so his client could come back and seek relief from the lien.

Mr. Vukelja stated at this point the tenant was not a party to the proceedings. Mr. Vukelja stated at the last meeting it was likely a resolution was going to happen.

Mr. Morris stated apparently the tenant's attorney was released and there has been no further contact on behalf of the tenant.

Mr. Vukelja inquired as to what Mr. Morris was requesting at this time since the action was a lien review.

Mr. Morris stated he was asking to hear from Mr. DeRosa who is the tenant and while he had no objection to Mr. DeRosa being heard, they did not share in his request for recusal.

Mr. Jackson stated at the last meeting there was counsel seeking to intervene on Mr. DeRosa's behalf and it was still left unsettled or not heard at that time. Mr. Jackson stated there is no mechanism for third party intervention for a lien review as it is a discretionary review of the city and is not a review of right. It is granted to the property owner. Mr. Jackson anyone they want to be heard who has relevant information as a material witness the city is okay with however they would object to an actual third party intervention.

Mr. Vukelja inquired as to what the city's thoughts were should Mr. DeRosa ask for a recusal.

Mr. Jackson's position is that Mr. DeRosa is not a party and he did not believe there was any basis for compelling Mr. Vukelja to recuse himself unless he feels like in his heart he could not be impartial.

Mr. Morris stated that he would like to ask for a continuance so he can try and work something out with the tenant and the city.

Mr. DeRosa came forward and was sworn. Mr. DeRosa claimed he did not have due process or was served with the notice of violation and believed he had a right to be present. Mr. DeRosa stated he was requesting Mr. Vukelja recuse himself due to being involved in separate litigation.

Mr. Vukelja said at this point he would take the recusal under consideration however he did not believe this point whether he needs to recuse himself for a non-party.

Mr. Morris stated he does not join in Mr. DeRosa's request for a recusal.

**Ruling**

Mr. Vukelja continued the meeting to the November 10, 2015 meeting subject to the consideration of the Respondent's motion to recuse.

**Hearing of Cases:**

**CASE NO 1 SMG 10-15-43 AKA RI2013-0163 – GEA Seaside Investment, Inc.** is cited for failure to correct violations of City Ordinance Ch. 26 Sec. 26-294, at **308 N. Peninsula Drive** Violation(s) – Failure to license residential rental property - First Notified – 2/4/2014.

Attorney Jane West appeared on behalf of Mr. Jack Aberman. Ms. West stated she provided a letter detailing their position on the relevant case law as it relates to collateral estoppel however she did receive a call from Mr. Jackson that the City's position would be changing regarding the case.

Mr. Jackson stated the issues is not that they agree with the position of necessity for dismissal due to estoppel however the city has heard the desire of Ms. West and her client and the city believes it would be reasonable to give them a new fresh opportunity to comply so the perspective of the city is to request a dismissal for both cases and if it necessary in the future bring it back.

**Ruling**

Mr. Vukelja ordered the case be dismissed.

**CASE NO 2 SMG 10-15-45 AKA RI2015-0029 – GEA Seaside Investment, Inc.** is cited for failure to correct violations of City Ordinance Ch. 26 Sec. 26-294, at **433 N. Peninsula Drive** Violation(s) – Failure to license residential rental property - First Notified – Order of Non-compliance entered 6/12/2015.

Mr. Jackson and Ms. West agreed the same circumstance as the previous case and requested a dismissal.

**Ruling**

Mr. Vukelja ordered the case be dismissed.

**CASE NO 3 SMG 10-15-44 AKA RI2014-0004 – Donald J. Bracy & Carolyn L. Dodge** is cited for failure to correct violations of the Land Development Code, 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); Art. 8 Sec. 2.5, at **918 N. Halifax Avenue** - Violation(s) – Inadequate off street parking; no dead bolt locks on exterior doors; missing smoke detectors; non-functional windows; rotted entry door at exterior left rear storage room; eliminate large voids around wall mounted window type a/c unit; paint raw wood around window mounted a/c in rear apartment; exposed wiring where smoke detector was removed between kitchen and family room - First Notified – 7/2/2014.

Respondent was not present.

Mr. Jackson stated the inspector has had communication with the inspector and there has been repeated delays but at this time the city was willing to amend the cut-off date to the next cut-off.

## Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent to come into compliance by November 4, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 4 SMG 10-15-46 AKA RI2015-0012 – Seabreeze on the Halifax, LTD** is cited for failure to correct violations of the Land Development Code, City Code Ch. 26 Sec. 26-294; Art. 9 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); Art. 3 Sec. 3.4.S.1, at **612 N Halifax** - Violation(s) – Failure to license residential rental property; Units increased from 4 to 6 without permit or approval; each unit required to have bathroom; broken glass entry door unit 6; leakage below kitchen sink Unit 6; Water on bathroom floor Unit 6; missing bathroom exhaust fan Unit 6; improperly plumbed (non-vented) kitchen sink Unit 5; detached faucet in bathroom Unit 5; torn and damaged flooring entry/kitchen Unit 2; Water on bathroom floor Unit 2; duct-taped transition between bathtub and sidewalls unit 4; Nonfunctional window left dormer Unit 4; Delaminated wall paneling below left dormer windows Unit 4; Missing pressure relief drain line on gas fired water heater in Unit 4; No access to apartment 1; Will require inspection before rental license can be issued; Loose and displaced soffit board material exterior rear gable end of building; Many of the sinks did not have both hot and cold running water (no water flow from cold/right side of faucets); Missing, inoperable smoke detectors; Missing window screens; Units require source of heat; Rust holes in gutter left of building; Missing cement asbestos tiles from edge of roof above left dormer; Missing metal roofing panels and rotted or damaged wood decking below at rear of detached garage; Renting without a rental (RTL) license. Required when property contains 1-4 dwelling units; Outside storage (soda machine, lumber, etc.) Unlicensed RV/camper parked in back yard First Notified – 4/21/2015.

Mr. Shawn Duzney came forward and was sworn to provide progress report. Mr. Duzney described the progress he has made on the property. Mr. Duzney stated there were some issues he needed to work out with the city regarding the permits and the amount of units allowed.

**CASE NO 5 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. Meadows stated the permit has been pulled and the work on the interior structure has begun in the front building. Mr. Meadows estimated by the first of the year they could have the work completed. Mr. Meadows stated the property was no occupied.

Mr. Jackson stated they were in agreement with the timeframe requested by Mr. Meadows and was satisfied with the progress as it is a big job. Mr. Jackson stated if they could have a progress report in 60 days that would be good.

## Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until February 2, 2016 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. It was further ordered the Respondent appear for a progress report at the December 8, 2015 Special Magistrate Meeting.

**CASE NO 6 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 backup; 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 manager's 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 re-inspection 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 came forward and was sworn.

Mr. Jackson stated the city's position is there has been inadequate attempts to comply and the city was requesting a fine be imposed of \$500 per day to a maximum of \$20,000.

Mr. Newell stated they have had no contact with the Respondent and there has been no change on the property.

Mr. Karp stated he stated all the electrical has been completed and he has contacted two people and obtained bids for the sagging beams and he was waiting to provide a deposit to the larger company and the larger company wanted a structural engineer stamped plan by November 1<sup>st</sup> and then they could begin the work. Mr. Karp stated FPL has turned on the power and he believes he could be done by December 1, 2015.

Mr. Newell stated the electrical has been completed but the city has not inspected it so he was not aware if it is in compliance. Mr. Newell stated the contractor needs to contact the City to coordinate the inspection.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 2, 2015 to come into compliance or fine of \$300 per day will automatically go into effect beginning December 3, 2015 and continue each day until compliance is achieved or the fine reaches the maximum amount of \$20,000. It was further ordered the property not be rented occupied or otherwise utilized until compliance.

**CASE NO 7 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. Jackson stated there has been minimal effort on behalf of the Respondent and the egregious nature

and overall amount of violations the city was requesting a fine of \$500 per day.

Mr. Jackson called Inspector Recanzone to provide factual information.

Mr. Recanzone stated a contractor has been hired a few days ago and they pulled permits. Mr. Recanzone stated the electrical inspection failed and according to the contractor he will be able to fix by the next cut-off date. Mr. Recanzone stated 75-80% of the work is done and the contractor needs to go over everything to see if it has been correctly done.

Mr. Patel stated he hired the contractor and he is working with the contractor and they pulled the permit and he believed it should be completed.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until November 4, 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 8 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. Angelo Bartolome stated he has fixed the fence and Mr. Butera has been working on the site plan.

Mr. Ben Butera stated he retained a civil engineer to look at the site and they have met with the City but there have been changes to the land development code and now they have to include retention on the site which is a hardship. Mr. Butera stated they are contesting the requirement of the retention with the City and the new rule is throwing a wrench into the design process.

Mr. Jackson stated the city believes the project has stalled and does not appear to be moving forward. Mr. Jackson stated the position of staff is to come into compliance with restoring the property which includes the removal of the sign and that the property is restored to its approved state.

Mr. Vukelja inquired what the restored state would be.

Mr. Clig stated it would be a grass lot.

Mr. Butera stated the existing items the City wants removed would be utilized in the new plans. Mr. Butera stated the removal of the items creates an existing economic burden against the developer.

Mr. Bartolome stated he would like to move forward with the project but does not see the sense in having to dig a hole for retention when it was never required before.

### **Ruling**

Mr. Vukelja continued the case to the November 10, 2015 meeting and further ordered the fence and property be maintained.

**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.

Respondent was in compliance September 23, 2015

**CASE NO 10 SMG 09-15-37 – The Fai Hung Lo & Hang Lou Lo Revocable Living Trust dtd 2/25/09 c/o Fai Hung Lo and Hang Lou Lo as Trustees** 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.

Respondent was in compliance September 23, 2015.

**CASE NO 11 SMG 10-15-38 – Loland, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.13); City Code Ch. 90 Sec. 90-297, at **952 Berkshire Road** - Violation(s) – Broken window; No valid Business Tax Receipt (BTR) - First Notified – 8/1/215.

Respondent was in compliance September 21, 2015.

**CASE NO 12 SMG 10-15-39 – Barry Gorin Revocable Living Trust** is cited for failure to correct violations of City Code Ch. 90 Sec. 90-297, at **912 Tracy Street** - Violation(s) – No business tax receipt (BTR) - First Notified – 8/6/2015.

Mr. Barry Gorin came forward and was sworn. Mr. Gorin stipulated to the violations.

Ms. Patsy Dees came forward and was sworn.

Mr. Jackson stated there was a list of items that needed to be corrected in order to obtain the BTR and should be able to come into compliance by the next cut-off date.

Ms. Dees stated everything has been done except for the carpet which is putting in the carpet today.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by November 4, 2015 or be returned to a subsequent meeting for consideration of an administrative fine of Two Hundred Fifty (\$250.00) Dollars.

**CASE NO 13 SMG 10-15-40 – White Top of Florida, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.74), at **S. Martin Luther King Blvd. (Parcel # 5339-01-23-0040)** - Violation(s) – Dilapidated rear fence - First Notified – 7/16/2015.

Mr. Larry Smith came forward and was sworn. Mr. Smith stated he was the managing director and agreed to the violations.

Mr. Leslie Smith came forward and was sworn.

Mr. Jackson stated staff recommended the next cut-off date for compliance.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by November 4, 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 14 SMG 10-15-41 – Eva M. Wright & Michael C. Wright** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 301.3); Art. 6 Sec. 6.2.H & 6.2.H.7.a, at **115 S. Martin Luther King Blvd.** - Violation(s) – Parking vehicles on the grass; parking inoperable/unregistered vehicles on property and failure to maintain parking lot in a safe manner (potholes) - First Notified – 6/30/2015.

Mr. Michael Wright came forward and was sworn. Mr. Wright stipulated to the violations and believed he can correct the violations by November 4<sup>th</sup>. Mr. Wright provided a new address.

Mr. Jackson stated staff was recommending the next cut-off date for compliance.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by November 4, 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 15 SMG 10-15-42 – Nivrah Consulting & Investment Group, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 301.3, 302.4, 304.2, 307.1), at **713 Marion Street** - Violation(s) – Trash and debris throughout the property; overgrown grass/hedges; chipped and faded paint - First Notified – 6/22/2015.

Mister Harvin came forward and was sworn. Mr. Harvin stated he was the registered agent and stipulated the violations existed at one point.

Mr. Jackson stated staff's recommendation was the next cut-off date.

Mr. Harvin stated he has cut the grass and hedges and the trailer has been removed.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by November 4, 2015 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

**Miscellaneous Business**

There was no miscellaneous business.

**Adjournment:**

The meeting was adjourned at 10:40 a.m.