

CITY OF DAYTONA BEACH

MINUTES

FEBRUARY 15, 2017 at 9:00 AM

City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida

**SPECIAL  
MAGISTRATE  
HEARING**

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ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney

Mr. Hector Garcia, Code Supervisor

Mr. Tom Clig, Code Inspector

Mr. Daniel Garcia, Code Inspector

Mr. Cliff Recanzone, Code Inspector

Mr. Michael Fitzgerald, Code Inspector

Mr. Jerome McCoy, Code Inspector

Mr. Jerry Sanders, Code Inspector

Mr. John Stenson, Code Inspector

Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: \_\_\_\_\_

Special Magistrate

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Mr. Vukelja called the Hearing to order at 9:09 a.m.

Mr. Vukelja approved the January 10, 2017 Meeting Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated there were no announcements.

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

**CASE NO 1 SMG 07-16-40 – Josif Janceski** is cited for failure to correct violations of the Land Development Code, Art. 3 Sec. 3.4.S.; Art. 6 Sec. 6.19.A.3.a; Art. 3 Sec. 3.4.S; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 604.3, 504.3, 304.14, 304.5, 302.7); City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **1058 Thunderbird Drive** - Violation(s) – Working without permit (roof); outside storage; lack of power; lack of utilities (water); dilapidated screens; dilapidated garage door; dilapidated fencing; Failure to obtain business tax receipt (BTR); failure to obtain residential rental license (RTL) - First Notified – 5/5/2016.

Mr. Janceski came forward and was sworn (Arrived at the end of the meeting). Mr. Janceski stated there is a lot of work to be done and he is requesting 6 months to complete the work.

Mr. Jackson stated that the inspector reports nothing has been completed and is asking for the May cut-off for compliance. Mr. Jackson called Mr. Stenson for testimony.

Mr. Vukelja asked if the project was a large project and how we gauge the process as of this date.

Mr. Stenson stated the property is secured, the plans and permits have been submitted but permits have not been issued yet and no work has been started. Mr. Stenson stated the only thing he needs to do to begin is pay for and pick up the permit.

### Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until May 3, 2017 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**CASE NO 2 SMG 08-16-47 – Susan Hounsom Family, LTD Partnership** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.14, 304.2, 605.2, 308.1, 302.5, 704.2, 304.15, 305.6, 504.1, 304.10, 304.6) City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **617 Kingston Avenue** - Violation(s) – Damaged or missing screens; dilapidated handrails; inoperable receptacles; infestation; rodent harborage; missing smoke detectors; damaged exterior doors; damaged interior doors; damaged plumbing fixtures; dilapidated stairs; exterior surfaces; Failure to obtain business tax receipt (BTR); Failure to obtain residential rental license (RTL) - First Notified – 6/1/2016.

Respondent was in compliance February 1, 2017

**CASE NO 3 SMG 11-16-60 – Kimberly E. Telfare** is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3.a; Art. 8 Sec. 8.2.A; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 605.1, 304.15, 305.3, 504.1, 305.2, 605.2, 504.3, 302.8, 605.1, and 302.7); City Code Ch. 26 Sec. 26-294; City Code Ch. 90 Sec. 90-297, at **515 Gibson Street** - Violation(s) – Outside storage; non-conforming use as a rooming house; damaged electrical fixtures; damaged exterior doors; dilapidated interior surfaces; damaged plumbing fixtures; damaged interior doors; inoperable receptacles; plumbing system hazard; junk vehicle; inoperable electrical wiring; dilapidated fence and gate; Failure to obtain business tax receipt (BTR); Failure to obtain required residential rental license (RTL) - First Notified – 9/16/2016.

Ms. Kimberley Telfare came forward and was sworn.

Mr. Arthur Hansen came forward and was sworn.

Mr. Jackson stated that the Inspector reports the property remains in noncompliance however they were working towards having a tenant evicted and a writ of possession was issued on February 6, 2017. Mr. Jackson stated the code inspector is recommending the April cutoff for compliance.

Ms. Telfare stated she agreed to the April cut-off date.

### Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until April 5, 2017 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**CASE NO 4 SMG 12-16-62 – John Clark** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.7, 304.10, 304.12, 304.14, 305.3, 306.1, 504.1, 506.2); City Code Ch. 26 Sec. 26-294; City Code Ch. 90 Sec. 90-297, at **559 N. Beach Street** - Violation(s) – Roof leaking; exterior damaged stairs; missing railings; bathroom sink standing water; missing screens; interior surfaces damaged; Failure to obtain required residential rental license (RTL); Failure to obtain business tax receipt (BTR) - First Notified – 7/20/2016.

Mr. John Clark came forward and was sworn.

Mr. Jackson stated staff was recommending compliance date be amended to the April cutoff date.

Mr. Fitzgerald stated he has been in contact with Mr. Clark and he is working on it. Mr. Clark was unable to make corrections up until this point due to health reasons.

Mr. Clark stated everything has been done he believes he is ready for a final inspection.

**Ruling**

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until April 5, 2017 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**CASE NO 5 SMG 12-16-63 – Ingersoll Financial, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.1, 302.7, 304.2, and 304.6), at **231 Lexington Drive** - Violation(s) – Outside storage of junk, trash or debris, fencing wall paint fading and peeling paint issues; exterior paint fading, peeling, missing; exterior walls, holes, breaks, and loose or rotting materials - First Notified – 7/25/2016.

Respondent was not present.

Mr. Jackson stated the status of the case is imposition of a fine and called Mr. Fitzgerald to testify.

Mr. Fitzgerald stated there are cracks on the walls and the neighboring houses are in a very nice condition but this property has numerous complaints for not maintaining the property. Mr. Fitzgerald stated the grass is always overgrown and the paint is peeling, there are exterior walls and holes and it is deteriorating. Mr. Fitzgerald stated they did mow the grass just this last time. Mr. Fitzgerald stated he has been in contact with an attorney who advised his clients needed to take care of it.

Mr. Fitzgerald stated the city was requesting \$500 per day to a maximum of \$15,000.

Mr. Vukelja asked if they were to begin working on repairing the violations today how long would it take to come into compliance.

Mr. Fitzgerald stated 30 days.

**Ruling**

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until March 17, 2017 to come into compliance or an automatic fine in the amount of \$500 will be imposed effective March 18, 2017 and continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 6 SMG 12-16-66 – Libby 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 302.4 and 304.7); City Code Ch. 26 Sec. 26-294; City Code Ch. 90 Sec. 90-297, at **404 Revilo Blvd.** - Violation(s) – Exterior weeds; roofs and drainage; Failure to obtain required residential rental license (RTL); Failure to obtain business tax receipt (BTR) - First Notified – 10/4/2016.

Respondent was not present.

Mr. Jackson stated the property remains in noncompliance and the only response that the inspector received was from a person who was squatting in the property. Mr. Jackson further stated the property is in foreclosure however at this point the only thing left to do is impose a fine.

Mr. Recanzone stated there has been no maintenance of the exterior and the city is mowing the grass.

**Ruling**

Mr. Vukelja imposed a fine in the amount of \$150.00 per day against the Respondent effective February 9, 2017 to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000.

**CASE NO 7 SMG 01-17-02 – Lisa Phillips** is cited for failure to correct violations of the City Code Ch. 26 Sec. 26-294 and Ch. 90 Sec. 90-297, at **350 N. Charles Street** - Violation(s) – Failure to obtain required residential rental license (RTL); Failure to obtain required business tax receipt (BTR) -First Notified – 10/28/2016.

Respondent was in compliance February 3, 2017.

**CASE NO 8 SMG 02-17-06 – James & Jackwylin Faye Davis** is cited for failure to correct violations of City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 294, at **1147 Barbara Drive** - Violation(s) – Failure to obtain business tax receipt (BTR); failure to obtain required residential rental license (RTL) - First Notified – 12/8/2016.

Mr. James Davis came forward and was sworn. Mr. Davis stipulated to the violations.

Mr. Jackson stated the inspector reports the pool has been drained and the fence has been repaired.

Mr. Stenson stated the only remaining item is the rental inspection needs to be scheduled and performed.

### **Ruling**

Mr. Vukelja found the respondent in noncompliance and order the respondent come into compliance by April 5, 2017 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

**CASE NO 9 SMG 02-17-07 – Precious Property Management, LLC** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.7 & 308.1), at **2735 N. Atlantic Avenue** - Violation(s) – Failure to maintain fence; Trash and debris on premises -First Notified – 12/12/2016.

Respondent was not present.

Mr. Jackson stated the inspector reports that the property is now in compliance but is asking for a finding of noncompliance compliance.

Mr. Clig stated it is in compliance with the maintaining the fence and trash and debris and the city was just asking for an order of non-compliance.

### **Ruling**

Mr. Vukelja found the respondent previously in noncompliance but currently in compliance and for any future repeat violation be returned for consideration of a fine of up to \$5000 per occurrence.

**CASE NO 10 SMG 02-17-08 – GEA Seaside Investment, Inc** is cited for failure to correct violations of Land Development Code Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.13 and 304.7), City Code Ch. 26 Sec. 26-294, at **358 Nautilus Avenue** -Violation(s) – Damaged roof; broken windows; Failure to obtain required residential rental license (RTL) First Notified – 11/17/2016.

Mr. George Chandler, Esquire and Mr. Erin Morse, Esquire were appearing on behalf of the Respondent.

Mr. Aberman was present but not testifying.

Mr. Chandler stated they were requesting a continuance due to the date of first notification being incorrect.

Mr. Jackson stated the property is occupied and is being rented and requires a rental license and the respondent does not have a rental license in addition to damaged roof and broken windows. Mr. Jackson stated the violations were complaint driven and there is a citizen who would like to be heard.

Mr. Clig asked for a resident to testify.

Ms. Kristin Span came forward and was sworn. Ms. Span read into the record a letter and also submitted some documents for the Magistrate to review. Ms. Span stated during hurricane Matthew, the roof blew off and landed in her yard causing damage. Ms. Span stated Mr. Aberman was not responsive in helping remove the debris from her property, and she has called code regarding unlicensed work on numerous occasions.

Mr. Jackson stated Mr. Aberman has a long history of not complying and there are several previous cases with liens for failure to obtain rental license however through the agreement with Mr. Aberman's previous attorney the city agreed to not treat any new cases as a repeat violation because he expressed interest in complying and the city wants him to come into compliance.

Mr. Vukelja stated the only thing that interests him as far as history goes is the fact the property owner is aware of the procedure and cannot claim ignorance. Mr. Vukelja stated he is interested in how to move forward to get the property into compliance for Mr. Aberman and the neighborhood and it is going to be corrected and he was denying the continuance.

Mr. Vukelja asked the Respondent's attorney if they agreed if the Respondent was in non-compliance.

Mr. Chandler stated they are unsure because of the notice issue.

Mr. Vukelja stated it's a yes or no question.

Ms. Morse stated at this time Mr. Aberman was working towards compliance and was working with his insurance company.

Mr. Clig stated the interior and exterior need to be inspected for a rental license. The windows are boarded and there is tenant in there so for safety reasons the window needs to be repaired as soon as possible. Mr. Clig stated the tenant informed him that the roof was repaired however no permit was pulled so the city needs to inspect the roof work.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 5, 2017 and further ordered the property be inspected for the residential rental license by March 17, 2017. Failing either requirement the Respondent will be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 11 SMG 02-17-09 – Floyd Boivin** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 308.1); City Code Ch. 90-297; City Code Ch. 26 Sec. 294, at **1266 Essex Road** - Violation(s) – Trash and debris in the yard; Failure to obtain business tax receipt (BTR); Failure to obtain required residential **rental license** -First Notified – 12/1/2016.

Mr. Floyd Boivin came forward and was sworn. Mr. Boivin stipulated to non-compliance.

Mr. Jackson stated that the respondent is making good progress and recommended the April cutoff date for compliance.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent to come into compliance by April 5, 2017 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

**CASE NO 12 SMG 02-17-10 – Hamflor Holdings, LLC** is cited for failure to correct violations of City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **734 Flanders Avenue** - Violation(s) – Failure to obtain business tax receipt (BTR); failure to obtain required residential rental license (RTL) - First Notified – 12/20/2016.

Respondent was in compliance by February 3, 2017.

**CASE NO 13 SMG 02-17-11 – Carol J. Wright** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 305.3); City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **1290 9th Street Unit 104** - Violation(s) –Interior surfaces contain holes in walls, door frames in disrepair and need paint; Kitchen floor and bathroom floor need repaired and carpet; Failure to obtain business tax receipt (BTR); Failure to obtain required residential rental license (RTL) - First Notified – 12/20/2016.

Ms. Carol Wright Blackman came forward and was sworn. Ms. Blackman disagreed to non-compliance and stated her tenant did not notify her the notices were coming to the house. Ms. Blackman further stated that the violations were caused by the tenants and she is not been current on her rent and has not been current for a long time. Ms. Blackman stated she is in the process of evicting the tenant and she thinks she was doing this to try and stay as long as possible. Ms. Blackman stated she does not know the condition of the interior and she has tried to work with her tenant for 4 years. Ms. Blackman stated she is putting the unit up for sale now.

Mr. Vukelja asked the Inspector how many days to come into compliance.

Mr. Sanders stated 30 days should be sufficient.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 5, 2017 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 02-17-12 – 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 307.1), at **1100 S. Ridgewood Avenue** Violation(s) – Accumulation of rubbish or garbage - First Notified – Order of Non-compliance entered on June 17, 2013.

Mr. Pravin Patel came forward and was sworn. Mr. Patel stated he is now in compliance.

Mr. Jackson stated he thought he heard Mr. Patel say they changed the Corporation name of the company.

Ms. Hampton stated the company name is Thakorjirkrupa, LLC d/b/a Heritage Inn.

Mr. Jackson stated the violation was a result of a repeat violation of rubbish or garbage and in this instance there was a mattress on the outside of the fenced in dumpster and if it should arise again they would request more severe sanctions.

Mr. Patel stated waste pro showed them where to put the mattresses and they were just putting them where they were told.

Mr. Garcia stated he thinks Mr. Patel is getting confused and that the mattresses have to be in the inside of the dumpster enclosure sideways and they can be picked up in that manner.

### **Ruling**

Mr. Vukelja imposed a fine of \$25.00 for the repeat violation and told Mr. Patel to speak with Waste Pro and work out a location inside the dumpster enclosure.

**CASE NO 15 SMG 02-17-13 – Revocable Trust of Beverly Sanders dated 9/27/05** is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 308.1 and 602.1); City Code Ch. 90-297; City Code Ch. 26 Sec. 29-294, at **420 Auburn Drive** - Violation(s) – Rodent infestation; no heat facilities; Failure to obtain business tax receipt (BTR); Failure to obtain required residential rental license (RTL) -First Notified – 8/3/2016.

Melanie Johnson, Esquire appeared on behalf of the Respondent. Ms. Johnson stipulated to non-compliance.

Mr. Jackson stated the property was in non-compliance and staff was recommending a compliance date of April 5, 2017.

Mr. Recanzone stated there are missing window screens, heat for the upstairs apartment and bath tub fixtures and then she should pass the rental license.

Ms. Johnson stated she had some tenant issues and were just evicted. Ms. Johnson stated she believed the compliance date of April should be fine and she does not intend to rent the property anymore.

### **Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 5, 2017 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

**CASE NO 16 SMG 02-17-14 – Timothy L. Greeney** is cited for failure to correct violations of the Land Development Code, Art 9 Sec. 9.2.A (Ref. FBC Supp IPMC 505.1); Art. 6 Sec. 6.2.H.4; Art. 6 Sec. 6.2.H.7.a.i; City Code Ch 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **106 Claire Terrace** Violation(s) – Water fixtures not properly connected; parking on an unimproved surface (parking on the grass); Failure to obtain business tax receipt (BTR); Failure to obtain required residential rental license (RTL) -First Notified – 12/22/2016.

Respondent was not present.

Mr. Jackson stated the property was previously in non-compliance and now currently in compliance.

### **Ruling**

Mr. Vukelja found the respondent previously in noncompliance but currently in compliance and for any future repeat violation be returned to subsequent meeting for consideration of a fine of up to \$5000 per occurrence.

### **Miscellaneous Business**

There was no miscellaneous business.

### **Adjournment:**

The meeting was adjourned at 10:25 a.m.