

CITY OF DAYTONA BEACH

MINUTES

**December 12, 2017 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida**

**SPECIAL
MAGISTRATE
HEARING**

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Denzil Sykes, Code Supervisor
Mr. Daniel Garcia, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Jerome McCoy, Code Inspector
Mr. Cliff Recanzone, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  Special Magistrate

Mr. Vukelja called the Hearing to order at 9:03 a.m.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following cases were in compliance:

CASE NO 24 SMG 11-17-82 – Ahmad Marwan Alhindi & Marwan Mahmoud Alhindi, JTRS is cited for failure to correct violations of the Land Development Code, Art. 3 Sec. 3.4.S., at **449 Tuscany Chase Drive** - Violation(s) – work performed without required permits (back patio) - First Notified – 9/28/2017.

COMPLIANCE 11/9/2017

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

CASE NO ` SMG 07-17-65 – Firma Family Land Trust is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 704.2, 302.4, 302.5, 302.7, 304.2, 304.4, 304.5, 304.6, 304.13, 304.14, 305.2, 305.4, 305.5, 307.1, 309.1, 309.2); Art. 6 Sec. 6. 19.A.3; City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **750 Vernon Street** - Violation(s) – Smoke Alarms; rodent harborage; infestation; site appearance standards; fence; insect screens; high weeds; interior structure; handrails; windows; doors; paint; failure to obtain business tax receipt (BTR); failure to obtain required residential rental license (RTL) - First Notified – 5/1/2017.

COMPLIANCE 12/5/2017

CASE NO 2 SMG 10-17-80 – Kinsey & Debbie Whaley is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.2, 304.8, 304.10, 304.13, 304.15, 305.1, 305.3, 305.4, 404.4.3, 404.6, 504.1, 601.2, 603.1, 605.1, 704.1); City Code Ch. 26 Sec. 26-294; City Code Ch. 90 Sec. 90-297, at **152 Madison Avenue** - Violation(s) – Protective treatment; decorative features; stairways, decks, porches and balconies; windows; exterior doors; general interior; interior surfaces; stairs and walking surfaces; Water closet accessibility; Efficiency unit requirements; general plumbing fixtures; failure to maintain mechanical and electrical requirements; mechanical appliances; electrical installation in disrepair; missing smoke detectors; failure to obtain required residential rental license (RTL); failure to obtain business tax receipt (BTR) - First Notified – 8/2/2017.

Mr. Kinsey Whaley came forward and was sworn.

Mr. Jackson stated the inspector informed him that the permits were issued on November 7, 2017 and staff was requesting the next cut-off date for compliance.

Mr. Whaley stated they hung a bedroom door and installed handles and cabinet mirrors in bathroom, installed windows, installed smoke detectors, ordered remaining windows from home depot and the first set of windows ordered are being installed. Mr. Whaley showed the order form of \$2500 worth of windows that won't be arriving until the end of the month. Mr. Whaley stated his wife's sister passed away and his wife has MS and he had to help his wife. Mr. Whaley stated the stairwell in the back work should begin next week. Mr. Whaley stated it is at least 2 months to repair everything.

Ruling

Mr. Vukelja amended the previous order of noncompliance to allow the respondent until February 7, 2018 to come into compliance or be returned to a subsequent meeting for consideration of a fine of up to \$,1000 per day thereafter.

CASE NO 3 SMG 11-17-87 – Indigo Lakes Golf Club, LP is cited for failure to correct violations of the Land Development Code, Art. 3 Sec. 3.4.S., at **312 Indigo Drive** - Violation(s) – **Failure to obtain proper permits for construction of stage** - First Notified – 10/4/2017.

COMPLIANCE 12/5/2017

CASE NO 4 SMG 08-17-69 – Carolyn Ricany is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 304.2, 304.6, 304.7, 304.13, 304.14), at **1225 Waverly** - Violation(s) – Broken windows; exterior rotten wood; peeling & chipped paint; missing screens; roof and drainage system - First Notified – 4/14/2017.

Ms. Carolyn Ricany came forward and was sworn

Mr. Jackson stated this was an unusual circumstance but this particular case was also related to miscellaneous business case 1 and requested that be heard the same time or taken right after this case.

Mr. Jackson stated that the property is under contract for short sale and city staff was recommending a continuance of this case to allow for the short sale to happen until at least the February meeting.

Ruling

Mr. Vukelja continued the case to the February 13, 2018 meeting agenda.

Miscellaneous Business Case 1

CASE NO CEB 11-12-124 - Carolyn Ricany was cited for failure to correct violations of The Land Development Code, Art. 18 Sec. 7; Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 303.2, 303.6), at **1225 Waverly Drive** - Violation(s) – Fading and peeling paint; garage door inoperable; broken or loose tiles on the front porch - First Notified – 8/10/2012. Order Imposing Fine/Lien of \$100.00 per day imposed 2/14/2013. Fine has reached the maximum of \$10,000. Property is not in compliance and is under contract for short sale. Fannie Mae has offered to pay \$6,000 towards the code lien in order to facilitate the sale.

Mr. Bill McNeill came forward and was sworn. Mr. McNeill stated he was the realtor helping to facilitate the short sale and that they were under contract. Mr. McNeill stated the new buyer is aware of the code violations and fully intends on repairing everything. Mr. McNeill stated Ms. Ricany would not receive anything from the short sale but they are working on trying to get her \$3,000 in relocation expenses.

Mr. Jackson stated it was city staff's desire to see the short sale go through so a new buyer could take over the property and bring into compliance. Mr. Jackson explained that the bank was offering to pay the sum of \$6,000 towards the code enforcement lien and the staff was an agreement with that amount.

Mr. Ricany stated she would like to see the property sold and is okay to pay the \$6,000 out of the short sale.

Ruling

Mr. Vukelja reduced the amount of the lien to \$6,000 subject to being paid at short sale or within 90 days whichever occurs first, failing that the lien will revert back to the original amount.

CASE NO 5 SMG 05-17-40 – GEA Seaside Investments, Inc. is cited for failure to correct violations of the City Code Ch. 26 Sec. 26-294, at **231 N. Hollywood Avenue** - Violation(s) – Failure to obtain required residential rental license (RTL) - First Notified – 1/30/2017.

COMPLIANCE 12/11/2017

CASE NO 6 SMG 05-17-41 – GEA Seaside Investments, Inc. is cited for failure to correct violations of the City Code Ch. 26 Sec. 26-294, at **311 & 313 N. Hollywood Avenue** - Violation(s) – Failure to obtain required residential rental license (RTL) - First Notified – 1/30/2017.

Attorney Joel Osborne appeared on behalf of GEA seaside.

Mr. Jackson stated that the permit has been issued but has not been picked up and staff was requesting a fine in the amount of \$250 per day to a maximum of \$15,000.

Inspector Davis stated that the permit was applied for and is ready for pickup

Mr. Osborne stated that 311 and 313 N. Hollywood are completely done his client's wife's mother passed away and they were in Jamaica.

Ms. Annalise Trader came forward and was sworn. Ms. Trader stated she was the former tenant and there were multiple violations and it was horrible living conditions and she does not want a similar situation happen anyone else. Ms. Trader stated sees the property available for rent on Zillow and knows it is not in any condition to be rented.

Ruling

Mr. Vukelja impose a fine in the amount of \$250 per day against the respondent effective December 7, 2017, to continue each day thereafter until compliance is achieved or the fine reaches the maximum amount of \$15,000 and further orders that the property not be occupied or advertised until compliance is achieved or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 7 SMG 05-17-45 – GEA Seaside Investments, Inc. is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **216 Morningside Avenue** - Violation(s) – Failure to obtain required residential rental license (RTL) - First Notified – 1/30/2017.

Mr. Jackson stated that the permit is ready for pickup.

Ms. Davis stated the property was vacant the permit has been applied for and is available but has not been picked up yet. Ms. Davis stated the roof has collapsed since her last inspection in September.

Mr. Osborne stated that they were going to be withdrawing their application for rental of this property as it has extensive damage from hurricanes and they were not going to be renting anytime soon.

Mr. Jackson stated the Respondent should follow up with the Inspector to make sure the property is secured to city standards, registered as a trespass arrest site and agrees to not rent or occupy until rental license is obtained.

Ruling

Mr. Vukelja stated that continued the case to be withdrawn at 216 Morningside in city is not going to be a rental.

CASE NO 8 SMG 05-17-46 – GEA Seaside Investments, Inc. is cited for failure to correct violations of the City Code Ch. 26 Sec. 26-294, at **232 N. Peninsula Dr** - Violation(s) – Failure to obtain required residential rental license (RTL) - First Notified – 1/30/2017.

Mr. Jackson stated the permit has not been applied for and staff was requesting a fine of \$200 per day to a maximum of \$15,000 and further the property not be rented or advertised for rent until compliance.

Ms. Davis stated there is an eviction notice on the door and the interior items of the tenant were on the curb ready for pick up.

Mr. Osborne stated they were in the process of eviction and working towards getting the place fixed. Mr. Osborne stated from his understanding the contractor has applied for the permit.

Ms. Davis stated she did not see an application for permit as of yesterday.

Ms. Davis stated the code staff checked with the building department clerk and there is no application for a permit at this time.

Ruling

Mr. Vukelja imposed a fine in the amount of \$200 per day effective December 7, 2017 to continue each day until the permit was applied for or the fine reaches the maximum amount of \$15,000 and further order that that was property shall be in full compliance by January 3, 2018 and further shall not be advertised for rent or occupied or otherwise utilized until compliance.

CASE NO 9 SMG 12-17-99 – Eva M. Wright and Michael Wright is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.4; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.2), at **117 S. Martin Luther King Blvd.** - Violation(s) – Surfacing- potholes; protective treatment - paint and/or siding - First Notified – 9/23/2017.

Mr. Michael Wright came forward and was sworn. Mr. Wright stipulated to noncompliance.

Mr. Jackson stated the property was in noncompliance and staff was recommending a compliance date by the next cut-off date.

Mr. Wright stated the building siding needed to go all the way around the building and a parking lot resurface has to be done. Mr. Wright stated he will work on the parking lot right away but the siding could take some time. Mr. Wright stated he was working on obtaining quotes for the parking lot at this time. Mr. Wright stated the property was a commercial property.

Mr. McCoy stated that the protective treatment violation was either paint or the siding and also the paint color has to be approved by the redevelopment department.

Charles Bryant, Redevelopment Project Manager came forward and was sworn. Mr. Bryant stated that the property was in Midtown Redevelopment area and they need to get the paint and siding color approved.

Mr. Vukelja asked if there were any life safety issues.

Mr. McCoy stated there were no life safety issues the only tenants were in the downstairs store.

Ruling

Mr. Vukelja found the respondent in noncompliance and order the respondent to appear the January 9, 2018 meeting for the progress report and determination of a compliance date

CASE NO 10 SMG 12-17-89 – Jas Keys & Elsa Leonora is cited for failure to correct violations of the City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at **710 Florence Street** - Violation(s) – Failure to obtain business tax receipt (BTR); failure to obtain required residential rental license (RTL) - First Notified – 8/31/2017.

COMPLIANCE 12/11/2017

CASE NO 11 SMG 12-17-90 – Khai Q Le is cited for failure to correct violations of the Land Development Code, Art. 3 Sec. 3.4.S., at **324 Tuscany Chase Drive** - Violation(s) – No permit for screening in back porch - First Notified – 10/31/2017.

This case was withdrawn.

CASE NO 12 SMG 12-17-91 – Daryl L. Jones is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.19.A.3; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 301.3), at **Homes Ave - Vacant Lot Parcel # 5238-13-06-0310** - Violation(s) – Junk vehicles - bucket truck; car and commercial trailer storage - First Notified – 8/31/2017.

Daryl Jones came forward and was sworn. Mr. Jones stipulated to noncompliance.

Mr. Jackson stated the Inspector advises the property can be in compliance by the next cut-off date.

Mr. Jones asked if he could have a little more time he will be able to get everything done. Mr. Jones stated he did not know whose vehicle is on his property and stated he will have it towed away but just did not have the money to hire someone to remove the vehicles he just didn't want to get in trouble for moving someone else's property.

Mr. Jackson stated February was okay with the City.

Ms. Davis stated there is just the one vehicle that needs to be removed at this point.

Ruling

Mr. Vukelja found the respondent in noncompliance and order the respondent come into compliance by February 7, 2018 or be returned to subsequent meeting for consideration of a fine of up to \$1,000 per day.

CASE NO 13 SMG 12-17-92 – Everlaurell, LLC is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.8), at **838 School Street** - Violation(s) – Junk - First Notified – 9/25/2017.

COMPLIANCE 12/4/2017

CASE NO 14 SMG 12-17-93 – Baseline Capital Investments, 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, 304.1, 304.3, 304.6, 304.7), at **353 Seaview Avenue** - Violation(s) – Trash and debris; high weeds; premises identification; exterior walls; roofs and drainage - First Notified – 3/25/2017.

Respondent was not present.

Mr. Jackson stated there is been no contact and the property is in noncompliance and staff was recommending the next cutoff date for compliance.

Ruling

Mr. Vukelja found the respondent in noncompliance and order the respondent come into compliance by January 3, 2018 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 15 SMG 12-17-94 – John Paul Daniel is cited for failure to correct violations of the Land Development Code, Art. 6 Sec. 6.2.H.7.a; Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.3), at **1201 Sunland Road** - Violation(s) – **Trailer parked in driveway; no address numbers** - First Notified – 8/25/2017.

COMPLIANCE 12/4/2017

CASE NO 16 SMG 11-17-85 – Hope T. & Kenneth H. Lindsey is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 302.8 and 304.3); Art. 6 Sec. 6.19.A.3; Art. 6 Sec. 6.2.H.7.a, at **909 Lockhart Street** - Violation(s) – Outside storage; parking on yard; boat storage; inoperative vehicles parked on sidewalk; no address numbers - First Notified – 9/1/2017.

Respondent was not present.

Mr. Jackson stated the property was in noncompliance and staff was recommending the next cutoff date for compliance.

Mr. Alderman stated that the only thing left is the vehicles that needed be removed and next cut-off date should be enough time to have them removed.

Ruling

Mr. Vukelja found the respondent in noncompliance and order the respondent come into compliance by January 3, 2018 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day.

CASE NO 17 SMG 11-17-86 – Beverly Shearer is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 303.1, 304.13, 304.7), at **1215 Golfview Drive** - Violation(s) – Swimming pools, spas and hot tubs; exterior windows, skylight and door frames; roofs and drainage - First Notified – 6/26/2017.

Respondent was not present.

Mr. Jackson stated the property was in noncompliance and staff was recommending the next cutoff date for compliance.

Mr. Alderman stated there is been no contact but he did speak with the owner's son because the mother is in a home now. Mr. Alderman stated the pool was not being maintained but there is a perimeter fence.

Mr. Jackson asked for 10 business days to clean and secure the pool.

Ruling

Mr. Vukelja found the respondent in noncompliance and ordered the pool be secured in clean within 10 business days or be returned to subsequent meeting for consideration of a fine of up to \$1,000 per day and further ordered the property be brought into compliance by January 3, 2018 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

CASE NO SMG 12-17-95 – Arnold & Yasmin King is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 303.2), at **313 Aleatha Drive** - Violation(s) – **Pool is empty but unsecured; orange plastic fencing around pool inadequate** - First Notified – 10/10/2017.

COMPLIANCE 12/6/2017

CASE NO 19 SMG 12-17-96 – Jong Soo Yoon & Lee OK is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A (Ref. FBC Supp IPMC 304.7); Art. 6 Sec. 6.19.B, at **309 N. Atlantic Avenue** - Violation(s) – Metal roofing sections missing and existing metal rusting - First Notified – 7/25/2017.

Respondent Jong Soo Yoon came forward and was sworn.

Mr. Alderman stated the property was involved in insurance litigation and Mr. Yoon was just waiting for that to be resolved before fixing the property. Mr. Alderman stated the roof is patched and not leaking but needs to be repaired.

Ruling

Mr. Vukelja found the respondent in noncompliance and order the respondent come into compliance by February 7, 2018 or be returned to a subsequent meeting for consideration of a fine of up to \$1,000 per day.

CASE NO 20 SMG 12-17-97 – George McLendon, Jr. & Ida M. McLendon is cited for failure to correct violations of the Land Development Code, Art. 9 Sec. 9.2.A. (Ref. FBC Supp IPMC 302.1, 304.2, 304.6); Art. 6 Sec. 6.19.A.4, at **751 Bellevue Avenue** - Violation(s) – Exterior paint and masonry joints; trash and debris and garbage - First Notified – 8/15/2017.

George McLendon came forward and was sworn. Mr. McLendon stipulated to noncompliance.

Mr. Jackson stated the property was in noncompliance and staff was recommending the February cutoff date for compliance.

Mr. McLendon stated he would be doing most of the painting but someone from the church would be helping him. Mr. McClendon asked for some additional time due to his age.

Ruling

Mr. Vukelja found the respondent in noncompliance and order the respondent come into compliance by February 7, 2018 or be returned to a subsequent meeting for consideration of a fine of up to \$1000 per day

MISCELLANEOUS BUSINESS

There was no other miscellaneous business.

Adjournment:

The meeting was adjourned at 10:14 a.m.