
City of Daytona Beach Special Magistrate

City Commission Chambers, 301 S Ridgewood Ave, Daytona Beach, FL 32115

Robert J. Riggio, Special Magistrate

May 24, 2022 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Assistant City Attorney

Scott W. Lee, Police Captain

Cortland Lampe, Police Officer

Evan Gilbert, Police Officer

Mr. Clifford Recanzone, Rental Inspector

Ms. LaWanda Tomengo, Rental Inspector

Mr. Steven Cole, Rental Inspector

Ms. June Barnes, Board Secretary

Mr. Joe Graves, Audio/Visual

Mr. Xavier Campbell, Audio/Visual

Approval of Minutes by:  Special Magistrate

Mr. Riggio called the meeting to order at 9:02 am and announced the procedure for the meeting.

Mr. Riggio asked if there were any announcements.

Ms. Barnes announced the following cases in Compliance.

CASE # 13 - RTL 04-22-93 - Zixin Yan & Meixiu Tang is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **161 Westwood Dr.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 9/1/2021.

Compliance 5/18/2022

CASE # 20 - RTL 03-22-53 - Glenn D & Donna Wetherell is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **624 Mulberry St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 12/16/2021.

Compliance 5/20/2022

Ms. Barnes swore in members of the staff who will be testifying.

Mr. Riggio called the first case.

CASE # 1 - RTL 05-22-116 - Evangelin R Wiggins is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **837 School St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/9/2022.

Respondent was not present.

Inspector Tomengo stated she opened the case on December 20, 2021 and posted the property on February 9th, 2022. She stated this is an unlicensed rental property, the owners have submitted an application and she is requesting a finding of Non-Compliance and next cutoff to come into Compliance.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 22, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 2 - RTL 05-22-117 - William Glass Morrisson III is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **860 Magnolia Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 12/23/2021.

Mr. William G Morrison III came forward and was sworn in.

Inspector Tomengo stated she opened the case on December 8, 2021 and went onsite to verify they were renting. She stated she received an email for Kim LaSotte in January. She stated the property has a current active BT but no rental license. She stated she had contact with Mr. Morrison on Friday and is asking for a Finding of Non-Compliance and next cutoff to come into Compliance.

Mr. Morrison stated the person the inspector spoke to was a guest and not a renter. He stated he allows them to live there and they pay the utilities and take care of the property. He stated the property is still in his father's name, who died last year, and his name is misspelled on the deed and the Volusia Tax Roll. He stated the guy in apartment 1 has someone living with him and he is in the process of getting permit for the roof. He stated he doesn't think he is doing anything wrong and all 3 units are people that his dad dealt with for 30 years. He stated they pay the utilities.

Mr. Riggio asked the spelling of his name and he stated M-O-R-R-I-S-O-N.

There was discussion regarding him working with Mr. ^{Melvin} ~~Mike~~ Stacks that filed the paperwork to transfer the deed to him from his father and is afraid if they do an inspection he will have to pay for upgrades.

Inspector Tomengo stated there was a previous code case and the license is expired.

Mr. Jackson stated that the property is a rental if there is any gratuity or benefit to Mr. Morrison.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 22, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 3 - RTL 05-22-118 - John A Fortner is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **840 S Ridgewood Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 3/31/2022.

Mr. John A Fortner came forward and was sworn in.

Inspector Tomengo stated she opened the case on February 5th of 2021 and police activity exposed the unlicensed rental arrangement. She stated she inspected the property on September 3, 2021 and it failed. She stated there has been no re-inspection. She stated she received information for an insurance claim for a leak in January from wind, storm damage. She stated there has been no coordination for repairs. She stated she received an email that the tenants were vacating and he was not going to rent. She stated she would need to verify there are no remaining violations and if there are will need to transfer them to a code case. She stated she is requesting a Finding of Non-Compliance and next cutoff to come into Compliance.

Mr. Fortner stated he had sent a copy of the contract to the inspector from the insurance claim for windows. He stated he can pay the repairs out of pocket but he has an attorney and it could drag out. He stated he applied for a permit for rental and will sign an affidavit not to rent. He asked if ~~he~~ ^{his} son could stay in the house.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 22, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 4 - RTL 05-22-119 - Uzair Shuja is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **116 & 118 Emmett St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 8/2/2021.

Respondent was not present.

Inspector Tomengo stated she opened the case from a police referral referencing an unlicensed rental property. She stated the license expired due to unpaid fees. She stated when she visited the property it appears to be occupied by garbage cans and accumulation of furniture and things. She stated she is requesting a Finding of Non-Compliance and next cutoff to come into Compliance.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 22, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 5 - RTL 05-22-111 - Luther E Bradley is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **613 Butler Blvd.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 3/22/2022.

Mr. Brian ~~Cutler~~ ^{Luther?}, brother, came forward and was sworn in.

Inspector Steve Cole stated he opened the case on March 11th and last inspected the property on May 17th. He stated he is requesting a Finding of Non-Compliance and next cutoff to come into Compliance.

shouldn't this case be AGAINST ~~Luther~~ BRADLEY Luther

Did we do A NAME change for the case style?

Mr. Cutier agreed. He gave the current mailing address for the owner as 3129 Kerrybrook Dr, Murfreesboro, TN 37129.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 22, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 6 - RTL 05-22-112 - The Dogg Pound LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **725 N Peninsula Dr.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 12/31/2021.

Ms Kimberly Nguyen, Managing Partner, and Ms. Tracey Remark and Mr. Thomas Bolc, witnesses, came forward and were sworn in.

Inspector Cole stated he opened the case on December 15, 2021 and his last inspection failed on May 17th. He stated he is asking for a Finding of Non-Compliance and next cutoff to come into Compliance.

Ms. Nguyen stated she is requesting to delay that she is evicting the tenants in the main house and she needs to retain an attorney. She stated she went to the City and submitted a rental license when she spoke to Rose Askew.

Mr. Jackson stated the Respondent is admitting to Non-Compliance if she is evicting tenants.

Mr. Bolc stated he lives at 726 N Peninsula and there are 3 pitt bulls behind the fence. He stated there are cars parked on the lawn and there are multiple people living on the property and he had pointed that out to the owner. He stated there is a constant flow of people in and out and he stated the tenants were removed last night by the police. He stated they have no license and are collecting \$4000 a month.

Ms. Remark stated they purchased the property in January of 2021 and did not check zoning and have not applied for a license in the last 15 years. She stated the property was rezoned in 1993 and the property remained legal non-conforming until 2008 when Mr. Lorriza purchased the property. She stated when he sold it the buyers thought they were getting a triplex and got caught short-term renting. She stated they deeded the property to The Dogg Pound. She stated since the property is no longer legal non-conforming, the kitchens should be removed. She stated that they have a license for a home business but in order to do a home business, they have to live there.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 22, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CONTINUED CASES:

CASE # 7 - RTL 01-22-06 - Stephen E Wright is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **318 Phoenix Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 6/21/2021.

Ms. Nancy Koenig, Property Manager, came forward and was sworn in.

Inspector Tomengo stated she received an email from the property owner on March 29th stating they hired Ms. Koenig. She stated she had no contact until May 9th when Ms. Koenig notified her they had hired a contractor. She stated she received an email yesterday stating some of the items had been corrected such as the removal of a porch among other things. She stated some of the items, including removal of the porch require permits which were disregarded. She stated the property is tenant occupied and she is requesting a fine in the amount of \$100 per day to a maximum of \$15,000 or until Compliance is achieved.

Ms. Koenig stated she was just hired and it took time for the repairman. She stated she reached out for a second walkthrough but no arrangement was made. She stated he fixed all of the items on the list except for the windows. [↑]
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Inspector Tomengo stated there are some missing screens and she discussed the need for a contractor via email.

Mr. Riggio stated the repairman needs to understand what he can do without permits and that a homeowner cannot pull a permit for a rental property.

Inspector Tomengo stated the property is not in Compliance.

Captain Lee asked if a permit was obtained to demo the back porch.

Ms. Koenig stated the owner did that himself before she was hired.

Mr. Jackson stated the Property Manager does not have knowledge of prior meetings but does have knowledge of obtaining information in Trakit. He stated the case started in 2021 and unpermitted work is not a completion.

DISPOSITION: The Special Magistrate imposed a fine in the amount of \$25 per day, effective May 24, 2022 until Compliance is achieved or the fine reaches the maximum amount of \$15,000.00.

CASE # 8 - RTL 09-21-207 - Donald R & Annette M Emery is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **116 Sunrise Blvd & 2049 Blais Ave (Parcel ID 5316-18-00-1320)**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 5/19/2021.

Respondent was not present.

Inspector Tomengo stated she spoke to Attorney Love last week regarding the status of the zoning appeal and he advised her it was withdrawn and the tenants were evicted. She stated she visited the property which is still tenant occupied on April 20th and it is still tenant occupied. She stated she checked the Volusia Court website and found no evidence of eviction. She stated she has had no further communication and is requesting a fine in the amount of \$100 per day to a maximum of \$15,000.

DISPOSITION: The Special Magistrate imposed a fine in the amount of \$25 per day, effective May 24, 2022, until Compliance is achieved or the fine reaches the maximum amount of \$15,000.00.

CASE # 9 - RTL 04-22-105 - GEA Seaside Investments Inc is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **507 Phoenix**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 11/23/2021.

Respondent was not present.

Inspector Tomengo stated she has had no contact with the owner, the license is expired, the property is tenant occupied and is requesting a fine in the amount of \$100 to a maximum of \$15,000.

DISPOSITION: The Special Magistrate imposed a fine in the amount of \$100 per day, effective May 24, 2022, until Compliance is achieved or the fine reaches the maximum amount of \$15,000.00.

CASE # 10 - RTL 04-22-101 - John J Maher & Christine M Maher is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **514 Lenox Ave**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 11/2/2021.

Respondent was not present.

Inspector Tomengo stated she was in contact with Ms. Maher to schedule inspection after the expired reroof permit was finalized and that inspection is scheduled for May 31st at 10 a.m. She stated she is asking to amend to the next cutoff for compliance.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 11 - RTL 04-22-102 - Mary V Taylor Life Estate is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **546-544 Bellevue Ave**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 10/14/2021.

Ms. Sherwandra Taylor, daughter, came forward and was sworn in.

Inspector Tomengo stated she inspected the property yesterday as the result of an email that a tree had fallen on the property. She stated she received documents on May 12th from the roofing company and is asking to amend to the next cutoff for Compliance.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 12 - RTL 04-22-98 - Michael A Martin is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **361 Fletcher Ave**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 8/14/2021.

Respondent was not present.

Inspector Tomengo stated the license application has been approved but no rental inspection has been scheduled. She stated she had tried to reach the Property Manager with no luck and is asking for a fine in the amount of \$100 per day to a maximum of \$15,000.

DISPOSITION: The Special Magistrate imposed a fine in the amount of \$100 per day, effective May 24, 2022, until Compliance is achieved or the fine reaches the maximum amount of \$15,000.00.

CASE # 14 - RTL 01-22-07 - Audrey Batts Watson & Rene M Batts Elmore is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **931 Vernon St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 5/17/2021.

Ms. Audrey Batts Watson appeared via Zoom and was sworn in.

Inspector Tomengo stated she received a late email with documents showing the Respondent's intention to evict the tenants. She stated the Respondent told her the property was posted on March 19th which is in conflict with testimony and documents from the last hearing. She stated the property is still tenant occupied and eviction filings shows her posting the property on April 26 and filed May 10. The property is still not in Compliance and hearing for eviction is scheduled for June 1st.

Mr. Riggio asked if the tenant requested the hearing.

Ms. Watson stated yes. She stated he claims he can't move and sent her a text message that he had cleaned up the property.

Mr. Riggio ^{asked whether} ~~stated that~~ she believed she was moving forward in good faith.

Ms. Watson stated yes.

Captain Lee stated even though the actions have been slow the City will agree to allow one more month.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 15 - RTL 11-21-234 - RE Equity Investment Group LLC & Juanny Paulino & Daytona 19 LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **505 5th Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 7/19/2021.

Mr. Wilson Zorrilla and Mr. Ralph Chiaia, owners, appeared via Zoom and were sworn in.

The Board Secretary asked the Respondents if we should wait for Mr. Perry, their attorney, to appear via Zoom as well.

Mr. Zorrilla and Mr. Chiaia stated no and waived Mr. Perry's appearance on their behalf.

Inspector Tomengo stated she has been in communication with Umberto Accornero via email on April 29th when she was advised they have no time or funds to complete the repairs. She stated she spoke to Mr. Zorrilla on May 12th regarding the condition of the properties and he stated they would like to schedule the inspection and would have it in Compliance by May 17th. She stated she scheduled an inspection on that date. She stated a Police Officer came to the office to notify her of a disruption by a tenant at the property. She stated the property is still in Non-Compliance and there are cars parked on unimproved surfaces. She stated they will need to get after the fact permits for the AC in the wall and door framing and is requesting a fine in the amount of \$100 per day to a maximum of \$15,000.

Mr. Zorrilla stated there was an altercation on the 16th where a tenant in the back unit was combative. He stated 90% of the work had been done and the work had taken over 3 weeks. He stated he had no association with the previous owners, Juanny Paulino, and has filed eviction. He stated the inspection was actually scheduled for the 18th. He stated the heating units were installed and received photo documentation on the 16th. He stated he spoke to the building department and they advised him there was no permit needed for the baseboards.

Inspector Tomengo again referenced the email stating there was no funding and no intention to bring the property into Compliance by the date ordered.

Mr. Riggio stated the Respondents do not get credit for unpermitted work.

Mr. Chiaia stated they weren't aware they needed a permit.

Inspector Tomengo stated repairs to the door frame were made in the unit where the tenant is being evicted and was the subject of the police report. She stated there is a green Toyota Camry parked on the lawn.

Mr. Zorrilla stated that had been removed.

Inspector Tomengo stated since January the violations have remained outstanding and an inspection in March failed. She stated as of April 29th there were no plans to remedy and at the last minute attempted to make the repairs. She stated on May 20th, she drove by and guard rails were added which require permits. Inspector Tomengo corrected her testimony that the inspection was held on May 18th instead of May 17th as previously stated.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

Mr. Riggio called a 5 minute recess at 11:12 a.m.

The meeting resumed at 11:18 a.m.

CASE # 21 - RTL 03-22-59 - Marjanita Iglesia Revocable Trust is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1701 N Oleander Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/7/2022.

Ms. Marjanita Inglesia came forward and was sworn in.

Inspector Cole stated he has had contact with the Respondent and they are make progress. He stated the property failed inspection of May 19th with a few repairs that still need to be made such as window screens. He stated he is asking to amend to the next cutoff for Compliance.

Ms. Iglesia stated the windows were closed for the AC and she has ordered handles. She stated she needs to take care of the awning fix the window screens.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 22 - RTL 03-22-52 - Short Hills LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1259 Waverly Dr.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 5/11/2020.

Ms. Janet Ivanhoe, owner, came forward and was sworn in.

Inspector Cole stated he has been in contact with the Respondent but no inspection has been scheduled. He stated he drove by and the bars are off the windows so they have made some progress.

Ms. Ivanhoe stated the work was postponed due to eviction. She stated the tenant was hiding people in the house and she has done more than was requested.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 23 - RTL 01-22-17 - Kinsey Whaley is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **135 North St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 11/19/2021.

Mr. Kinsey Whaley came forward and was sworn in.

Inspector Cole stated he has had contact with the Respondent and he is waiting on cabinets. He stated he is requesting to amend to the next cutoff for Compliance.

Mr. Whaley stated he has nothing to add.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

LR-1 RTL 03-20-59 – 152 Madison Ave - Kinsey & Debbie Whaley are cited for failure to correct violations of City Code Ch. 26 Sec. 26-294. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 10/12/2019. **Order Imposing Fine/Lien imposed on November**

23, 2021 of \$100 per day to a maximum of \$15,000. Compliance = March 9, 2022. Amount due = \$15,000.00 plus \$24 recording fees = \$15,024.00.

Captain Lee stated they had met with the Respondent and came to an agreement to reduce the amount of the lien to \$7,500 for this case and the next.

Mr. Whaley agreed.

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$7,500, payable within 30 days, or the fine reverts back to the original amount of \$15,024.00. N <

LR-2 - RTL 09-21-208 – 432 Marion St - Kinsey Whaley is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 11/18/2020. **Order Imposing Fine/Lien imposed on July 17, 2020 of \$100 per day to a maximum of \$15,000. Compliance = April 22, 2022. Amount due = \$15,000.00 plus \$24 recording fees = \$15,024.00.**

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$7,500, payable within 30 days, or the fine reverts back to the original amount of \$15,024.00. N <

CASE # 16 - RTL 04-22-82 - Bessie Morris is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1223 Sunset Cir.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/22/2022.

Respondent was not present.

Inspector Cole stated he has had no contact with the Respondent, there has been no progress, the property is occupied and he is requesting a fine in the amount of \$100 per day to a maximum

DISPOSITION: The Special Magistrate imposed a fine in the amount of \$100 per day, effective May 24, 2022, until Compliance is achieved or the fine reaches the maximum amount of \$15,000.00.

CASE # 17 - RTL 04-22-90 - Elena Scott is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **325 Brookline Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/24/2022.

Respondent was not present.

Inspector Cole stated he has had contact with the Respondent who he met at the property on May 12th. He stated the unit is vacant and they are in the process of making repairs. He stated he is requesting to amend to the next cutoff for Compliance.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 18 - RTL 04-22-74 - Marguerite Gallo is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **628 Mulberry St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/7/2022.

Respondent was not present.

Inspector Cole stated he has had contact with the Respondent and they are making progress. He stated at inspection on May 23rd there are a few things left to be done.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 19 - RTL 04-22-91 - The 1121 Yaupon Land Trust is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1121 Yaupon St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 3/5/2022.

Respondent was not present.

Inspector Cole stated he has had contact and at inspection on May 19th, the back stairs need to be replaced or repaired.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 22, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

IRREPARABLE/IRREVERSIBLE

CASE # 24 - RTL 05-22-113 - Lazaro Loureiro & Odalys Loureiro is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **2551 E Coral Way.** Violation(s) – **Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 5/2/2022.

Mr. Lazaro Loureiro appeared via Zoom and was sworn in.

Inspector Recanzone stated the property is located in zoning area SFR-5 where short term-rentals are not allowed. He stated he first observed the violation on May 1, 2022. He stated as of May 3rd they were no longer actively advertising on VRBO. He stated on May 2nd there were 28 reviews, the daily rate was \$289, check in at 4 p.m. and check out at 11 a.m. He stated the violation is irreparable and irreversible. He stated the owner was previously cited on February 25, 2021 and received a fine of \$13,000 and previously cited on November 24, 2021 and received a fine of \$15,000. He stated he is requesting a fine in the amount of \$15,000.

Mr. Loureiro stated his neighbor called and complained and the listing was removed. He stated they weren't renting but had a large get together.

Mr. Jackson stated the City's argument for a finding of Irreparable and Irreversible and stated the Respondent was present the February hearing and the violation was found as irreparable and irreversible and in this case and the City believes the \$15,000 request is warranted.

Mr. Loureiro stated he was moving forward to long-term.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that this is a third violation and imposed a one-time fine in the amount of \$15,000, payable within 30 days, be imposed, that the property is in Compliance as of May 3, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 25 - RTL 05-22-122 - Lindsey M Shafer is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **245 Morningside Ave.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/11/2022.

Ms. Lindsey Shafer appeared via Zoom and was sworn in.

Inspector Recanzone stated the property is located in zoning district SFR-5 and short-term rentals are not allowed in that zoning district. He stated he first observed the violation on May 10th, 2022 and as of May 12 was not actively advertising. He stated on May 11 there were 10 reviews, 3 different ones since the last case. He stated the listing shows the property at \$199 per night, check in at 4 p.m. and check out at 10 a.m. He stated the violation is irreparable and irreversible and is the second time this owner has been brought before the Magistrate. He stated on August 24, 2021 the owner received a \$15,000 for the same violation and requesting a one-time fine in the amount of \$15,000.

Mr. Jackson repeated his argument regarding the irreparable and irreversible nature of this violation.

Ms. Shafer asked to be moved to the next hearing to get proof she was not short-term renting.

Inspector Recanzone stated he observed the advertising on 3 dates after the last hearing – August 21, November 21 and February 2022. The inspector showed comparisons of pictures from the prior case.

Captain Lee stated the pictures had been altered since the original hearing to avoid being seen by the inspector.

Ms. Shafer stated they were old pictures and a continuance from prior rentals.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He imposed a one-time fine in the amount of \$15,000, payable within 30 days, be imposed, that the property is in Compliance as of May 12, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 26 - RTL 05-22-114 - Jeneve Jaja-Batton is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1200 Imperial Dr.** Violation(s) – Zoning violation -

the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/3/2022.

Ms. Jeneve Jaja came forward and was sworn in.

Inspector Recanzone stated the property is located in zoning district SFR-5 which does not allow short-term rentals. He stated he first observed the listing on March 17th and as of May 17th was not actively advertising. He stated on May 16th there were 75 reviews with a daily rate of \$56, check in time 3 p.m. and check-out time is 11 a.m. He stated the violation is irreparable and irreversible. He stated he spoke to the owner on May 17th and instead of taking it down, there were 3 new reviews added. He stated he is requesting a one-time fine in the amount of \$15,000. He stated when the owner called she asked him how he knew it was her house.

Ms. Jaja stated there was no need to repeat Mr. Jackson's argument of irreparable and irreversible.

Inspector Recanzone stated the listing was down on May 16th and the owner has applied for a long-term rental license.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that this is a third violation and imposed a one-time fine in the amount of \$5,000, payable within 30 days, be imposed, that the property is in Compliance as of May 16, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 27 - RTL 05-22-107 - James & Chelcey Barraza is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **2040 Schulte Ave.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 4/21/2022.

Mr. James Barraza and Ms. Christine Jones, witness, came forward and were sworn in.

Inspected Recanzone stated the property is located in zoning district SFR-5 and short-term rentals are not allowed. He stated he first observed the violation on April 19th and as of April 22 was no longer advertising. He stated on April 21 there were 2 reviews, a daily rate of \$229, the rules stated check-in time is 4 p.m. and check out time is 11 a.m. He stated due to the quick response of the owner he is requesting a one-time fine in the amount of \$1,000.

Mr. Barraza stated there was no need to repeat Mr. Jackson's irreparable and irreversible argument and asked to share his screen. He stated he thought the property was in Daytona Beach Shores and was allowed. He stated he put over \$30,000 and had 80% occupancy from domestic to international guests and had all 5-star reviews. He stated he had to cancel 40 guests.

Ms. Jones stated he had been short-term renting the property for 5 years, from 2016-2022 but no one could prove it. She stated she had a fence that was bent, motorcycles parked in her

front yard, there was camping equipment and tents. She stated they broke her cistern. She stated her mother-in-law lived with them and she moved.

Mr. Barraza stated Ms. Jones is talking about a prior owner.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He imposed a one-time fine in the amount of \$1,000, payable within 30 days, be imposed, that the property is in Compliance as of April 22, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 28 - RTL 05-22-108 - Dinh Linh is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **321 Auburn Dr.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 4/7/2022.

Ms. Diane Meyer, Property Manager came forward and was sworn in.

Inspector Recanzone stated the property is located in zoning district SFR-5 and short-term rentals are not allowed. He stated he first observed the listing on April 7th and as of April 8th was no longer advertising. He stated on April 7th there was 1 review, the rate was \$230 per night, rules state flex in and check out 2 p.m. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$1,000.

Ms. Meyer stated the owner moved to Tampa at the end of March and was not aware short-term rentals were not allowed. She stated he signed an agreement with her on April 12th.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He imposed a one-time fine in the amount of \$1,000, payable within 30 days, be imposed, that the property is in Compliance as of April 8, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 29 - RTL 05-22-109 - Daniel A Young Jr is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **720 Flora St.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 4/7/2022.

Mr. Daniel Young appeared via Zoom and was sworn in.

Inspector Recanzone stated the property is located in zoning district SFR-5 and short-term rentals are not allowed. He stated he first observed the listing on April 7 and as of April 8th was no longer advertising. He stated on April 7 there were no reviews, the rate was \$94 per night, no check in or check out time. He stated he is requesting a one-time fine in the amount of \$1000.

Mr. Jackson repeated his irreparable and irreversible nature argument.

Mr. Recanzone stated the advertisement is the violation and stated there was one week blocked off on the calendar.

Mr. Young stated he is protected by the first amendment and no one stayed at his property.

Mr. Jackson stated the state and city regulations and codes governing vacation rentals.

Mr. Young asked if this ruling can be appealed.

Mr. Jackson referred him to Chapter 162.11.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He imposed a one-time fine in the amount of \$1,000, payable within 30 days, be imposed, that the property is in Compliance as of April 8, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 30- RTL 05-22-110 - Pagan Realty Corp is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **340 Pierce Ave.** Violation(s) – Zoning violation - the property is zoned RP. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 4/14/2022.

The Board Secretary announce this case had been withdrawn by the City.

Mr. Riggio recessed the meeting at 3:21 p.m.

The meeting resumed at 3:27 p.m.

CASE # 31 - RTL 05-22-115 - Aimee German is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **501 Butler Blvd.** Violation(s) – Zoning violation - the property is zoned RP. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/4/2022.

Ms. Aimee German came forward and was sworn in.

Inspector Recanzone stated the property is located in zoning district RP and short-term rentals are not allowed. He stated he first observed the listing on May 4th and as of May 5th was no longer advertising. He stated on May 4th there were 12 reviews, the rate was \$96 per night, rules state in after 12 with self-check-out. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$1,000.

Ms. German waived Mr. Jackson's irreparable and irreversible argument and apologized to the city and said she now understand the ordinance.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He imposed a one-time fine in the amount of \$1,000, payable within 30 days, be imposed, that the property is in Compliance as of

May 6, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 32 - RTL 05-22-120 - Lee Roopchand & Racheal Sumintra Lall-Roopchand is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **103 Mason Park Dr.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/9/2022.

Ms. Racheal Lall-Roopchand came forward and was sworn in

Inspector Recanzone stated the property is located in zoning district SFR-5 and short-term rentals are not allowed. He stated he first observed the listing on May 5 and as of May 17 is not actively advertng on Airbnb but is still active on Bookings. He stated the website shows 8 reviews and a rate of \$146. He stated the rules stated check-in time is after 3 and check-out time is 11 a.m. He stated he left a message on May 13th and had contact with the Respondent on May 16th and told them they needed to take it down. He stated he spoke to the owner on May 17th and told them the listing on Bookings is still active. He stated he is asking for a fine in the amount of \$15,000.

Ms. Roopchand waived Mr. Jackson's irreparable and irreversible argument.

Mr. Riggio stated he would consider the argument and the City's position in his decision.

Ms. Roopchand stated she received a message on the 13th or 14th of May and spoke to Cliff on the 16th. She stated the listing was removed and has emails. She stated she spoke to Bookings and Airbnb and this morning it was still active. She stated she can't post anymore and is not able to print Airbnb.

Inspector Recanzone stated they spoke earlier this week and he was told they can close and can't take the pictures and info off.

Mr. Riggio asked if the inspector had any other experience with Bookings.

Inspector Recanzone stated a previous case where the Respondent changed the listing to show the property was condemned

Ms. Roopchand stated she notified them on 5/16 that it needed to come down.

Mr. Riggio stated he would continue the case and look at the emails and take into account Bookings is not easy.

Captain Lee stated the listing is still up and the inability to remove will only lessen the fine amount.

Mr. Riggio stated contingent fine if listing is down tomorrow or the next day. He stated he would like the case to be first on the agenda.

DISPOSITION: After hearing the arguments, the Special Magistrate continued the case to the June 28th meeting.

CASE # 33 - RTL 05-22-121 - Dreaming of the Beach Daytona LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **605 Butler Blvd.** Violation(s) – Zoning violation - the property is zoned RP. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/11/2022.

Mr. Joshua Cook, owner, and Ms. Amanda Connor, Property Manager, came forward and were sworn in.

Inspector Recanzone stated he first observed the listing on May 10th and as of May 11 was no longer advertising. He stated the rules on the page show check-out after 3 and check-in at 11 a.m. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$1,000.

Mr. Cook waived Mr. Jackson's irreparable and irreversible argument and stated he took the listing off immediately. He stated he purchased the property to house workers on the beach short term. He stated he cancelled the additional reservations.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He imposed a one-time fine in the amount of \$1,000, payable within 30 days, be imposed, that the property is in Compliance as of May 11, 2022, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

Mr. Riggio asked if there was any Miscellaneous Business and there was none.

The meeting was adjourned at 4:02 pm