
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

October 25, 2022 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Assistant City Attorney

Cortland Lampe, Police Officer

Mr. Clifford Recanzone, Rental Inspector

Ms. LaWanda Tomengo, Rental Inspector

Mr. Steven Cole, Rental Inspector

Ms. June Barnes, Board Secretary

Mr. Enzo Bagazzoli, Rental Program Technician

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 a.m. and announced the procedure for the meeting.

Mr. Riggio asked if there were any announcements. The Board Secretary announced the following cases in Compliance.

CASE # 13 - RTL 08-22-156 - George K Seoles & Maria G Seoles is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **901 N Peninsula Dr.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 5/20/2022.

Compliance 10/21/2022

CASE # 16 - 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.

Compliance 10/24/2022

Mr. Riggio approved the minutes from the September 27, 2022 meeting.

City staff and officers who will be testifying were sworn in.

Mr. Riggio called the first case.

CASE # 1 - RTL 10-22-194 - BMS Holdings LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **336 Fulton St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 7/22/2022.

Mr. Daniel Weinshenker, representative, came forward and was sworn in.

Inspector LaWanda Tomengo stated she noticed the property on July 22 as an unlicensed rental property. She stated the property is occupied and is asking for a finding of Non-Compliance and next cutoff to come into Compliance.

Mr. Weinshenker stated he has contact with the tenant and her son refused access. He stated they were able to get in last week and he contacted the inspector this morning to schedule the inspection. He stated there is a new roof that was replaced with permits.

Inspector Tomengo stated they have no Rental License and she is aware of recent ceiling damage.

Ms. Angela Smith, tenant, came forward and was sworn in. Ms. Smith stated she has lived there for 3 years and has tried to contact them for repairs most recently regarding the ceiling falling and the hot water heater not working. She stated she has an as-is lease.

Mr. Riggio stated he can only order the Respondent to come into Compliance.

Assistant City Attorney, Anthony Jackson asked how she contacts the owners.

Ms. Smith stated they have an online portal to the property management which is Sunbelt Pros.

When asked how Mr. Weinshenker became the representative for the owners, he stated they give him notes on what to say and he travels around and represents them at hearings.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by November 16, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 2 - RTL 10-22-195 - Vincent Filippini is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **527 Loomis.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 8/19/2022.

Respondent was not present.

Inspector Tomengo stated she opened the case on March 29th and it is an unlicensed rental property. She stated the case began from a tenant complaint. She stated she is asking for 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 November 16, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 3 - RTL 10-22-196 - Noeleen Foster is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **146 S Hollywood Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 8/6/2022.

Respondent was not present.

Inspector Tomengo stated she opened the case on March 21st and completed an inspection on August 19, 2022 which failed. She stated this is an unlicensed rental property. She stated the tenant called in a complaint. She stated she has had contact with the owner and an inspection on the 20th failed. 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 November 16, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 4 - RTL 10-22-192 - Stanlee Smith is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **858 Pinewood St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 9/8/2022.

Ms. Marilyn Taylor, General Contractor and associate, came forward and was sworn in.

Inspector Steve Cole stated the property is occupied and he opened the case on August 3rd. He stated he completed an inspection on September 22nd and the last inspection was held October 18th. He stated he is requesting a Finding of Non-Compliance and next cutoff to come into Compliance.

Ms. Taylor stated they will submit an application and reschedule the inspection.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by November 16, 2022 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 5 - RTL 10-22-193 - Spencer David Spearin is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **401 Manhattan Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 9/8/2022.

Mr. David Spearin came forward and was sworn in. He presented the Magistrate with a transcript of a conversation with Inspector Cole stating if he signed an Affidavit that he will not rent the property he would close the case. He presented the Magistrate with an Affidavit stating the property is not a rental property, is not offered as rental property and is not being rented.

Inspector Cole stated he opened the case on August 25th from a complaint by the neighbor. He stated he knocked on the door and Mr. Rose answered. He stated he asked Mr. Rose if he was the owner of the property and Mr. Rose said no. He asked Mr. Rose is he was a tenant and Mr. Rose stated yes. He stated he received a call from Mrs. Rose this morning stating they pay \$250 per week and Edward Benetis is in the mother-in-law suite and he pays \$200 a week.

Mr. Jackson stated he could not find the date of the affidavit. He stated the inspector stated under sworn testimony that he spoke to someone who stated they are living there and paying rent.

Mr. Spearin stated the property is up for sale and no one is there.

Mr. Riggio stated the City should continue to make sure people are not there and asked who made the complaint.

Mr. Cole stated Mr. Caulder who is a neighbor.

There was discussion as to what a tenant is.

Mr. Jackson stated the City is ok with a finding of Compliance and believe that Mr. Spearin will do the right thing.

DISPOSITION: The Special Magistrate found the property is in Compliance as of October 25, 2022.

CONTINUED CASES:

CASE # 6 - RTL 04-22-106 - Advanced Minerals Inc TR & 317 Fairview Ave Land Trust is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **317 Fairview Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/13/2022.

Inspector Tomengo stated she is in contact with Mr. Wollard and he has retained attorney Jessica Gow. She stated they are working with planning for options and his Rental License was denied due to the requested number of units. She stated she 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 November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 7 - RTL 09-22-185 - New Leaf Real Estate LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **323 Taylor Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 8/29/2022.

Respondent was not present.

Inspector Cole stated the property is occupied and he has had contact with the owner. He stated they have submitted a site plan for the property and is asking to amend to the next cutoff to give them time to bring the property into Compliance.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 8 - RTL 08-22-160 - North Street Properties LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **506 North St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 7/13/2022.

Respondent was not present.

Inspector Cole stated he has had contact with Mr. Ford and they are making progress. He stated they need more time for screens 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 November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 9 - RTL 04-22-83 - Anthony Ray Teel is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **611 North St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/16/2022.

Mr. Teel appeared via Zoom and was sworn in.

Inspector Cole stated he has had contact with the owner but an inspection has not been conducted yet.

Mr. Teel stated he appreciates the consideration.

Mr. Riggio reminded the Respondent that the front unit should remain unoccupied until the property is in Compliance.

Mr. Teel agreed.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 10 - RTL 01-22-17 - Kinsey Whaley & Southtrust Financial LLC 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.

Respondent was not present.

Inspector Cole stated the property is occupied and he has had contact with the Respondents. He stated they are making progress and except for 2 windows that they are waiting for parts on. 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 November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 11 - RTL 07-22-151 - Craig D Conway is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **539 Mark Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/4/2022.

Inspector Cole stated since the last hearing there has been no progress and no contact. He stated he is requesting a fine in the amount of \$100 per day to a maximum of \$15,000.

DISPOSITION: The Special Magistrate ordered that a fine in the amount of \$100 per day be imposed until Compliance is achieved or the fine reaches the maximum amount of \$15,000.

CASE # 12 - RTL 08-22-157 - Richard Britt Jr is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **426 Model St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 6/7/2022.

Respondent was not present.

Inspector Cole stated the property is occupied and the tenants were evicted. He stated there has been no progress and he is requesting a fine in the amount of \$100 per day.

There was discussion regarding the owner not being present and Inspector Cole agreed to amend to the next cutoff.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 14 - RTL 08-22-168 - Allen B Williams & Philip Williams is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1441 Mississippi St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 7/20/2022.

Respondent was not present.

Inspector Cole stated the property is occupied, he has had contact and they are making progress. He stated the property failed inspection on October 5th and is asking to amend to the next cutoff to make repairs.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 15 - RTL 01-22-25 - R Lawrence Vandenberg is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **299 Woodland Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 11/6/2021.

Respondent was not present.

Inspector Cole stated the property is occupied, he has had contact and they are waiting on the ADU process. He stated he is asking to amend to the January 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 January 18, 2023 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 17 - RTL 09-22-181 - US Bank Trust NA and LSF9 Master Participation Trust is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **601 Vera St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 7/22/2022.

Respondent was not present.

Inspector Cole stated the property is occupied, he has had no contact and there has been no progress. He stated all that is left are a couple of windows. He stated he is asking for a fine in the amount of \$100 per day to a maximum of \$15,000.

DISPOSITION: The Special Magistrate ordered that a fine in the amount of \$100 per day be imposed until Compliance is achieved or the fine reaches the maximum amount of \$15,000.

CASE # 18 - RTL 06-22-126 - Autinomics LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **531 Janice Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 3/29/2022.

Respondent was not present.

Inspector Cole stated the property is occupied and they are working through the ADU process. He stated he is asking to amend to the January 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 January 18, 2023 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 19 - RTL 08-22-163 - Daytona 19 LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **549 Mulberry St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/14/2022.

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

Inspector Tomengo stated that since the last hearing she received an email from Mr. Zorrilla regarding the current auto-fine with life safety issues in units 2 & 3. She stated the rear of the property needs to be cleaned and they have not applied for a permit for window repair. She stated she has not received a contract for the window repair. She stated she is asking to amend the case to the next cutoff and expects Compliance by that date.

Mr. Zorrilla stated the junk is supposed to be removed this week by the trash guy.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 20 - RTL 08-22-164 - Daytona 19 LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **801 S Ridgewood Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 5/12/2022.

Inspector Tomengo stated she received an inquiry regarding the auto fine on this property for the life safety issues of the window. She stated a permit has been issued for stairwell repair and no work has started. She stated she found a Motion for Default Judgment for unit 2 and is asking to amend to the next cutoff for Compliance.

Mr. Zorrilla stated he agrees and the steps should be taken care of next week. He stated they are supposed to get possession of the property today.

Inspector Tomengo stated she has no dates for delivery or installation of the windows.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 21 - 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.

Inspector Tomengo stated she had no contact regarding updates or status of repairs. She stated there is no permit application for the kitchen and bathroom replacement windows but does not know the status of the AC removal from the bedroom windows blocking ingress and egress. She stated she has received no update on the exterior rear door and is asking to amend to the next cutoff for Compliance.

Mr. Zorrilla stated the windows will be repaired next Tuesday and will have the permit for the door by the end of the week. He stated the AC unit has been removed.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 22 - RTL 08-22-166 - Joseph C & Kimberley M Talavera is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **721 S Grandview Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/12/2022.

Respondent was not present.

Inspector Tomengo stated she had contact and due to the hurricane the contractor's house had flooded and repairs are delayed. She stated the owner sends photos and updates by email yesterday. She stated she is hoping the first week in November to do the final inspection on the chipped paint, screen and rear room wall.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 23 - RTL 08-22-165 - Theo Cox is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **857 Magnolia Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/19/2022.

Mr. Theo Cox and his granddaughter Ms. Ashanti Cox came forward and were sworn in.

Inspector Tomengo stated she has been in contact with the Respondent who has suffered additional damage from the hurricane. She stated the tenants have been vacated and is asking to amend to the January cutoff for Compliance. She asked that the property remain vacant and unrented until it passes inspection.

Mr. Cox stated they have done a lot of work.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by January 18, 2023 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. It was further ordered that the property remain unrented until the repairs are completed and inspection confirms the property is up-to-code. [^]
and vacant

CASE # 24 - RTL 08-22-162 - Choice Location Realty LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **305-301 5th Ave.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/29/2022.

Respondent was not present.

Inspector Tomengo stated she has been in contact with the Property Manager and they are going for a lien review on a code case that is now in Compliance on November 8th. She stated the next inspection is scheduled for November 18th and is asking to amend to the January cutoff for Compliance and to give them time to resolve the fines on the property.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by January 18, 2023 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 25 - RTL 05-22-117 - William Glass Morrison 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.

Respondent was not present.

Inspector Tomengo stated she has had communication from Kim Lissotte regarding and extension due to the hurricane for windows. She stated materials are due to be delivered on November 3rd and 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 November 16, 2022 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 26 - RTL 09-22-184 - 319 San Juan LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **120 Marion St & 530-532 Foote Ct.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/11/2022.

Mr. Herb Kawesch came forward and was sworn in.

Inspector Tomengo stated she has had contact with the owner and completed an inspection on October 17th which failed. She stated as for the remaining violations the smoke detectors are supposed to be installed on Friday which will solve the life/safety issue. She stated the only remaining issue on 120 is that the unit is split into 2 units without a permit and plumbing for the kitchen sink was done without a permit. She stated she is asking to amend to the next cutoff for Compliance.

Mr. Kawesch stated there is only one kitchen and it's not being rented as two units. The other room does not have a stove. He stated he purchased the property that way and it is separated by a locked door.

Ms. Tomengo explained that the use has never been established as a duplex and what needed to be done to bring the property into Compliance. She agreed to allow the respondent until January to speak to the building department to see what needs 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 January 18, 2023 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

The morning session was recessed at 10:36 a.m.

The afternoon session was called to order at 1:30 p.m.

Mr. Riggio announced the procedure for the meeting and staff was sworn in.

The Board Secretary announced that the City is withdrawing the first case.

CASE # 27 - RTL 09-22-175 - Juan Marino Gomez Estrada is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1424 Margina 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 – 8/18/2022.

Mr. Jackson stated the case was continued last month and after review of the case would like to withdraw it

Mr. Riggio stated he considered it withdrawn.

CASE # 28 - RTL 09-22-176 - Jozef Krawiec & Lynn Pepe-Krawiec is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **707 N Grandview Ave.** Violation(s) – Zoning violation - the property is zoned MFR-12. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 8/18/2022.

Respondent was not present.

Mr. Jackson stated they were supposed to appear via zoom at the last meeting but had difficulty so the case was continued.

Inspector Recanzone stated he has had no contact since then. He stated he first observed the violation on August 18th and as of September 14th was not active. He stated they were active on October 10th and not active as of October 18th.

Mr. Riggio confirmed the dates with the inspector.

Inspector Recanzone stated that he did not repost the properties each time he found them up again.

Mr. Jackson stated the violations were considered as continuing.

Inspector Recanzone stated on the day of the last hearing the advertising was taken down.

Mr. Jackson stated the Respondent was told to take it down for Compliance.

Inspector Recanzone agreed.

Mr. Riggio stated he would be making a ruling solely based on the first violations.

Inspector Recanzone stated for the first violations, the daily rate was \$325 per night, the site had 6 reviews, check-in is 3 pm and check out is 11 am. He stated the violation is irreparable and irreversible and was active over a month. He stated he is asking for a one-time fine in the amount of \$15,000.

Mr. Riggio asked the Inspector how he determined the proper address.

Inspector Recanzone stated the pictures on VRBO.

Mr. Jackson gave the City's position why this violation is irreparable and irreversible.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance prior to September 14th 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 a one-time fine in the amount of \$15,000, payable within 30 days, be imposed and that the property is in Compliance as of September 14, 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 10-22-191 - Tony Guerra & Ryan Ashley Mowrey is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **318 Flushing 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 – 9/21/2022.

Mr. Tony Guerra came forward and was sworn in.

Inspector Recanzone stated short term rentals are not allowed in this zoning area. He stated he first observed the violation on September 20th and as of October 11th was no longer advertising. He stated the website shows the daily rate is \$78, there were 3 reviews and no check in or check out time. He stated he received a complaint that there were trailers in the back yard and they were visible from a neighbor's driveway. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$15,000.

Mr. Jackson asked Mr. Guerra if he needed him to repeat the City's irreparable and irreversible argument and Mr. Guerra stated he had a good understanding.

Mr. Riggio stated he would adopt the City's argument in his decision.

Mr. Guerra stated he just moved here and he notified Airbnb to remove the listing on September 12th. He stated it was removed on the 14th. He stated he found out that he was not in the property zone. He stated this was the only time he rented the property. He stated they lost their house due to a hurricane and the plumbing burst. He stated he is being reimbursed for the RV and wanted to know if he can stay on the property.

Mr. Sykes stated he cannot live in the RV on the property.

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 a one-time fine in the amount of \$4,000, payable within 30 days, be imposed and that the property is in Compliance as of October 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.

CASE # 30 - RTL 10-22-186 - Betty S Leake Trust is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1125 Waverly 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 – 9/12/2022.

Ms. Kim Leake and Don William Leake, children, came forward and were sworn in.

Inspector Recanzone stated the property is zoned SFR-5 and short term rentals are not allowed in this zoning area. He stated he has received a power of attorney for the trust giving Mr. & Ms. Leake permission to speak on their mother's behalf. He stated as of September 13th they were not active. He stated the website shows a rate of \$326 a day, 1 review, rules state check in is 4 and check out is 11 am. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$1000.

Mr. Leake apologized and stated he immediately took it off and canceled the VRBO reservations. He asked if the fine could be reduced.

Mr. Jackson stated rental is a business activity and in the future should check with local ordinances that the activity is allowed.

Mr. Riggio stated that he treats everyone the same and in cases where it's taken down immediately, he imposes a fine of \$1000.

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 a one-time fine in the amount of \$1,000, payable within 30 days, be imposed and that the property is in Compliance as of September 9, 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 # 33 - RTL 10-22-190 - Jerome R McDuffie Trust is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **216 Glenview Blvd #103**. 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 – 9/7/2022.

Mr. Jerome McDuffie came forward and was sworn in.

Inspector Recanzone stated the property is located in zoning district RP and short-term rentals are not allowed in that zoning district. He stated he first observed the listing on September 7th and as of September 8th it was no longer active. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$1000.

Mr. McDuffie waived repetition of Mr. Jackson irreparable and irreversible argument and Mr. Riggio agreed to adopt the argument in his consideration.

Mr. McDuffie stated he thought he was being a good steward. He stated he purchased a property with 14 units and intended to use it as a counseling center.

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 a one-time fine in the amount of \$1,000, payable within 30 days, be imposed and that the property is in Compliance as of September 8th, 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 # 34 - RTL 10-22-188 - David & Laurie B Gigliotti is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **123 Flamingo 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 – 9/6/2022.

Ms. Christian Iliff, tenant, and Ms. Laurie Gigliotti came forward and were 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 violation on September 6th and is still active as of today. He stated the website shows a rate of \$91, no reviews, check in at 4 pm and check out at 11 am. He stated he has had 2 other cases on this property, RTL-111-21-227 where a fine of \$4000 was ordered and RTL-09-21-202 where a \$10,000 fine was ordered. He stated the water bill is in the property owner's name and is asking for a fine in the amount of \$15,000.

Ms. Gigliotti waived repetition of Mr. Jackson's irreparable and irreversible argument.

Mr. Jackson stated this is a repeat violations and would support a \$15,000 fine.

Ms. Gigliotti stated she went on VRBO and chatted and they told her it was taken down.

Ms. Iliff testified that she has a 2 year lease starting in June 2022.

Mr. Jackson asked who Laurie Borasky was.

Ms. Gigliotti stated that is her maiden name.

Inspector Recanzone stated that the listing on VRBO shows different furniture.

Ms. Gigliotti stated she has proof from VRBO that she took the listing down

Mr. Jackson stated it is better to come to a resolution and asked to continue the case.

DISPOSITION: After hearing the arguments, the Special Magistrate continued the case to the November 22nd, 2022 hearing for consideration of the imposition of a fine.

The meeting was adjourned at 3:21 pm.