
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

February 28, 2023 Minutes

Attendees:

Mr. Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Assistant City Attorney

Mr. Mark A. Jones, Code Compliance Field Supervisor

Mr. Shawn Shulenburg, Daytona Beach Police Officer

Mr. Clifford Recanzone, Rental Inspector

Ms. LaWanda Tomengo, Rental Inspector

Mr. Kevin Yates, Rental Inspector

Ms. June Barnes, Rental Program Coordinator

Mr. Enzo Bagazzoli, 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 9:01 a.m. and announced the procedure for the meeting.

Mr. Riggio asked if there were any announcements. The Board Secretary announced the following agenda.

RTL 09-22-176 – Jozef Krawiec & Lynn Pepe-Krawiec is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 707 N Grandview Ave. Violation(s)– Failure to obtain Rental License (RTL). First Notified – 8/12/2022.

Withdrawn with the option to submit at a future date

SMG 01-20-11 – 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 – 2/23/2022.

Withdrawn

CEB 08-20-155 - Anthony Ray Teel is cited for failure to correct violations of Art. 9 Sec. 9.2 A (ref. FBC Supp. IPMC 704.2, 304.2, 304.7, 304.13.1, 305.3, 603.1). Violation(s) – Smoke detector missing, paint fading & peeling, rotten wood, exterior siding. First Notified -08/12/2019

Withdrawn

The following cases had come into compliance:

RTL 02-22-13 – Promo 05 LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 1600 Big Tree Rd #F7. Violation(s)– Failure to obtain Rental License (RTL). First Notified – 09/26/2022

In compliance as of 02/27/2023

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.

In compliance as of 02/23/2023

RTL-01-23-02 – Anthony Walker & Nicole Tickle 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 – 10/20/2022.

In compliance as of 02/23/2023

The Special Magistrate the heard the cases listed in the agenda as follows:

Compliance/Non-Compliance

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.

Ms. Jessica Gow, attorney, came forward.

Inspector Tomengo stated since the last hearing she has had contact with Ms. Gow and the demolition permit has been filed and is asking to amend to the April 19, 2023, cutoff for Compliance or be returned to a subsequent meeting on April 25, 2023.

Ms. Gow agreed.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by April 19, 2023, or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

Lien Reviews:

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.

Respondent was not present.

Inspector Tomengo, Denzil Sykes Code Compliance Manager, and Stephen E Wright had a meeting and all three agreed to reduce the lien to \$3,000.00.

DISPOSITION: The Special Magistrate agreed to reduce the amount of the lien to \$3,000 payable within 30 days or the fine reverts back to the original amount.

RTL 11-21-245 - Audrey Broxton is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **824 Derbyshire Rd.** Violation(s) – **Failure to obtain Rental License (RTL).** First Notified – 5/21/2020.

Respondent was not present.

Mr. Anthony Jackson, Assistant City Attorney, asked for the case to be released.

DISPOSITION: The Special Magistrate agreed to release the case.

CEB 02-20-15 - Audrey Broxton is cited for failure to correct violations of Art. 6 Sec. 6.2.H.7.a; Art. 9 Sec. 9.2.A (Ref. FBC Supp. IPMC 304.2, 304.7), at **824 Derbyshire Rd.** Violation(s) – **Parking in yard, peeling paint, damaged roof.** First Notified – 10/18/2019.

Ms. Broxton met with Mr. Denzil Sykes and an agreement was made to lower the fine to \$3,500.

Mr. Anthony Jackson, Assistant City Attorney, agreed and asked for the case fine to be lowered to \$3,500.

DISPOSITION - The Special Magistrate ordered to reduce fine of \$3,500. Payable within 30 days or the fine reverts back to the original amount.

RTL 06-22-125 - Redesign Enterprise LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **550 N Ridgewood Ave.** Violation(s)– **Failure to obtain Rental License (RTL).** First Notified – 5/6/2022.

Ms. Lenyra Southard appeared from Redesign Enterprise LLC and was sworn in.

Mr. Jackson said this property is clearly a rental property and no hardship from the owner.

Ms. Southard said she is new to rental business and did not know how to get things done.

DISPOSITION - After hearing the arguments, the Special Magistrate stated he already gave a reduction to the fine, so the fine stands.

Compliance/Non-Compliance

RTL 02-23-15 – David Jeckovich is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **422-420 Henry Butts Dr** Violation(s)– **Failure to obtain Rental License (RTL).** First Notified – 8/12/2022.

The Code Compliance Department received an email from Mr. Jeckovich giving permission to Chad McGibbon, Property Manager, to speak on his behalf.

Mr. McGibbons did not attend the Zoom Meeting function.

Inspector Tomengo stated she was at the property for an inspection on September 23, 2022, which failed. Multiple violations were noted in one of the units. Also, the Property Manager did not have the key to enter the other units. A second inspection was held on October 21, 2022, which also failed, as the Property Manager nor the tenant did not show for entry and repairs were not done in the unit which was inspected on September 23, 2022.

DISPOSITION - The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by March 22, 2023, or be returned to a subsequent hearing for consideration of the imposition of a fine.

RTL 02-23-16 James & Hanna Prudente is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **145 S Hollywood Ave** Violation(s)– **Failure to obtain Rental License (RTL).** First Notified – 2/23/202.

Mr. James Prudente appeared via Zoom and was sworn in.

Inspector Tomengo stated the owners were first notified of unlicensed rental on February 23, 2022, and she did an inspection on June 3, 2022, which failed due to multiple window issues.

Mr. Prudente stated he is working with PACE program for window replacement because he is unable to pay the \$45,000 out of his personal funds. The program is taking much longer than was anticipated. Property Manager, Matt Gomez keeps in touch with the window company and will get the schedule for the window replacements.

DISPOSITION - After hearing the arguments, the Special Magistrate stated Mr. Prudente appears to be moving forward with the repairs. The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by March 22, 2023, or be returned to a subsequent hearing for consideration of the imposition of a fine.

Continued Cases/Consideration of a fine:

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 Zorilla, owners of Daytona 19 LLC, appeared via Zoom and were sworn in.

Inspector Tomengo stated that the property is still not in compliance and has trash outside the property. Constant change over of tenants and no progress on the violations.

Mr Chiaia stated they were trying to bring the property into compliance but has had issues with repairs and tenants.

DISPOSITION- After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance and ordered a fine in the amount of \$200 per day to begin on February 28, 2023, and continue up to \$15,000 or when the property comes into Compliance.

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 that the property is still not in compliance, some progress was made but not enough. Two prior inspection dates have been cancelled because work was not completed. There is an inspection scheduled for March 15, 2023.

Mr Chiaia stated he was trying to bring the property into Compliance and believes they will be ready for the March 15, 2023, inspection.

DISPOSITION- After hearing the arguments, the Special Magistrate amended the previous order and ordered the Respondents to come into Compliance by March 15, 2023. If not in compliance,

beginning on March 16, 2023, a fine in the amount of \$200.per day is levied and shall continue up to \$15,000 or when Compliance is achieved.

RTL 01-23-03 - Anil Maharaj & Ugindr Maharaj is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **331 Taylor Ave.** Violation(s)– **Failure to obtain Rental License (RTL)**. First Notified – 10/7/2022.

Respondent was not present.

Inspector Recanzone stated the property failed inspection on February 16, 2023, and again on February 22, 2023. Some of the exterior repairs we completed but no one answered the door, so the interior of the home was not inspected. There is another inspection date schedule for March 6, 2023.

DISPOSITION- The Special Magistrate amended the previous order and found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by March 22, 2023, or be returned to a subsequent hearing for consideration of the imposition of a fine

RTL 01-23-04 - GEA Seaside Investments Inc is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **231 N Hollywood Ave.** Violation(s)– **Failure to obtain Rental License (RTL)**. First Notified – 8/16/2022.

Respondent was not present.

Inspector Recanzone stated he has had no contact with the owner and asked for \$100 per day, fine beginning on February 28, 2023, up to \$15,000 or when the property comes into Compliance.

DISPOSITION: The Special Magistrate found that the property was previously in Non-Compliance and ordered a fine of \$100 per day, beginning on February 28, 2023, and to continue up to \$15,000 or when the property comes into Compliance.

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 Recanzone stated since last hearing he has had no contact with the owner and asked for \$100 per day, beginning on February 28, 2023, and to continue up to \$15,000 or when the property comes into Compliance.

DISPOSITION: The Special Magistrate found that the property was previously in Non-Compliance and ordered a fine of \$100 per day begin on February 28, 2023, up to \$15,000, or when the property comes into Compliance.

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.

Respondent was not present.

Inspector Recanzone stated since last hearing he has had no contact with the owner. The inspection date was sent via email to the owner. The tenant would not allow entry as tenant was not made aware of inspection date. The City asks for \$100 per day fine beginning on February 28, 2023, up to \$15,000 or when the property comes into Compliance.

DISPOSITION: The Special Magistrate found that the property was previously in Non-Compliance and remains in Non-Compliance ordered a fine of \$100. per day beginning on February 28, 2023, and to continue up to \$15,000 or when the property comes into Compliance.

RTL 02-23-09 - Zachary & Cierra Rathjen is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **121 S Hollywood Ave.** Violation(s) – **Zoning violation - the property is zoned RDB-6. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 1/11/2023.

Cierra Rathjen appeared and was sworn in.

Inspector Yates stated the property is located in zoning district RDB6 and short-term rentals are not allowed in that zoning district. He stated he first observed the listing on January 11th and as of January 18th 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. Jackson gave the City's position why this violation is irreparable and irreversible.

Ms. Rathjen stated she was not aware of the zoning laws and took down the posting for short term rentals immediately when they received the notice. Have stopped renting the property as of January 18, 2023. Also, the home was sold and closing to be on March 6, 2023.

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 January 18, 2023, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

RTL 02-23-10 - Barbara Staed and Jackson Bush is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **132 Sunrise Blvd.** 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 – 1/24/2023.

Jackson Bush appeared via Zoom and was sworn in.

Inspector Yates stated the property is located in zoning district SFR-5 and short-term rentals are not allowed in that zoning district. He stated he had received multiple complaints and observed guests claiming to be short term renters on February 2, 2023, February 10, 2023, February 15, 2023, and February 27, 2023. He stated this is the second time for the same violation. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$15,000.

Mr. Bush stated he already had paid a fine of \$3,500 for a previous violation at this property. He informed the rental company he used of the fine and they were going to find long-term renters. Since this violation he has terminated the contract with that company as of March 01, 2023. He has found a long-term tenant.

Inspector Yates said there remains short-term renters as of February 27, 2023.

Mr. Jackson asked Mr. Bush if he needed him to repeat the City's irreparable and irreversible argument and Mr. Bush stated he had a good understanding and that was no need to repeat the statement.

Mr. Bush said he has informed the property management company of the laws, but they continued to rent the property on a short-term basis. He also stated the tenants were moving out on March 01, 2023, and the property management company was going to remove the furniture and no longer rent the property.

Mr. Jackson asked Inspector Yates if the short-term rentals had stopped.

Inspector Yates said no, in fact, different renters with different vehicles were at the property. Photos showing different vehicles were shown.

Mr. Jackson noted that this is a repeat violation.

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 \$15,000, payable within 30 days, be imposed and that the property is in Compliance as of 03/01/2023 and for any future repeat violations may be returned to the Magistrate for consideration of a fine of up to \$15,000 per each occurrence.

RTL 02-23-11 - Barbara Staed and Jackson Bush is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **134 Sunrise Blvd.** 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 – 1/24/2023.

Inspector Yates stated the property is located in zoning district SFR-5 and short-term rentals are not allowed in that zoning district. He was unable to view listing online. However, he did talk to tenant claiming to be short term renters on December 27, 2023, January 3, 2023, January 20, 2023, February 10, 2023, and February 27, 2023. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$15,000.

Mr. Jackson asked Mr. Bush if he needed him to repeat the City's irreparable and irreversible argument and Mr. Bush stated he had a good understanding and that was no need to repeat the statement.

Mr. Jackson asked Inspector Yates if these different events were unique.

Inspector Yates said yes, different renters on different dates.

Mr. Bush said he will call the property management company again to remind them. He has had several other companies inquiring about renting the property for short term renters.

Mr. Jackson asked Mr. Bush if he has seen the advertisements for his properties on Airbnb.

Mr. Bush said he had not.

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 \$15,000, payable within 30 days, be imposed and that the property is in Compliance as of 03/01/2023 and for any future repeat violations may be returned to the Magistrate for consideration of a fine of up to \$15,000 per occurrence.

RTL 02-23-12 - Guynemer & Elsinia Chery are cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **544 Westmoreland Rd.** 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 – 2/2/2023.

Guynemer Chery appeared and was sworn in.

Inspector Yates 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 listing on February 2nd and as of February 7, 2023, 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 \$15,000.

Mr Chery stated was not aware of the zoning laws and took down the posting for short term rentals and stopped renting the property as of February 3, 2023. He stated he emailed and called Inspector Yates that he was no longer renting the property. He had rented other properties in New York State but stopped doing it in Daytona Beach as soon as he received the letter.

Mr. Jackson asked Mr. Chery if he needed him to repeat the City's irreparable and irreversible argument.

Mr. Chery said it was not needed.

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 February 7, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine of up to \$15,000 per occurrence.

The meeting was adjourned at 11:14 am.