
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

March 28, 2023 Minutes

Attendees:

Mr. Robert J Riggio, Special Magistrate

Staff present:

Mr. David Russell, Assistant City Attorney

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 changes to the agenda:

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. 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 at 707 N Grandview Ave. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 8/12/2022.

Withdrawn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, 304.6, 304.7, 304.13.1, 305.3, 603.1). Violation(s) – Smoke detector missing, paint fading & peeling, rotten wood, exterior siding. First Notified – 8/12/2019

Moved to April 25, 2023, Hearing

SMG 01-20-11 - Anthony Ray Teel 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 – 8/12/2019.

Moved to April 25, 2023, Hearing

NEW CASES:

RTL 03-23-18 - Blue Clay Financial Services LLC is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 259 Jefferson St. Violation(s) – **Failure to obtain Rental License (RTL)**. First Notified – 12/18/2021.

Mr. Peter Blount, property manager, appeared and was sworn in.

Inspector Tomengo stated Mr. Blount has kept in contact with her. The rental license was applied for, and an inspection was scheduled. She was unable to do the inspection due to the former tenant was not at home and may have moved out and changed the keys. She asked for compliance for the next cutoff date of April 19, 2023, and received an affidavit not to rent.

Mr. Blount said he had filed eviction paperwork with the court to remove the final tenant.

DISPOSITION - The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by April 19, 2023, or be returned to a subsequent hearing on April 25, 2023, for consideration of the imposition of a fine up to \$1,000 per day.

CONTINUED CASES:

CASE # 2 - 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.

Mr. Chad McGibbons, appeared via Zoom and was sworn in. The Code Compliance Department announced they received an email from David Jeckovich giving Mr. McGibbon permission to speak on his behalf.

Inspector Tomengo stated since the last hearing she has received constant updates from the owner on the work progress. She asked to amend to the April 19, 2023, cutoff date for Compliance or be returned to a subsequent meeting on April 25, 2023.

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 on April 25, 2023, for consideration of a fine up to \$1,000 per day.

CASE # 3 - RTL 01-23-08 - Ambassador of Business Health Wellness & Etc. is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1301 N Atlantic Ave.** Violation(s) – **Failure to obtain Rental License (RTL)**. First Notified – 5/16/2022.

Inspector Recanzone stated since the last hearing he has been in contact with the owner. The work is progressing along. The owner was in a car crash and is unable to attend this hearing. The owner requested to move the hearing to the next available date. Inspector Recanzone recommends to amend to April 19, 2023, cutoff date for Compliance or be returned to a subsequent meeting on April 25, 2023.

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 on April 25,2023, for consideration of a fine up to \$1,000 per day.

CASE # 4 - 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.

Mr. Silvio Matrir, Property Manager, appeared and was sworn in. Mr. Matri has permission to speak on behalf of the owners.

Inspector Recanzone stated since the last hearing he has had contact with the owner. The work is progressing along. Work is nearly done, just waiting on two more windows. He recommends to amend to the April 19, 2023, cutoff date for Compliance or be returned to a subsequent meeting on April 25, 2023.

Mr. Silvio Matrir stated the windows are ordered and needs just one more week and work will be done.

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 on April 25,2023, for consideration of a fine up to \$1,000 per day.

IRREPARABLE/IRREVERSIBLE

CASE # 5 - RTL 03-23-17 - Luis & Zoila Panora is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **215 N Seneca 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 – 2/16/2023.

Ms. Dari Snyder, daughter of the owners, appeared and was sworn in. Ms. Snyder stated she has permission to speak on behalf of the owners.

Inspector Yates stated, a citizen's complaint led to the investigation of this short-term rental. He stated he first observed the listing on February 10, 2023, and the owners were notified on February 16, 2023. The property was not actively advertised as of March 2, 2023. Due to the delay in removing the listing, City is asking for a \$2,000.00 fine.

Mr. Russell gave the City's position as to why this violation is irreparable and irreversible.

Special Magistrate informed Ms. Snyder, by statute, the City has a fine range of up to \$15,000 and gave time for Ms. Snyder to state her case.

Ms. Snyder stated the home was vacant due to her parents being out of town helping watch grandchildren. She also stated she has seen 3 other houses on the same street advertising short-term rentals and they had no idea it was not allowed. She did reply back to Inspector Yates that she took down the advertising. She asked for a reduction in the fine amount.

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 \$2,000, payable within 30 days, be imposed and that the property is in Compliance as of March 2, 2023, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 6 - RTL 03-23-20 - SHAWN CHRISTOPHER & NANCY BALLOU is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **130 PONCE DE LEON 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 – 3/2/2023.

Shawn Ballou and Nancy Ballou came forward and were sworn in.

Inspector Yates stated this case is from a field investigation of this short-term rental. He stated he first observed the listing on March 2, 2023, and the owner was notified on March 2, 2023. The property was not actively advertising as of March 6, 2023. Due to the action in removing the listing, City is asking for a \$1,000.00 fine.

Mr. Ballou stated they were not aware of City's zoning ordinance as they did obtain a license from the State of Florida to operate an Airbnb in their property. He presented the license for Mr. Riggio to see. They did not have intentions to skip any licenses, he thought he was all set with the state license.

Ms. Ballou stated the day she received the notification from Mr. Yates they took down the listing.

Mr. Riggio stated the DBPR should have informed them they do not have jurisdiction over this matter. Or, they should have informed them to investigate this matter with local governments. He also suggested to bring his concerns about zoning to city or planning commission.

Mr. Russell stated he commends them for taking the initiative to obtain the licenses they thought we needed but unfortunately there are specific laws to the zoning of their 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 \$500, payable within 30 days, be imposed and that the property is in Compliance as of March 6, 2023, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 7 - RTL 03-23-21 - NALINI & ARUN KARAMCHANDANI is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **582 REVILO 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 – 3/2/2023.

Mr. Arun Karamchandani came forward and was sworn in.

Inspector Yates stated this case is from a field investigation of this short term rental. He stated he first observed the listing on March 2, 2023, and the owner was notified on March 2, 2023. The property was not actively advertising as of March 7, 2023. Due to the action in removing the listing, City is asking for a \$1,000.00 fine.

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

Mr. Karamchandani said it was not needed. He stated they bought the property as a vacation home and then decided to rent it as an Air B&B after talking to the realtor. Once he received the notice, they stopped renting and took down the listing the same day.

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

CASE # 8 - RTL 03-23-22 - STOZA INC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **932 Pelican Bay Dr. Violation(s) – Zoning violation - the property is zoned PD-G. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 3/1/2023.

Mr Stanlee Smith, President of Stoza Inc. appeared via Zoom and was sworn in.

Inspector Yates stated that a citizen's complaint led to the investigation of this short term rental. He stated he first observed the listing on March 1, 2023, and the owner was notified on March 2, 2023. The property was not actively advertising as of March 7, 2023. Due to the action in removing the listing, the City is asking for a \$1,000.00 fine.

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

Mr. Smith said it was not needed and waived repeating the City's irreparable and irreversible argument.

Mr. Smith gave praise to the court for being fair. They bought this property mostly for families, friends and missionary purposes. Someone suggested to him they could raise funds for the payments by using Airbnb. They used the funds to pay the bills. He asked for the City of Daytona Beach to be more receptive to giving grace in enforcing laws.

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

The meeting was adjourned at 10:30 am.