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# City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

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## April 25, 2023, Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Assistant City Attorney

Mr. Shawn Shulenburg, Daytona Beach Police Officer

Mr. Clifford Recanzone, Rental Inspector

Ms. LaWanda Tomengo, Rental Inspector

Ms. June Barnes,

Mr. Kevin Yates, Code Inspector

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 9:03 a.m. and announced the procedure for the meeting.

Mr. Riggio approved the minutes for the March 28, 2023, meeting.

Mr. Bagazzoli swore in members of the staff who will be testifying.

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

**CASE # 14 - RTL 04-23-26 - Timothy Hoffman** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **2040 S Peninsula 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 – 3/16/2023.

**DISPOSITION:** The Special Magistrate continued the case to the May 23, 2023, hearing date for consideration of the imposition of a fine for Irreparable/Irreversible violations.

**CASE # 15 - RTL 04-23-27 - Karan Kumar and Konaal Kumar** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **611 S Seneca 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 – 3/17/2023.

**DISPOSITION:** The Special Magistrate continued the case to the May 23, 2023, hearing date for consideration of the imposition of a fine for Irreparable/Irreversible violations.

**CASE # 18 - RTL 04-23-30 - Allan Lootens and Delores Lootens** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **255 Lexington Dr.** 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 – 3/29/2023.

**DISPOSITION:** The Special Magistrate continued the case to the May 23, 2023, hearing date for consideration of the imposition of a fine for Irreparable/Irreversible violations.

Mr. Riggio called for any attorneys to come forward and began with their case first.

**CASE # 4 - 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 LaWanda Tomengo stated she has been in communication with Ms. Gow and they have completed the final pre-work and is asking to Amend to the next cutoff for compliance.

Ms. Gow stated the demolition permit has been issued and expects the work to be completed soon.

**DISPOSITION:** The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by May 18, 2023, or be returned to a subsequent meeting on May 23, 2023, for consideration of a fine up to \$1,000. per day.

Mr. Riggio called for Lien Review 1 and Lien Review 2 to come forward.

Mr. Anthony Jackson asked if Lien Review 1 and Lien Review 2 could be placed at the end of the hearing in the hopes they were able to appear via Zoom.

Mr. Riggio agreed.

## **NEW CASES:**

**CASE # 1 - RTL 04-23-31 - Kathleen Hannah** is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **611 Winchester St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 10/11/2022.

The respondent was not present.

Inspector Rencanzone stated a citizen's complaint led to the investigation. Upon arriving at the property for an investigation and to post the property. A tenant living at the property identified himself, confirming this is a rental unit.

**DISPOSITION:** The Special Magistrate found the respondent to be in Non-Compliance and ordered the Respondent to bring the property into Compliance by May 18, 2023, or be returned to a subsequent meeting on May 23, 2023, for consideration of a fine up to \$1,000 per day.

**CASE # 2 - RTL 04-23-32 - Kirt Irving Taylor and Stacy Taylor** is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **537 Pelican Bay Dr.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 9/16/2022.

Kirk Irving Taylor appeared via Zoom and was sworn in.

Inspector Tomengo stated she has been in communication with Mr. Taylor. The rental license application has been submitted and the inspection has been scheduled. She asked for compliance by the next cutoff date of May 18, 2023.

Mr. Taylor said he is trying to follow up with Inspector Tomengo on all activity with the home. Repairs to the wall were finally completed.

**DISPOSITION:** The Special Magistrate found the respondent to be in Non-Compliance and ordered the Respondent to bring the property into Compliance by May 18, 2023, or be returned to a subsequent meeting on May 23, 2023, for consideration of a fine up to \$1,000 per day.

**CASE # 3 - RTL 04-23-33 - Infinite Home Solutions LLC** is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **735 Marion St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/6/2023.

The respondent was not present.

Inspector Tomengo stated when the case first opened on May 5, 2022, someone else was the owner. The property had a change of ownership, and the notice was posted on 01/06/2023, with a compliance date of 01/20/2023. She has not had contact with either owner and there is a code case opened from a citizen's complaint. The property remains occupied and is requesting compliance for the next cutoff date of May 18, 2023.

**DISPOSITION:** The Special Magistrate found the respondent to be in Non-Compliance and ordered the Respondent to bring the property into Compliance by May 18, 2023, or be returned to a subsequent meeting on May 23, 2023, for consideration of a fine up to \$1,000 per day.

## **CONTINUED CASES:**

**CASE # 5 - 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.

The respondent was not present.

Inspector Tomengo stated she has had several email communications with the owner. She confirmed 2 of the 3 units are vacant. The owner informed her on 04/19/2023 he was to begin the process of filing an eviction on the tenant. She has not received that documentation and she also checked the website of Volusia County Clerk on 04/25/2023 and did not find any records of the eviction. She requested a fine to begin on 04/25/2023 of \$100.00 per day up to \$15,000.00 or when the property comes into compliance.

**DISPOSITION:** The Special Magistrate found the respondent who was previously found to be in Non-Compliance remains in Non-Compliance and ordered a fine of \$100.00 per day to commence on 04/25/2023 up to \$15,000.00 or when the property comes into compliance.

**CASE # 6 - 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.

The respondent was not present.

Inspector Recanzone stated since the last hearing the property was given a 2-month window to apply for an ADU (Auxiliary Dwelling Unit). On 04/10/2023 the Permits & Licensing department sent the owner an email with the application to apply for the ADU. He has not had any contact with the owner. He is requesting a fine of \$100.00 per day up to \$15,000.00 for not proceeding forward with the ADU.

Mr. Riggio requested the email and the ADU application be added to the file.

**DISPOSITION:** The Special Magistrate found the respondent who was previously found to be in Non-Compliance remains in Non-Compliance and ordered a fine of \$100.00 per day to commence on 04/25/2023 up to \$15,000.00 or when the property comes into compliance.

**CASE # 7- 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.

The respondent was not present.

Inspector Recanzone stated since the last hearing he has not had any contact with the owner. He did have contact with the tenant. Unable to verify work was completed.

**DISPOSITION:** The Special Magistrate found the respondent who was previously found to be in Non-Compliance remains in Non-Compliance and ordered a fine of \$100.00 per day to commence on 04/25/2023 up to \$15,000.00 or when the property comes into compliance.

**CASE # 8 - 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.

The respondent was not present.

Inspector Recanzone stated since the last hearing all that needed to be done was 2 rear windows need to be replaced. The Property Manager did send some emails with information about the windows. Inspector Recanzone asked for the date when window replacement permit will be issued and when is the work completion date. Neither was given to Inspector Recanzone. He is requesting a fine of \$100.00 per day up to \$15,000.00.

**DISPOSITION:** The Special Magistrate found the respondent who was previously found to be in Non-Compliance remains in Non-Compliance and ordered a fine of \$50.00 per day to commence on 04/25/2023 and each day up to \$15,000.00 or when the property comes into compliance.

**IRREPARABLE/IRREVERSIBLE**

**CASE # 9 - RTL 04-23-23 - Alfonso Lee Jr and Elisha Lee** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **2744 S Atlantic 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 – 3/9/2023.

Alfonso Lee Jr and Elisha Lee came forward and were sworn in.

Inspector Yates stated a citizen's complaint led to the investigation of this short term rental. He stated he first observed the listing on March 9, 2023, and the owners were notified on March 9, 2023. The property was not actively advertising as of April 21, 2023. Due to the delay in removing the listing, City is asking for a \$5,000.00 fine.

Alfonso Lee Jr said were sorry about renting the home and were not aware of the laws. Only began renting due to family financial hardships.

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

Alfonso Lee Jr and Elisah Lee both said they enjoy the City of Daytona and didn't want this to happen.

**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 \$5,000, payable within 30 days, be imposed and that the property is in Compliance as of April 21, 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 # 10 - RTL 04-23-24 - PAJ Investments** 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 Unit 203.** 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 – 3/15/2023.

Jason Silvas appeared via Zoom and was sworn in.

Inspector Yates stated a citizen's complaint led to the investigation of this short term rental. He stated he first observed the listing on March 16, 2023, and the owners were notified on March 16, 2023. The property was not actively advertising as of March 17, 2023. Due to the quick action in removing the listing, City is asking for a \$1,000.00 fine.

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

Mr. Silvas said no, and he was not aware of the laws and took down the listing as quickly as possible.

**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 16, 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 # 11 - RTL 04-23-25 - Frank L Meyst** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **105 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 – 3/15/2023.

Frank L Meyst appeared and was sworn in.

Inspector Yates stated a field investigation found this property as a short term rental. He stated he first observed the listing on March 15, 2023, and the owners were notified on March 15, 2023. The property was not actively advertising as of March 17, 2023. Due to the quick action in removing the listing, City is asking for a \$1,000.00 fine.

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

Mr. Meyst said no and said he stopped renting the day the Inspector knocked on the door. He only wanted to rent one bedroom as he also lives in the home.

Ms. Barnes informed Mr. Meyst that this property is zoned for Single Family use only and only one family can live there.

**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 \$250, payable within 30 days, be imposed and that the property is in Compliance as of March 17, 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 # 12 - RTL 04-23-28 - John Stitt and Chelsea Stitt** are cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **408 N Wild Olive 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 – 3/17/2023.

The respondent was not present.

Inspector Yates stated a citizen's complaint led to the investigation of this short term rental. He stated he first observed the listing on March 16, 2023, and the owners were notified on March

17, 2023. The property was not actively advertising as of March 21, 2023. Due to the quick action in removing the listing, City is asking for a \$1,000.00 fine.

Mr. Jackson asked Mr. Riggio if a new notice should be sent to the owners due to a typographic spelling error in the owner's name on the mailing.

Mr. Riggio stated the address was correct for one of the owners, so a new mailing is not needed.

**DISPOSITION:** After hearing the arguments, the Special Magistrate ordered the case be corrected with the correct spelling of Chelsea Stitt's name and 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 21, 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 # 13 - RTL 04-23-29 - William Camacho** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **403 Tarragona 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 – 3/24/2023.

Mr. William Camacho appeared via Zoom and was sworn in.

Inspector Yates stated a citizen's complaint led to the investigation of this short term rental. He stated he first observed the listing on March 24, 2023, and the owners were notified on March 24, 2023. The property was not actively advertising as of April 2, 2023. Due to the quick action in removing the listing, City is asking for a \$1,000.00 fine.

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

Mr. Camacho said no and said he was in contact with Inspector as soon as he received the notice. He stopped renting the property immediately and transitioning the property into a long term rental. He asked for a reduction to any fine that could be imposed.

Mr. Jackson said the \$1,000 fee is within the normal range of previous cases.

**DISPOSITION:** After hearing the arguments, the Special Magistrate ordered the case be corrected with the correct spelling of Mr. Camacho's name and 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 April 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.

## Lien Review 1 and Lien Review 2

**LR1 - CEB 08-20-155 – 611 North Street - Anthony Ray Teel** is cited for failure to correct violations of Art. 9 Sec. 9.2.A (Ref. FBC Supp. IPCM 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. **Order Imposing Fine/Lien imposed on May 21, 2020, of \$250 per day to a maximum of \$15,000. Compliance = January 20, 2023. Amount due = \$15,000 plus \$24 recording fees plus \$1,988.75 interest = \$17,012.75.**

**LR-2 SMG 01-20-11 – 611 North Street - 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. **Order Imposing Fine/Lien imposed on February 11, 2020, of \$100 per day to a maximum of \$15,000. Compliance = March 17, 2022. Amount due = \$15,000 plus \$24 recording fees plus \$2,594.67 interest = \$17,618.67.**

Mr. Anthony Ray Teel appeared via Zoom and was sworn in.

Mr. Teel asked if the City of Daytona Beach is willing to lower the fine to \$10,000.00.

Mr. Riggio stated he hopes Mr. Teel and the City can work out a deal.

Mr. Jackson stated due to severity of repairs and length of time, the City of Daytona Beach is willing to lower the fine to the lowest amount of \$15,000.00 for the total of both liens.

Mr. Teel agreed to the fine amount of \$15,000.00.

**DISPOSITION:** After hearing the case, the Special Magistrate ordered a lien reduction of \$15,000.00 for the total of both liens.

Mr. Riggio asked if there was any Miscellaneous Business.

Karl Wexelberg was introduced as a new Inspector of the Rental Program.

The meeting was adjourned at 11:06 am.