
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

May 23, 2023 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Assistant City Attorney
Mr. Denzil Sykes, Code Compliance Manager
Sgt. Timothy Blowers, Daytona Beach Police Officer
Mr. Clifford Recanzone, Rental Inspector
Ms. LaWanda Tomengo, Rental Inspector
Mr. Karl Wexelberg, Rental Inspector
Ms. June Barnes, Rental Program Coordinator
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 9:10 a.m. and announced the procedure for the meeting.

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

CASE # 1 - RTL 05-23-39 - Ziryell Mincey is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **517 George St.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 1/6/2023.

Compliance May 22, 2023

LR-1 - CEB 03-20-58 – 748 Owasso St. - Nathean Blankenship - is cited for failure to correct violation of City Code Ch. 26 Sec. 26-294, at Violation(s) - Failure to obtain Rental License (RTL). First Notified – 10/21/2019. **Order Imposing Fine/Lien imposed on April 09, 2020, of \$100 per day to a maximum of \$15,000. Compliance through Affidavit of Not to Rent on April 27, 2023. Amount due = \$15,000 plus \$24 recording fees plus \$2,641.19 interest = \$17,665.19.**

Mr. Nathean Blankenship appeared via Zoom and was sworn in.

Inspector Recanzone stated the City met with Mr. Blankenship and came to an agreement to reduce the amount of the lien to \$1,500.

Mr. Blankenship agreed.

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$1,500 payable within 30 days or the fine reverts back to the original amount.

LR-2 - CEB 08-21-183 - 433 Pelican Bay Dr - Harpreet Kaur Sodhi and Harbans Kalra - is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **433 Pelican Bay Dr.** Violation(s) – Failure to obtain Rental License (RTL). First Notified – 03/02/2021. **Order Imposing Fine/Lien imposed on November 23, 2021 of \$100 per day to a maximum of \$15,000. Compliance = June 27, 2022. Amount due = \$15,000 plus \$24 recording fees plus \$439.99 interest = \$15,463.99.**

Mr. Jaspreet Sodhi, brother to Harpreet Kaur Sodhi, appeared via Zoom and was sworn in.

Inspector Tomengo stated she opened the case on August 31, 2020, the notice was posted on March 7th, 2021 and not returned. She stated the owners live out of the country. She stated she conducted an inspection on May 8, 2021 which failed. She stated the second inspection on November 10, 2021 also failed. She stated the property is in Compliance as of June 27, 2022. She stated she met with Mr. Sodhi and there was no agreement to recommend reduction of the fine due to the two failed inspections. She stated she received communication requesting a reinspection and was told that all repairs were made but when she went back out, the stove was still not working and 2nd floor window screens were missing. She stated on November 18th she had a discussion with Mr. Sodhi regarding the issue of his not wanting to alter the marble slab to replace the non-working stove. She stated when the property came into compliance in June, she was told that the property was going to be listed for sale.

Mr. Sodhi stated they fixed the safety issues immediately in May and a contractor replaced the screens in April of 2021. He stated it took a couple of months due to lack of labor and was actually in Compliance in September 2021. He stated the screens were replaced and called someone who fixed the coil in the stove. He stated the tenants were disconnecting it in order to get a good deal on the house and free rent. He stated when they refused his deal in January of 2022 they did not move out until August of 2022. He stated due to Covid restrictions, only essential personnel were allowed to travel from India.

Mr. Riggio asked Mr. Sodhi if he had any documents reflecting the work that had been done.

Mr. Sodhi said he could find emails to tenants.

Mr. Riggio stated he needs corroboration and stated a continuation may be in order.

Mr. Jackson agreed that corroboration is needed and stated a continuation would not effect the city's position.

Mr. Sodhi stated he could get statements from the contractor.

DISPOSITION: The Special Magistrate denied reduction of the lien without prejudice.

CASE # 2 - 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.

Jessica Gow, attorney, came forward.

Inspector Tomengo stated she received an email that the building in the rear had been demolished and now they are waiting for the change in land use which requires review by the Planning Board. She stated she is asking to amend to the next cutoff for Compliance.

Ms. Gow stated the Planning Board meeting was cancelled in May due to a lack of quorum and the next meeting is June 1st. She stated it will take 2 readings before the Commission for approval.

DISPOSITION: The Special Magistrate continued the case to the June 27, 2023 meeting for consideration of the imposition of a fine up to \$1,000 per day.

CASE # 3 - 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.

Respondents were not present.

Inspector Tomengo stated since the last hearing she completed an inspection on April 28th which failed. She stated there has been no communication or progress. She stated there are life safety issues of smoke detectors in the bedrooms, damaged fencing, missing screens and landscaping violations. She stated yesterday she saw a small landscaping pile and fencing material so she is hoping they are working on the property.

Mr. Riggio asked if this was hurricane damage.

Inspector Tomengo stated yes. She stated she 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 # 5 - 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.

Respondent was not present.

Mr. Riggio noted the absence of the respondent and asked if the property had been notified.

The Board Secretary stated yes.

Inspector Tomengo stated the Respondent applied for a license on May 10th and it is under review. She stated she went out and the property has been condemned by the building

Department. She stated she is asking to amend to the next cutoff to remedy. She stated there was a previous code case but she doesn't know the status.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by June 21, 2023 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 4 - 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.

Respondent was not present.

Inspector Recanzone stated he has had no contact with the owner but spoke to the tenant. He stated there has been no progress and 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.

IRREPARABLE/IRREVERSIBLE

CASE # 6 - 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.

Respondent was not present.

Inspector Yates stated the case started as a citizen complaint, the owner was first notified on March 16th, 2023 and no longer active as of March 24th, 2023. He stated the rules state \$178 a night, 5 reviews, ck in and out are 4 pm and 11 am. He stated the owner lives on site and this is a repeat violation from a previous case. He stated he is requesting a fine in the amount of \$15,000.

Ms. Barnes stated she received an email from the Respondent's mother last month requesting to continue the case to this hearing which was granted by the Magistrate. She stated she received an email before this meeting stating the property has been sold for cash, he doesn't own any other property and the City cannot lien the property now.

There was discussion regarding Florida Statute 162.06 and agreed to proceed.

Mr. Jackson gave an argument as to why the City is asking that this violation be considered irreparable and irreversible.

Mr. Riggio agreed to consider the argument in his determination.

Mr. Yates stated the respondent sent a copy of a lease claiming the property was rented long term but the term was less than 6 months and ran from March to May which is also short-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 and a repeat violation. 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 March 24, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 7 - RTL 04-23-30 - Alan 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.

Mr. Alan Lootens came forward and was sworn in.

Inspector Yates stated the case started as a citizen complaint which was first observed on March 29th and was no longer active on April 3, 2023. He stated the rules state \$334 per night, 1 review check in and out at 4pm and 11 am and is requesting a finding of irreparable and irreversible. He stated the Respondent lives onsite.

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

Mr. Lootens stated he purchased the house four years ago with a plan to rent the property long term. He stated his business partner advised him to Airbnb it and his sister did the advertising. He stated he travels a lot and the property was zoned multi-family and the property was on the condemned board.

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 April 3, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 8 - RTL 05-23-34 - Alin Loan Mihaltan and Alcee Mihaltan and Kimberly Ashley Buracheck is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **168 Boynton Blvd.** Violation(s) – **Zoning violation - the property is zoned MFR-20. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 4/6/2023.

Ms. Alin Loan Mihaltan and Ms. Kimberly Ashley Buracheck appeared via Zoom and were sworn in.

Inspector Yates stated that the case was Field Generated and first observed April 6, 2023, first notified April 6, 2023 and was no longer active on April 12, 2023. He stated the rules state \$227 per night, 44 reviews, check in and out 11 am and 4 pm. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1000.

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

Ms. Buracheck stated they paid their taxes to Airbnb.

Ms. Mihaltan stated she sent an email to Glen Urquhart on April 4, 2022, and also had called permitting, with no response regarding whether they are allowed. She stated they obtained a license through DBPR.

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 \$100, payable within 30 days, be imposed and that the property is in Compliance as of April 12, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 9 - RTL 05-23-35 - Marissa Giannerini is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **1501 Manor 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 – 4/12/2023.

Marissa Giannerini came forward and was sworn in. She waived Mr. Jackson's irreparable and irreversible argument.

Inspector Yates stated the case was field generated, first observed and notified April 12, 2023 and no longer active April 21, 2023. He stated the rate was \$85 per night, 0 reviews, check in and out are 4 pm and 11 am. He stated that he is asking the violation be found irreparable and irreversible and a fine in the amount of \$1000.

Ms. Giannerini waived Mr. Jackson's irreparable and irreversible argument and stated she was not doing her due diligence and she had eventually planned to use the property as her personal residence. She stated the property is vacant and for sale.

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 April 21, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 10 - RTL 05-23-36 - Ivey Nell Est and Hinci LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **314 S Franklin 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 – 4/14/2023.

Mr. Hemis Ivey, Mr. Evan Davis and Ms. Ivey came forward and were sworn in.

Inspector Yates stated the case was field generated, first observed and noticed April 14, 2023, and no longer active on April 27, 2023. He stated the rules state \$145 nightly rate, 12 reviews, check in and check out 3 pm and 11 am. He stated the violation is irreparable and irreversible and is requesting a one-time fine in the amount of \$1000.

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

Mr. Riggio stated Mr. Jackson's argument would be included in consideration of this case.

Mr. Ivey stated this is his primary residence and the family owns several properties.

Mr. Riggio asked the Inspector if he found the property listed on Airbnb and he said yes. He stated the advertising alone constitutes holding out and is the violation.

Mr. Davis, nephew, stated the original posting was for family to come and go. There was discussion regarding Airbnb as a viable place to advertise and reserve a family property. He stated his mother has put a review on the website as well.

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 April 27, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 11 - RTL 05-23-37 - Koa Joel Fowlke and Beatriz Pucci de Carvalho is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1146 Pacific Dunes Ct.** 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 – 4/19/2023.

Mr. Koa Joel Fowlke came forward and was sworn in.

Inspector Yates stated the case was field generated and he first observed the violation and notified the property owner on April 19, 2023. He stated as of May 19th the violation was no longer active. He stated the rules show a nightly rate of \$131, 24 reviews, check in and out and 3 pm and 11 am. He stated the violation is irreparable and irreversible and is requesting a fine in the amount of \$5000.

Mr. Fowlke stated he was ok with incorporating Mr. Jackson's argument.

Mr. Riggio stated he was going to incorporate Mr. Jackson's comments to the irreparable and irreversible nature of the violation.

Mr. Fowlke stated he lives at the property with his wife. He stated they have been living there 6 months, it was a new construction property, and they chose the home because it has an attached in-law suite. He stated they live in one side and rent the other and there is a door that divides the houses that is blocked off inside. He stated there is a separate front door and seemed like a nifty idea to offset some of their mortgage costs. He stated they told the sales rep what they were going to do and they made it sound like that was no issue. He searched the internet and found airbnb's in Daytona and has a state license. He said they previously did that in New Mexico. He stated they didn't know they had an issue until a week ago and the sales rep told them it would be fine. He stated on May 12th his guests gave him a piece of paper that says Notice of Hearing and asked Mr. Yates to provide proof he works for the City. He stated they work from home and his cameras found no previous notices that were placed on the door. He stated April 21st was the second attempt and they were expecting a delivery so he changed his

camera to detect motion. He stated it was triggered but there wasn't anything and that his delivery was delivered to the Wal-Mart store. He stated on the 3rd visit he was home and has video of Inspector Yates posting the Notice of Hearing. He stated he did not get a response to his calls until Thursday and it was taken down on Friday. He stated \$5000 is not affordable and COVID was tough on them and they still have student debt. He stated the price on their home went up \$50,000 by the time it closed and they had their first baby the end of September and has hospital bills. He stated they are living paycheck to paycheck and will make sure things stay in good order from here on.

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 May 19, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 12 - RTL 05-23-38 - Debra Vincelli and Michael Saviano is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **484 Golf 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 – 4/26/2023

The Board Secretary announced that the Respondent has requested to continue the case to the next meeting due to urgent medical matters.

DISPOSITION: The Special Magistrate continued the case to the June 28, 2023 meeting for consideration of the imposition of a fine for irreparable and irreversible violations.

The meeting was adjourned at 11:50 a.m.