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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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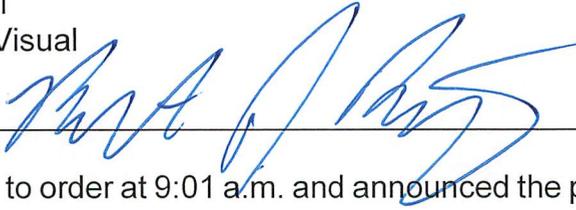
## June 27, 2023 Minutes

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  
Mr. Kevin Yates, Rental Inspector  
Ms. LaWanda Tomengo, Rental Inspector  
Ms. June Barnes, Rental Program Coordinator  
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 there were none. Members of staff who will be testifying were sworn in.

Mr. Riggio called case # 1.

**CASE # 1 - 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 the attorney who has met with Planning and Zoning and is waiting for Commission review on August 2<sup>nd</sup> and August 16<sup>th</sup> for approval. She stated she still needs an internal review for the Rental License and is asking to continue to the September hearing for Compliance.

Ms. Gow agreed. She stated she is requesting for Planning to tee up the legal non-conforming letter so it can be completed immediately upon the review and approval of the Commission.

**DISPOSITION:** The Special Magistrate continued the case to the September 26, 2023 meeting.

**LR-1 - RTL 06-22-133 - 327 Frances Ter - James L Mayrand & Joanne L Mayrand** is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/2/2022. Order Imposing Fine Lien of \$200 per day to a maximum of \$15,000, effective July 26, 2022. Compliance via Affidavit Not To Rent on April 10, 2023. Amount due of \$15,000 plus \$24 recording fees plus \$306.76 interest = **\$15,330.76**.

Mr. James L Mayrand appeared via Zoom and was sworn in.

Inspector Tomengo stated the case started as a tenant complaint that Mr. Mayrand had shut off the utilities.

Mr. Mayrand stated he was someone squatting, and he was not a landlord.

Inspector Tomengo stated she followed due process and stated the tenant told her he had been renting since June of 2021. She stated he told her the water was turned off on January 5<sup>th</sup>. He told her he paid \$800 a month and was also caretaker for the property. She stated she inspected the property on January 12<sup>th</sup> but the tenant wasn't there. She stated the occupant was aware of a civil issue with the landlord. She stated she had no contact from Mr. Mayrand and a fine was imposed on January 26<sup>th</sup> 2022. She stated on August 16, 2022 she received contact from the owner regarding the imposition of a fine. She stated he told her the tenants were not renting. The Inspector read the email Police Liaison Cortland Lampe had forwarded stating there were people present at the property on May 3<sup>rd</sup>. She stated the final water bill went out on January 21, 2022 in Mr. Mayrand's name. She stated she has not been able to find evidence that he was not renting and recommended no reduction in the lien.

Mr. Mayrand stated he did not know they were there and he finally got them out and they had taken all his stuff.

Mr. Riggio asked Mr. Mayrand if he called the police.

Mr. Mayrand stated they could not help him so he shut of the power to get them out. He stated the jumped the meter and then had the water shut off.

Inspector Tomengo stated Officer Lampe told her that in the officer's axon video the man living there stated the owner allowed him to stay.

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

**LR-2 - RTL 06-20-18 - 614 Orange Ave - Evelyn Eleanior Hannans Estate (new owner is Leon K McCray)** is cited for failure to correct violations of City Code Ch. 90 Sec. 90-297; City Code Ch. 26 Sec. 26-294, at. Violation(s) – Failure to obtain Business Tax Receipt (BTR), failure to obtain Rental License (RTL). First Notified – 10/24/2019. Order Imposing Fine Lien of \$100 per day to a maximum of \$15,000, effective July 22, 2020. Compliance = June 6, 2023. Amount due of \$15,000 plus \$24 recording fees plus \$2,255.57 interest = **\$17,279.57**.

Mr. Leon K McCray came forward and was sworn in.

Inspector Clifford Recanzone stated the City met with the Respondent and has reached an agreement. He stated someone illegally represented the property after she had passed and are asking to waive the second lien. He stated the City is requesting to reduce the first lien to \$2000.

Mr. Riggio asked Mr. McCray and Code Compliance Manager Denzil Sykes if they agreed. Both agreed.

**DISPOSITION:** The Special Magistrate waived the total amount of the lien.

**LR-3 - CEB 11-19-250 - 614 Orange Ave - Evelyn Eleanior Hannans (new owner is Leon K McCray)** 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 302.7, 302.8, 304.13.1, 304.14, 308.1), at Violation(s) – Off-street parking, accessory structures, motor vehicles, glazing, insect screens, accumulation of rubbish or garbage. First Notified – 5/24/2019. Order Imposing Fine Lien of \$100 per day to a maximum of \$10,000, effective December 12, 2019. Compliance = June 13, 2023. Amount due of \$10,000 plus \$24 recording fees plus \$2,237.98 interest = **\$12,261.98**.

**DISPOSITION:** The Special Magistrate reduced the amount of the lien to \$2000 payable within 90 days or the fine reverts back to the original amount.

## **CONTINUED CASES - IRREPARABLE/IRREVERSIBLE**

**CASE # 2 - 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.

Ms. Debra Vincelli came forward and was sworn in.

Inspector Kevin Yates stated the case was field generated. He stated the property is zoned SFR-5 and short-term rentals, know as other accommodations are not permitted. He stated he first observed the violation on April 26, 2023 and the advertising stopped May 16, 2023. He stated the rules show a daily rate of \$463, 1 review, check in and out at 3 pm and 1 pm. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Assistant City Attorney, Anthony Jackson, gave an argument as to why the City is asking for a finding of irreparable and irreversible.

Ms. Vincelli stated they weren't aware of the rules and she had a terminal medical condition and asked that the fine be lowered to \$500.

**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 May 16, 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 # 3 - 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.

Mr. Karan Kumar came forward and was sworn in.

Inspector Kevin Yates stated the case was citizen complaint. He stated the property is zoned SFR-5 and short-term rentals, known as other accommodations are not permitted. He stated he first observed the violation on March 16, 2023, which was confirmed by people on site, and the advertising stopped March 17, 2023. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Assistant City Attorney, Anthony Jackson, asked the Respondent if he heard the irreparable and irreversible argument or if he would like it repeated.

Mr. Kumar waived repetition of the argument and stated he and his father purchased the home and that he had multiple short-term rentals. He stated no one told him it was not allowed and he had a real estate agent and property manager. He stated he immediately stopped and now has a long-term tenant.

**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 17, 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 # 4 - RTL 06-23-40 - Chico Property Management LLC** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **110 Mason Park 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 – 5/17/2023.

Respondent was not present.

Inspector Yates stated he is requesting to continue to the next hearing due to a noticing issue.

**DISPOSITION:** The Special Magistrate continued the case to the July 25, 2023 hearing for consideration of the imposition of a fine for irreparable and irreversible violations.

**CASE # 5 - RTL 06-23-41 - Segundo Leandro Maraboli Jara** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **607-609 Riverview 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 – 5/17/2023.

Ms. Debra Vincelli came forward and was sworn in.

Meboza Jara, wife of the Respondent, and Interpreter Yomari Tracy appeared via Zoom and were sworn in.

Mr. Jackson conversed with the interpreter to make sure she was translating the complete information and not a synopsis.

Inspector Kevin Yates stated the case was field generated. He stated the property is zoned SFR-5 and short-term rentals, known as other accommodations are not permitted. He stated he first observed the violation on May 17, 2023 and was not active by May 25, 2023. He stated the rules show a daily rate of \$66, 6 reviews, check in and out at 3 pm and 11 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Assistant City Attorney, Anthony Jackson, explained the nature of the violation and asked for a finding of irreparable and irreversible.

Ms. Jara waived repetition of Mr. Jackson's irreparable and irreversible argument and stated they purchased 8 units and only 2 are working. She stated Airbnb was a way to raise money.

**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 \$1000, payable within 30 days, be imposed and that the property is in Compliance as of May 25, 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 # 6 - RTL 06-23-42 - Stoza Inc** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **932 Pelican Bay 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 – 5/3/2023.

Respondent was not present.

**DISPOSITION:** The Special Magistrate continued the case to the July 25, 2023 meeting.

**CASE # 7 - RTL 06-23-43 - Brandon Garcia** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **2016 N Oleander Ave.** 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 – 5/25/2023.

Respondent was not present.

The Board Secretary stated she spoke to the Respondent who asked to continue the case to the July hearing as he was traveling with his mother.

**DISPOSITION:** The Special Magistrate continued the case to the July 25, 2023 meeting.

**CASE # 8 - RTL 06-23-44 - Sean & Julie Severin** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **605 Vermont 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 – 5/24/2023.

Ms. Julie Severin appeared via Zoom and was sworn in.

Inspector Yates stated the case was field generated. He stated the property is zoned SFR-5 and short-term rentals, known as other accommodations are not permitted. He stated he first observed the violation on May 24, 2023 and was not active by May 25, 2023. He stated the rules show a daily rate of \$93, 94 reviews, check in and out at 2 pm and 11 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Assistant City Attorney, Anthony Jackson, explained the nature of the violation and asked for a finding of irreparable and irreversible.

Ms. Severin stated they addressed the request to remove the listing immediately.

**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 \$1000, payable within 30 days, be imposed and that the property is in Compliance as of May 25, 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 06-23-46 - Amber Lynn Biletto & David Charles Biletto Jr** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **1467 N 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 – 4/28/2023.

Mr. David Charles Biletto came forward and was sworn in.

Inspector Yates stated the case was field generated. He stated the property is zoned SFR-5 and short-term rentals, known as other accommodations are not permitted. He stated he first observed the violation on April 28, 2023 and was no longer active by May 4, 2023. He stated the rules show a daily rate of \$200, 9 reviews, check in and out at 1 pm and 10 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Biletto waived repetition of Mr. Jackson's irreparable and irreversible argument and stated he lives there and rented the downstairs.

**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 \$1000, payable within 30 days, be imposed and that the property is in Compliance as of May 4, 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 06-23-45 - Bruce W & Kimberly M Woodburn** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.3, at **1408 Peachtree 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 – 5/18/2023.

Mr. Bruce W Woodburn came forward and was sworn in. Mr. Mark Thompson, attorney, came forward.

Inspector Yates stated the case was field generated. He stated the property is zoned SFR-5 and short-term rentals, known as other accommodations are not permitted. He stated he first observed the violation on May 18, 2023 and was not active by May 24, 2023. He stated the rules show a daily rate of \$190, check in and out at 4 pm and 11 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Jackson, explained the nature of the violation and asked for a finding of irreparable and irreversible.

Mr. Thompson asked if the Magistrate had received his exhibit which included copies of the long-term lease and security deposit and stated his client has applied for a rental license. He stated the lease started on December 1<sup>st</sup> though May and was extended to December 31, 2023.

Mr. Woodburn stated he purchased and renovated the property and was now renting to traveling nurses. He stated they would not accept advertising for less than 90 days. He stated the posting was put on the house.

Mr. Thompson stated he understood that the advertising on the short-term platform was the violation.

Mr. Riggio stated it is actually the holding out of 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 \$1000, payable within 30 days, be imposed and that the property is in Compliance as of May 4, 2023, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

Mr. Riggio asked if there was any Miscellaneous Business and there was none.

Mr. Riggio adjourned the meeting at 11:22 a.m.