
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

July 25, 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. 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 9:02 a.m. and announced the procedure for the meeting.

The Board Secretary swore in members of staff who will be testifying.

Mr. Riggio called the first Lien Review.

LR-1 - RTL 01-22-04 - 210 N Peninsula - Calvary Global Ministries Inc 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 – 10/9/2021. Order Imposing Fine Lien of \$100 per day to a maximum of \$15,000, imposed March 6, 2022. Compliance on August 13, 2021 through demolition. Amount due of \$15,000 plus \$24 recording fee plus \$616.34 interest = **\$15,640.34**.

Ms. Angela Armstrong, Planning Department for the City came forward and was sworn in.

Inspector Clifford Recanzone stated they had met with City Planning Department staff and agreed to reduce the amount of lien review #1 to \$7,500 and lien review #2 to \$15,000 including interest and recording fees.

Ms. Armstrong agreed and stated the liens were discovered upon due diligence by the City in the purchase of the property and that the City is now the owner of the property. She stated the City agreed to reduce the amount of the liens by 50% and the amount due for the liens was held in escrow at closing.

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$7,500 payable within 30 days or the fine reverts back to the original amount.

LR-2 - SMG 06-19-121 - 210 N Peninsula - Calvary Global Ministries, Inc. is cited for failure to correct violations of Art. 9 Sec. 9.2.A (Ref. FBC Supp. IPMC 302.7 and 304.13). Violation(s) – Damaged concrete deck entrance, guard/hand rail, obtain permit, unsafe pillar, debris/obstruction of sidewalk and structural members. First Notified – 1/24/2019. Order Imposing Fine Lien of \$100 per day to a maximum of \$25,000, imposed January 21, 2020. Compliance on August 13, 2021 through demolition. Amount due of \$25,000 plus \$24 recording fee plus \$4,615.68 interest = **\$29,639.68**.

Inspector Recanzone stated in this case, they also met with staff and agreed to reduce the amount of the lien to \$15,000.

Ms. Armstrong agreed.

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$15,000, payable within 30 days, or the fine reverts back to the original amount.

Mr. Riggio called case #2.

CASE # 2 - 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 PD-G. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/3/2023. *ACTION TO BE TAKEN:* Continued from the June 27, 2023 meeting for consideration of the imposition of a fine. **IRREPARABLE-IRREVERSIBLE.**

Respondent was not present. Witness, Michelle Skarwecki, Pelican Bay resident and President of the HOA came forward and was sworn in.

Inspector Kevin Yates stated the case was opened as a citizen complaint. He stated the property is zoned PD-G and short term rentals, known as "other accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on May 3rd and the property was notified on the same day. He stated they are still actively advertising with a daily rate of \$660, 6 reviews, check-in and check-out at 4 pm and 11 am. He stated this is the second violation for this property. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$15,000.

Mr. Riggio asked where the advertising was found.

Inspector Yates stated Airbnb.

Ms. Skarwecki stated they were also advertising on feeder sites to VRBO including reviews. She stated she spoke to the property owner and he told her he was booking the property for missionaries for free and that no one can stop him.

Mr. Anthony Jackson, Assistant City Attorney stated the City's argument as to why the violation should be considered irreparable and irreversible and submitted an exhibit of the City's Land Development Code Art. 5 Sec. 5.2 explaining the principal uses for "other accommodations". The exhibit included 509.013 outlining the Definitions, 509.242.c regarding Public lodging

establishments and specifically the definition of a vacation rental. The document also included reference to the City's ordinance - Ch. 26, Sec 26-292 definitions referencing a residential rental unit located within the city which is rented or offered for rent.

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 property is not currently in Compliance and that the violation is irreparable and irreversible in nature. He ordered that the violation cease and a one-time fine in the amount of \$15,000, payable within 30 days, be imposed and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

LR-3 - RTL 01-23-03 - 331 Taylor Ave - Anil Maharaj & Ugindr Maharaj 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 – 10/7/2022. Order Imposing Fine Lien of \$50 per day to a maximum of \$15,000, imposed April 25, 2023. Compliance on June 1, 2023. Amount due of \$1,850.00 plus \$24 recording fee = **\$1,874.00**.

Mr. Silvio Matri came forward and was sworn in.

Mr. Riggio stated he had read through the materials that had been submitted by the respondent.

Inspector Recanzone stated staff met with Mr. Matri and reached an agreement to reduce the lien to \$1,500.

Mr. Matri stated the owners have accepted the offer.

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.

CASE # 1 - 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.

Mr. Michael Guertler and Ms. Jacqueline Guertler, managers of the LLC, appeared via Zoom and were sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. Short-term rentals, also known as "other accommodations" are not a permitted use in the zoning district. He stated he first observed the violation on 5/17/2023 and notified the respondent the same day. He stated as of May 30th the property was no longer advertising. He stated the advertising showed a nightly rate of \$201, 5 reviews, check-in and check-out at 4 pm and 11 am. He stated the violation is irreparable and irreversible and is asking for a one-time fine in the amount of \$1,000.

Mr. Guertler waived repetition of Mr. Jackson's irreparable and irreversible argument as he heard it in the previous case 2.

Mr. Jackson stated the nature of the fine request is routine for someone who quickly responds.

Mr. Guertler stated he has hoping to get the fine reduced and he was not aware it was not allowed. He stated they had remodeled the property twice and were hoping to offset the mortgage. He stated the property is on the market and they are trying to sell.

Mr. Jackson explained the history and resulting consistency in the fine request from years ago.

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 May 30, 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 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 SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 5/25/2023.

Mr. Brandon Garcia appeared via Zoom and was sworn in.

Inspector Yates stated the case started as a citizen complaint. He stated the property is zoned SFR-5 and short-term rentals, also known as "other accommodations," are not allowed in the zoning district. He stated he first observed the violation on May 26, 2023 and notified them the same day. He stated as of May 30th they were no longer actively advertising. He stated the daily rate was \$638, there were 3 reviews, check-in and check-out are 4 pm and 10 am. He stated the violation is irreparable and irreversible and is asking for a one-time fine of \$1,000.

Mr. Jackson repeated the City's request that the violation is irreparable and irreversible.

Mr. Garcia stated he responded^d immediately and did no irreparable harm to the city. He stated he lives one block away from 5 hotels and has insurance. He stated Volusia County is collecting taxes.

Mr. Riggio clarified that there are 3 reviews.

Inspector Yates stated yes for January, February and April rentals.

Mr. Garcia stated they rent and go and stay in a hotel.

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 May 30, 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 10:02 a.m.