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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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## August 22, 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. Mark Bostwick, Code 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.

There were no announcements.

Mr. Riggio approved the minutes of the July 26, 2023 meeting.

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

Mr. Riggio called the first Lien Review.

### LR-1

**LR-1 - RTL 03-22-65 - 528 Live Oak Ave - Dwight Edwards (new owner is Chad Burks)** 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 – 8/13/2021. **Order Imposing Fine-Lien of \$ 100 per day, effective August 4, 2020 to a maximum of \$15,000. Compliance on July 18, 2023 via Affidavit-Not-To-Rent. Amount due: \$15,000.00 plus \$24 recording fees plus \$483.64 interest = \$15,507.64.**

Mr. Chad Burks came forward and was sworn in.

Inspector Tomengo stated the City met with the new owner of the property and agreed to a partial release of the parcel but leaving the original violator still encumbered by the lien.

Mr. Riggio confirmed that the lien remains outstanding to the previous owner Dwight Edwards.

Inspector Tomengo stated yes.

**DISPOSITION:** The Special Magistrate released the parcel from the City's lien and ordered that the previous owner, Dwight Edwards, remains encumbered by name.

### **Hearing of Cases**

#### **NEW CASES: IRREPARABLE/IRREVERSIBLE**

**CASE # 5 - RTL 08-23-37 - Common Wealth Trust Services TR** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **120 S Oleander Ave.** Violation(s)– **Zoning violation - the property is zoned RDB-6. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 8/1/2023.

Ms. Aimee Aballo, owner, came forward and was sworn in.

Inspector Kevin Yates stated the case was field generated. He stated the property is zoned RDB-6 and short-term rentals, know as "other accommodations" are not a permitted use in the zoning district. He stated he first observed and Noticed the violation August 1<sup>st</sup>, 2023 and as of August 10<sup>th</sup> was no longer active. He stated the rules show the nightly rate was \$81, had 2 reviews, check in and check out at 3pm and 10 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Ms. Aballo stated the property was a duplex and that she was a long time resident of the City and asked for a reduction in the fine.

**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 due to a delay of mail, a one-time fine in the amount of \$500, payable within 30 days, and for any *future repeat* violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

**CASE # 1 - RTL 08-23-33 - SIG Global FLP** is cited for failure to correct violations of Land Development Code Art. 6 Sec. 6.1; Art. 6 Sec 6.2.H.4.a; Art. 10 Sec 10.1.B; Art 10 Sec 10.2.B.2.1; City Code Ch 90 Sec 90-197, at **709 E International Speedway Blvd (Parcel ID# 5309-09-03-0010).** Violation(s)– **No Business Tax Receipt, unpermitted outside activities including sales and service, failure to acquire all necessary permits for land usage or parking, vehicles parked on unimproved surfaces.** First Notified – 7/27/2023.

Nika Hosseini, attorney, came forward.

Inspector Mark Bostwick stated the violations are unpermitted outside activities including sales and service, failure to acquire all necessary permits for land usage or parking and vehicles were parked on unimproved surfaces. He stated there is also no Business Tax Receipt on file. He stated the property was first notified on July 27<sup>th</sup>, 2023 and is asking for a finding that this violation is irreparable and irreversible and requested a

fine in the amount of \$15,000. He stated Code Compliance Manager Denzil Sykes documented the violation on July 4<sup>th</sup>. He confirmed Mr. Jackson's question as to whether the Respondent received beneficial gain from the event and that they did not have the correct authorizations for the event.

Mr. Riggio referred to the \$20 parking fee signs in the overhead pictures.

Mr. Bostwick stated this is a recurring issue for several years during events.

Ms. Hosseini stated the previous cases were closed out and this is the only remaining case. There was further discussion regarding the meaning of closed out.

Mr. Jackson stated the older pictures are to show the history.

Ms. Hosseini stated the owners are working with the city to put up a fence to stop the parking.

Mr. Bostwick stated there is no fence permit on file.

Mr. Riggio asked if the owners have been notified and Mr. Bostwick stated yes.

Mr. Riggio asked if the parking lot requires a permit and Mr. Bostwick stated yes.

Mr. Sykes came forward and stated he observed the violation.

There was additional discussion regarding the need for a fence permit and the irreparable and irreversible nature of the violation.

Mr. Jackson gave his argument asking for a finding of irreparable and irreversible nature and asked that the \$250 penalty for the BT ordinance be added to the \$15,000 requested.

**DISPOSITION:** The Special Magistrate found that the property was previously in Non-Compliance and that the violation is irreparable and irreversible in nature. He ordered that a one-time fine in the amount of \$15,000 for the July 4<sup>th</sup> occurrence plus a fixed fine in the amount of \$250, for not having a Business Tax Receipt, 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. It was further ordered that the property is in Compliance as of August 21, 2023.

**CASE # 2 - RTL 08-23-34 - Kristen A Clem** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **121 S Hollywood Ave.** Violation(s) – **Zoning violation - the property is zoned RDB-6. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 8/2/2023.

Kristen Clem and Thomas Clem came forward and were sworn in.

Inspector Kevin Yates stated the case was field generated. He stated the property is zoned RDB-6 and short-term rentals, known as "other accommodations" are not a permitted use in the zoning district. He stated he first observed the violation on August 7<sup>th</sup>, 2023 and as of August 7<sup>th</sup> was no longer active. He stated the rules show the nightly rate was \$199, had 1 review, check in and check out at 4pm and 11 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Clem stated they received the Notice on August 2<sup>nd</sup> and questioned the dates the inspector had given. He stated he thought they were in the zone. He stated they live there and he allows his customers to stay there free on occasion.

**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 since the violation was taken down immediately, a one-time fine in the amount of \$500 be imposed, payable within 30 days, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence. It was further ordered the property is in Compliance as of August 2<sup>nd</sup>, 2023.

**CASE # 3 - RTL 08-23-35 - Gabriel X Lopez** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **2032 Schulte 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 – 8/1/2023.

Mr. Kevin Vavavic, attorney, and Mr. Gabriel Lopez, owner, came forward. Mr. Lopez was sworn in.

Inspector Yates stated the case began as a citizen complaint. He stated the property is zoned SFR-5 and short-term rentals, known as "other accommodations" are not a permitted use in the zoning district. He stated he first observed the violation on August 1<sup>st</sup>, 2023 and as of August 7<sup>th</sup> was no longer active. He stated the website shows the nightly rate was \$242, had 3 reviews, check in and check out at 4pm and 10 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Vavavic stated he would stipulate to the irreparable and irreversible nature and asked for the fine to be reduced 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 since the Respondent was out of the country and responded to the posting when he returned, a one-time fine in the amount of \$750 be imposed, payable within 30 days, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence. It was further ordered the property is in Compliance as of August 7<sup>th</sup>, 2023.

**CASE # 4 - RTL 08-23-36 - Kimberly Siegel** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **122 N Caroline St.** Violation(s) – **Zoning violation - the property is zoned RDM-6. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 8/2/2023.

Inspector Yates stated the owner was unable to attend as she is a traveling nurse and is asking to continue the case to the next meeting.

**DISPOSITION:** Mr. Riggio continued the case to the September 26, 2023 hearing for consideration of the imposition of a fine for irreparable and irreversible violations.

**CASE # 6 - RTL 08-23-38 - Matthew J Calisi** is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1153 Bradenton 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 – 8/3/2023.

Mr. Matthew Calisi 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, known as “other accommodations” are not a permitted use in the zoning district. He stated he first observed the violation on August 3<sup>rd</sup>, 2023 and as of August 7<sup>th</sup> was no longer active. He stated the rules show the nightly rate was \$266, had 24 reviews, check in and check out at 3pm and 10 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Calisi stated he did some research and thought it was legal in Florida. He stated they are no longer renting and have moved into the house.

Mr. Jackson repeated the City’s argument as to why the violation should be found irreparable and irreversible.

**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 be imposed, payable within 30 days, and for any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence. It was further ordered the property is in Compliance as of August 7<sup>th</sup>, 2023.

There was no miscellaneous business.

The meeting was adjourned at 10:12 am