
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

February 27, 2024 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Deputy City Attorney
Mr. Denzil Sykes, Code Compliance Manager
Officer Timothy Ramsey, Daytona Beach Police Officer
Mr. Kevin Yates, Rental Inspector
Ms. LaWanda Tomengo, Rental Inspector
Mr. Karl Wexelberg, Rental Inspector
Mr. Clifford Recanzone, Rental Inspector
Ms. June Barnes, 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 9:02 a.m. and announced the procedure for the meeting.

Mr. Riggio asked for announcements and there were none.

Mr. Riggio approved the minutes of the January 23, 2024 meeting.

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

Mr. Riggio called the first case.

LR-1 - RTL 08-23-33 - 709 E International Speedway Blvd (Parcel ID# 5309-09-03-0010 - 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. Violation(s) – Failure to obtain 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. Order of Non-Compliance and Finding of Irreparable & Irreversible violation and Imposition of Fine in the amount of Fifteen Thousand (\$15,000.00) Dollars plus a one-time Two Hundred Fifty (\$250) dollar fine imposed on August 24, 2023. Amount due of \$15,000 plus \$250 BT fee plus \$24 recording fee = **\$15,290.00.**

Respondent was not present due to a family medical emergency.

Mr. Riggio read an email for the record from Mr. Edmond Hennessey stating he met with Code Compliance administrative staff and reached a stipulation to reduce the amount of the lien to \$5,000.

Mr. Anthony Jackson, Deputy City Attorney, and Mr. Denzil Sykes, Code Compliance Manager agreed.

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$5,000, payable within 30 days, or the fine reverts back to the original amount.

LR-2 - CEB 02-20-19 - 140 Fountain Lake Blvd - Demond O. & Nakeithra Dean is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294; City Code Ch. 90 Sec. 90-297. Violation(s) – Failure to obtain Business Tax Receipt (BTR), failure to obtain Rental License (RTL). First Notified – 9/18/2019. Order Imposing Fine/Lien of One Hundred (\$100.00) dollars per day to a maximum of Fifteen Thousand (\$15,000.00) dollars, for Failure to Obtain Rental License, imposed on March 19, 2020. Compliance = December 15, 2023. Amount due of \$15,000.00 plus \$24 recording fees = **\$15,024.00**.

Mr. Demond Dean appeared via Zoom and was sworn in.

Inspector LaWanda Tomengo stated there was a meeting on February 21, 2024 between Mr. Dean and Code Compliance administration staff and agreement was reached to reduce the amount to \$2,500.

DISPOSITION: The Special Magistrate reduced the amount of the lien to \$2,500, payable within 30 days, or the fine reverts back to the original amount.

LR-3 - RTL 01-24-08 - 126 W Gardiner Ct - TR Property Group LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at. Violation(s) – Zoning violation - the property is zoned RDD-6. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 11/9/2023. Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine in the amount of Fifteen Thousand (\$15,000.00) imposed January 23, 2023. Amount due of \$15,000.00 (lien has not been recorded) = **\$15,000.00**.

Respondent was not present.

Mr. Riggio continued the case to give the Respondent time to appear or join the meeting on Zoom.

CASE # 1 - RTL 02-24-20 - Thomas P Barrie & Ralph K Barrie is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 428 Wisteria Rd. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 12/21/2023.

Respondent was not present.

Inspector Karl Wexelberg stated he visited the site and verified it was in Non-Compliance. He stated the Respondent was first notified on December 21, 2023 and he is requesting a finding of Non-Compliance and next cutoff to come into Compliance.

DISPOSITION: The Special Magistrate found the respondent to be in Non-Compliance and ordered the Respondent to bring the property into Compliance by March 20, 2024, or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until Compliance is achieved.

CASE # 2 - RTL 02-24-25 - TRSTE, LLC TR & 433 Marion St Land Trust is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 433 Marion St. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 11/13/2023.

Respondent was not present.

Inspector Tomengo stated the case started as a citizen complaint as an unlicensed rental property. She stated she posted the property on November 13, 2023 and site visits confirmed it was tenant occupied and no applications for rental license and no inspection on file. She stated she is requesting a finding of Non-Compliance and next cutoff to come into Compliance.

DISPOSITION: The Special Magistrate found the respondent to be in Non-Compliance and ordered the Respondent to bring the property into Compliance by March 20, 2024, or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until Compliance is achieved.

CASE # 3 - RTL 02-24-27 - Ida Mae Pendleton is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 811 Kingston. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 5/9/2023.

Mr. Ray McLeod, son of the deceased Respondent, came forward and was sworn in.

Mr. Jackson clarified that the property was currently in probate.

Inspector Clifford Recanzone stated that the case started as a complaint by Animal Control. He stated he posted the property on May 9, 2023 and on February 8, 2024 was still in Non-Compliance. He stated the property is occupied and there are tenants there. He stated the property has no rental license on file.

Mr. Riggio asked the inspector if he had gone into the property and the inspector stated no.

Mr. Riggio stated there may be life-safety issues such as no smoke detectors on the property that need to be addressed through inspection.

Mr. McLeod stated there are no smoke detectors. He stated a letter was posted on the property regarding peeling paint and other violations and he had fixed those issues.

Mr. Jackson stated he understands that his brothers have transferred their interest to Mr. McLeod and that this case may resolve sooner than expected.

Mr. McLeod agreed.

DISPOSITION: The Special Magistrate found the respondent to be in Non-Compliance and ordered the Respondent to bring the property into Compliance by May 22, 2024, or be returned

to a subsequent meeting for consideration of a fine up to \$1,000 per day until Compliance is achieved.

CASE # 4 - RTL 01-24-12 - Bradford J Bowls is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at 924 Vine St. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 10/24/2023.

Respondent was not present.

Inspector Wexelberg stated the case was field generated and he has had contact with the Property Manager. He stated some of the repairs had been made and since the property is not occupied, he would like to amend the previous Order of Non-Compliance to the next cutoff for Compliance.

DISPOSITION: The Special Magistrate amended the previous order of Non-Compliance and ordered the Respondent to bring the property into Compliance by March 20, 2024 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE # 5 - RTL 02-24-21 - David Roberto Ruizcalderon and Stephanie Mary Ruizcalderon is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at 476 Zelda 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 – 1/25/2024.

Mr. Gilberto Ruizcalderon, father of David, and Mr. David Ruizcalderon came forward and were sworn in.

Inspector Kevin Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on January 25, 2024 and notified the Respondent the same day. He stated the advertising is still active today. He stated the website lists the rate as \$184 per night, 9 reviews, check in at 3:00 pm and check out at 11 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$15,000.

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

Mr. David Ruizcalderon stated he and his wife purchased the property to be a rental property. He stated shortly thereafter they came to know they were expecting their second child and rented the property to cover costs. He stated they modified their advertising to book 180 days and applied for a rental license.

Mr. Yates stated the minimum rental is 181 days.

Mr. Riggio asked if the respondents had any contact with the inspector and stated that VRBO is not a vehicle for long-term rentals but was designed for short-term stays.

Mr. Gilberto Ruizcalderon stated they applied for a long-term rental license online.

Mr. Riggio asked the inspector if there had been any new reviews after the posting.

Inspector Yates stated no and that the last review was December 6, 2023.

Mr. Riggio stated that the ad is the violation.

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 is a repeat violation. He imposed a one-time fine in the amount of \$15,000, 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 not in Compliance.

CASE # 6 - RTL 02-24-23 - Sornilia Reyes is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at 750 Marion 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 – 2/1/2024.

Ms. Sornilia Reyes came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned RDM-6. He stated he first observed the violation on February 1, 2024 and notified the Respondent the same day. He stated the advertising stopped on February 2, 2024. He stated the website lists the rate as \$90 per night, 1 review, check in at 3:00 pm and check out at 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 meaning of an irreparable and irreversible violation.

Mr. Riggio stated that Mr. Jackson's argument from the last case would be included in the proceeding.

Ms. Reyes stated she didn't know that she was wrong and only did it for 2 nights.

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 is a repeat violation. He imposed a one-time fine in the amount of \$1,000, 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 February 2, 2024.

CASE # 7 - RTL 02-24-24 - Kenneth Metzler Jr is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at 213 Jessamine 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 – 1/26/2024.

Respondent was not present.

Inspector Yates asked to continue the case to the March 26, 2024 meeting.

DISPOSITION: The Special Magistrate continued the case to the March 26, 2024 hearing for a finding of Non-Compliance and consideration of the imposition of a fine for irreparable and irreversible violations.

CASE # 8 - RTL 02-24-26 - Halifax Apartments LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at 901 N Halifax Ave. 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 – 2/6/2024.

Mr. Sam Nasher, Property Manager, and Mr. Elmer King, tenant, came forward and were sworn in.

Inspector Kevin Yates stated the case was field generated and the property is zoned MFR-20. He stated he first observed the violation on February 6, 2024 and notified the Respondent the same day. He stated the advertising stopped on February 14, 2024. He stated the website lists the rate as \$69 per night, 11 reviews, check in at 3:00 pm and check out at 11 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

The Respondent~~s~~ waived repetition of Mr. Jackson's irreparable and irreversible argument.

Mr. Riggio stated he would incorporate the argument given in Case #5 into his consideration.

Mr. King stated he rented the property and that he did not check.

Mr. Nasher stated they came into Compliance immediately and he doesn't believe they should be fined.

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 is a repeat violation. He imposed a one-time fine in the amount of \$1,000, 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 February 14, 2024.

Mr. Riggio called a 10 minute recess at 10:25 am. The meeting resumed at 10:35 am.

CASE # 9 - RTL 01-24-05 - CBPR Inc is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **534 N Peninsula Dr.** Violation(s) – Zoning violation - the property is zoned BR-1. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 10/20/2023.

Mr. Walter Snell, attorney, came forward.

Inspector Yates stated that the City is requesting to dismiss the case due to confusing wording on the Business Tax Receipt. He stated short-term renting isn't allowed but the Respondent thought that it was.

Mr. Jackson agreed.

DISPOSITION: The Special Magistrate dismissed the case.

CASE # 11 - RTL 01-24-14 - John Andrew Singelsether & Ha Thu Singelsether Life Estate is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **328**

Manhattan 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 – 12/6/2023.

Mr. John Andrew Singelsether and Ms. Ha Thu Singelsether came forward and were sworn in.

Inspector Yates stated that within 24 hours, the Respondents took down the listing but due to a technical issue the site didn't get completely taken down however there was no way to book the unit. He stated he is requesting a fine in the amount of \$1,000.

Mr. Riggio stated the inspector observed the December 6 violation and noticed the Respondents the same day by posting the property. He stated at the January 23rd meeting they found that the listing was still up and took it down that same evening. He stated according to the minutes of the January meeting, Ms. Singelsether put the listing on snooze.

Mr. Yates stated Ms Singelsether believed she had closed the account but it has to be permanently deleted and that is further down the list and off to the side. He stated you cannot put in dates but can message the host directly and book.

Ms. Singelsether stated she doesn't want anyone to rent and they are going to sell the property. She stated they never wanted to do anything wrong.

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 is a repeat violation. He imposed a one-time fine in the amount of \$1,000, 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 February 24, 2024.

CASE # 10 - RTL 01-24-04 - Cindy Lee Niles is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1045 Chaffee Pl.** 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 – 10/20/2023.**

Ms. Bergundy Niles Steele and Ms. Cindy Lee Niles came forward and were sworn in.

Ms. Niles stated she was out of the country and her daughter opened the airbnb listing to process a financial transaction for the first month's rent for a long-term tenant.

Inspector Yates stated this is a second occurrence and he is requesting a \$15,000 fine.

Mr. Snell questioned Ms. Steele and she stated she doesn't remember the exact dates that she opened the listing but it was sometime in October. She stated she is an attorney dealing with veteran affairs but is familiar with airbnb and uses it for short-term and long-term bookings. She stated she also uses Facebook Marketplace and other websites for long-term as well. She stated her mother's listing was not visible in October and it is not on now. She stated she used airbnb so that the tenant could view the pictures and he agreed to pay the first month's rent on October 15th on the airbnb site. She stated she had no communication with her mother until

October 20th. She stated her mother was very upset. She stated her mom came home on the 25th and she was aware the home was not allowed to be used for short-term rental.

Mr. Jackson asked Ms Steele if she was familiar with Airbnb and that it is a short-term rental format. He explained that holding out the property is a part of the violation as is the check in, check out and daily rate requirements.

Ms. Steele stated she books both short-term and long-term for friends nearby her grandmother's condo in South Florida. She stated she has used Zillow for short-term rentals and knew she was not able to rent for a short term. She stated people working remotely sometimes want a 3 month or 6 month rental and through airbnb they are able to see the pics, pay the rates and that they do a background check for her which saves her money. She stated they verify his accounts and criminal history. She stated the tenant was there over 3 months.

There was discussion regarding the benefits of booking through airbnb.

Mr. Jackson asked Ms. Steele when she ~~started~~ and stopped.

Ms. Steele stated she opened it on October 13th and closed it a few days later.

Mr. Riggio asked when the lease began and pointed out that the lease goes through November 1st 2024.

Ms. Steele stated November 1st.

Mr. Riggio stated the rate is \$85 nightly.

Ms. Snell stated she crossed that out and the total fee was \$1235.00

There was discussion regarding the tenant's \$300 deposit.

Mr. Yates stated since this is a second occurrence he is requesting the \$15,000 fine. He stated longer bookings are sometimes discounted.

There was discussion regarding whether or not you can book for a year on airbnb.

Mr. Riggio stated that the Respondent did not post the advertisement and that Ms. Steele's explanation was believable and logical and that she is an attorney

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 imposed a one-time fine in the amount of \$200, 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 October 24, 2023.

There was no Miscellaneous Business.

The meeting was adjourned at ~~11:49~~ ^{12:36 pm} am.

Mr. Riggio reconvened the meeting at ~~11:51 am~~ ^{12:38 pm} for continued lien review at 126 W Gardiner where the Respondent did not appear on Zoom and denied reduction of the lien without prejudice.

The meeting was adjourned at ~~11:53 am~~ ^{12:40 pm}.