
City of Daytona Beach Special Magistrate

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

David A. Vukelja, Special Magistrate

March 1, 2024 Minutes

Attendees:

David A. Vukelja, Special Magistrate

Staff present:

Mr. Anthony Jackson, Duputy City Attorney

Mr. Denzil Sykes, Code Compliance Manager

Mr. Mark A Jones, Code Field Supervisor

Mr. Kevin Yates, Code Inspector

Mr. Joe Graves, Audio/Video

Mr. Xavier Campbell, audio/Video

Ms. Kimberly Reno, Board Secretary

Approval of Minutes by:

Special Magistrate

The meeting was called to order at 9:05 a.m.

CASE # 1 - SMG 09-22-278 - Daytona Beach Resort LLC & Daytona Beach Resort and Conference Center Condominium Association, INC. is cited for failure to correct violations of The Land Development Code, Art. 6 Sec. 6.12.D; Art. 9 Sec. 9.2.A (Ref. FBC Supp. IPMC 304.10), at 2700 N Atlantic Ave. Violation(s) – Damaged columns, dilapidated balcony, peeling paint, damaged, cracked, or broken concrete on exterior and interior of parking garage, dirt and grime. First Notified – 11/6/2021.

Mr. Vukelja Call to order the special magistrate proceeding for the City of Daytona Beach the March 1, 2024. Specially set hearing. Purpose of addressing. Beach resort LLC we had two cases before us when I was here last.

Inspector Yates read and confirmed the case before the court today.

Mr. Vukelja called all staff for Daytona Beach that will be testifying in today's proceedings to please stand and be sworn.

Mrs. Reno swore in staff.

OK. Are we just here in the parking garage right now?

Inspector Yates Yes, Sir.

Mr. Vukelja, I know it's broader than that, but let me just refer to it as the parking garage versus the other case, which as I recall that was all sorts of pool issues and what have you.

Inspector Yates I was going to say the same thing that, that is that's fair but separate.

Mr. Vukelja, Alright, this matter is here for the imposition of a fine. So that having been said from year from our inspector first

Inspector Yates alright in this specific case, what the city is now speaking is a plan to move forward on the repairs with the timeline. And then to give them sufficient time to accomplish that.

the cities not fining this specific case as of yet. We'd like to hear their timetable and work with them.

Mr. Vukelja, who is here on the half of the respond? Alright, will anybody aside from council who will be testifying on behalf? Be sworn in by our secretary. **Mrs. Reno** swore in **Mr. Harrison Merrill, Ms. Natasha Herndon**.

Mr. Vukelja, OK. Are you the respondent as well? You're the condo association, Counsel Ms. Leanne Wagner correct, for the Condominium Association.

Tina Garcia here on behalf of Daytona Beach Resort, LLC. As you can see, clearly the client representatives are there in person who will discuss any of the factual issues further, but I'd just like to note our position in brief at the onset. We appreciate the opportunity for the special magistrate to approve the engineering reports, another decision as the property. If you recall the last hearing on the issues got very technical and complicated, so you requested this special set hearing so that the parties would have an opportunity to show you the engineering reports and their plans for the repairs to be conducted with the structure. My clients have an engineer report which they will be showing you today and you will see that the engineer recommends the complete closure of the structure until it's properly shored and strengthened. Specifically applied, the engineer stated that the garage floors, the residential floors. The north tower structure should be vacated, and the use terminated until such time as the structure may be shored and strengthened. It also notes some of the structural deficiencies of the building including the floor slabs which are cited instruction in efficient with allowable punching shear stresses being exceeded. By as much as 51% the garage floors and 54% of the residential floors. It also notes that there's some post tensioning that exceeds allowable levels and that there's inadequate mild reinforcing. The repairs that need to be conducted on this property exceed the scope of what was initially proposed by the city. My client believes that safety is of the at most importance and has concerns about the structural integrity and accordingly requests that the magistrate withhold the use of the structure until the improvements are completed. In Accordance with its Authority under Land Development Code, Article 10, Section 10.43 A. We appreciate hearing that cities not seeking to fine at this time and we hope that the party can move forward with the path towards resolution and ensuring the structural integrity of this property. Safety concerns are the most important issue and look forward to showing you the report today. **Mr. Vukelja**, So the Reader's Digest version is what? what's wrong, what has to be fixed and what has to be done to make it happen? **Tina Garcia** And my client today is there with the report. He will show it to you where the engineer goes through what's wrong, what needs to be fixed, and that for now what we are seeking is a complete shutting down of the structure until that is implemented. **Mr. Vukelja** Talking about the parking garage at this resort. **Tina Garcia** parking garage and I believe it extends to residential floors of the north tower as well. **Mr. Vukelja**, so you're wanting to shut down the parking garage and you're wanting to shut down a residential floor? **Tina Garcia** Yes, of the north tower. **Mr. Vukelja**, and are the residents on this floor? **Tina Garcia** Yeah, my client representative who's there, can speak more as to which portions are being utilized now and I would defer to him to speak to the facts as to what's been done, what has been closed, and what remains to be closed. **Mr. Vukelja**, what if anything does that do for the timeline you're looking for? **Mr. Jackson**, may I approach. I don't believe that the depth of this proceeding was to deal with all of that, the question you left us with from the last proceeding and these issues were brought up at the last proceeding you left us with the question of them saying they weren't sure exactly what we were requiring them to do. They spoke of things over and above what was being required. **Mr. Vukelja**, Now we're talking about regarding the parking garage **Mr. Jackson**, and you ordered for city staff to go out with them, meet and ensure that they were fully informed of what we were requiring them to do. **Mr. Vukelja**, the inspection so nobody can claim they didn't know what it was having to be repaired? **Mr. Jackson**, That's correct and speak to that. That's

what our recommendation is related to **Mr. Vukelja**, you're telling me that happened. OK, so as a result, what is the city's recommendation? **Inspector Yates** The city's recommendations very simple. We went over the different cracks and breaks in the garage. We're asking them to remove those cracks. If they're saying that additional work needs to be done to do that, then that's what needs to be done. But we are simply showed them the cracks and breaks and prepared. We're asking that they are. **Mr. Vukelja**, just describe for me if you will the severity of the cracks in the repairs that you found in need of repair, so I can engage how significant. **Inspector Yates** there is exposed rebar, cracked columns some cracks that do extend from the floor of the column to the roof of the ceiling but unfortunately, not being a structural engineer, not doing core samples, not doing any of that, I cannot tell you the severity. **Mr. Vukelja**, did I read somewhere that we're talking about talking about something like 300 columns, six floors did I see that somewhere? I got one out of five correct. So just for my poor tired mind. So I can try to get my arms around this. We're talking about 300 column. How many of those columns did we determine when needed? **Inspector Yates** We looked at least about 25% of the columns I would say had some sort of issue on them from being very minor, some looking severe, but once again severity is not something I unfortunately can determine **Mr. Vukelja**, you mentioned the structural engineers, has a structural engineer not already been out there to look at these things **Inspector Yates** theirs has and they're free to present their findings as they feel, my understanding they're telling us that it needs significantly more work than actually just a patch job. And so we're asking them to lay out the timeline for that work. **Mr. Vukelja**, And they're asking for a lot more than that. They're suggesting that the garage be closed down. Sounds like parts of the residential floors would be closed. **Inspector Yates** That is what you heard, that would be outside of our scope and not something that we're recommending. If their engineers are saying they need to take those steps, then I would suggest always listen to your engineers. **Mr. Vukelja**, Alright, so coming back over here. What do your engineers have to say about the garage? **Mr. Merrill** So in our understanding, part of this hearing was to present this report. **Mr. Vukelja** how long is this report. **Mr. Merrill** it's highlighted, It would take a couple minutes to read over. There's two of them, right here. One is from April 18, 2022. This is after we've had other reports. This was when we had a follow up report to what did we need to do in further testing. The concern was that one you'll see says shut everything down immediately. We shut the garage down to your question earlier, It's been shut down since May of 2022 because these issues. There was a follow-up report done by Falcon Group which said to a less severe, it's still unsafe, but if you reduce the live loads it could be safe. But it's if if if and a lot of monitoring, we are very uncomfortable especially knowing the issues are the same issues that you had in the disaster in Miami. **Mr. Vukela** (paused to read the documents) What is punching shear stressing? What does that mean? **Mr. Merrill** My understanding and just in many conversations with the engineers. It's the columns in the building which go from the ground level through the garage up through the condominium. Because there's the garage you mentioned you're familiar with building 6 stories of garage and then above it seven through 12 or 7 through 13 of building. And what it is, is the slab weight is heavy, so it's pushing the column is pushing up through the slab, where if it goes to a certain level and breaks, those slabs fall and collapse, which was the issue in Surfside. **Mr. Vukela** what residential floors is this engineering suggesting should be vacated? **Mr. Merrill** seven through fourteen so there's a separate tower that's one through five on the other side of the building that isn't part of this, it's totally separate. **Mr. Vukela** they mention everything above the garage. **Mr. Merrill**, yes sir. **Mr. Vukela** (paused to read the engineer reports) come back to you. Engineers saying shut down the garage, remove the people, shut down the tower. I got another report that says reduce the utilization of the garage, reduce the utilization of the tower. So all that having been said, what is the relief the city is looking for? **Mr. Jackson** the relief the city is looking for was for them to come into compliance with the issues we cited them for, we have been made aware of the engineering

reports, that would be beyond the scope of a standard code enforcement proceeding, that would be something that would go to our building codes and basically asking for some form of a condemnation. Our chief building officials made those reviews? They're currently in arbitration because they have differences of opinion on what those reports are saying or the way they should be interpreted. **Mr. Vukelja** slow down, the only arbitration I'm aware of so far is all over money. Is there another arbitration over the means of Remediating the property? **Mr. Merrill** it's responsibility and the concern is that this is going on almost five years now and the deferred maintenance keeps getting worse and worse. That's our concern that this is the issue is not getting better it continues to get worse. **Mr. Vukelja** Okay but my point is the court I presume has satisfied itself that had it has jurisdiction over the issue, of not only the money involved but also the contractual obligations between these parties when it comes to when, how and why do we mediate? So you just want them in compliance? **Mr. Jackson** That's correct. **Mr. Vukelja** You're asking what does that mean as far as we're concerned when they talk about coming into compliance, they are apparently armed with a couple engineering reports that say God awful choices. So, OK, So what constitutes compliance as far as the cities concerned, **Mr. Jackson** as far as the cities concerned, is what was expressed by the inspectors. as it relates to those code violations. **Inspector Yates** basically we're requesting that they fix the cracks and breaks and the columns in the garage. And of course also the peeling paint issue and now they're saying to remediate those it's going to take structural work. And if that's what it takes, then they're saying that's what it takes. We're just saying repair it. And we're asking for the plan that they have with milestones and dates to get those repairs done. **Mr. Merrill** and if I can touch on that, we have the plan. We have Tasha and her team spent a lot of time working with the engineers, with the contract. We're at that point. We have what it needs fixed. **Mr. Vukelja** have you shared the plan with the city? **Mr. Merrill** I Believe so. **Inspector Yates** But yeah, we're looking for dates of when they're gonna start. That's an important thing. They're not providing their start dates or they're end date. **Mr. Vukelja** What have they're presented you with, some kind of construction schedule. **Inspector Yates** Yeah, so basic of how long it would take, but not very general sense of your idea, but not once again we're looking for when is your start date and what are those milestone date and expect along the way to inspect to see if you guys are making progress. **Mr. Merrill** and that's what we're stuck with arbitration that the responsibility issue that's been going on for years. But our concern is it's our building and we were like any other building that we own this thing would be shut down and pull its fix. The problem here is got a piece that we own that down you gotta. Any amount they chose not to shut down and if it's being fixed it solves the issue, but we're only talking about the garage, the garage It's only we been able to get reports and all this, the plan, the structure of the engineering drawings to do the construction. This has to be done. It's the same thing. The columns go all the way up, so it's got to be done together with the garage and the tower. That's where this issue lies, where it just continues going drag someone. But we're three years from knowing this stuff and the concern is. It being open and operating while. Disputing the responsibility. Is a very scary position to be in because of the safety issue. And it just continues on. I thought arbitration thought these issues were going to be done years ago. I thought arbitration was supposed to get quick process and it's just dragged on. There's been motion after motion after motion that just keeps delaying the the hearings that I thought was supposed this month and now it looks like it's pushed back to next month or later, but that's our concern is there's people in this building unaware of what's going on. **Mr. Vukelja** is there a copy of this construction schedule that you keep talking about? **Ms. Herndon** provided **Mr. Vukelja** with a report and stated this has some information as needed. This is from the contractor to do the repairs, the structural engineer identified approximately six columns that have structural issues in fact in 2020 the same engineer that's doing the balcony work said hairline cracks and that we pointed out in our inspection so this is the contractor's repair plan for the puncher issue.

its taken months to get to this point because of the extensive amount of moding that was done. Condition assessment reports they've had to revise the plan two times before it was signed and sealed by the engineer. And ive got all of those drafts in there for you, there's keep flipping through if you want to see the actual final design that was submitted by Falcon group. Falcon group's been updating the city as you go along every time sending notices. That's the final sign in Seals, and I have larger copies of course. It goes through the analysis. It includes all the columns, in fact the hairline fractures. **Mr. Vukelja**, is this is going to give me a nice little step by step timeline of the work to be done? **Ms. Herndon** On page two they put milestones. So if I believe here there's milestones that are accomplished, once this is achieved, the next step is started and it goes along with the funding. **Mr. Merrill** about two months per floor correct? **Ms. Herndon** Yes. The plan would be for them to start on the lower level shore repair columns and then continue to the upper levels. There's more damage on the north side than the South. The contractor has been out since in the last two weeks and again confirmed that the repairs that have been requested by the city are part of this project. It's step one of a three phase project that was put together and I have that binder in 2022. Submmitted by United Engineering consultants, that said. **Mr. Vukelja**, projects duration is twelve months. Where are we on permit fees, engineering and architectural fees? **Ms. Herndon** So we have received the signed and sealed design plans that was the bid set was put together from those and he submitted them and we're at the point now where. The sign in Seal plans with the contractor can submit for permitting once he receives the the funding for the deposit. **Mr. Vukelja**, so we get money to the contractor, contractor takes his plans to the city **Ms. Herndon** Yes. **Mr. Vukelja**, hopefully the city gives him a permit **Ms. Herndon** Yes. **Mr. Vukelja**, projects going to take a year seems to be broken down into 20 columns at a time **Ms. Herndon** Phase One. **Mr. Vukelja** 60 columns each phase, how long is each phase expected to last? (only broken down by dollars) **Ms. Herndon** he didn't break down, So that is phase one of the additional things if you'd lik to see in the building consassessment report. **Mr. Vukelja**, well im looking at after 20 columns have been repaired and capitals installed, I don't know what that means, there's an amount due so we're talking about 60 columns as far as what you've handed me, it looks like it's 20, 40, 60. All I'm wondering for his benefit so I can start visioning some kind of a tmeline or schedule here is how long do they guesstimate its going to take them to do each of these 20 column segments that they've broken us into. **Ms. Herndon** I'd have to check with them to be honest. **Mr. Vukelja** well its 12 months so I'm going to assume its four months for every 20 columns so until somebody screams otherwise Im going to assume that's the case so that we can translate this into what we're going to be doing here, Im going to be looking for permits, you're telling me you've got your plans, all you got to do is submit them with probably \$200,000 dollars and then off goes your engineer to get a permit. Once you get that permit you're expecting 20 columns to be done about four months later. Am I reading that correctly? **Ms. Herndon** on the puncture sheering issue, the other of the United Engineering 2022 building condition assessment report says that there is additional phases that need to be done. Concrete and post tension cable repairs, traffic deck coding and joint sealant and then the final property ops for painting and such. **Mr. Vukelja** when does that work take place? I assume it's something that follows this. **Mr. Merrill** it would be after that. **Mr. Vukelja** does it add to it or is it done contemporaneously with some of this? **Mr. Merrill** advised (he would have to check) its his understanding it would have to be done after because we cant have all the machinery in the garage. **Mr. Vukelja** do you have any estimate to how much time that's expected to take? **Mr. Merrill** I would assume that all together wouldn't take more than about three months. **Mr. Vukelja** repeat that little laundry list of tasks againthat they're doing. I heard painting, something about cables. **Mr. Merrill** yes, you've got the pucture sheering issue which is the big issue and this is just for the garage part of the problem is there's nothing to our knowledge being done above it so it doesn't solve the safety issue but it's puncture sheering and

they take care of all anything on those columns they'll take care of. They'll be repainting around it, they can fix any small cracks or anything in the slab around where that is and then the second phase the main pieces of it would be the waterproofing to prevent more water intrusion into the slabs and any other. **Mr. Vukelja** sounds like its all critical to what you're looking for before this job is done. **Inspector Yates** that's what they're telling me. **Ms. Herndon** the garage bid set that I just placed for you was produced in April of 2022 that binders from United Engineering it was the overall garage bid set to be sent out to contractors it was prepared prior to receiving this engineering modeling study that said there's a puncture shearing issue so outside of puncture shearing issue there're the other three things that we just spoke to breaking down, concrete and post tension cable repairs, traffic deck coating and joint sealant and then the painting, property ops, lighting, electrical, plumbing. So step one is puncture shearing per the engineers. **Mr. Vukelja** all right well it sounds like we've got albeit perhaps a little rough we've got the elements of the work to be done and a quesstimate to the time frame, we even have an estimate as to cost and what have you, that's all well and good so that's all your looking for isn't it? **Inspector Yates** I want to know when there going to start. If they completed all that work that would satisfy the city. **Mr. Vukelja** I don't know that its any of my business but I guess im going to come back over here and what are you going to tell me now, you cant do any of that until the garage is emptied and that the towers are emptied? **Mr. Merrill** the garage is empty, we own the garage we would not put a car in there until its fixed because theres the risk and were not going to take that risk. **Mr. Vukelja** what else are you needing enable your contractor to do this work? **Mr. Merrill** the arbitration ruling of responsibility. (inaudible) Were talking millions of dollars to fix this, were not in a position where we could fix it for the 318 unit owners to hope that that gets, theres not money to fix that, theres not \$2 million every time for the last 30 years this buildings been operated any structurall issues any issues have been out of the reserve account but the reserve account hasn't been funded for five years which wherein lies the problem which goes back to the contempt ruling from several, a year and a half ago which I know not in your purview but that's the problem were at a point where we cant do anything other than say were going to keep the garage safe as closed no live load is a safe garage, but whats above it there is a live load and it has the same issue that's where were concerned. **Ms Wagner** again to reiterate what **Mr. Jackson** said this is outside the scope of what we were here for today. Were coming today to get a plan for the developer to address the city violations that was it **Mr. Merrill** referred to motion after motion being filed theres already been an arbitration ruling that the developer for the parking garage they're now challenging it from a different angle with a new motion so there has been a ruling that they are responsible the owners for this association have been waiting years for these issues to be addressed the developer has now admitted that theres a phase one that deals with the city's concerns that could have been completed frankly sounds like two years ago three years ago so we ask that you please impose whatever you can to make this start quickly proceed quickly and go to completion. **Ms. Garcia** interject very briefly. My client did a great job of going through the history and where we're at with everything, but I'd like to remind the Special Magistrate that it is not simply the developer who is named here as a party as being responsible for these code violations. It is also the association because of the joint ownership issue. And at the last hearing you indicated that any fines assessed or any plans in action would be against both the developer and the association together because that is how the city has postured the case. It sounded like the association attorney was trying to ship everything to the developer. And I just wanted to note for the record. That is not how this is postured here today, so a framework needs to be set up in place where you know the association's aware of it as well. **Ms Wagner** (inaudible) acknowledged the associations part was for the balconies since being joined in the case February of 2023 they acted diligently, expediently and their work is almost complete. **Mr. Jackson** At least at that time, we had the understanding that they had joint obligations or responsibilities. That's related

ultimately to the the ultimate outcome which could be found against the **Mr. Vukelja** is the balconies the only part of this case that relates to the association. **Mr. Jackson** When we cited it, cited it with that understanding. Is that correct? **Mr. Vukelja** So if the balconies are fixed, regardless of who fixes them, are the balconies in compliance? **Inspector Yates** Yes. **Mr. Vukelja** and it sounds like the balconies, the way this is all worked its way through is a lot simpler portion than the rest of the Magilla that we're dealing with **Inspector Yates** yeah we should see that permit finalized i believe by april which is when you ordered on them in compliance specifically the balcony last time. **Mr. Vukelja** I suspect If the Association does what it's supposed to do and gets those balconies in compliance and they will be dismissed is what your telling me? **Inspector Yates** at your discretion absolutely. **Mr. Vukelja** okay now. Way it stands right now both of these entities are respondents OK. What keeps you from applying for permits within the next 30 days? **Mr. Merrill** Deposit. **Mr. Vukelja** is that it? Alright. Has the city looked at your engineers work, do we have any feel for where the city is on approval of a permit application? **Mr. Merrill** No. **Mr. Vukelja** are we starting from scratch. **Mr. Merrill** Correct. We reached out after the last one to the building official to understand their stance. We haven't heard back yet, so we don't know from the city standpoint on the engineering reports. The last we talked to him was after we shut the garage in May and they were going to follow up when they got a report from the 2nd Engineer, that was last time we had further spoken to the building official. **Mr. Vukelja** if everything went according to hoil. How long would we reasonably anticipate it would take for the city to approve a permit. **Inspector Yates** assuming everything's in line it's major structural work 4-6 weeks. **Mr. Vukelja** OK Mr. Jackson, I could talk to you for a minute. I would assume in the ordinary course of things. Giving something like this, that's probably a little bit more of an extended project. You would be looking to try to break it down into foreseeable segments. What I'm hearing would kind of indicate to me that perhaps what I should consider doing is giving this respondent until April 3rd. To get a permit. Now he's already told me and I've already heard it might take four to six weeks, so that may not happen. And if the city has questions or objections or things to be resolved, I will certainly be mindful of that, but I would like to make everybody do their best efforts to get a permit by April 3. I do not. Given the fact that this is going to be a 12 month project, wanna start projecting compliance dates? I wanna see where we are at our meeting on April 9th. And then I would probably be inclined to go from there, at which point in time, hopefully he has his permit. If contractors talking about getting started? And we can be a little clearer about scheduling out the phases, that are going to be called for during the course of construction. Now is that about what y'all are looking for? **Mr. Jackson** that is, this is not very different from what we dealt with before historically with condos we've had cases that have extended into very lengthy time period the biggest difference here is dealing with ownership circumstance that theyre dealing with but as far as what we've done in the past is ask for the permits to be sought and then do a series of progress reports until we get into a range of knowing when the project can be completed, the most important thing to us is that they're making good faith progress towards completion. **Mr. Vukelja** Right now, before I go making any decisions, anybody else wanna be heard on this matter? Mr. Roger (Cooley?)inaudible. sworn in. They know full well that we are up against the Hard Rock. We have no place to park. We have been parking in an adjacent park, paying almost \$10,000 a month to park there because they won't let us park in the garage, even though the engineer study says we could park at least the 50%. They know that there's gonna be a building built there. We're gonna be evicted. We'll have no options, no place to park starting this summer. And we could have been parking in that garage for the last two years under this engineering report at least at 50%. Now we have nowhere to go and they know it and they're pushing this to get unlimited time frame to do this repair. That's going to take forever and ever and we're are we gonna go, We have absolutely no option and they know that much less throwing us out of our own homes above, which is totally an affront to our our safety,

our health. We they're not really concerned about safety, They're really concerned about causing damage and hurt to us as the residents of this building. **Mr. Vukelja** Do you have any engineers or any other professionals who have said or suggested to you that there's any way to do it other than what they're engineers is proposing? **Mr. Roger (inaudible)** you have, I believe you have the report there that the Falcon group. **Mr. Vukelja** one says empty the garage completely, one says knock it down to 50% and don't put anymore than 4 residents in the **Mr. Roger (inaudible)** we're complying with that. **Mr. Vukelja** Well, the thing about this, Sir, and you're not going to find this very satisfying, but that's outside. That's over my pay grade. Now you're talking about a contractual obligation between the association and the owner, for example. He may very well find himself back here telling me saying Mr. Vukelja, I haven't done any of this stuff you asked me to because the associations objecting to this, the association got an injunction for this. The association got a restraining order for this. Those are matters between the association and the developer which will impact their coming into compliance and may or may not keep them from getting fined. I don't know the answer for that yet because I'm not there yet, but it's here before me now and my job is to get the garage up to snuff and address the life safety issues. As you can see, there's lawyers all over the place over there and they're all there to talk about who's going to be responsible for what. I suspect the developer may very well be in court wherever. I don't know who the judge is saying, judge, you're going to have to remove these people before we can perform our obligations under the contract. To remediate the common elements, or whatever it may be. I'm making stuff up. I don't know. The point is, there's a whole body of arguments we had over there, which is why you're not going to be satisfied with what little I do. What I'm going to do is, I'm going to say, OK, I'm going to adopt this, I'm going to hold you to it, You're going to do it, or I'm going to fine you. Now. I will tell you if he's got a legitimate explanation. For why he can't move forward for reasons that have to do with litigation land. As opposed to construction And that gentleman right there might very well say, Mr. Vukelja, you don't get to do anything right now but sit and wait like everybody else. If, on the other hand, the answer is no, there's no reason for them not having done that. There's nothing that stops them from doing that, and that might very well be a different story. But I don't want to start speculating right now. I'm going to lay out my own game plan and we're going to start. We're going to get from here to where we need to be now. I can't tell you it's going to be pretty along the way But we're going to get there. **Mr. Roger (inaudible)** I just wanted you to know the other side. Thank you very much. Yes, Sir. **David Marquis.** (Sworn in) I was on the board of directors when this whole thing started, two to three years ago or two years ago. I was involved with both engineering reports. I've spoken with both the engineers who did the reports. The first report was done strictly on computer modeling. There was no inspections, there was no testing, And that was based on a computer simulation of what the current building codes require when this building was built, I believe around 2000. It complied with all building codes and all building standards. Speaking with the engineer that did the report we hired they actually did destructive testing X rays and a much further testing and determined it was much less severe than the original report now nothing has happened to the building since it was built no defects no damage this is something that every building This is something that every building of this structural type was built in around 2000 has a same issues modern building codes look at live loads and the puncture shear and the weight that a slab can hold different than they did 20-30 years ago. Air, on the side of caution, sure you can do things to make the columns a little bigger so it comes up with the current building codes, although it's not required. This originally came before the city code violation for purely cosmetic issues. There's a couple years ago now. If they take care of the structural issues, those cosmetic issues will be repaired along the way. So that's great. That's a much simpler problem than what they're talking about. The structural issues, the only thing before the city, the violations are purely cosmetic issues, some cracks and spalling concrete, exposed rebar. Now if they do all the work to do for

the garage that it will take care of those. It's going to be much longer process. There's longer to have. Perfectly fine as long as there's a process and the milestones and progress continues. This has gone on for well over 2 years and not a single thing has been done in those two years. Carmine Rocioppi sworn in I'm not trying to be disrespectful at all to anyone in this court. This is like a father and a child, but will get back to that. When you build the bridge. The Bridge, I just came over here to come to this beautiful courthouse. You could put airplane and a tank load on that and stop it on there and it could be sitting there for 20 years. That's the way that tower is built. It is built to withstand over 10,000 lbs times whatever it's supposed to hold. And that's the same thing with your bridges, because you don't know if you're gonna get into an invasion from alien forces. Hypothetically, right? But you understand where I'm gone. I could have tractor trailers with tank on top of tank on your bridges. They could sit there for 20 years. Your bridge isn't gonna move. That's number one. Number two, I am so. My God, how does this go on for five years on a parking garage, on a structure? Now the man over his telling us that you want us to move, Is he paying to turn around and take those poor people that are in that towel and put them in a hotel or they're gonna be lost for the revenue of this building? I can't even breathe due to the pools in the backyard. Filled with mold, mosquitoes. I have infections, sinuses over here. I've been dying for over 10 days looking at those pools. The people who are that up with the garbage, he said. She said. Who's blaming who? My father, if I turn around and I yes'd him to death, Like you're getting yes'd to death. No disrespect. You spent seven years on your education. Whatever it is you got elected into this position. If my father, I'm going to give you my father, if I told my father. Yeah, two times. Smacked in the head, kicked in the axx, excuse my French. With that being said, that's what I feel is being taken on into this court. We're over here and we're playing ***** games. Those are people's lives, people's housing, people's money. I don't play games. I'm straightforward. Your I tell you right to your face. I don't play no games. Nobody. I don't disrespect anybody. But with that being said, we're all being disrespected. We're all being smacked. You're telling me it's raining when you're ***** on me and this is going on for five years? I'm gonna stop before I get into contempt of court. God bless you here. **Mr. Vukelja** One thing that is way beyond my purview is any ability whatsoever to fix the past. I can tell you that right now. I can tell you is I can work in the present and I can do what I can to make things happen in the future. So. That having been said I'm gonna order the respondents plural since both respondents are still in this case. To have. Permits in hand by the April 3, 2024 cut off date. And it's my understanding that for the respondents to be able to do that they're going to have to pay a sum of money to their contractor or engineer whoever put all this together for you. And they will have to have submitted it for the city's approval, and the city will have approved it now if due to circumstances beyond your control, you don't have that permit. Then be prepared to explain that to me. When we meet again on April 9th, because on April 9th, I'm going to schedule a progress report on this matter. And perhaps the determination of the compliance date, Although I'm probably not going to set a compliance date because when I get into things like this, I like to keep them on a pretty short leash. So all that means is I'm going to order the respondent to have permits by April 3, 2024. Respondents or be returned to the Special Magistrate for consideration of a fine of up to \$1000 per day thereafter, and we will. I will also be scheduling a progress report for the respondents at our April 9, 2024 meeting, at which point in time. I hope to find out the permits been issued. Someone's gonna start talking about we're getting ready to start construction and that will have the first phase done within four months. That's what I'm hoping to hear because I'm pretty much planning on ordering that right now, unless I start seeing all sorts of Herculean reasons as to why that shouldn't happen. Discussion clarifying the meaning of the phases. **Mr. Vukelja** Let me eliminate the word phase and use the word garage. Garage, followed by a series of other things that are required. What I'm telling you and what I'm telling you is that I expect to see a permit to get the garage into compliance, whatever that entails, by April 3, 2024 and at our meeting on

April 9. Assuming you have that permit in hand or you have satisfied me that it isn't in hand for reasons beyond your control and we will talk about getting that permit in hand and we're going to start establishing compliance states for partial completion of the garage repairs and anything else that's called for to bring it into compliance. That includes the end of the job stuff that you just described, which sounds like it's maybe more cosmetic than the rest of what we're dealing with, but I don't want to trivialize. Discussion on removing the association from the garage portion of the case if they are in compliance with the balconies. **Mr. Vukelja** So I'm not going to discuss that one right now, And I'm too old and wise to say anything like to say yes to anything like that and anything else. **Mr. Merrill** One question I have is again there's two pieces to this. I know the compliance piece with for the city is one thing, but to fix this it is garage puncture shearing in the rooms puncture shearing Is that **Mr. Vukelja** you and your lawyers deal with that? I can't help you with that, that gets into issues beyond my purview. I'm here about a garage. It's all I care about right now. Now I know the knee bones connected to the thigh bone and the thigh bones connected to the hip bone, but I'm here on a garage. And you're now talking about the mechanics of how you and the unhappy condominium association collaborate for the purpose of you getting your work done. I can't help you with that. **Mr. Merrill** Who do we go to for the safety? Because I feel like we're **Mr. Vukelja** seems to me she's right there. Well, she was there. Isn't that your attorney? **Mr. Merrill** Correct. OK, I'm talking about the safety of the of the building because again, we're part of it. **Mr. Vukelja** all I can tell you, and I'm not here to give advice and I'm certainly not here to second guess what an attorney is doing. But if I were a condo owner in this day and age, and I've had some reasonable suspicion there was a hazard there, that would not only hurt people, but subject me and my and God knows how many other people to horrific, unspecified damages. And I guess I'd be banging on a judge's door until I got heard, until I got some sort of relief. I would at least do what I'm telling you, you would have to do if you come here. If you don't have that permit, explain to somebody how it was beyond your control and you did everything humanly possible to make it happen. Like. Anything else? OK. Is that it for today's proceedings? Yes, Sir. So everybody here who wanted to speak on an opportunity to speak. Very good. Good luck to everybody. We're adjourned.

DISPOSITION: Ordered the respondent(s) to have the necessary permit(s) in place by **April 3, 2024**, or be returned to a subsequent meeting for consideration of the imposition of a fine up to \$1,000 per day and return for a progress report at the April 9, 2024 meeting.

6. Adjournment: 1:30 pm