
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

April 23, 2024 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Deputy City Attorney

Mr. Denzil Sykes, Code Compliance Manager

Sgt. Timothy Blowers, Daytona Beach Police Officer

Mr. Kevin Yates, Rental Inspector

Ms. LaWanda Tomengo, 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 9:01 a.m.

Mr. Riggio announced the procedure of the meeting.

Mr. Riggio asked for announcements and there were none.

Mr. Riggio approved the minutes of the March 26, 2024 meeting.

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

Mr. Riggio called the first Lien Review.

LR-1 - RTL 09-22-181 - 601 Vera St - US Bank Trust NA and LSF9 Master Participation Trust 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 – 7/22/2022. Order Imposing Fine/Lien of One Hundred (\$100.00) dollars per day to a maximum of Fifteen Thousand (\$15,000.00) dollars imposed on October 27, 2022. Compliance via Affidavit Not To Rent = February 12, 2024. Amount due of \$15,000.00 plus \$628.38 plus \$24 recording fees = **\$15,652.38**.

Respondent was not present.

Inspector Tomengo stated that staff met with Geri Westfall, representative for the owner, and agreed to reduce the amount of the lien to \$5,000.

The Board Secretary stated she received an email from Ms. Westfall yesterday stating the respondents agree to the stipulated amount of \$5,000 which Code Compliance Manager Denzil Sykes read into the record.

Mr. Riggio asked that the email be included in the case file and a part of the record.

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 - RTL 04-22-82 - 1223 Sunset Cir - Bessie Morris (new owner is Shelena Andoh) 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 – 2/22/2022. Order Imposing Fine/Lien of One Hundred (\$100.00) dollars per day to a maximum of Fifteen Thousand (\$15,000.00) dollars imposed on May 24, 2022. Compliance = February 2, 2024. Amount due of \$15,000.00 plus \$24 recording fees = **\$15,024.00.**

Sue Marzello, Property Manager, came forward and was sworn in.

She stated her client, Shelly Andoh, inherited the property when her grandmother passed away.

Inspector Tomengo stated that staff met with Ms. Marzello and agreed to reduce the amount of the lien to \$1,500.

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.

Respondent, Geri Westfall, Representative for Lien Review #1 appeared via Zoom and was sworn in.

She stated that she, and her client, agree to the reduction to \$5,000.

Mr. Riggio stated the ruling previously made stands.

CASE # 1 - RTL 04-24-33 - Zephrein Selwood is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1290 9th St #206.** 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 – 3/6/2024.

Ms. Zephrein Selwood came forward and was 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 March 6th and notified them the same day. He stated the advertising stopped as of April 16th, the website lists the rate as \$100 per night, there are 7 reviews, check in is flex and check out at 2 pm. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

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

Ms. Selwood stated she rented the house when she wasn't there and that she also stays there when she visits. She stated she did not know she was doing 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. 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 April 16, 2024.

CASE # 2 - RTL 04-24-34 - Victor Roman & Enas Roman is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **101 Bent Tree Dr #69**. Violation(s) – Zoning violation - the property is zoned RP. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 3/21/2024.

Ms. Enas Roman came forward and was sworn in.

Inspector Kevin Yates stated the case was field generated and the property is zoned RP. He stated he first observed the violation on March 21st, 2024 and notified them the same day. He stated the advertising stopped as of March 26th, the website lists the rate as \$113 per night, there are 16 reviews, check in 3 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.

Ms. Roman waived repetition of Mr. Jackson's argument as to why the violation should be found to be irreparable and irreversible in nature.

Mr. Riggio stated that he will incorporate Mr. Jackson's statement given in case #1 regarding the City's position as to the irreparable and irreversible nature of the violation.

Ms. Roman stated originally their Association allowed short-term rentals and it has since been changed after this situation.

Inspector Yates stated the Association originally stated they could rent short term.

Mr. Riggio stated he will reduce the fine due to the documented Association error.

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 \$750, 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 March 26, 2024.

CASE # 3 - RTL 04-24-36 - Ralf N & Barbara M Schramke is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **101 Bent Tree Dr #66**. Violation(s) – Zoning violation - the property is zoned RP. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 3/7/2024.

Ms. Christine DiNardo, Property Manager, came forward and was sworn in.

Mr. Riggio asked the Respondent if she has permission to speak on the owner's behalf and she stated yes and pointed to Mr. Schramke in the gallery.

Inspector Kevin Yates stated the case was field generated and the property is zoned RP. He stated he first observed the violation on March 7, 2024 and notified them the same day. He stated the advertising stopped as of March 22, 2024, the website lists the rate as \$156 per night, there are 18 reviews, check in is 3:00 pm and check out at 10 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Riggio asked if this was the same rules as last case.

Inspector Yates stated yes.

Ms. DiNardo waived repetition of Mr. Jackson's argument as to why the violation should be found to be irreparable and irreversible in nature.

Mr. Riggio stated that he will incorporate Mr. Jackson's statement given in case #1 regarding the City's position as to the irreparable and irreversible nature of the violation.

Ms. DiNardo stated that Mr. Schramke pulled the ad and that he lives in Germany and will be renting long term. She stated he wasn't trying to do anything and asked for a reduction in the fine. She stated they paid the state tax and obtained a state license. She stated she just came on board and they were previously represented by a well-known national chain. She stated she has stayed at every hotel on the oceanfront and they are terrible and noisy.

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 \$750, 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 March 22, 2024.

CASE # 4 - RTL 04-24-37 - Kirt Taylor, Stacy Taylor & Ethan Taylor is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **537 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 – 3/14/2024.

Mr. Kirk Taylor and Ms. Stacy Taylor appeared via Zoom and were sworn in.

Inspector Kevin Yates stated the case was field generated and the property is zoned PD-G. He stated he first observed the violation on March 14th, 2024 and notified them the same day. He stated the advertising stopped as of March 19th, the website lists the rate as \$59 per night, there are 10 reviews, check in 5 pm – 10 pm and check out at 10 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. and Ms. Taylor waived repetition of Mr. Jackson's argument as to why the violation should be found to be irreparable and irreversible in nature.

Mr. Riggio stated that he will incorporate Mr. Jackson's statement given in case #1 regarding the City's position as to the irreparable and irreversible nature of the violation.

Mr. Taylor stated their son lives there and they plan to retire there. He stated they tried to rent rooms and in looking for sites, Airbnb seemed to be the best for long-term rental. He stated they found 1 long-term rental but stopped when they were unable to get long-term people. He stated the property was advertised for 3 months on their website.

Mr. Jackson stated advertising a long-term rental on a short-term platform may lead to temptation.

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 \$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 March 19th, 2024.

CASE # 5 - RTL 04-24-38 - West Shore 500 East LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1851 LPGA Blvd.** 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 – 3/28/2024.

Ms. Melissa Henshaw, Property Manager, came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned PD-G. He stated he first observed the violation on March 28th, 2024 and notified them the same day. He stated the advertising stopped as of April 16th, the website lists the rate as \$224 per night, there are 13 reviews, check in 3 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.

Ms. Henshaw waived repetition of Mr. Jackson's argument as to why the violation should be found to be irreparable and irreversible in nature.

Mr. Riggio asked the respondent if she has an objection to incorporating Mr. Jackson's statement given in case #1 regarding the City's position as to the irreparable and irreversible nature of the violation.

Ms. Henshaw stated no. She stated the tenant received a notice on April 5th that he is not in Compliance with the City and state laws. She stated they have an Airbnb addendum on their agreement but states they must comply with local laws. She stated going forward they are no longer allowing short-term on that property.

Mr. Riggio confirmed that Ms. Henshaw has permission to speak on behalf of the Corporation.

She stated the owner is letting the tenant out of his lease.

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 \$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 March 16th.

CASE # 6 - RTL 04-24-35 - James W McCotter is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1112 Waverly 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 – 3/13/2024.

Mr. James W. McCotter, Sr, father of the owner, came forward and was sworn in.

Mr. Riggio asked if Mr. McCotter is authorized to speak on his son's behalf. He stated he can speak on his son's behalf and that his son was out of town on business and would like a continuance.

Inspector Yates stated he did let them know that the option to appear via Zoom was available.

Mr. McCotter stated he wouldn't have been available and that he was the one that spoke to Mr. Yates.

Mr. Jackson stated since the property is in Compliance and would like it to remain in Compliance.

Mr. Yates stated the property came into Compliance within 24 hours.

Ms. McCotter asked for a copy of Mr. Jackson's irreparable and irreversible statement which was provided to him.

Mr. Riggio stated he would be continuing the hearing to May 18th.

Mr. Jackson asked what the nature of why he is not able to attend.

Mr. McCotter stated general activity and he wasn't able to be here today.

DISPOSITION: The Special Magistrate continued the case to the May 18th, 2024 meeting for consideration of the imposition of a fine for irreparable and irreversible violations.

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

Mr. Riggio adjourned the meeting at 10:17 am.

Mr. Riggio re-opened the meeting for the purpose of correcting the date of the continued matter for case # 6. He stated the proper meeting date would be May 28, 2024 at 9:00 am.

The meeting was adjourned at 10:20 am.