
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

May 28, 2024 Minutes

Attendees:

Robert J Riggio, Special Magistrate

Staff present:

Mr. Anthony Jackson, Deputy City Attorney

Mr. Denzil Sykes, Code Compliance Manager

Mr. Mark A Jones, Field Supervisor

Sgt. Timothy Blowers, Daytona Beach Police Officer

Mr. Kevin Yates, Rental Inspector

Ms. LaWanda Tomengo, Rental Inspector

Mr. Karl Wexelberg

Mr. Clifford Recanzone III

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.

Mr. Riggio asked for announcements and Ms. Barnes announced the City is requesting to withdraw Lien Review #4, RTL 08-21-181 at 518 Cannon St.

Mr. Riggio ordered the case withdrawn and announced the procedure of the meeting.

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

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

Mr. Riggio called the first Lien Review.

LR-1 - RTL 11-21-234 – 505 5th Ave - RE Equity Investment Group LLC & Juanny Paulino & Daytona 19 LLC 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 – 7/19/2021.

Mr. Andy Liu appeared via Zoom and was sworn in.

Inspector LaWanda Tomengo stated the City did not meet with the Respondents and has reached no agreement. She stated the Respondents are requesting to release 505 5th Ave and

requesting a reduction of lien for 549 Mulberry which is still in Non-Compliance. She stated at a previous meeting she was informed that 304-306 Taylor was the only property being sold to raise funds to replace the windows at 801 and now are selling all properties including 801 S Ridgewood and 549 Mulberry which are currently still unlicensed and have not passed inspection or paid fees. She stated the properties are actively rented and the City has no recommendation.

Mr. Liu stated the reason they are requesting 505 to be released and sold is that the cost of the windows for Ridgewood is \$26,000 and the cost to complete the stairs at Mulberry is \$13,000. He stated they are building brand new stairs.

Mr. Wilson Zorrilla appeared via Zoom and was sworn in.

Mr. Riggio stated that his understanding is that the release of 304-306 Taylor provided funds for those improvements.

Inspector Tomengo stated she received documentation for a window contract in place at 801 S Ridgewood for an August installation. She stated the property is not in compliance and has not been called for reinspection. She stated the property is being advertised and the owners are collecting rent.

Deputy City Attorney, Anthony Jackson, stated the position of the city was made clear and they negotiated and worked hard to allow them to sell the Taylor property when the others were still in Non-Compliance. He stated the City has been dealing with these properties for several years and the Respondents own up to 20 units in the City. He stated that the City is getting a new promise, not just to reduce or relieve existing issues.

Mr. Riggio asked if 304-306 Taylor was sold.

Ms. Tomengo stated yes, and she did an inspection recently and there were some violations. She stated she had every expectation that the Respondents were using the money for improving the properties and contracts don't always mean anything.

Mr. Liu stated they supplied the inspector with an invoice for windows where they paid a \$13,000 deposit. He stated they have no control over when the work gets done.

Mr. Zorrilla stated they are starting today on the windows at Ridgewood.

Mr. Riggio stated he was not prone to making changes to the liens since none of the properties have been brought up to snuff.

Inspector Tomengo stated the process is that she should be called and would come out once all violations are completed. She stated for the property at 801 S Ridgewood, on 6/17/2022 the property failed inspection, on 3/14/2023 the property failed inspection and she went by the property and in May of 2024 failed inspection. She stated for 549 Mulberry, on 6/17/2022 the property failed inspection, on 9/12/2023 the property failed inspection and failed again in May of 2024.

Mr. Zorrilla asked if they close on the property and pay the fines will they be able to come back at a later time for a lien review.

Mr. Jackson stated once the liens are paid, it would be very difficult to have those payments reversed and refunded.

DISPOSITION: The Special Magistrate denied release of the property at 505 5th Ave and reduction of the lien to 649 Mulberry without prejudice.

LR-2 - RTL 03-23-18 - 259 Jefferson St - Blue Clay Financial Services LLC 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 – 12/18/2021. Order Imposing Fine/Lien in the amount of One Hundred (\$100) per day to a maximum of Fifteen Thousand (\$15,000) imposed April 25, 2023. Compliance = April 29th, 2024. Amount due of \$15,000.00 plus \$578.44 interest plus \$24 recording fees = **\$16,602.44**.

Mr. Luke Green appeared via Zoom and was sworn in.

Inspector Tomengo stated code administrative staff met with Mr. Green and agreed to reduce the amount of the lien to \$2,000 payable within 30 days.

Mr. Green agreed.

DISPOSITION: Based on the stipulation of the parties, the Special Magistrate reduced the amount of the lien to \$2,000, payable within 30 days, or the fine reverts back to the original amount.

LR-3 - RTL 09-21-207 – (116 Sunrise Blvd & 2049 Blais - Parcel ID #5316-18-00-1320) Donald R & Annette M Emery 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 – 5/19/2021. Order Imposing Fine/Lien in the amount of One Hundred (\$100) per day to a maximum of Fifteen Thousand (\$15,000) effective May 24, 2022. Compliance = April 12th, 2024. Amount due of \$15,000.00 plus \$715.86 interest plus \$24 recording fees = **\$15,739.86**.

Respondent was not present.

Inspector Tomengo stated that Code Compliance Manager Denzil Sykes spoke to Mr. Emery and agreed to waive the lien.

DISPOSITION: The Special Magistrate waived the lien and ordered that it be released.

LR-5 - RTL 04-23-26 - 2040 S Peninsula Dr - Timothy Hoffman (current owners are Michael & Cynthia King) is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2. 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 – 3/16/2023. Order of Non-Compliance and Finding of Irreparable and Irreversible Violation and Imposition of Fine in the amount of Fifteen Thousand (\$15,000) effective May 23, 2023. Compliance = March 24, 2023. Amount due of \$15,000.00 plus \$860.03 interest plus \$24 recording fees = **\$15,884.03**.

Ms. Barnes provided an email from the requestor stating they are unable to attend but requesting a partial release of the parcel only for new owners Michael and Cynthia King.

Mr. Riggio stated there is a section in the Statutes that Title policy is to ask for open code violations as well as liens.

There was discussion regarding title knowledge of the violations before the sale.

Mr. Kevin Yates stated the City is requesting only the parcel be released to not encumber the new owners, but Mr. Hoffman remains bound by the lien.

DISPOSITION: The Special Magistrate ordered a partial release of the parcel only for new owners Cynthia and Michael King and that Mr. Timothy Hoffman remains encumbered by the lien.

CASE # 1 - RTL 05-24-39 - Sarwat Khan is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **1508 Virginia Ave #206 (Parcel ID: 5340150A2060)**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 2/14/2024.

Respondent was not present.

Inspector Karl Wexelberg stated the case was field generated and was an unlicensed rental property. He stated the property was first notified on February 24, 2024 and again on March 14, 2024. He stated May 21, 2024 was his last visit and the property is still in Non-Compliance. He stated he is asking for a finding of Non-Compliance and next cutoff to come into Compliance.

Mr. Riggio asked if the property was noticed correctly.

Ms. Barnes stated that it was posted by the inspector.

Inspector Wexelberg stated he posted the hearing notice next to the previous notice.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 19, 2024 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 2 - RTL 05-24-48 - Heidi Castillo is cited for failure to correct violations of City Code Ch. 26 Sec. 26-294, at **439 Auburn Dr #202**. Violation(s) – Failure to obtain Rental License (RTL). First Notified – 4/3/2024.

Respondent was not present.

Inspector Clifford Recanzone stated he posted the property on May 13th and has a copy of the signed lease and water bill. He stated he has had no contact and is asking for a finding of Non-Compliance and next cutoff to come into Compliance.

DISPOSITION: The Special Magistrate found the Respondent in Non-Compliance and ordered the Respondent to come into Compliance by June 19, 2024 or be returned to a subsequent hearing for consideration of the imposition of a fine up to \$1000 per day.

CASE # 3 - RTL 02-24-27 - Ida Mae Pendleton EST 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.

Ms. Sherri Austin, fiancé of Mr. Ray McLeod, heir to the property, came forward and was sworn in.

Mr. Riggio asked if she was authorized to speak on his behalf and she stated yes.

Inspector Recanzone stated the Respondent applied for the Rental License and he conducted an inspection on May 4, 2024 and there were some outstanding violations. He stated most of the repairs have been done and is asking to amend to the next cutoff for Compliance.

Mr. Riggio asked if anyone was living there.

Inspector Recanzone stated yes.

Mr. Riggio stated the repairs need to be dealt with quickly.

Mr. Riggio amended the current order of Non-Compliance and ordered the property to come into Compliance by June 17th 2024 or be returned to a subsequent meeting for consideration of the imposition of a fine.

Ms. Austin asked if they could have 2 months to make the repairs.

Inspector Recanzone stated all life/safety issues have been taken care of and he has no problem with giving them another month.

DISPOSITION: Mr. Riggio vacated his previous order and ordered that the property must come into Compliance by July 17, 2024 or be returned to a subsequent meeting for consideration of the imposition of a fine.

CASE # 4 - RTL 05-24-40 - Tyra Lea Jochims-Mann & Joshua Brandon Jochims is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **516 Eastwood Ln.** 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 – 4/3/2024.

Mr. Joshua Jochims came forward and was sworn in.

Inspector Yates stated the case was a citizen complaint and the property is zoned SFR-5. He stated he first observed the violation on April 3, 2024 and notified them the same day. He stated the advertising stopped as of April 4, 2024. He stated the website shows a daily rate of \$224, there are 3 reviews, check in is 3:30 pm and check out is 10:30 am. 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 this violation is irreparable and irreversible in nature and asked the Magistrate to take it into consideration when he makes his decision.

There was discussion regarding Senate Bill 280.

Mr. Jochims stated he is sorry and that he took the ad down immediately.

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 4, 2024.

Mr. Jochims asked the Magistrate if someone lies to him and rents shorter than is allowed, who is responsible?

Mr. Yates stated "you".

CASE # 5 - RTL 05-24-41 - J & M Secure Investments LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **301 N Hollywood Ave.** 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 – 4/10/2024.

Ms. Misslady Martinez came forward and was sworn in. She stated she is the owner of the property.

Inspector Yates stated the case was field generated and the property is zoned RP. He stated he first observed the violation on April 10, 2024 and notified them the same day. He stated the advertising stopped as of April 11, 2024. He stated the website shows a daily rate of \$180, there are 5 reviews, check in is 3:30 pm and check out is 10:30 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Ms. Martinez stated she heard and understandd the City's argument as to why the violation should be irreparable and irreversible in nature.

Mr. Riggio stated he will incorporate Mr. Jackson's statement from the previous case into the preceding.

Ms. Martinez stated the property was purchased as a short-term rental and that information on the internet is misleading. She stated she immediately stopped renting. She stated she bought the house with her life savings and added debt . She stated she has had health issues and intended to possibly retire here. She stated the home was destroyed by long-term renters as are the homes around her and she may be forced to sell. She stated she does not want to long-term rent.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the 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 11, 2024.

CASE # 6 - RTL 05-24-42 - Uelton Joatan Couto is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **530 Revalo 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 – 4/17/2024.

Mr. Uelton Couto came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on April 17, 2024 and notified them the same day. He stated the advertising stopped as of April 23, 2024. He stated the website shows a daily rate of \$159, there are 12 reviews, check in is 2:00 pm and check out is 11:00 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Couto waived repetition of Mr. Jackson's irreparable and irreversible argument and stated he understood everything he said.

Mr. Riggio agreed to allow Mr. Jackson's irreparable and irreversible statements to be incorporated into the proceedings.

Ms. Wendy Couto came forward and was sworn in. She stated they started short-term renting due to the taxes and insurance going up. She asked the Magistrate to reduce the amount from \$1000 since they did not know short-term rentals were not allowed when they bought the property.

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 that the property is in Compliance as of April 23, 2024.

CASE # 7 - RTL 05-24-43 - Samuel W Oliver Jr and Countess Senetta Rittman is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **611 Madison 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 – 4/17/2024.

Mr. Samuel W Oliver Jr came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on April 17, 2024 and notified them the same day. He stated the advertising stopped as of May 7, 2024. He stated the website shows a daily rate of \$166, there are 4 reviews, check in is 3:00 pm and check out is 11:00 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Oliver waived repetition of Mr. Jackson's argument as to why the violation should be irreparable and irreversible in nature and Mr. Riggio stated he would add the argument to the record and the statements from Case # 4 will be incorporated into this proceeding.

Mr. Oliver stated he lives in Tallahassee and was not aware short-term rentals were not allowed. He stated he immediately took action and asked for an extension to pay past 30 days.

Mr. Jackson responded that the City has the option to foreclose, however it seems unlikely for a \$1,000 fine.

Mr. Riggio stated the City will work with Mr. Oliver concerning 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 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 May 7, 2024.

CASE # 8 - RTL 05-24-44 - Kenneth & Melissa Heiland is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **425 Ocean Dunes 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 – 4/17/2024.

Respondent was not present.

Mr. Riggio asked if the Respondent was notified.

The Board Secretary stated that she received a signature from the Certified Notice of Hearing and Notice of Violation and expected the Respondent to appear via Zoom since he had sent a request to Inspector Yates which was forwarded to her and returned to both with the Zoom link last week.

Inspector Yates agreed that he received the request and the link had been sent.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on April 17, 2024 and notified them the same day. He stated the advertising stopped as of April 19, 2024. He stated the website shows a daily rate of \$220, there are 4 reviews, check in is 3:00 pm to 11:00 pm and check out is 12:00 pm. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Jackson read into the record the City's argument as to why the violation is irreparable and irreversible in nature.

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 that the property is in Compliance as of April 19, 2024.

CASE # 9 - RTL 05-24-45 - Daniel Stuart and Indera Stuart is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **116 S Oleander Ave.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 4/19/2024.

Mr. Daniel Stuart came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on April 19, 2024 and notified them the same day. He stated the advertising stopped as of April 23, 2024. He stated the website shows a daily rate of \$175, there are 48 reviews, check in is 3:00 pm to 11:00 pm and check out is 12:00 pm. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Stuart heard and agreed to waive the statement by Mr. Jackson in case #4 and Mr. Riggio agreed to incorporate the statement into this matter.

Mr. Stuart stated they were not aware and were also renting due to insurance and taxes. He stated the house is currently on the market.

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 that the property is in Compliance as of April 23, 2024.

Mr. Riggio called a 10-minute recess at 10:25 am. Due to technical issues with Zoom, the meeting was reconvened at 11:00 am.

CASE # 11 - RTL 05-24-47 - David Clarke is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **37 S Peninsula Dr.** 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 – 4/25/2024.

Mr. David Clarke came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned RDB-6. He stated he first observed the violation on April 25, 2024 and notified them the same day. He stated the advertising stopped as of April 30, 2024. He stated the website shows a daily rate of \$98, there are 4 reviews, check in is 2:00 to 9:00 pm and check out is 11:00 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Clarke stated he took notes and has disagreements but waives repetition of Mr. Jackson's irreparable and irreversible argument.

Mr. Jackson asked the Magistrate to incorporate his irreparable and irreversible argument given in Case # 4 and the Magistrate agreed.

Mr. Clarke stated he is held to account and the City gives the impression there is no flexibility. He stated the realtor suggested he use Airbnb and he purchased the property on April 15, two years ago. He stated the last 2 owners had violations and he just finished a list of Non-Compliance for a code case which he was never notified about. He stated he communicated via email with Missy Phillips, and she suggested he contact Rose Askew for a use determination. The email on his phone was shown to the Inspector and the Magistrate. He stated he left many messages for Ms. Askew but did not receive a return call.

Inspector Yates stated that Ms. Askew did respond via email and the communication was regarding number of units allowed on the property and that she was never asked about short-term rentals.

Mr. Clarke stated the discussion with Ms. Phillips was regarding what he could do.

Mr. Jackson explained that the fines were meant to be a deterrence and the City's fine positions do not change.

There was further discussion regarding the email communication with Ms. Phillips and non-response by Ms. Askew.

Mr. Riggio stated when you are endeavoring to conduct a business, you should always check to see that it is an available use in the Zoning area. He asked the Respondent if he asked Ms. Askew or Phillips in the emails whether short-term rentals are allowed.

Mr. Clark stated he might not have asked specifically about that.

Mr. Yates stated no.

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 30, 2024.

CASE # 12 - RTL 05-24-51 - Jose E Ruiz Tarazona & Ana Cecilia Jaramillo is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **310 Pelican Ave.** Violation(s) – **Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district.** First Notified – 5/2/2024.

Ms. Isabelle Reese Ruiz, daughter of the owners, came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on May 2, 2024 and notified them the same day. He stated the advertising stopped as of May 10, 2024. He stated the website shows a daily rate of \$250, there are 9 reviews, check in is 3:00 to 11:00 pm and check out is 11:00 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Ms. Ruiz waived repetition of Mr. Jackson's irreparable and irreversible argument given in case # 4.

Mr. Riggio stated he would incorporate it into this proceeding.

Ms. Ruiz expressed her apologies and stated they were unaware and since it was taken down immediately is requesting a reduced fine. She stated her parents purchased the property 2 years ago and it is vacant and no longer rented. She stated her parents formed a corporation and have a Department of Business and Professional Regulation license and paid taxes to the

County. She stated neither of those told her it was not allowed. She stated it is a first-time violation.

Mr. Jackson explained that irreparable and irreversible violations cannot be undone and used an example of an aggressive dog brought into a rental who left people in fear. He stated they override the ability of the community to experience residential norms and when entering a business function should determine and know the laws. He stated he has not heard a substantial hardship that would prompt the City to reduce the consistent fine requested.

Ms. Ruiz stated she understands that a \$1000 fine is meant to keep them from coming back but a reduced fine will help her parents adjust their plans to move forward. She again stated her parents created an LLC and obtained a license from the state.

Mr. Jackson stated that he has heard nothing that sets this case apart from other cases that have been heard.

Mr. Riggio stated the abbreviated fines stop certain violations and address related issues. He stated she dealt with the State and the County, but City Hall was not on the list. He stated the state is willing to license you, but you still need the City of Daytona Beach to allow the use in the zoning area. He stated these are financial violations and that payments are collected benefitting someone for something they can't do.

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 May 10, 2024.

CASE # 13 - RTL 05-24-50 - 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 – 5/1/2024.

Respondent was not present.

Inspector Yates stated the case started as a citizen complaint and the property is zoned SFR-5. He stated he first observed the violation on May 1, 2024 and notified them the same day. He stated the advertising is still active. He stated the website shows a daily rate of \$265, there are 19 reviews, check in is 3:00 and check out is 11:00 am. He stated this is a repeat violation to RTL 02-24-24 on March 24, 2024. He stated the violation is irreparable and irreversible and since this is a second violation is asking for a fine in the amount of \$15,000.

Mr. Jackson presented the City's argument as to why this violation should be considered irreparable and irreversible in nature.

Inspector Yates stated he reviewed the advertising three days ago and there was a new review.

Mr. Riggio asked if there had been additional reviews since the March 24th case.

Mr. Jackson stated the review doesn't show when they visited or how long.

Inspector Yates explained that the current review stated they stayed a few nights and that the time is generated by Airbnb, not the owner. He stated you cannot leave a review unless you stay there and have gone through the platform and paid a fee. He stated the property is currently for sale.

Mr. Jackson reiterated this is a second violation to Case number RTL 02-24-24 from March 28, 2024. He stated the fine was \$15,000 on that case.

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 \$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 # 14 - 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.

Respondent was not present.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on March 13, 2024 and notified them the same day. He stated the advertising stopped as of March 14, 2024. He stated the website shows a daily rate of \$64-67, there are 170 reviews, check in is 3:00 to 2:00 am and check out is 11:00 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000. He stated he heard from the Respondent who said the City's mind was already made up and that he would not be attending the hearing.

Mr. Jackson repeated the City's argument that the violation is irreparable and irreversible in nature.

Ms. Barnes stated that Mr. McCotter Sr was at the previous meeting where he heard Mr. Jackson's argument repeatedly and the minutes show he requested a printed copy of the argument, which he was given, to take to his son.

Mr. Yates stated he complied immediately.

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 that the property is in Compliance as of March 14, 2024.

CASE # 10 - RTL 05-24-46 - William Cruvinel is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **224 Boylston 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 – 4/26/2024.

Mr. Cruvinel appeared via Zoom and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. He stated he first observed the violation on March 26, 2024 (later corrected to April 26, 2024) and notified them the same day. He stated the advertising stopped as of May 3, 2024. He stated the website shows a daily rate of \$384, there are 3 reviews, check in is 4:00 pm and check out is 11:00 am. He stated the violation is irreparable and irreversible and is asking for a fine in the amount of \$1,000.

Mr. Jackson repeated the City's argument that the violation is irreparable and irreversible in nature.

Mr. Cruvinel stated he purchased the home 2 years ago for personal use and it just set there.

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 that the property is in Compliance as of May 3, 2024.

Mr. Riggio asked for any miscellaneous business and there was none.

The meeting was adjourned at 12:36 pm.