
City of Daytona Beach Special Magistrate

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

Robert J. Riggio, Special Magistrate

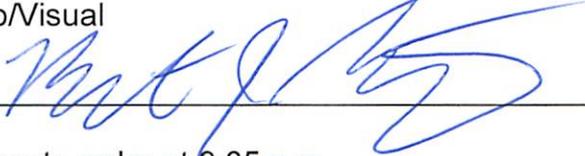
September 24, 2024 Minutes

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
Mr. Kevin Yates, 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 9:05 a.m.

Mr. Riggio asked for announcements and there were none.

Mr. Riggio approved the minutes of the August 27, 2024 meeting.

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

Mr. Riggio announced the procedure for the meeting and called the first case.

NEW CASES: IRREPARABLE/IRREVERSIBLE

CASE # 1 - RTL 09-24-85 - Bessie C Lively is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **1518 N Halifax Ave.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 8/23/2024.

Mr. Shannon Bland, Esq. appeared via Zoom.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. Short-term rentals, known as "Other Accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on August 23rd, 2024 and notified them the same day. He stated the advertising stopped on September 23rd, 2024. He stated the website shows a

daily rate of \$741, rules state check in and out at 4 pm and 10 am. He stated the violation is irreparable and irreversible in nature and is asking for a fine in the amount of \$1,000.

Mr. Anthony Jackson gave his argument as to why the City is requesting to find the nature of these violations to be irreparable and irreversible.

Mr. Riggio asked to see the advertising again to confirm the nightly rate was \$741.

Mr. Bland stated his client acted immediately and the property is not occupied. He stated they did not receive the Notice of the Violation. He stated his client's son found the posting and told him about the violations. He stated the address is incorrect on the Volusia Tax Appraiser's website and should be 1550 Kanawha. He stated they spoke to Inspector Yates and immediately took the listing down.

Inspector Yates stated there was no indication that anyone was there.

Mr. Riggio stated that holding out the property is a violation of Daytona's rules.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that a one-time fine in the amount of \$1,000, payable within 30 days, be imposed and that the property is in Compliance as of September 23rd, 2024, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

The Special Magistrate asked that Mr. Bland contact the Volusia Property Appraiser to update his contact.

CASE # 2 - RTL 09-24-86 – A Denise Moore is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **100 Kingbird Cir #1**. 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 – 8/21/2024.

Ms. A Denise Moore came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned PD-G. Short-term rentals, known as "Other Accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on August 21st, 2024 and notified them the same day. He stated the owner is still actively advertising. He stated the website shows a daily rate of \$65, 12 reviews, check in and out at 4 pm and 10 am. He stated the violation is irreparable and irreversible in nature and is asking for a fine in the amount of \$15,000.

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

Mr. Riggio stated Ms. Moore has waived repetition of Mr. Jackson's irreparable/irreversible argument presented in case #1 – RTL-09-24-89 and they will be incorporated into these proceedings.

Ms. Moore stated she has a guest unit and did not know how to take it off so she blocked out the dates. She stated that she figured out how to switch to hosting so she would get a text from Airbnb. She requested that the fine be reduced to \$1000.

Inspector Yates stated the property is currently bookable.

Mr. Riggio stated that he would prefer to continue the matter and allow Inspector Yates to work with her to remove the listing.

Ms. Moore stated she blocked out 2 months.

DISPOSITION: *The Special Magistrate continued the case to the October 22nd, 2024 hearing.*

CASE # 3- RTL 09-24-87 - Mary Kay Canarte is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **130 N Seneca St.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 8/14/2024.

Ms. Mary Kay Canarte appeared via Zoom and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. Short-term rentals, known as "Other Accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on August 14th, 2024 and the advertising stopped on August 22nd, 2024. He stated the website shows a daily rate of \$79, check in and out at 3 pm and 10 am. He stated the violation is irreparable and irreversible in nature and is asking for a fine in the amount of \$1,000.

Ms. Canarte stated she did not need to hear Mr. Jackson's argument as to why the violation should be considered as irreparable and irreversible in nature and that she looked up the Statute.

Since Ms. Canarte had gotten disconnected from Zoom, Mr. Jackson repeated his irreparable/irreversible argument.

Mr. Riggio stated Mr. Jackson's argument will be incorporated into the proceedings.

Ms. Canarte stated that it was her hope to retire here once her sons went to college. She stated she has a son who decided he did not want to go and that prevented her from moving down here. She stated she looked up the Webster's definition of advertising. She stated with the homeless situation and few options for affordable housing in the City that she wanted to give people other options. She stated she has a Rental License and a tenant over 6 months now.

Mr. Riggio stated that Airbnb was a short-term platform for rentals and was not a good place to find a long-term tenant.

Inspector Yates stated she has had rentals less than 6 months and the current tenant's duration was a little more than 20 days. He stated Ms. Canarte has complied and now has a long-term tenant.

Mr. Riggio stated the responsibility falls on the owner to find out what is needed when a business is started.

DISPOSITION: *After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that a one-time fine in the amount of \$1,000, payable within 30 days, be imposed and that the property is in Compliance as of August 22nd, 2024, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.*

CASE # 4 - RTL 09-24-88 - FIXB LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **606 Braddock Ave.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 8/30/2024.

Mr. Devendra Kumar came forward and was sworn in.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. Short-term rentals, known as "Other Accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on August 3rd, 2024 and noticed the property on the same day. He stated the advertising stopped on September 23rd, 2024. He stated the website shows a daily rate of \$145, 109 reviews (108 on Airbnb and 1 on VRBO), check in and out at 4 pm and 11 am. He stated the violation is irreparable and irreversible in nature and is asking for a fine in the amount of \$5,000. He stated that the Corporation was dissolved when the property was divided during Mr. Kumar's divorce and requested to add his name to the case.

Mr. Kumar stated he took the advertising down the same day and deactivated the account.

Mr. Riggio stated the action causes an irreparable and irreversible violation.

Mr. Jackson repeated his argument as to why the violation is irreparable and irreversible in nature.

Mr. Riggio stated that the City's irreparable and irreversible argument will be incorporated into the proceeding.

Inspector Yates stated that there were still dates remaining. He stated that Airbnb was removed on September 3rd and this listing on VRBO was removed on September 23rd, 2024.

Mr. Kumar stated he blocked everything on September 19th, 2024.

Mr. Riggio asked why the disparity.

Inspector Yates stated they have a team you can contact that will help you take down the site.

Mr. Riggio asked if there was anything on the posting that indicates they are renting.

Inspector Yates stated there was no indication and it took him a long time to find it on VRBO.

Mr. Riggio stated some of the issues affecting the City with short-term rentals, including crime, noise and parking.

Mr. Kumar stated that he thought everything was done on the same day.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that a one-time fine in the amount of \$2,500, payable within 30 days, be imposed and that the property is in Compliance as of September 23rd, 2024, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence. It is further ordered that Mr. Davendra Kumar be added as a party to the case since the Corporation was changed to inactive.

Mr. Riggio called a recess and 10:42 am. The meeting resumed at 10:50 am.

CASE # 5 - RTL 09-24-89 - Wesley & Debora K Stewart is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **135 Park Ave.** Violation(s) – Zoning violation - the property is zoned SFR-5. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 8/30/2024.

Mr. Sam Martin, family friend, came forward and was sworn in. Mr. Martin got Respondent Debora K Stewart on the phone and being under oath he verified she was the owner of the property and Ms. Stewart gave Mr. Martin permission to speak on their behalf. Although she remained on the phone throughout the case, she did not testify further.

Inspector Yates stated the case was field generated and the property is zoned SFR-5. Short-term rentals, known as "Other Accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on August 30th, 2024 and notified them the same day. He stated the advertising stopped on September 3rd, 2024. He stated the website shows a daily rate of \$129, 31 reviews, and rules stated check in and out at 4 pm and 11 am. He stated the violation is irreparable and irreversible in nature and is asking for a fine in the amount of \$1,000.

Mr. Martin waived repetition of Mr. Jackson's irreparable and irreversible argument.

Mr. Riggio stated Mr. Martin has waived repetition of Mr. Jackson's irreparable/irreversible argument presented in case #1 – RTL-09-24-89 and they will be incorporated into these proceedings.

Mr. Martin stated this is the Stewart's primary residence and when they are away the money helps support the charity work that they do with kids. He stated they were unaware that it is not allowed. He stated he contacted Airbnb to request the advertising be taken down and they waived the cancellation fee. He stated he thought the City should give a warning and a chance to correct this violation.

Mr. Jackson explained that the violation is irreparable and irreversible and you cannot undo the violation to come into compliance. He stated when you open a business that you need to contact the City to make sure that type of business is allowed.

DISPOSITION: After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that a one-time fine in the amount of \$1,000, payable within 30 days, be imposed and that the property is in Compliance

as of September 3rd, 2024, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.

CASE # 6 - RTL 09-24-90 - Trisha Ann Thorson & Curtis Eugene Strandy is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **521 School St.** Violation(s) – Zoning violation - the property is zoned MFR-12. Short term rentals, known as "Other Accommodations" are not a permitted use in the zoning district. First Notified – 9/5/2024.

Mr. Strandy and Ms. Thorson appeared via Zoom and were sworn in.

Inspector Yates stated the case was field generated and the property is zoned MFR-12. Short-term rentals, known as "Other Accommodations" are not a permitted use in this zoning district. He stated he first observed the violation on September 5th, 2024 and notified them the same day. He stated the advertising stopped on September 6th, 2024. He stated the website shows a daily rate of \$140, and rules stated check in and out at 4 pm and 11 am. He stated the violation is irreparable and irreversible in nature and is asking for a fine in the amount of \$1,000.

Ms. Thorson waived repetition of Mr. Jackson's irreparable and irreversible argument.

Mr. Riggio stated Ms. Thorson has waived repetition of Mr. Jackson's irreparable/irreversible argument presented in case #1 – RTL-09-24-89 and they will be incorporated into these proceedings.

Ms. Thorson stated a neighbor found the letter on the fence. She stated she spoke to the City before they rented it but did not specifically ask about Airbnb's.

DISPOSITION: *After hearing the arguments, the Special Magistrate found that the property was previously in Non-Compliance for violation of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2 and that the violation was irreparable and irreversible in nature. He ordered that a one-time fine in the amount of \$1,000 payable within 30 days, be imposed and that the property is in Compliance as of September 6th, 2024, and that any future repeat violations may be returned to the Magistrate for consideration of a fine up to \$15,000 per occurrence.*

CASE # 7 - RTL 09-24-84 - Chestnut LFTY0329 DAO LLC is cited for failure to correct violations of LDC Art. 4 Sec. 4.1.A; Art. 5 Sec. 5.2.A.2, at **402 N Wild Olive 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 – 8/22/2024.

Mr. Calixte Duffaug came forward and was sworn in.

Mr. Jackson stated the City would like to continue this case. He stated it is a side-step from Short-Term rentals. He stated if Mr. Duffaug wants to continue operating as is, he is operating at his own risk.

Mr. Duffaug stated he has been in continuous contact with Inspector Yates and is willing to make adjustments if needed to be in Compliance. He asked to continue his business.

Inspector Yates stated the property is in Non-Compliance and requests the owner stop until the issue is researched and resolved.

Mr. Duffaug stated he lives at the property and owns the property. He stated everyone that stays there is an owner and the fees allow him to make corrections and pay taxes.

DISPOSITION: *The Special Magistrate ordered that the case be continued to the October 22, 2024 meeting.*

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

The meeting was adjourned at 11:42 am.

Mr. Riggio reconvened the meeting at 11:46 am.

Mr. Duffaug came back into the Chambers and wanted to ask a question. He stated the he wants to be compliant as soon as possible and Inspector Yates told him that if he continues, he could receive a fine of \$15,000 per occurrence.

Mr. Jackson explained that it is not the City's intent to issue additional citations until the case is heard next month.

Mr. Riggio stated that he believes the parties are in a good faith negotiation and he does not want the continuation to be held against Mr. Duffaug.

The meeting was adjourned at 11:50 am.

5. Miscellaneous Business

6. Adjournment