

**SPECIAL  
MAGISTRATE  
HEARING**

May 4, 2010  
City Commission Chambers  
301 South Ridgewood Avenue  
Daytona Beach, Florida

9:00 AM

Proceeding for Emergency Lien Review

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## ATTENDEES:

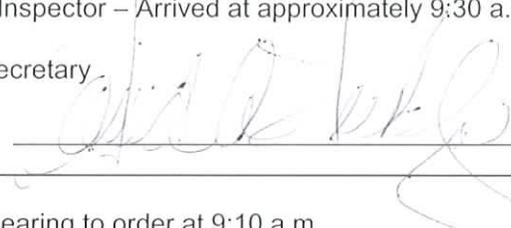
Mr. David Vukelja, Special Magistrate

## STAFF:

Anthony E. Jackson, Assistant City Attorney

Steve Alderman, Code Inspector – Arrived at approximately 9:30 a.m. and was sworn.

Ms. Aimee Hampton, Secretary

Approval of Minutes by:  \_\_\_\_\_ Special Magistrate

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Mr. Vukelja called the Hearing to order at 9:10 a.m.

Mr. Vukelja disclosed that he noticed Mr. Kit Corey was on some of the correspondence he reviewed and advised that he was legal partners in sharing a building but he did not believe there was any conflict unless the City or the Respondent requested he step aside.

**Lien Review 1**

**SMG 09-07-154 – 1000 N. Atlantic Avenue (PSA, LTD): Order Imposing Fine/Lien of \$1,000.00 per day imposed November 7, 2007. Compliance date of January 16, 2008 = 70 days @ \$1,000.00 per day = \$70,000.00.**

Attorney David Hood appeared on behalf of the Respondent and reviewed the case history of building a fence without a permit. In summary, Mr. Hood described the violation was a result in a crack of plexi glass to a fence. Mr. Hood outlined his tabbed exhibits which included a timeline of the case actions. Mr. Hood advised that Colleen Miles stated they did not need a permit however Mr. Alderman informed them they did need to get a permit. Mr. Hood advised in Mr. Alderman's case details states that the permit was obtained in mid-December but the permit that was not issued by the City until mid-January. Mr. Hood advised the hotel was trying to modify their mortgage and this lien was preventing them from doing that.

Mr. Jackson acknowledged the confusing circumstances surrounding the permit but that once Mr. Alderman and Colleen Miles got together and decided that a permit was needed it was relayed to the Respondent and they were allotted time to obtain the permit. Mr. Jackson stated he believed the information about a permit requirement was relayed to the Respondents in September and it was not until November that the fine was imposed. Mr. Jackson advised after he reviewed the minutes of the November meeting Mr. Alderman testified that the City had to issue a stop work order and that the Respondents continued work after the stop work order was issued and after they were told they needed a permit. Mr. Jackson further stated the fine of \$1,000.00 per day was extremely high and uncharacteristic but believed the Special Magistrate felt it was appropriate at the time. Mr. Jackson stated that the Respondents were advised almost immediately after compliance they could come in for a lien review to seek relief of the lien and could have resolved this outstanding lien a long time ago.

Mr. Vukelja reviewed the Code Inspector's case details with Mr. Jackson.

Mr. Alderman arrived and was sworn. Mr. Alderman testified that the Respondents were advised in July 2007 that a permit was required and he described the violations regarding the fence. Mr. Alderman stated the Respondents contacted Ms. Miles for another opinion but ultimately it was determined after Mr. Alderman consulted with Mr. Criswell that a permit was needed. Mr. Alderman stated his main issue was that they continued to perform the work after he issued the stop work order. Mr. Alderman stated that he did contact the owner several times to advise them they were eligible for a lien review.

Mr. Vukelja reviewed the case details with Mr. Alderman.

**Ruling**

Mr. Vukelja ordered the Lien be released and vacated for Case # SMG 09-07-154 – 1000 N. Atlantic Avenue.