

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

June 8, 2010 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

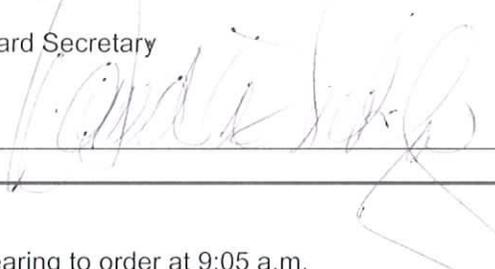
ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Officer Sherri Siracusa
Mr. Steve Alderman, Code Inspector
Mr. Tom Clig, Code Inspector
Ms. Barbara Collins, Code Inspector
Mr. Mike Fitzgerald, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. John Stenson, Code Inspector

Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  _____ Special Magistrate

Mr. Vukelja called the Hearing to order at 9:05 a.m.

Mr. Vukelja approved the minutes of the April 13, 2010 and May 11, 2010 Special Magistrate meetings.

Staff members who would be testifying during the Hearing were sworn by Ms. Hampton

CASE NO 30 SMG 06-10-96 – Loggerhead Daytona Marina, LLC has been cited for failure to correct violations of City Ordinance 42.214(a)(2), at **721 Ballough Road** - Violation(s) – Noise/sound violation - First Notified – Will Fine Order entered 4/13/10.

Mr. Jackson stated the City received a letter from Mr. Neufeld, the Attorney for Loggerhead who requested a continuance due to a previously scheduled mediation. Mr. Jackson stated the City was willing to stipulate to the continuance. Mr. Jackson advised that the Board Secretary left a message for the Attorney's office and also spoke with the witnesses and advised the City would agree to continue the case.

Ms. Hampton stated she spoke with Ms. Smith and told her the case would most likely be continued.

Mr. Vukelja informed Mr. and Mrs. Smith they could either testify now or wait until the next meeting to be heard.

Patricia and Donald Smith came forward and were sworn. Mr. Smith stated they would wait until the next hearing to testify.

Ruling

Mr. Vukelja ordered the case be continued until the July 13, 2010 Meeting.

MISCELLANEOUS BUSINESS

SMG 04-10-58 – Regions Bank d/b/a Regions Mortgage and Felicia Martin has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC - see attached housing inspection report), at **343 N. Segrave Street** - Violation(s) – Failure to repair items listed on the housing long form report, exterior walls, trim, windows and sanitation; First Notified – 1/19/2010.

Mr. Jackson advised the City was requesting the Magistrate vacate the fine/lien for this case as it relates to Region's Bank because there was a deed recorded in error which transferred the property to the bank and that circumstance has since been corrected and a deed has been recorded transferring the property back to the previous owner. Mr. Jackson advised the Bank submitted documentation that the owner knows the property has been deeded back to her and is aware of the violations and the running fine.

Ruling

Mr. Vukelja vacated the Order Imposing Fine/Lien previously entered as it related to Regions Bank d/b/a Regions' Mortgage and further dismissed Regions' Bank as a Respondent. The fine/lien remains against Felicia Martin.

Lien Review 1

CEB 01-08-05 – 507 N. Ridgewood Avenue – William Barrow & Debbie Frazier (New Owner – Woodlea Investment, Co, LLC): Order Imposing Fine/Lien of \$100.00 per day imposed 4/2/08 plus one-time \$250.00 imposed 2/14/08; Compliance 3/10/10 = 707 days @ \$100.00 per day = \$70,000.00 plus \$250.00 = \$70,950.00.

Attorney Larry Sims stated the fine was imposed against the prior owner. Mr. Sims stated the Mortgage Foreclosure was filed approximately two week after the City's code lien was recorded. Mr. Sims further stated the property has been vacant since the foreclosure began and the dorm living violation did not continue. Mr. Sims further stated the property needs improving and numerous repairs need to be completed. Mr. Sims stated the owner did not want to put further funds into the property until the lien was waived. Mr. Sims stated that a contractor was hired and a roof permit was obtained. Mr. Sims stated Mr. Barrow and Ms. Frazier had vacated the property when the foreclosure was started which was approximately two weeks after the fine was imposed.

Mr. Stenson testified on behalf of the City and stated the City was recommending a reduction of the lien to the amount of \$2,500.

Ruling

Mr. Vukelja ordered the fine/lien be vacated as to Case # CEB 01-08-05.

CASE NO 15 SMG 05-10-74 – Woodlea Investment Co, LLC has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **507 N. Ridgewood Avenue** - Violation(s) – No permit - First Notified – 3/10/2010.

Mr. Sims stated he believed he could get a permit within thirty days.

Mr. Stenson testified on behalf of the City and stated the violations were a result of working without permits.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

Mr. Jackson asked Mr. Vukelja to re-visit his order for the lien review to include administrative costs.

Mr. Vukelja denied the request.

CASE NO 1 SMG 11-09-84 – Five Star of Central Fla, Inc. has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **214 N Keech Street** - Main Number - Violation(s) – Failure to obtain permit(s) for work being done on property - First Notified – 7/10/2009.

Mr. Brad Sheppard came forward and was sworn. Mr. Sheppard advised he was the appointed receiver in the foreclosure case and that a Foreclosure Summary Judgment was entered and the sale of the property is scheduled for June 18, 2010. Mr. Sheppard advised he believed U.S. Bank would end up with the property who would then subsequently sell it to the Daytona Beach Housing Authority.

Mr. Jackson requested a continuance for another progress report.

Ruling

Mr. Vukelja ordered the case be continued to the July 13, 2010 Special Magistrate meeting for a progress report.

CASE NO 2 SMG 12-09-86 – 400 Beach Street Acquisitions, LLC has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IMPC 301.2, 302.4, 304.2, 304.6, 304.7, 304.9, 304.13, 305.3, and 605.1), at **300 N. Beach Street** - Violation(s) – Owner responsible to maintain structures and exterior of property in compliance with IPMC requirements; weeds; protective treatment; exterior walls; roofs and drainage; overhang extensions; window, light and door frames; interior surfaces; electrical equipment and wiring shall be properly installed and maintained -First Notified – 9/14/2009.

Mr. Fitzgerald testified on behalf of the City and requested another continuance until the next meeting date.

Mr. Charles Bryant from the City's redevelopment department and stated the City was still in negotiations with the property owner and the demolition bids have been obtained. Mr. Bryant stated they were obtaining asbestos surveys.

Ruling

Mr. Vukelja ordered the case be continued to the July 13, 2010 Special Magistrate meeting for a progress report.

CASE NO 3 SMG 01-10-06 – Mohammad M. Khabazeh has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.7, 304.3, 304.13 and 304.2), at **812 Magnolia Avenue** - Violation(s) – Outside storage; roof and drainage; identification numbers, broken windows and exterior surfaces - First Notified – 10/16/2009.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended imposing a fine of \$100 per day effective March 3, 2010 as that was the compliance date set but the imposition of a fine had been continued monthly.

Ruling

Mr. Vukelja ordered a fine in the amount of \$100 per day be imposed against the Respondent effective March 3, 2010 until compliance is achieved.

CASE NO 4 SMG 02-10-21 – Schowonda Denise Williams has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IMPC - See sections of attached housing inspection report, at **517 McLeod Street** - Violation(s) – See attached housing inspection report -First Notified – 8/21/2009.

Respondent was not present.

Mr. Clig testified on behalf of the City and stated there has been no progress on the property and recommended the next cut-off date for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondents come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 5 SMG 02-10-22 – Carry Bernadette Smith-Ramsey has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.10, 304.13, 304.2, 304.6, 604.3, 504.3 and 304.4); Chapter 90 Sec. 90-297 Code of Ordinances, at **210-214 College Park Drive** - Violation(s) – Outside storage, exterior stairs, windows, exterior paint, exterior surfaces, inadequate power services, inadequate water services, structural members, no rental license - First Notified – 11/25/2009.

Mr. Bernard Smith came forward and was sworn. Mr. Smith stated they were able to get the property taxes paid but they have not been able to clear the title to the property yet and were still working to try and resolve those issues.

Mr. Stenson testified on behalf of the City and stated the Respondents were trying to work with Community Development however they could not get aid until the title is cleared to the property.

Ruling

Mr. Vukelja continued the case until the July 13, 2010 Meeting and further ordered the property was to remain secured to City standards and not be occupied and the exterior was to be maintained.

CASE NO 6 SMG 03-10-38 – Horace Mack has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8); Art. 17 Sec. 2.189(a), at **S Martin Luther King Blvd.** - Violation(s) – Unlicensed/inoperable vehicle(s) on property; parking commercial vehicles on unimproved surfaces; inoperable vehicles considered outside storage - First Notified – 5/22/2009.

Respondent was in compliance June 2, 2010.

Mr. Clig testified on behalf of the City and stated the property was in compliance but the City was seeking a will fine order.

Mr. Vukelja stated he did not feel comfortable hearing the City's request for a will fine order as the Respondent was not present and not noticed to be at the proceeding.

Mr. Jackson stated the City would notice Mr. Mack for the next meeting.

CASE NO 7 SMG 04-10-54 – James Cotton, Jr. & Rebecca Cotton has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7, at **1050 Imperial Drive** - Violation(s) – Peeling paint - First Notified – 12/28/2009.

Ms. Rebecca Cotton came forward and was sworn.

Ms. Lankford testified on behalf of the City and stated community development was ready for the bidding process of obtaining painting contracts. Ms. Lankford recommended amending until the August meeting for a progress report.

Ruling

Mr. Vukelja continued the case until the August 10, 2010 meeting for a progress report.

CASE NO 8 SMG 04-10-62 – Phyllis Hatten has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7, 302.8, 304.2), at **713 Marion Street** - Violation(s) – Outside storage, dilapidated fencing and shed, junk vehicles, peeling paint - First Notified – 1/11/2010.

Mr. Jim Harvin appeared on behalf Ms. Phyllis Hatten and advised he was Mrs. Hatten's husband. Mr. Harvin apologized for his health but he could not work and they did not have any money to pay anyone to help them clean up the property.

Mr. Stenson testified on behalf of the City and stated the violations were a result of a police complaint and stated there were two other cases opened on this property. Mr. Stenson stated that due to the extensive work that needed to be done he would recommend amending the cut-off date until September or an automatic fine of \$50.00.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance by September 8, 2010 or be automatically fined the amount of \$50.00 per day effective September 8, 2010 until compliance is achieved.

CASE NO 9 SMG 04-10-63 – Norman H. Riley has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1); Ch. 90-297 Code Ordinances, at **340 Taylor Avenue** - Violation(s) – No permit for fencing; no occupational license for rental - First Notified – 2/5/2010.

Mr. Norman Riley came forward and was sworn. Mr. Riley stated he would apply for a variance with regard to the fence.

Mr. Stenson testified on behalf of the City and stated the Respondent has not applied for a permit for the fence or an occupational license.

Ruling

Mr. Vukelja ordered the case be continued until the August 10, 2010 Special Magistrate meeting.

CASE NO 10 SMG 04-10-66 – Johnny Evans has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.7, 304.13.1, and 304.2), at **1044 Hampton Road** - Violation(s) – Failure to repair/replace the damage roof and fascia; Failure to replace all broken windows; Failure to clean and paint the exterior walls and fascia - First Notified – 1/11/2010.

Respondent was not present.

Ms. Collins testified on behalf of the City and stated the property was in non-compliance and the Respondents were behind in their taxes and had no current insurance. Ms. Collins recommended the next cut-off date for compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondents come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 11 SMG 05-10-78 – Mark Watt has been cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5; Art. 18 Sec. 4, at **500 N. Beach Street** - Violation(s) – Violation of license restrictions and non-conforming use within the district; Failure to maintain commercial property appearances, outside storage of junk; Failure to paint to cover peeling paint - First Notified – 2/9/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in compliance with all violations except they had not obtained their rental license.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 12 SMG 05-10-79 – WP Enterprises of Palm Beach, LLC has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 6.2, 6.4, at **118 E. Fairview Avenue** - Violation(s) – Erecting sign no permit, non-conforming - First Notified – 3/5/2010.

Respondents were in compliance May 28, 2010.

CASE NO 13 SMG 05-10-80 – Joseph S. & Sandra I. Palmer has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2 and 304.7); City Ordinance 90.297, at **133 Fairview Avenue** - Violation(s) – Failure to repair roof defects and remove mildew from exterior; No rental license - First Notified – 12/3/2009.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the bank was now in control of the property and therefore he recommended amending the compliance date until the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved plus a one-time administrative fine of \$250.00.

CASE NO 14 SMG 05-10-81 – Mike Nelson has been cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7; City Ordinance 90.297, at **330 Michigan Avenue** - Violation(s) – Parking in the yard; No rental license - First Notified – 2/26/2010

Mr. Jay Knox appeared on behalf of Mike Nelson, came forward and was sworn.

Mr. Stenson testified on behalf of the City and stated the parking was in compliance and they have applied for the rental license.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved plus a one-time administrative fine of \$250.00.

CASE NO 16 SMG 06-10-82 – Arline Warwick has been cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3, 5.3a1, 5.3a2, 5.3a3; City Ordinance 90-297, at **1317 N. Halifax Avenue** - Violation(s) – Illegal dock construction and extension, illegal conversion of single family residence to a tri-plex, no rental occupational license - First Notified – 3/5/2010.

Ms. Arline Warwick came forward and was sworn. Ms. Warwick stated she was renting and did not know about the rental license requirement but she has since removed the tenants. Ms. Warwick further stated she purchased the property as a tri-plex from the previous owner. Ms. Warwick stated she did not have the funds to convert the structure back to a single family residence.

Mr. Alderman testified on behalf of the City and stated

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by August 4, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 17 SMG 06-10-83 – OPC Investments, LLC has been cited for failure to correct violations of City Code 90-297, at **528 Pine Street** – Violation(s) – No rental license – First Notified – 2/27/10 & 4/7/10.

Respondent was in compliance May 7, 2010.

CASE NO 18 SMG 06-10-84 – Harold W. Hunter, Sr. & Lisa Hunter Davis has been cited for failure to correct violations of City Code 90-297, at **620 Pine Street** – Violation(s) – **No rental license** – First Notified – 4/7/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and he has not been contacted by the Respondents.

Ruling

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 19 SMG 06-10-85 – Shirley Oldenburgh has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 504.3, 604.3, and 304.6), at **153 Taylor Avenue** - Violation(s) – Plumbing system hazard; electrical system hazard and exterior surfaces – First Notified – 3/30/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the owner was now living in an assisted living facility and her family advised they could not maintain the property. Mr. Stenson stated the property needed to be secured and maintained.

Ruling

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by August 4, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 20 SMG 06-10-86 – D'mrtri Crafton Cato has been cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3; Art. 18 Sec. 7.3; Art. 17 Sec. 2.111; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7); Ch. 90-297 Code of Ordinances, at **622 Washington Street** - Violation(s) – Non-conforming use; outside storage; outside activities; no occupational license - First Notified – 2/12/2010.

Mr. Derek George appeared on behalf of the Respondent and was sworn. Mr. George stated he had the authority of the owner to speak on his behalf. Mr. George presented pictures and stated he does not charge for food but does cook BBQ for family and friends.

Mr. Stenson testified on behalf of the City and stated the violations consisted of the canopy in the driveway; landscaping business out of the house and cooking for profit without an occupational license.

Ms. Deborah Linley came forward and was sworn. Ms. Linley just wanted to state that Mr. George was a good person and neighbor and that he didn't take any money for the food.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 21 SMG 06-10-87 – Bernard R. Carter has been cited for failure to correct violations of City Code 90-297, at **1018 Continental Drive** - Violation(s) – No occupational license - First Notified – 3/3/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the Respondent has not obtained his occupational license.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.

CASE NO 22 SMG 06-10-88 – Elena & Barthelmy Lewis has been cited for failure to correct violations of City Code 90-297, at **1304 Continental Drive** - Violation(s) – No occupational license - First Notified – 3/5/2010.

Respondent was in compliance June 6, 2010.

CASE NO 23 SMG 06-10-89 – Jose Ortiz has been cited for failure to correct violations of the City Code 90-297, at **267 Dahoon Holly Drive** - Violation(s) – No occupational license - First Notified – 3/19/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the Respondent has not obtained his occupational license.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.

CASE NO 24 SMG 06-10-90 – Horace & Annette Staten has been cited for failure to correct violations of City Code 90-297, at **1147 Lakewood Park Drive** - Violation(s) – No occupational license - First Notified – 4/7/2010.

Respondent was in compliance June 6, 2010.

CASE NO 25 SMG 06-10-91 – Monica McKune has been cited for failure to correct violations of City Code 90-297, at **1114 Lewis Drive** - Violation(s) – No occupational license - First Notified – 3/4/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the Respondent has not obtained her occupational license.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.

CASE NO 26 SMG 06-10-92 – Leisa & Kumar Sochan has been cited for failure to correct violations of City Code 90-297, at **1029 Libby Avenue** - Violation(s) – No occupational license
First Notified – 3/15/2010.

Respondent was in compliance May 26, 2010.

CASE NO 27 SMG 06-10-93 – In Land We Trust, LLC has been cited for failure to correct violations of City Code 90-297, at **100 Maplewood Drive** - Violation(s) – No occupational license - First Notified – 3/20/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the Respondent has not obtained their occupational license.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.

CASE NO 28 SMG 06-10-94 – Suzanne Galasso, Kathleen J. & Leon A. Linet has been cited for failure to correct violations of City Code 90-297, at **844 Pinewood Street** - Violation(s) – No occupational license - First Notified – 3/15/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the Respondents have not obtained their occupational license.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.

CASE NO 29 SMG 06-10-95 – M.C. & Belinda Baines has been cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 4.1, at **6 Starling Drive** - Violation(s) – Basketball hoop installed, in ground, in public right-of-way - First Notified – 3/15/2010.

M.C. & Belinda Baines came forward and were sworn. Ms. Baines advised the basketball hoop was removed as they took it down yesterday.

Ms. Lankford testified on behalf of the City and stated she would re-inspect the property.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by July 7, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance.

Adjournment: The meeting was adjourned at 11:07 a.m.