

**CITY OF DAYTONA BEACH**

**MINUTES**

**SPECIAL  
MAGISTRATE  
HEARING**

**July 13, 2010 at 9:00 AM  
City Commission Chambers  
301 South Ridgewood Avenue,  
Daytona Beach, Florida**

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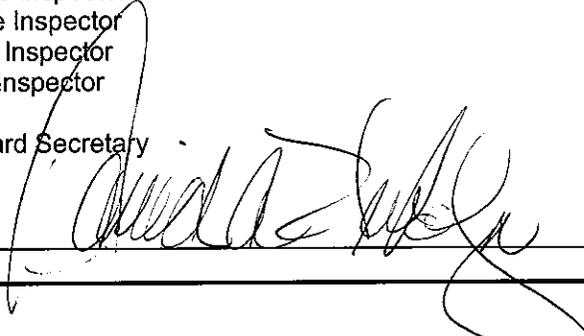
ATTENDEES:

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

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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 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.

Brad Sheppard, Receiver for the property, came forward and was sworn. Mr. Sheppard stated the property was still secured and unoccupied and the foreclosure sale was coming up the end of the month.

Mr. Emory Counts, City's Community Development Director, came forward and was sworn. Mr. Counts stated the pending closing date for the Daytona Beach Housing Authority to purchase the property was August 23, 2010. Mr. Counts stated the City was requesting additional funding for the rehabilitation of the property. If the additional funding is not obtained then they are prepared to go forward with the housing authority's assistance and rehabilitate the property in phases. Mr. Counts stated the rehabilitation is quite extensive.

Mr. Stenson testified on behalf of the City and recommended a progress report in September and confirmed the exterior was being maintained and the property was secured.

**Ruling**

Mr. Vukelja ordered the case be continued until the September 14, 2010 meeting and further ordered the exterior continue to be maintained and the property secured.

**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.

Respondent was not present.

Mr. Fitzgerald testified on behalf of the City and stated the City was working on purchasing the property and was still doing tests for asbestos and ground tests for oil and pollutants. Mr. Fitzgerald advised the property was secured and the exterior was being maintained. Mr. Fitzgerald recommended another progress report.

**Ruling**

Mr. Vukelja ordered the case be continued until the September 14, 2010 meeting.

**\*\*\*This Respondent appeared late and was heard later in the agenda CASE NO 3 SMG 01-10-11 – RDW Property Management, Inc.** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7, 303.7, 303.15, 303.13, 305.3, 504.1, 605.1); Art. 1 Sec. 5.3(b) & 4.3( c), at **344 Ellsworth Street** - Violation(s) – Failure to keep fence in good repair. Failure to remove junk vehicle accessory; using camper topper as a living unit. Failure to keep exterior doors in good repair. Failure to use dwelling for single family. Failure to keep interior flooring and walls in good repair. Failure to keep plumbing in good repair. Failure to keep roof in good repair. - First Notified – 11/13/2008.

Respondent was not present.

Mr. Stenson testified on behalf of the City and advised the property was still in non-compliance and was a constant police issue. Mr. Stenson stated the property remained in non-compliance and recommended imposing a fine of \$100 per day.

**Ruling**

Mr. Vukelja imposed a fine in the amount of \$100.00 per day against the Respondent effective July 7, 2010 to continue 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 in compliance July 7, 2010

**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.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated this was an on-going case where the Respondent has advised they were seeking help from community development however there are several clouds on the title of the property which was preventing them from obtaining funding. Mr. Stenson recommended a compliance date of September 8, 2010 or an automatic fine of \$75.00 per day be imposed. Mr. Stenson further advised that there was a previous running fine imposed on the property back in 2003 which is currently up to \$270,000.

Mr. Vukelja inquired if the property was abandoned.

Mr. Stenson stated the property was unoccupied but not abandoned.

Mr. Jackson stated that a Respondent has appeared several times before the Magistrate indicating he was working on obtaining funding to rehabilitate the property through community development. Mr. Jackson further recommending allowing 60 days to come into compliance by demolition if the Respondent chooses to come into compliance in that manner.

#### **Ruling**

Mr. Vukelja ordered the Respondent come into compliance by September 8, 2010 or an automatic fine of \$100.00 per day be imposed against the Respondent effective September 8, 2010 until compliance is achieved.

**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.

Mr. Horace Mack came forward and was sworn. Mr. Mack stated the semi-truck was removed but he was parking there since 1968 and stated he bought that property because it was commercial property. Mr. Mack further stated he would speak with zoning about how he could park his semi-truck on the property.

Mr. Clig testified on behalf of the City and stated the Respondent was previously found in non-compliance but was in compliance however he was seeking a Will Fine Order to prevent the semi-truck from being parked on the property.

Mr. Jackson recommended Mr. Mack speak with zoning in order to find out what he can do regarding the semi-truck.

#### **Ruling**

Mr. Vukelja found that a previous order of non-compliance was entered and that the Respondent was currently in compliance and further ordered for any future repeat violation the Respondent shall be returned to a subsequent meeting for consideration of the imposition of a fine up to \$5,000 per occurrence.

**CASE NO 7 SMG 04-10-65 – Ali A. Naser** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **116 Hagge Street** - Violation(s) – **Failure to obtain a permit for the installed entrance screening enclosure** - First Notified – 11/18/2009.

Respondent was in compliance July 7, 2010.

**CASE NO 8 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 violations have existed on the property since the hurricanes and further advised the owners were probably going to walk away from the property. Ms. Collins stated the property was still in non-compliance and recommended imposing a \$100.00 per day fine with a cap of \$30,000.

### **Ruling**

Mr. Vukelja imposed a fine of \$100.00 per day against the Respondent effective July 7, 2010 to continue until compliance is achieved, not to exceed the maximum amount of \$30,000.00.

**CASE NO 9 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.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the Respondent has not applied for any permits regarding the work done on the property and therefore he recommended the compliance date be amended until the next cut-off and if not in compliance an automatic fine of \$75.00 per day be imposed with a cap of \$50,000.

Mr. Vukelja inquired how long it would take to acquire permits.

### **Ruling**

Mr. Vukelja amended the previous order of non-compliance to require the Respondent come into compliance by August 4, 2010 or automatically fined the amount of \$75.00 per day until compliance is achieved.

**CASE NO 10 SMG 05-10-77 – ORA Sancast, Inc.** has been cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4, 5 & 6, at **214 N. Beach Street** - Violation(s) – **Erecting signs without permits, non-conforming signs within a redevelopment district** - First Notified – 3/25/2010.

Respondent was in compliance July 9, 2010.

**\*\*\*CASE NO 3 SMG 01-10-11 – RDW Property Management, Inc.** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7, 303.7, 303.15, 303.13, 305.3, 504.1, 605.1); Art. 1 Sec. 5.3(b) & 4.3(c), at **344 Ellsworth Street** - Violation(s) – **Failure to keep fence in good repair. Failure to remove junk vehicle accessory; using camper topper as a living unit. Failure to keep exterior doors in good repair. Failure to use dwelling for single family. Failure to keep interior flooring and walls in good repair. Failure to keep plumbing in good repair. Failure to keep roof in good repair.** - First Notified – 11/13/2008.

This case was revisited due to the Respondent arriving late.

Mr. Robert Williams came forward and was sworn. Mr. Williams testified as the history of the case and the violations that existed. Mr. Williams requested additional time until the hearing in September to come into compliance.

Mr. Stenson testified on behalf of the City and advised the Magistrate he did not have an opinion regarding how long it would take the Respondent to come into compliance. Mr. Stenson advised they have not been provided an opportunity to perform a full re-inspection of the property thus far.

### Ruling

Mr. Vukelja rescinded the previous order imposing the fine/lien and 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 \$100.00 per day effective September 8, 2010 to continue until compliance is achieved.

**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 non-compliance and recommended a \$50.00 per day fine be imposed with a cap of \$10,000.

### Ruling

Mr. Vukelja imposed a fine of \$50.00 per day against the Respondent effective July 7, 2010 to continue each day until compliance is achieved not to exceed the maximum amount of \$10,000.

**CASE NO 12 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.

Mr. Mitch Bryant from Sunshine State Bank came forward and was sworn. Mr. Bryant stated the property was in foreclosure but they had not taken title over yet however, they were in the process of removing the tenants. Mr. Bryant advised they were not going to rent the property once the Bank takes title of the property.

Mr. Stenson testified on behalf of the City and stated the only remaining violation was the occupancy of the tenants because they did not have an occupational license.

### Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondents come into compliance by August 4, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day.

**CASE NO 13 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.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended a fine be imposed.

**Ruling**

Mr. Vukelja imposed the one-time administrative fine of \$250.00 effective July 7, 2010 against the Respondent.

**CASE NO 14 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 recommended imposing the one-time administrative fine of \$250.00.

**Ruling**

Mr. Vukelja imposed the one-time administrative fine of \$250.00 effective July 7, 2010 against the Respondent.

**CASE NO 15 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.

Respondent was in compliance July 7, 2010.

**CASE NO 16 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 in compliance July 12, 2010.

**CASE NO 17 SMG 06-10-89 – Jose Ortiz** has been cited for failure to correct violations of City Code 90-297, at **267 Dahoon Holly Drive** – Violation(s) – No occupational license – First Notified – 3/19/2010.

Respondent was in compliance July 12, 2010.

**CASE NO 18 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 property was in non-compliance and recommended imposing the one-time administrative fine of \$250.00.

**Ruling**

Mr. Vukelja imposed the one-time administrative fine of \$250.00 effective July 7, 2010 against the Respondent.

**CASE NO 19 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 in compliance June 8, 2010.

**CASE NO 20 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 occupational license has not been obtained and therefore recommended imposing the one-time administrative fine of \$250.

### **Ruling**

Mr. Vukelja imposed the one-time administrative fine of \$250.00 effective July 7, 2010 against the Respondent.

**CASE NO 21 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.

Respondent was in compliance July 6, 2010.

**CASE NO 22 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 Ballowh Road** - Violation(s) – Noise/sound violation First Notified – Will Fine Order entered 4/13/10.

Mrs. Patricia Smith and Mr. Donald Smith came forward and were sworn. Mr. Smith advised the Respondent made physical changes with their deck and they are also making sure the bands keep the noise down at night. Mr. Smith stated since those changes the noise has been better.

Mr. George Dixon with Loggerhead came forward and was sworn. Mr. Dixon advised they have made changes and if the Smiths have a complaint they are happy to take care of it right away.

Jason Neufeld, Attorney appeared on behalf of Loggerhead and stated that Caribbean Jacks had made several physical changes in the deck which has helped 100% with the noise and he believed the Smith's were now happy with the noise level.

### **Ruling**

Mr. Vukelja dismissed the Notice of Violation and case.

**CASE NO 23 SMG 07-10-97 – Fran J. Lasseter** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.5, 304.13, 304.7); Ch. 90-297 Code of Ordinances), at **314 Cottrill Avenue** - Violation(s) – Rodent harborage; windows and doors; roof and drainage; no rental license - First Notified – 2/4/2010.

Mr. Timothy Hassler appeared on behalf of Fran Lasseter, came forward and was sworn. Mr. Hassler stipulated to the non-compliance and said most of the issues have been taken care of except for the rental license and the permit for the windows has been applied for.

Mr. Stenson testified on behalf of the City. Mr. Stenson recommended the next cut-off date for compliance.

**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 \$1,000.00 per day until compliance is achieved.

**CASE NO 24 SMG 07-10-98 – Walter Washington, Jr. & Clara Washington** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.1, 304.4, 304.7, 304.13, 305.1, 305.3, 305.6, 504.3 and 604.3), at **505 N. Lincoln Street** - Violation(s) – Exterior structure; structural members; roof and drainage; windows/doors; interior structure; interior surfaces; interior doors; plumbing system hazards; electrical system hazards - First Notified – 4/21/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property appeared to be abandoned and it remains in non-compliance. Mr. Stenson recommended the next cut-off date for compliance.

**Ruling**

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents be in compliance by August 4, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day until compliance is achieved.

**CASE NO 25 SMG 07-10-99 – Eva M. Brown & Nellie L. Morris, JTRS** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 504.1, 504.3, 304.13, 304.14, 704.2, 304.10; and City Ordinance 90-297, at **414 Pleasant Street** - Violation(s) – Plumbing fixtures; plumbing system hazard; window screens; smoke detectors; stairs; no occupational license - First Notified – 4/28/2010.

Ms. Nellie Morris came forward and was sworn. Ms. Morris stipulated to the violations and requested 60 days for compliance. Ms. Morris appeared for her aunt and stated her aunt is trying to sell the property and probably will not be able to come into compliance prior to 60 days.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended 60 days for compliance.

**Ruling**

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by September 8, 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 26 SMG 07-10-100 – Bertha M. Vernon** has been cited for failure to correct violations of City Ordinance 90-297, at **531 Tomoka Road** - Violation(s) – No rental license - First Notified – 3/18/2010.

Respondent was in compliance July 1, 2010.

**CASE NO 27 SMG 07-10-101 – Jacquelyn Cord-Phinisee** has been cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8, 302.7, 304.2 and 304.13), at **642 Shady Place** - Violation(s) – Junk vehicle; accessory structure (fencing); peeling paint; windows - First Notified – 5/15/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended the next cut-off date for compliance.

**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.

**\*\* Item # 5 was revisited as the Respondent was present.**

**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.

Bernard W. Smith, Jr. came forward and was sworn. Mr. Smith stated they have an application with community development for a complete rehabilitation of the property however there is a cloud on the title and he has not been able to clear the title as of yet. Mr. Smith further advised they do not have the money to come into compliance without community development assistance.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended a compliance date of September 8, 2010 or an automatic fine of \$100.00 per day.

Mr. Jackson advised there was an existing code enforcement lien against the property as well which appeared to be in his parent's name.

Mr. Smith advised he was not aware of the old lien from 2003. Mr. Smith advised he would not like to demolish the structure because it is family property.

Mr. Vukelja advised the Respondent of the order that was previously entered which was amending the previous compliance date to October 6, 2010 or be automatically fined the amount of \$100.00 per day.

**Ruling**

Mr. Vukelja vacated the previous order and continued the matter until August 10, 2010 to allow the Respondent to figure out how they were going to come into compliance.

**Miscellaneous Business**

1. Mr. Mohammed Khabazeh came forward and was sworn. Mr. Khabazeh stated a fine was imposed at the last meeting. Mr. Stenson stated the property was not in compliance at the time the fine was imposed. Mr. Khabazeh question why the fine was imposed since March.

Mr. Vukelja advised the property needed to be brought into compliance and once the property is in compliance the Respondent may ask for a reconsideration of the fine.

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