

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

September 21, 2010 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

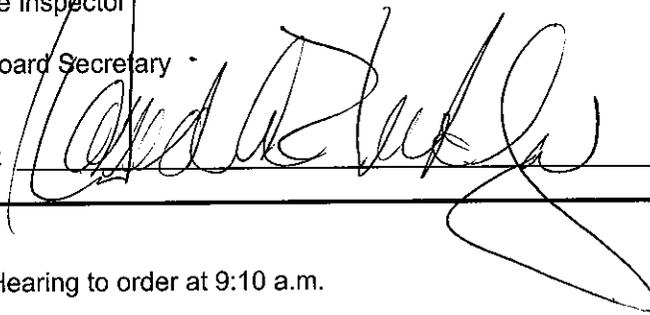
Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Officer Sherri Siracusa
Mr. Emory Counts, Community Development Director
Mr. Charles Bryant, Redevelopment
Mr. Steve Alderman, Code Inspector
Ms. Barbara Collins, Code Inspector
Mr. Michael Fitzgerald, 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 9:10 a.m.

Mr. Vukelja approved the minutes of the July 13, 2010 Regular Meeting and the July 27, 2010 Special Meeting Minutes.

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. is 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.

Community Development Director Emory Counts came forward and was sworn. Mr. Counts stated the sale of the property to the Housing Authority has been finalized and they were looking for engineers and architects to rehabilitate the buildings.

Mr. Stenson testified on behalf of the City and recommended a progress report at the December 14, 2010 Meeting.

Ruling

Mr. Vukelja ordered the case be continued until December 14, 2010 for a Progress Report.

CASE NO 2 SMG 12-09-86 – 400 Beach Street Acquisitions, LLC is 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. Charles Bryant from the Redevelopment Department came forward and was sworn. Mr. Bryant stated the City was maintaining the property and were still in negotiations with the owner to purchase the property.

Mr. Fitzgerald recommended continuing the case for six month.

Ms. Hampton pointed out the case style needed to be amended.

Ruling

Mr. Vukelja continued the case until the March 8, 2011 meeting and further amended the case style to reflect the new mailing address for Theodore R. Stotzer, Esquire, 321 East Hillsboro Blvd., Deerfield Beach, FL 33441.

CASE NO 3 SMG 04-10-63 – Norman H. Riley is 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.

Respondent was in compliance September 7, 2010,

CASE NO 4 SMG 06-10-82 – Arline Warwick is 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; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 303.1 & 303.2), 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; unsanitary & unsafe pool - First Notified – 3/5/2010.

Arline Warwick came forward and was sworn. Ms. Warwick stated she was in the middle of foreclosure and did not have the funds to renovate the property.

Mr. Alderman testified on behalf of the City and stated the pool was still dirty and was unsecure because a screen door was missing.

Ruling

Mr. Vukelja ordered the pool be shocked and all access to the pool be secured within 6 days or an automatic fine of \$250.00 per day will be imposed effective September 27, 2010 and further ordered the full compliance date of November 3, 2010 which was previously ordered was still in effect.

CASE NO 5 SMG 07-10-99 – Eva M. Brown & Nellie L. Morris, JTRS is 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.

Nellie Brown and Jeffery Brown came forward and were sworn.

Mr. Stenson testified on behalf of the City and stated the exterior needed to be maintained and secured.

Ms. Morris stated they were trying to sell the property since they did not have the funds to maintain the property.

Mr. Brown stated he was not aware of the problems of the property because Ms. Morris was supposed to be maintaining the property.

Ruling

Mr. Vukelja ordered the case be continued until the October 12, 2010 Agenda but further ordered the exterior be maintained and secured and that the property remain unoccupied until compliance.

CASE NO 6 SMG 08-10-103 – Felix Matta is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.13(a), at **124 Azalea Drive** - Violation(s) – Dead trees - First Notified – 6/17/2010.

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 \$25.00 per day with a cap of \$10,000.

Ruling

Mr. Vukelja imposed a fine of \$25.00 per day against the Respondent effective September 8, 2010 to continue until compliance is achieved or reached the maximum amount of \$10,000.

CASE NO 7 SMG 08-10-106 – Joseph Enterprises USA, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **600 W. International Speedway Blvd.** Violation(s) – Working without permits - First Notified – 6/7/2010.

Respondent was in compliance September 9, 2010.

CASE NO 8 SMG 09-10-111 – William G. Lehneis is cited for failure to correct violations of City Code 90-297, at **100 Sedona Circle** - Violation(s) – **Failure to obtain an occupational license for the rental property** - First Notified – 4/6/2010 (Posted Property).

Respondent was not present.

Ms. Collins testified on behalf of the City and stated the property was in non-compliance but that she had been in contact with the property manager. Ms. Collins 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 October 6, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 9 SMG 09-10-112 – Gail P. & Ernest Labrecque is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7, at **617 Westmoreland Drive** - Violation(s) – Failure to remove all outside storage from under the carport, driveway and front yard. They shall be stored in a legally constructed, fully enclosed structure - First Notified – 4/9/2010.

Mr. Ernest Labrecque came forward and was sworn. Mr. Labrecque stipulated to the violations and agreed he should be in compliance by the next cut-off date.

Ms. Collins testified on behalf of the City and stated the property was in non-compliance but the Respondent has been making progress and should be in compliance by the next cut-off date.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by October 6, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 10 SMG 09-10-113 – Kevin Molzahn is cited for failure to correct violations of City Code 90-297, at **615 White Street** - Violation(s) – Failure to obtain an occupational license for the rental property - First Notified – 4/8/2010.

Respondent was not present.

Ms. Collins 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 October 6, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 11 SMG 09-10-114 – Big Winston, LLC is cited for failure to correct violations of City Code 90-297, at **745 White Street** - Violation(s) – Failure to obtain an occupational license for the rental property - First Notified – 3/19/2010.

Terri Malia appeared on behalf of the Respondents, came forward and was sworn. Ms. Malia stipulated to the violations and agreed to the next cut-off date for compliance.

Ms. Collins 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 October 6, 2010 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 12 SMG 09-10-115 – Edmondson O. Asgill is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 7 & Art. 18 Sec. 7.3, at **410 Pleasant Street** - Violation(s) – Parking in the yard; Outside storage - First Notified – 7/7/2010.

Respondent was in compliance September 9, 2010.

CASE NO 13 SMG 09-10-116 – Gonzalez Family Revocable Trust dated July 23, 2003 is 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 304.6, 304.13, 302.4, 304.10, 305.3, 304.7, 504.3 and 604.3), at **724 Rawlings Court** - Violation(s) – Outside storage; exterior surfaces; windows/doors; weeds; porch/decking; interior surfaces; roof and drainage; plumbing system hazard; electrical system hazard - First Notified – 4/16/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and that he has been in contact with the owners who were requesting a compliance date in December due to the extent of the violations.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondents come into compliance by December 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 14 SMG 09-10-117 – Robert B. Irving is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1 Supp IPMC 304.13, 305.6, 305.3, 605.2, 304.6, and 604.3); City Code 90-297, at **740 N. Segrave Street** - Violation(s) – Windows/doors; interior dorrs; interior surfaces; receptacles; exterior surfaces (walls); electrical system hazard; working without permits (fence); and no rental license - First Notified – 7/14/2010.

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 Respondents come into compliance by December 8, 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.

CASE NO 15 SMG 09-10-118 – Lisa McCarthy is 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 304.2, 302.1, 504.3, 304.8, 304.6, 304.13, 304.14, 605.1, 304.7, 304.6, 602.2, 305.3, 308.1, 302.5, 504.1 and 304.11), at **630 Tanglewood Street** - Violation(s) – Peeling paint; dirt/grime and mildew; plumbing system hazard; awnings; exterior surfaces; windows and frames; screens; electrical wiring; roof and drainage; exterior wall; heating facilities; interior surfaces; infestation; rodent harborage; plumbing fixtures; chimney and towers - First Notified – 6/28/2010.

Respondent Lisa McCarthy came forward and was sworn. Ms. McCarthy stated all the damage was done by the tenants and therefore she requested a significant amount of time for compliance because of the extent of the damage.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance but the exterior was being maintained. Mr. Stenson recommended two months for compliance with the exterior violations and six months compliance for the interior violations.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent appear at the December 14, 2010 Special Magistrate meeting for a Progress Report and determination of a compliance date. Mr. Vukelja further ordered the property be secured to city standards and the exterior be maintained.

Miscellaneous Business: There was no miscellaneous business.

Adjournment: The meeting was adjourned at 10:10 a.m.