

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

February 8, 2011 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
Sgt. Tracy Miller
Officer Sherri Siracusa
Ms. Colleen Miles, Zoning Officer
Ms. Glejuanda Davis, Permits & licensing
Ms. Barbara Collins, Code Inspector
Mr. Michael Fitzgerald, Code Inspector
Mr. Daniel Garcia, Code Inspector
Ms. Vicki Lankford, Code Inspector
Mr. John Stenson, Code Inspector
Mr. Denzil Sykes, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: _____

Special Magistrate

Mr. Vukelja called the Hearing to order at 9:04 a.m.

Mr. Vukelja approved the minutes of the December 14, 2010 and January 11, 2011 Meeting Minutes.

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

Lien Review 1

SMG 09-10-113 - 615 White Street – Kevin Molzahn: Order Imposing Fine/Lien of one-time administrative fine of \$250.00 imposed October 12, 2010. Compliance date 10/21/2010. Lien amount = \$250.00.

Respondent, Kevin Molzahn came forward and was sworn. Mr. Molzahn presented a timeline of events that occurred with regard to his application for obtaining the rental license. Mr. Molzahn requested the fine be waived.

Ms. Collins testified on behalf of the City and stated that Mr. Molzahn was not approved for the occupational license prior to the fine being imposed and requested the fine not be waived.

Ms. Davis testified on behalf of the City and explained the permitting and application process for obtaining an occupational license.

Ruling

Mr. Vukelja ordered the fine imposed against Kevin Molzahn, 615 White Street, Case # SMG 09-10-113 be released.

Lien Review 2, 3, 4, and 5 were consolidated and heard at once.

SMG 04-06-31 – 204 Haynes Street - Bethune Cookman College, Inc.: Order Imposing Fine/Lien of \$100.00 per day imposed 7/5/2006. Compliance date 1/14/2011. Lien maximized at \$15,000.00.

SMG 04-06-34 – 140 S. Lincoln Street – Bethune Cookman College, Inc.: Order Imposing Fine/Lien of \$100.00 per day imposed 7/5/2006. Compliance date 1/14/2011. Lien maximized at \$15,000.00.

SMG 04-06-32 – 644 Tanglewood – Requestor – Bethune Cookman College, Inc. (Current Owner – BAT Development, LLC): Order Imposing Fine/Lien of \$100.00 per day imposed 7/5/2006. Compliance date 1/4/2011. Lien maximized at \$15,000.00.

CEB 05-06-120 – 707 Cedar Street - Requestor – Bethune Cookman College, Inc. (Current Owner – BAT Development, LLC): Order Imposing Fine/Lien of \$200.00 per day imposed 6/8/2006. Compliance date 1/4/2011. Lien maximized at \$15,000.00.

Attorney James Stowers from Cobb & Cole appeared on behalf of Bethune Cookman College, Inc. and for lien reviews 2, 3, 4, and 5. Mr. Stowers stated that his clients and the City have come to an amicable solution to the cases and further announced the parties stipulated to consolidating all cases and reducing the amount of the lien to \$1,750.00.

Mr. Sykes testified on behalf of the City and confirmed the stipulation of consolidating all cases and reducing the total amount of all liens to the sum of \$1,750.00.

Ruling

Mr. Vukelja ordered Cases SMG 04-06-31, SMG 04-06-34, SMG 04-06-32, and CEB 05-06-120 be consolidated and reduced the sum of the lien to the amount of \$1,750.00 payable within thirty (30) days.

Lien Review 6

SMG 10-10-128 -322 N. Ridgewood Avenue – Lisa McCarthy: Order Imposing Fine/Lien of \$50.00 per day imposed 12/8/2010. Compliance 2/2/2011; 56 days @ \$50.00 per day = \$2,800.00.

Ms. Lisa McCarthy came forward and was sworn. Ms. McCarthy stated she corrected the violations as soon as she could and she was not the violator that her tenants trashed the property. Ms. McCarthy stated the property looks beautiful now and requested a reduction.

Mr. Stenson appeared on behalf of the city and stated the City would recommend a reduction of the lien to the amount of \$250.00.

Ruling

Mr. Vukelja ordered the fine for Case # SMG 10-10-128 be reduced to the sum of \$100.00 payable within thirty (30) days.

Hearing of Cases:

CASE NO 1 SMG 01-10-15; 01-10-16; 01-10-18 – Halifax Reclamation, Inc. & Robert Klenk is cited for failure to correct violations of the Land Development Code, Art. 1 Sec. 5.3(a) - Non-conforming use; City Ordinance 90.297 - Occupational license required; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8) - Junk vehicle; Art. 17 Sec. 2.189(a) - The parking of large commercial vehicles when not in use; Art. 18 Sec. 6.6(a)(8) - Prohibited signs/pennants; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 307.1, 302.7, & 304.8) - Accumulation of rubbish or garbage, Accessory structure, & Premises identification; City Ordinance 78-111 - Overgrown conditions and/or the accumulation of debris, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2 & 304.3) at **Parcel # 39-15-33-33-00-0070 (Marion Street Lot); Parcel # 39-15-33-32-00-0050 (335 Marion Street) & Parcel # 39-15-33-32-00-0011 (Marion Street); Parcel # 39-15-33-32-00-0010 (341 Marion Street); Parcel # 39-15-33-33-00-0080 (327 Marion Street)** - Violation(s) – Failure to conform to zoning requirements; Failure to obtain occupational license for salvage yard, auto salvage, and temporary landfill; Failure to remove inoperative/unlicensed vehicles from property; Failure to remove permanent storage containers; Failure to remove pennant string; Failure to remove rubbish and garbage from property; Failure to maintain in good repair accessory structures including fence and including former 504 Live Oak Avenue accessory building; Failure to cut tall grass/weeds and remove debris; Failure to display street address Failure to remove rubbish and garbage from property; Failure to remove permanent storage containers; Failure to remove pennant string; Failure to obtain occupational license for salvage yard, auto salvage, and temporary landfill; Failure to cut tall grass/weeds and remove debris. Failure to paint exterior wall; Failure to display street address

Attorney Barry Hughes appeared on behalf of the Respondent. Mr. Hughes requested a continuance of the matter and presented argument in support thereof.

Mr. Klenk came forward and was sworn.

Mr. Jackson stated the City had no objection to a continuance.

Mr. Garcia testified on behalf of the City and stated the Respondent has been making significant progress and he did not object to a continuance.

Ruling

Mr. Vukelja ordered the case be continued until the May 10, 2011 Meeting.

CASE NO 2 SMG 07-10-97 – Fran J. Lasseter is 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.

Respondent was in compliance January 27, 2011.

CASE NO 3 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. McCarty stated all that was left to do was the outside painting and requested to have until the April cut-off due to the upcoming Bike Week.

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

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until April 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 4 SMG 11-10-132 – Stamenko & Dusanka Angelov is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 301.1, 301.2, 302.1, 302.2, 302.3, 302.4, 302.5, 302.7, 303.12, 303.13, 303.13.1, 303.14, 303.15, 303.10), at **115 S. Grandview Avenue** - Violation(s) – The Building needs to be repaired to City Standards: Poorly maintained house - paint, trim, remove loose coverings, damaged encapsulates loose putty, and/or deteriorated plaster and peeling paint, doors, stairways - First Notified – 5/26/2010.

Respondent was not present.

Mr. Fitzgerald testified on behalf of the City and stated the property was still in non-compliance and recommended amending the compliance date to the March cut off but then requested an automatic fine be imposed if they were not in compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until March 2, 2011 to come into compliance or be automatically fined the amount of \$100 per day not to exceed the maximum amount of \$20,000.

CASE NO 5 SMG 12-10-141 – Robert B Irving is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp Sections of the IPMC as Outlined in the Attached Housing Inspection Report), at **322 Fulton Street** - Violation(s) – See attached Premises Inspection Report - First Notified – 10/13/2010.

Respondent was in compliance January 26, 2011.

CASE NO 6 SMG 12-10-147 – Juanita C. Armstrong is cited for failure to correct violations of the City Ordinance 90-297, at **1115 Madison Avenue** - Violation(s) – No occupational license - First Notified – 9/16/2010.

Respondent was in compliance February 3, 2011.

CASE NO 7 SMG 12-10-150 – D.R. Horton, Inc. - Jacksonville is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 3.6, at **Tournament Drive (Parcel # 5217-05-00-0001)** - Violation(s) – Defective/damaged retaining wall located SW corner of Tournament and Perfect (common area) - First Notified – 8/27/2010.

Rick Webster appeared on behalf of the Respondents, came forward and was sworn. Mr. Webster requested an extension for 30 days.

Mr. Lankford testified on behalf of the City and stated they were making good progress and recommended amending the compliance date until the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until April 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 8 SMG 02-11-01 – Surfside Villas Condominium Association, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7 and 302.7.1), at **101 S. Peninsula Drive - Main Number** - Violation(s) – Damaged fence - missing or broken pickets - First Notified – 10/25/2010.

Respondent was in compliance February 8, 2011.

CASE NO 9 SMG 02-11-02 – Bobby Lee Burch, Jr.; Bobbie Lee Burch and Murtice Burch, Husband & Wife as JTRS is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC 105.1) & Art. 8 Sec. 3.1(b), at **836 N. Orange Avenue** - Violation(s) – No permit for renovations - First Notified – 11/11/2010.

Mr. John Burch appeared on behalf of the Respondents and stipulated to the violations.

Mr. Sykes testified on behalf of the City and stated the property was in non-compliance and stated the Respondent needed to pull permits for the renovations.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondents come into compliance by April 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 10 SMG 02-11-03 – Ralph A. & Rena Thomas Smith reserving life estates and Melonie Davis Thomas as JTRS 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 302.7), at **549 Cannon Street** - Violation(s) – Outside storage; dilapidated fencing - First Notified – 11/9/2010.

Ms. Rena Smith and Ms. Donna Cooper came forward and were sworn. Ms. Smith stipulated to the violations.

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

Ruling

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by April 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 11 SMG 02-11-04 – Fred E. Allen is cited for failure to correct violations of Ch. 90-297 Code of Ordinances, at **345 Garden Street** - Violation(s) – No rental license - First Notified – 11/20/2010.

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 March 2, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 12 SMG 02-11-05 – Ledoro Properties, Inc. 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 302.7, 304.13, 605.1, 504.3, 304.6, 305.3, 304.2) and Ch. 90-297 Code of Ordinances, at **143 Harney Street** - Violation(s) – Parking in yard; outside storage; dilapidated fencing; broken windows and doors; electrical installation; plumbing hazard; exterior surfaces; interior surfaces; peeling paint; no rental license - First Notified – 11/4/2010.

Ms. Dorothy Woods appeared on behalf of the Respondent, came forward and was sworn. Ms. Woods stated she would be Quit Claiming the property to her son in May as soon as he gets released from prison. She further stated she could not be responsible for the property any longer.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and needed to be secured.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the property be secured to city standards by March 2, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. Mr. Vukelja further ordered the property not be rented, occupied or used and that the exterior be maintained. Mr. Vukelja further ordered the case be placed on the May 10, 2011 Agenda for the determination of a compliance date.

CASE NO 13 SMG 02-11-06 – The Bank of New York Mellon, fka The Bank of New York, as Trustee for the Certificate Holders Alternative Loan Trust 2006-HY11, Mortgage Pass-through Certificates, Series 2006 HY-11 is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 505.1, 603.1, 704.2, 304.14, 602.3, 604.3, 304.2) and Ch. 90-297 City Code of Ordinances, at **503 Ruth Street** - Violation(s) – No hot water; inoperable appliances; no smoke detectors in bedrooms; no window screens; no heating system; electrical system hazards; peeling paint; and no occupational license - First Notified – 12/10/2010.

Respondent was not present.

Ms. Sandra Watkins, tenant, came forward and was sworn. Ms. Watkins stated her lease is with Mr. Darren Jafroodi and that she has only had contact with him via telephone. Ms. Watkins described the violations that were at the property.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and requested to add Mr. Jafroodi as a Respondent and further recommended the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by March 2, 2011 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 02-11-07 – Madrake Daytona Corp. is cited for failure to correct violations of Ch. 90-297 Code of Ordinances, at **524 Arnold Drive** - Violation(s) – No occupational license - First Notified – 10/20/2010.

Respondent was not present.

Mr. Garcia 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 March 2, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 15 SMG 02-11-08 – Bright Beginnings Academy, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1), at **910 Beville Road** - Violation(s) – No building, electrical and plumbing permit - First Notified – 9/16/2010.

Respondents Bill Lucia and Carli Lucia came forward and were sworn. Mr. Lucia stipulated to the violations and stated everything was applied for they were just waiting on the permit

Mr. Vukelja divulged a potential conflict of him presiding over the case because of some current litigation involving the Lucia's and him being opposing counsel. Mr. Vukelja asked the Respondents if they wished to have this matter heard before the Code Enforcement Board.

Mr. Lucia stated he did not have a problem with Mr. Vukelja presiding over the case.

Mr. Jackson stated the City did not have an objection.

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

Mr. Lucia requested until the April cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondents in non-compliance and ordered the Respondents come into compliance by April 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 16 SMG 02-11-10 – Andres Goyanes, II & Natalia Goyanes is cited for failure to correct violations of Ch. 90-297 Code of Ordinances, at **1051 W. International Speedway Blvd.** - Violation(s) – No occupational license - First Notified – 10/21/2010.

Respondent was in compliance February 7, 2011.

CASE NO 17 SMG 02-11-11 – Sheryl Carrigan Anderson is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189(a); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8); and Art .8 Sec. 2.7(a), at **1667 W. Paradise Lane** - Violation(s) – Illegal parking and expired tag - First Notified – 12/16/2010.

Mr. Todd Anderson, husband of the Respondent came forward and was sworn. Mr. Anderson stated the boat was in the driveway and he could not move it because the springs were bad on the trailer and he was afraid they would bust and the boat would topple over causing a life safety issue. Mr. Anderson he was waiting on income tax money before he could afford to change the springs in the trailer.

Mr. Garcia testified on behalf of the city and stated the property was in non-compliance and that the boat has been parked in the driveway for over a year.

Mr. Anderson stated the boat has not been in the driveway for over a year and he was planning on moving it to a friend's house.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by April 6, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 18 SMG 02-11-12 – Cynthia W. & Christopher V. Capalbo is cited for failure to correct violations Ch. 90-297 Code of Ordinances, at **372 Yorktowne Drive** Violation(s) – No occupational license - First Notified – 8/25/2010.

Respondent was in compliance January 28, 2011.

CASE NO 19 SMG 02-11-13 – Bernard Coffey is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7, at **846 Derbyshire Road** - Violation(s) – Parking vehicle on unimproved surface - First Notified – 11/29/2010.

Respondent was in compliance February 2, 2011.

CASE NO 20 SMG 02-11-14 – Samuel J. Merrill, Jr. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 303.2), at **1237 Essex Road** - Violation(s) – Deteriorated, damaged soffit/fascia - First Notified – 11/24/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the city and stated the property was in non-compliance and recommended the next cut-off for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 2, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 21 SMG 02-11-15 – Jules Xavier Junker is cited for failure to correct violations of City Ordinance 90-297, at **551 Fairmount Road** Violation(s) – No occupational license for rental property - First Notified – 12/2/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the city and stated the property was in non-compliance and recommended the next cut-off for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 2, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 22 SMG 02-11-16 – Luther & Maline Walker is cited for failure to correct violations of the Land Development Code, Art. 17 Sec. 2.189, at **1065 Imperial Drive**
Violation(s) – Parking commercial vehicle in a residential neighborhood - First Notified – 11/2/2010.

Respondent was in compliance February 3, 2011.

CASE NO 23 SMG 02-11-17 – George Joseph Nighland Revocable Living Trust dtd 12/22/04 is cited for failure to correct violations of City Ordinance 90-297, at **1200 Imperial Drive** - Violation(s) – No occupational license - First Notified – 10/25/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the city and stated the property was in non-compliance and recommended the next cut-off for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by March 2, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 24 SMG 02-11-18 – Paul B. Porter is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 2.7 & City Ordinance 90-297, at **1208 Imperial Drive** - Violation(s) – Parking vehicles on unimproved surface and no occupational license - First Notified – 11/23/2010.

Respondent was in compliance February 3, 2011.

CASE NO 25 SMG 02-11-19 – Olivia Brunson is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **1412 Mardrake Road** - Violation(s) – Outside storage (tires and other debris) - First Notified – 12/21/2010

Respondent was in non-compliance February 3, 2011.

Miscellaneous Business

1. Discussions were held regarding Code Stat and the upcoming Code Workshop.

Adjournment: The meeting was adjourned at 10:25 a.m.