

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

September 13, 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

Colleen Miles, Zoning Officer

Mr. Michael Fitzgerald, Code Inspector

Mr. Daniel Garcia, Code Inspector

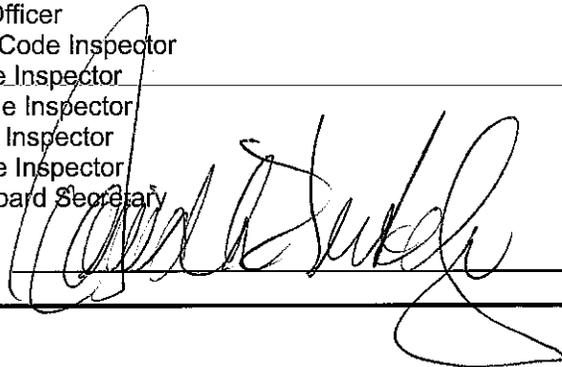
Ms. Vicki Lankford, Code Inspector

Mr. Edwin Lopez, 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 9:28 a.m.

Mr. Vukelja approved the August 16, 2011 Regular Meeting Minutes and the August 16, 2011 Biketoberfest Master Plan Appeal Meeting Minutes.

Ms. Hampton swore in members of staff.

CASE NO SMG 05-11-54 – Philip Woodham – 614 Tanglewood Street – Order Imposing Fine/Lien of \$75.00 per day imposed July 6, 2011; Compliance August 22, 2011; Total Lien = \$3,525.00

VIOLATION(S): Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2, 304.6, 304.10, 304.13 and 304.14), Peeling paint; exterior walls; roof; stairs; windows; exterior doors; and screens -First Notified – 1/19/2011.

Mr. Philip Woodham came forward and was sworn. Mr. Woodham summarized the history of the case and his efforts to come into compliance. Mr. Woodham stated he was not aware he needed a general contractor to perform the work and thought he could do the work himself. Mr. Woodham further presented the costs associated with bringing the property into compliance and asked for relief from the lien.

Mr. Stenson testified on behalf of the City and stated the property was in compliance and recommended a reduction of the lien to \$500.00. Mr. Stenson stated he met with the contractor on the property and explained what needed to be completed for compliance.

Mr. Vukelja summarized the Respondents efforts and the financial cost of bringing the property into compliance.

Ruling

Mr. Vukelja ordered the lien reduced to the sum of \$350.00 payable within thirty (30) days or the lien reverts to the original amount plus interest.

CASE NO 1 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.

Attorney James Stowers appeared on behalf of the Respondent. Mr. Stowers provided a progress report regarding a demolition plan for the entire assemblage of the properties that was going to be submitted to the City for review. Mr. Stowers advised they were going to go before the Planning Board to request a rezoning of the property. Mr. Stowers requested a compliance date of March 1, 2012.

Mr. Fitzgerald testified on behalf of the City and requested the property be demolished and compliance by December 2011.

Mr. Jackson asked for clarification regarding the assemblage of properties and advised City staff's understanding is that the City was working with the entire assemblage of properties.

Ms. Miles explained the location of the entire assemblage of properties.

Mr. Vukelja stated he would consider allowing the Respondents until March 2012 to come into compliance if the Respondents stipulated to including the properties of 340-354 N. Beach Street in the case.

Mr. Stowers stated his clients were willing to stipulate to the inclusion of the properties located at 340-354 N. Beach Street in the case as they were a part of the demotion plan in order to bring 300 N. Beach Street into compliance.

Ruling

Mr. Vukelja amended the previous order of non-compliance to order the Respondents come into compliance by March 7, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance. It was further stipulated the demolition plan to bring 300 N. Beach Street in compliance will include the property addresses of 340-354 N. Beach Street. It was further ordered the case be placed on the November 8, 2011 Agenda for a Progress Report.

CASE NO 2 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); City Ordinance 90.297; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8); Art. 17 Sec. 2.189(a); Art. 18 Sec. 6.6(a)(8); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 307.1, 302.7, & 304.8); City Ordinance 78-111, 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 display street address Failure to remove rubbish and garbage from property; Failure to remove pennant string; Failure to cut tall grass/weeds and remove debris. Failure to paint exterior wall; Failure to display street address - First Notified – 11/20/2009.

Mr. Garcia testified on behalf of the City announced the property was in compliance September 13, 2011, but requested to be heard regarding a Will Fine Order.

Mr. Vukelja stated the scope of the work was broad and the components would be so numerous it would be difficult to fashion a Will Fine Order and therefore denied the City's request to consider a Will Fine Order.

CASE NO 3 SMG 08-10-144 – Mildred Fliehr, Inc. and Vandall of Daytona, Inc. is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.4 (a)(b)(c)(d); Art 18 Sec. 4.4 (a)(b)(c)(d)(e)(g)(h)(i)(j); Art. 19 Sec. 1.1 (ref. FBC 105.1), at **612 E. International Speedway Blvd.** - Violation(s) – Maintenance Code: peeling paint; mildew; graffiti, or dirt, rotten wood; No permit - First Notified – 5/24/2010.

Respondent was not present.

Mr. Fitzgerald testified on behalf of the City and stated the Respondents were making progress and have improved the property and therefore recommended amending until the November 2011 cut-off date.

Board Action

Mr. Vukelja amended the previous order of non-compliance and ordered the Respondents come into compliance by November 2, 2011 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 4 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.

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 \$75.00 per day until compliance is achieved.

Ruling

Mr. Vukelja ordered a fine be imposed of \$75.00 per day against the Respondent effective September 7, 2011 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 5 SMG 06-11-56 – James W. Corwin is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (Ref. FBC 105.1), at **1129 Hillcrest Drive** - Violation(s) – Renovations without permits - First Notified – 4/19/2011.

Brent Pryor appeared on behalf of the Respondent and was sworn. Mr. Pryor stated they had registered the property with the Police Department's Trespass Arrest Site program, secured the back door and maintained the exterior of the property. Mr. Pryor stated Mr. Corwin was looking into selling the property or giving it to Habitat for Humanity.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance but it was being maintained. Mr. Stenson advised the property owner was trying to sell the property but that a compliance date needed to be imposed in order to bring some resolution with the outstanding violations. Mr. Stenson stated in order to come into compliance the permit needs to be pulled for the work that has been completed already.

Ruling

Mr. Vukelja amended the previous order of non-compliance and ordered the Respondent come into compliance by December 7, 2011 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved. It was further ordered the property be secured to City standards and the exterior be maintained or the Respondents shall be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day.

CASE NO 6 SMG 07-11-78 – Redus Florida Commercial, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.4; 5.4(a); 5.4(b); 5.4(d); 5.7; 5.7(d); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 605.1), at **175 S. Atlantic Avenue** - Violation(s) – Deteriorated or damaged structural and decorative elements; graffiti, dirt or debris on outside walls; merchandise displayed in windows that blocks the view into the interior of the store; damaged electrical fixtures, wiring and or appliances - First Notified – 4/29/2011.

Respondent was in compliance September 12, 2011.

CASE NO 7 SMG 07-11-79 – Denise M. Koprowski is cited for failure to correct violations of the Land Development Code, Art. 8 Sec. 3.6; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.4 and 304.6), at **27 S. Wild Olive Avenue** - Violation(s) – Presence of mold, mildew, rust on fence; unpainted (not weather proofed) exterior wooden surfaces - First Notified – 4/29/2011.

Respondent was in compliance September 6, 2011.

CASE NO 8 SMG 07-11-80 – Walter W. White, III; Robert H. White and Frederic C. White is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.2, 304.7 and 304.14); City Ordinance 90-297, at **37 S. Wild Olive Avenue** - Violation(s) – Presence of mold, mildew and peeling paint; deteriorated and rotted exterior wood; damaged, rusted, deteriorated gutters and downspouts, no current occupational license - First Notified – 4/27/2011.

Respondent was not present.

Ms. Lankford testified on behalf of the City who stated she has been in contact with one of the owner's who was making progress and was in the process of purchasing the property from his other family members. Ms. Lankford recommended amending the compliance date until the November 2011 cut-off date.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until November 2, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 9 SMG 08-11-84 – Giaularam Hahn & Albert Musaev is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.3 & 7.4.2, at **130 S. Oleander Avenue** - Violation(s) – Untrimmed bushes, hedges, lawn, mold/mildew, dirt and grime on front retaining wall and stairs First Notified – 5/24/2011.

Respondent was in compliance September 6, 2011.

CASE NO 10 SMG 08-11-86 – Osyp Madeja 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), at **130 S. Peninsula Drive** - Violation(s) – Outside storage of junk and debris; protective treatment - First Notified – 5/17/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he received a message from the property owner that stated his sons were coming down from up North to help him as he cannot clean the property by himself. Mr. Stenson further stated the property still has not been brought into compliance and recommending impose a fine of \$50.00 per day.

Ruling

Mr. Vukelja imposed a fine of \$50.00 per day against the Respondent effective September 7, 2011 to continue until compliance is achieved or reached the maximum amount of \$10,000.00.

CASE NO 11 SMG 08-11-87 – Aaron R. Mitchell is cited for failure to correct violations of City Ordinance 90-297, at **133 Pierce Avenue** - Violation(s) – No rental license - First Notified – 5/17/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he had verbal contact with the property owner but no license has been obtained or applied for and therefore recommended imposing a fine.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective September 7, 2011 for failing to obtain an occupational license for the rental property.

CASE NO 12 SMG 08-11-88 – Sophia Gregory 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 304.13, 304.15, 304.7, 304.6), at **501 Pine Street** - Violation(s) – Outside storage; windows; doors; roof; exterior surfaces; property unsecured - First Notified – 3/28/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he had no contact since the beginning of the case. Mr. Stenson advised the property was a police issues and was in deplorable condition and therefore the City was requesting a \$200.00 per day fine.

Ruling

Mr. Vukelja imposed a fine of \$200.00 per day against the Respondent effective September 7, 2011 to continue until compliance is achieved or reached the maximum amount of \$15,000.00.

CASE NO 13 SMG 08-11-89 – Aaron Mitchell is cited for failure to correct violations of City Ordinance 90-297, at **455 Pleasant Street** - Violation(s) – No rental license - First Notified – 12/1/2010 & 6/24/2011

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated he had verbal contact with the property but no license has been obtained or applied for and therefore recommended imposing a fine.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective September 7, 2011 for failing to obtain an occupational license for the rental property.

CASE NO 14 SMG 09-11-91 – Hollywood Heights, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.4.4, at **27 S. Hollywood Avenue** - Violation(s) – Exterior surfaces have deteriorated, decayed, disintegrated, been weathered with dirt and grime, or impaired through peeling or flaking of the paint or other protective coating - First Notified – 5/31/2011.

Shawn Duszny, Registered Agent for Hollywood Heights, LLC came forward and was sworn. Mr. Duszny stipulated to the violations. Mr. Duszny stated he cleaned up the property.

Ms. Lankford testified on behalf of the City and advised Mr. Duszny brought pictures and it looked like everything was in compliance but she would go re-inspect either later in the afternoon or the next day.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by October 5, 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 09-11-92 – Winslow C. & Charlotte Bleeker is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.4; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2), at **140 S. Oleander Avenue** - Violation(s) – Dirt/grime and mold/mildew on exterior surfaces, unprotected exterior wood surfaces - First Notified – 6/16/2011.

Respondent was in compliance September 6, 2011.

CASE NO 16 SMG 09-11-93 – Terry & Russell W. Claunch is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4(j); Art. 18 Sec. 7.3.3; Art. 19 Sec. 1.1. (Ref. FBC Supp IPMC 304.2), at **202 Harvey Avenue** - Violation(s) – Discolored/faded paint; rotted wood and poor landscaping - First Notified – 5/18/2011.

Mr. Russell Claunch came forward and was sworn. Mr. Claunch stipulated to the violations.

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 Respondent in compliance by October 5, 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 17 SMG 09-11-94 – Flippo Properties, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4 (c),(h),(i),(j); Art. 18 Sec. 5.13(a) & (b); Art. 18 Sec. 5.4(b); Art. 18 Sec. 5.5(a) & (b), at **715 E. International Speedway Blvd.** - Violation(s) – Peeling/faded paint; damaged concrete soffit, holes, rust, poor landscaping, overgrown weeds, exposed wires - First Notified – 4/14/2011.

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 Respondent in compliance by October 5, 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 09-11-95 – OPC Investments, LLC is cited for failure to correct violations Ch. 90-297(a) Code of Ordinances, at **834 School Street** - Violation(s) – No occupational license for rental
First Notified – 3/3/2011.

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 Respondent in compliance by October 5, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 19 SMG 09-11-96 – Frederick & Sabrina L. Metivier is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **617 Willie Drive** - Violation(s) – No occupational license for rental -
First Notified – 5/25/2011.

Respondent was not present.

Mr. Lopez testified on behalf of the City and stated the property was in non-compliance and was a rental property in violation of not having a rental license.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent in compliance by October 5, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 20 SMG 09-11-97 – Frederick & Sabrina L. Metivier is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3.1; Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 307.1), at **617 Willie Drive** - Violation(s) – Debris from torn down brick fence - First Notified – 6/22/2011.

Respondent was not present.

Mr. Lopez testified on behalf of the City and stated the property was in non-compliance and requested 15 days to come into compliance by removing the debris.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by October 5, 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 21 SMG 09-11-98 – Inez S. Kennick is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.8), at **637 Willie Drive** - Violation(s) – Junk Vehicle - First Notified – 6/22/2011.

Respondent was in compliance August 26, 2011.

CASE NO 22 SMG 09-11-99 – Merrell Lloyd is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **455 N. Lincoln Street** - Violation(s) – No occupational license for rental
First Notified – 6/22/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and advised the property was in non-compliance as their last occupational license expired in September 30, 2009. 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 October 5, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 23 SMG 09-11-101 – Calle Grande Land Trust dtd 3/23/09 is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **910 W. Millard Court** - Violation(s) – No occupational license for rental - First Notified – 6/1/2011.

Respondent was in compliance August 30, 2011.

Miscellaneous Business

There was no miscellaneous business.

ADJOURNMENT

The meeting was adjourned at 10:30 a.m.