

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

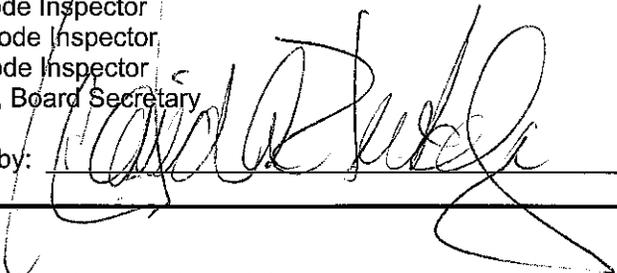
November 8, 2011 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Mr. Hector Garcia, Code Compliance Manager
Ofc. Sherri Siracusa
Ms. 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
Mr. Denzil Sykes, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by: 

Special Magistrate

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

Mr. Vukelja approved the October 11, 2011 Regular Meeting Minutes.

Ms. Hampton swore in members of staff.

Mr. Vukelja asked if there were any announcements.

Mr. Jackson announced the following cases were in compliance:

CASE NO 2 CEB 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.

COMPLIANCE 10/31/2011

CASE NO 8 SMG 10-11-103 – TLB Holdings, LLC and Terence Benn is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref.FBC Supp IPMC 301.3, 302.7, 303.10, 303.14), at **909 Kathy Street** - Violation(s) – Unsecured building, rotten wood and broken windows - First Notified – 5/15/2011.

COMPLIANCE 11/1/2011

CASE NO 9 SMG 10-11-107 – Robert B. Irving is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **360 Weaver Street** - Violation(s) – No occupational license for rental - First Notified – 8/16/2011.

COMPLIANCE 10/27/2011

CASE NO 10 SMG 10-11-111 – Meena Ramasami is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.13 and 304.15), at **601 Mulberry Street** Violation(s) – Windows and Exterior doors - First Notified – 7/18/2011.

COMPLIANCE 10/24/2011

Mr. Vukelja stated he would like to announce his ruling for the previous case of **SMG 07-11-75 – William Bittorf, 400 E. International Speedway Blvd.**, which he took under advisement after the initial hearing to determine compliance or non-compliance.

Ruling

Mr. Vukelja found the Respondent, William Bittorf, 400 E. International Speedway Blvd., SMG 07-11-75 in non-compliance and ordered the Respondents appear at the December 13, 2011 meeting for determination of a compliance date.

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.

Mr. Fitzgerald testified on behalf of the City and presented his credentials, case information and deferred to the Respondent's counsel to provide a progress report.

Ms. Colleen Miles, City's Zoning Officer came forward and was sworn.

Attorney James Stowers appeared on behalf of the Respondent and advised they met with City Staff and were proceeding with the demolition plan to go before the Downtown Redevelopment Board for approval of the scope of the demolition site restoration plan. Mr. Stowers stated that meeting will be held on December 6, 2011.

Ms. Miles agreed with Mr. Stowers and stated once the Board determined what the demolition and what the restoration standards will be they will come back and report that information to the Magistrate.

Mr. Fitzgerald requested some broken windows in the back building be boarded up.

Ruling

Mr. Vukelja ordered a progress report at the December 13, 2011 Meeting. The previous amended order of non-compliance remained in effect.

CASE NO 3 SMG 08-11-82 – Vandall of Daytona, Inc. is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 5.13 & 5.13(b); Art. 18 Sec. 5.4 & 5.4(a)(b)(d); Art. 18 Sec. 5.5 & 5.5(a); Art. 18 Sec. 5.6 & 5.6(b), at **614 E. International Speedway Blvd.** - Violation(s) – Peeling paint; mold and mildew on exterior of building; damaged/deteriorated exterior walls; damaged, broken paving in parking area; overgrowth weeds; trash and debris on site; deteriorated fencing; damaged window; rust on exterior of building - First Notified – 5/26/2011.

Williams Phillips came forward and was sworn. Mr. Phillips stated they have addressed everything on the list except for the broken concrete from when the previous owner used to remove gas tanks. Mr. Phillips advised they needed more time for compliance with the driveway.

Ms. Lankford appeared on behalf of the City and presented her credentials, case history and exhibits to the Magistrate. Ms. Lankford further requested the compliance date be amended until the January cut-off date.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 4, 2012 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 4 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 appeared on behalf of the City and presented her credentials, case history and exhibits to the Magistrate. Ms. Lankford further requested the compliance date be amended until the January cut-off date for compliance as the Respondent have made good progress and were out of state owners. Ms. Lankford further requested the removal of the occupational license violation as it was a family member living in the home who was not paying rent.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 4, 2012 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 5 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.

Respondent was not present.

Mr. Garcia testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Garcia recommended amending the compliance date until the December cut-off date because of the good progress that was being made.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until January 4, 2012 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 6 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.

Attorney Kim Heller appeared on behalf of the Respondent. Mr. Heller stated they have pulled a demolition permit and are on target with the current compliance date.

Mr. Garcia testified on behalf of the City and stated the permit was applied for and good progress being made.

CASE NO 7 SMG 09-11-95 – OPC Investments, LLC is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **834 School Street** - Violation(s) – No occupational license - First Notified – 3/3/2011.

Respondent was not present.

Mr. Garcia testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Garcia advised the Respondents had an inspection for the rental license but it failed and needed to have a re-inspection. Mr. Garcia requested the compliance date be amended for 10 days to allow for inspection and if it fails then he requested an automatic fine.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until December 7, 2011 to come into compliance or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 11 SMG 11-11-113 – Jerry King is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.2, 302.8); Art. 18 Sec. 5.13(a), 5.5(a)(b); Art. 18 Sec. 7.3.1, 7.3.3, 7.4.2, and 7.4.4); and Ch. 90-297(a) Code of Ordinances, at **210 S. Grandview Avenue** - Violation(s) – Peeling paint, faded paint, dirt and grime, weeds, ground covering, outside storage, damaged concrete steps, inoperative or unlicensed motor vehicles stored in rear; and no occupational license - First Notified – 4/20/2011.

Respondent was not present.

Mr. Garcia testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Garcia recommended the Respondents be found 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 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 plus a one-time administrative fine of \$250.00 for failing to obtain a rental license.

CASE NO 12 SMG 11-11-114 – Peter W. Bandemer is cited for failure to correct violations of Ch. 90-297(a) Code of Ordinances, at **117 Westwood Drive** - Violation(s) – No occupational license - First Notified – 2/22/2011.

Mr. Garcia testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Garcia recommended the Respondents be found in non-compliance and next cut-off date for compliance.

Mr. Anthony Marrone, property manager, came forward and was sworn. Mr. Marrone stated he was managing the property and was trying to reach Mr. Bandemer to obtain his permission to apply for the license on his behalf. Mr. Marrone advised Mr. Bandemer was aware of the violation.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 7, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00 for failing to obtain a rental license.

CASE NO 13 SMG 11-11-115 – Nazar and Ovsanna Kasparian is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.2), at **313 N. Wild Olive Avenue** Violation(s) – Peeling paint on retaining wall along fence - First Notified – 8/17/2011.

Respondent was not present.

Mr. Garcia testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Garcia stated he has had contact with the Respondents and recommend further the Respondents be found 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 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.

CASE NO 14 SMG 11-11-116 – John H. Mitchell is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3 and Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8, 304.7, 304.13, 304.2, and 304.15), at **717 Indiana Street** - Violation(s) – Outside storage, junk vehicle (boat/trailer), roof and drainage, broken windows, peeling paint/dirt and grime, exterior doors - First Notified – 8/12/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Stenson stated he has not had any contact with the Respondent and that the property was secured except for broken windows. Mr. Stenson recommended the Respondent be found in non-compliance and the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in 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.

CASE NO 15 SMG 11-11-117 – David Walker is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3, at **147 Kingston Avenue** - Violation(s) – Outside storage - First Notified – 9/6/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Stenson stated he has not had any contact with the Respondent and that the Respondent had a long history of pulling permits, getting extensions and not completing the work. Mr. Stenson recommended the Respondent be found in non-compliance and the next cut-off date for compliance.

Ms. Cynthia Casavant, neighbor of the Respondent, came forward and was sworn. Ms. Casavant advised the Respondent has had permits for four years and has still not completed the work. Ms. Casavant stated the construction materials and debris in the yard is an eyesore and further stated the Respondent was attempting to bury the materials until she called Code Enforcement. Ms. Casavant stated any help at all she can receive from the City and the Magistrate would be greatly appreciated.

Ruling

Mr. Vukelja found the Respondent in 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.

CASE NO 16 SMG 11-11-118 – Ceola Webb, Life Estate is cited for failure to correct violations of City Ordinance 90-297, at **425 N. Lincoln Street** - Violation(s) – No occupational license - First Notified – 8/18/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Stenson recommended the Respondent be found in non-compliance and the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 7, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00 for failing to obtain a rental license.

CASE NO 17 SMG 11-11-119 – Kelly E. Scofield & Ronald R. Fleischman 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, 304.14, 304.15, 304.8, 605.1), at **525 Madison Avenue** - Violation(s) – Outside storage, dilapidated fencing, broken windows, missing/damaged screens, exterior doors, skirting, electrical equipment installation, vacant and unsecure structure - First Notified – 7/21/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Stenson recommended the Respondents be found in non-compliance and the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in 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.

CASE NO 18 SMG 11-11-120 – Aaron R. Mitchell is cited for failure to correct violations of City Ordinance 90-297, at **531 Model Street** - Violation(s) – No occupational license - First Notified – 8/25/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Stenson recommended the Respondents be found in non-compliance and the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 7, 2011 or be returned to a subsequent meeting for consideration of a one-time administrative fine of \$250.00.

CASE NO 19 SMG 11-11-121 – Paul Protentis is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.13, 305.6, 504.1, 304.14, 304.15, 302.4, 304.3); City Ordinance 90-297, at **532 Fairmount Road** - Violation(s) – Broken windows, interior doors, plumbing fixtures, screens, exterior doors, fencing, receptacles, weeds, identification numbers, no occupational license for rental - First Notified – 8/25/2011.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented his credentials, case history and exhibits to the Magistrate. Mr. Stenson stated the violations consisted of broken windows, interior doors, fixtures and no rental license. Mr. Stenson recommended the Respondents be found in non-compliance and the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in 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 plus a one-time administrative fine of \$250.00.

Miscellaneous Business

1. There was no miscellaneous business.

ADJOURNMENT

The meeting was adjourned at 9:55 a.m.