

CITY OF DAYTONA BEACH

MINUTES

**SPECIAL
MAGISTRATE
HEARING**

October 12, 2010 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

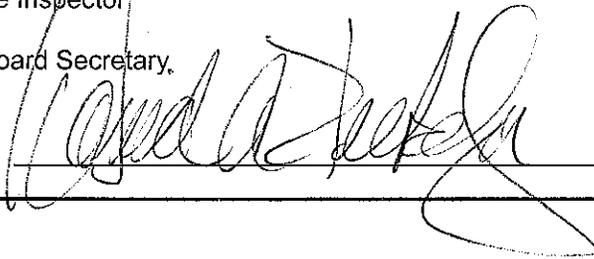
Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Officer Steve Grant
Mr. Steve Alderman, Code Inspector
Ms. Barbara Collins, Code Inspector
Ms. Vicki Lankford, 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 August 17, 2010 Meeting Minutes.

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

CASE NO 1 SMG 02-10-22 – Carry Bernadette Smith-Ramsey 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 304.10, 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 Smith, brother of the Respondent, came forward and was sworn. Mr. Smith stated he needed more time to clear the title to the property. Mr. Smith stated he cannot get the funds from the City to repair the building because the title is so clouded. Mr. Smith stated they decided to Board up the property to secure it while they were trying to clear the title.

Mr. Stenson testified on behalf of the City and stated he met with the owners on the property regarding the definition of securing the property to City standards. Mr. Stenson stated they were still working on getting the title clear so they can receive City assistance.

Ruling

Mr. Vukelja continued the case until the December 14, 2010 Special Magistrate Meeting and further ordered the property is to remain secured to City standards and the exterior maintained and the property is not to be rented, occupied or further utilized until compliance is achieved.

CASE NO 2 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.

Respondent, Nellie L. Morris came forward and was sworn. Ms. Morris stated her brother secured the doors and windows the previous evening at 6:00 p.m. Ms. Morris stated they were trying to sell the property.

Mr. Stenson testified on behalf of the City and stated the property was still in non-compliance and is not completely secured and it needs to be secured to City standards. However he was at the property during the previous morning.

Ruling

Mr. Vukelja ordered the property be secured to City standards by October 19, 2010 or an automatic fine of \$50.00 per day will be imposed until the property is secured or the fine has reached the maximum amount of \$10,000.00. Mr. Vukelja further amended the order of non-compliance to require the Respondents come into full compliance by January 5, 2011 or an automatic fine of \$50.00 per day will be imposed until compliance is achieved or the fine has reached the maximum amount of \$15,000.00.

CASE NO 3 SMG 08-10-102 – Conch House Ocean Waters, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.3, 304.2, 304.15, 304.13, 704, 605, and 304.6), at **700 N. Atlantic Avenue** - Violation(s) – Exterior structure maintenance; exterior wiring; fire extinguishers out dated; broken windows; damaged room doors; building address - First Notified – 3/24/2010.

Respondent was not present.

Mr. Alderman testified on behalf of the City and stated the Respondents were 95 % complete and they have made good progress and had good communication. Mr. Alderman recommended amending the compliance date until the next cut-off.

Ruling

Mr. Vukelja amended the previous order of non-compliance to require the Respondents come into compliance by November 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000.00 per day.

CASE NO 4 SMG 08-10-108 – AR & JB Plaza, LLC is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC 105.1 Supp IPMC 304.6), at **1276 8th Street** - Violation(s) – All electrical work requires a permit (defective/illegal wiring throughout); all exterior walls shall be maintained weather proof and free of defects - First Notified – 5/6/2010.

Respondent was in compliance October 11, 2010.

CASE NO 5 SMG 08-10-109 – James Cortazar is cited for failure to correct violations of City Ordinance 90-297, at **1041 Berkshire Road** - Violation(s) – No occupational license - First Notified – 4/29/2010.

Respondent was in compliance October 6, 2010.

CASE NO 6 SMG 08-10-110 – Diana M. Benezette is cited for failure to correct violations of City Ordinance 90-297, at **829 Lewis Drive** - Violation(s) – No occupational license for rental property - First Notified – 5/6/2010.

Respondent was in compliance October 11, 2010.

CASE NO 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 in compliance September 28, 2010.

CASE NO 8 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.

Respondent was in compliance October 5, 2010.

CASE NO 9 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 inspection failed and they had not applied for a re-inspection and therefore she recommended imposing a fine.

Ruling

Mr. Vukelja imposed a one-time administrative fine of \$250.00 against the Respondent effective October 12, 2010 for failure to obtain a rental license.

CASE NO 10 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.

Respondent was not present.

Ms. Collins testified on behalf of the City and stated the property was scheduled to have an inspection the next day and therefore she recommended amending the compliance date until the next cut-off period.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondents until November 3, 2010 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 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 he has been in contact with the Respondent who was having permitting problems but has since obtained the permits and was making good progress. Mr. Stenson initially recommended amending until the next cut-off date but then recommended continuing the imposition of a fine case until the next meeting date.

Ruling

Mr. Vukelja continued the case until the November 9, 2010 Special Magistrate Meeting.

CASE NO 12 SMG 10-10-119 – Anna Polera is cited for failure to correct violations of the Land Development Code, Art. 1. Sec. 4.3; City Code 90-297, at **110 Birkdale Drive** - Violation(s) – Dorm living (no more than two unrelated individuals residing in residential property); No occupational license for rental - First Notified – 5/25/2010.

Respondent was in compliance October 6, 2010.

CASE NO 13 SMG 10-10-120 – Islamic Center of Daytona Beach, Inc. is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 303.1 and 303.2), at **825 Derbyshire** - Violation(s) – Pool is unsanitary and in poor repair; main gate enclosure is unsecure - First Notified – 7/9/2010.

Respondent was not present.

Ms. Lankford testified on behalf of the City and stated the property as previously in non-compliance but currently in compliance but since the pool has been in violation previously she requested a Will Fine Order for any future repeat violations.

Ruling

Mr. Vukelja found the Respondents previously in non-compliance but currently in compliance and for any future repeat violations be returned to a subsequent meeting for consideration of a fine up to \$5,000.00 per occurrence.

CASE NO 14 SMG 10-10-121 – Lorraine Tharpes is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.15 and 304.13), at **893 Derbyshire Road** - Violation(s) – Exterior doors damaged and not weather tight; windows are not operable, in good repair and not weather tight - First Notified – 7/7/2010.

Respondent was in compliance October 11, 2010.

CASE NO 15 SMG 10-10-122 – Lillian Day is cited for failure to correct violations of City Ordinance 90-297, at **945 Redwood Street** - Violation(s) – Renting a property without an occupational license - First Notified – 5/12/2010.

Respondent Lillian Day came forward and was sworn. Ms. Day stated she was not aware that she needed a rental license. Ms. Day stated she let a woman live at the property rent free because she had

nowhere else to go. Ms. Day stated she would like to keep the property but get someone to manage it for her because she is not capable of being a landlord. Ms. Day agreed to sign the Trespass arrest site paperwork and then executed the paperwork. Ms. Day also signed a statement agreeing to allow the City to Board up the property.

Karen Granville came forward and was sworn. Ms. Granville stated she was the neighbor next door and has lived there for 3 years. Ms. Granville stated the property was a drug house with excessive police activity and fluent drug traffic and living next door is affecting her and her son's quality of life.

Ms. Lankford testified on behalf of the City and stated compliance would consist of Ms. Day having no tenants in the property. Ms. Lankford further advised Ms. Day did not have good control over the property and there are people that come in and out and it has been a huge police issue. Ms. Lankford requested the Respondent secure and board up the property. Ms. Lankford stated she had the trespass arrest site paperwork with her and requested Ms. Day sign the papers and also requested Ms. Day give the City permission to board up the property.

Mr. Jackson prepared and read the document for Ms. Day to sign allowing the City to Board up the property.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the case be continued until the December 14, 2010 Special Magistrate Meeting for determination of a compliance date.

CASE NO 16 SMG 10-10-123 – Daniel Chambers is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 504.3); City Ordinance 90-297, at **327 N. Caroline Street** - Violation(s) – Plumbing system hazard; no rental license - First Notified – 7/23/2010.

Louis Della Camera, cousin of the Respondent came forward and was sworn. Mr. Della Camera stipulated to the violations and agreed the property should be in compliance by the next cut-off date.

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 November 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day along with a one-time administrative fine of \$250.00 for no rental license.

CASE NO 17 SMG 10-10-124 – Edethia L. Wright Revocable Trust dtd 12-6-04 is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 302.8); City Ordinance 90-297, at **233 College Park Drive** - Violation(s) – Junk vehicle; no rental license - First Notified – 7/30/2010.

Respondent was in compliance September 29, 2010.

CASE NO 18 SMG 10-10-125 – Binky Geneva Pickney as Court Appointed Guardian for James Allan Pickney, a minor child is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.7 and 304.6), at **136 N. Keech Street** - Violation(s) – Accessory structure (fencing); exterior walls - First Notified – 8/7/2010.

Felicia Pickney and Binky Pickney came forward and were sworn. Felicia Pickney stipulated to the violations. Felicia Pickney stated Mr. Bryant from Redevelopment referred them to Mary Williams with the City who informed them of their options to acquire assistance to remodel the home. Felicia Pickney inquired if it was possible to get more time if they could not come up with the funds to fix the wall.

Mr. Stenson testified on behalf of the city and stated the property was in non-compliance and recommended the next cut-off date to come into compliance as they were seeking City assistance. Mr. Stenson described the violations to the Respondent.

Mr. Jackson inquired if the case style was correct as to the owner.

Felicia Pickney stated the case style was correct.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by November 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 19 SMG 10-10-126 – Mozel W. Hendley is cited for failure to correct violations of the Land Development Code, Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 302.8), at **318 N. Keech Street** - Violation(s) – Junk vehicle - First Notified – 8/25/2010.

Mary Hendley, daughter of the Respondent, came forward and was sworn. Ms. Hendley stipulated to the violations. Ms. Hendley stated her mother passed away earlier this year and the vehicle was licensed, insured and was in running condition however she has not been able to locate the key for the car as of yet.

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 Respondents in non-compliance and ordered the Respondents come into compliance by November 3, 2010 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day.

CASE NO 20 SMG 10-10-127 – Daytona Beach Holdings, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4(i); Art. 19 Sec. 1.1 (ref. FBC Supp IPMC 304.6 and 304.7), at **145 N. Nova Road** - Violation(s) – Commercial appearance standards; exterior surfaces, roof and drainage - First Notified – 7/30/2010.

Irving Matthews, owner of Daytona Beach Holdings, LLC, came forward and was sworn. Mr. Matthews stated he has obtained a permit and had a crew out working on the property. Mr. Matthews stipulated to non-compliance and requested the December cut-off date for compliance.

Mr. Stenson testified on behalf of the city and stated the property was in non-compliance and recommended a compliance date of November 3, 2010.

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

CASE NO 21 SMG 10-10-128 – Lisa & William McCarthy is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (ref. FBC Supp IPMC 304.7, 604.3, 308.1, 304.13, 704.2 and 302.7), at **322 N. Ridgewood Avenue** - Violation(s) – Roof and drainage, electrical system hazard, infestation, windows/doors, smoke detectors, accessory structure (detached garage) - First Notified – 7/29/2010.

Respondent was not present.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance but heard from the Respondent who advised she would not be in attendance or do any work on the property until after the Bike Week festivities. Mr. Stenson further stated the property was not occupied and he did see an electrician at the property. Mr. Stenson recommended the December cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent 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.

Miscellaneous Business:

1. Mr. Jackson advised Sgt. Bailey retired.

Adjournment: The meeting was adjourned at 10:05 a.m.