CODE ENFORCEMENT SPECIAL MAGISTRATE HEARING MINUTES

September 12, 2022 - 10:00 A.M.

PRESENT: Erica Augello, Special Magistrate
Matthew McConnell, Assistant City Attorney
Michelle Gonzalez, Community Development Director
Ginny Keeter-Bodkin, Deputy City Clerk
Peyt Dewar, Code Enforcement Manager
Charles Newman, Code Enforcement Officer

Special Magistrate Augello called the hearing to order at 10:00AM and swore in all those present who would be testifying.

2. **Changes to the Agenda** – There were no changes to the agenda.

At this time, the Special Magistrate disclosed that one of the attorneys of the legal firm that represents the Respondent in Case 20220516 also represents her firm in some capacity, but she felt that would not affect her impartiality as outlined under the Rules of Judicial Conduct. There was no objection to her presiding over the case.

3. **Cases Complied or Continued**

4. **New Cases** –

A. Case No. 20220214 St. Pete Beach v. Sundaze Realty LLC
Address: 520 69th Ave St. Pete Beach FL 33706
Sec. 36.4. - Prohibited uses and structures

Code Enforcement Officer Chuck Newman presented the case summary and evidence for the City.

Jennifer Bickey, Property Manager, testified on behalf of Sundaze Realty.

Assistant City Attorney McConnell asked that fines be imposed as there is still an active online advertisement for less than 30 days. The burden is on the property owner to inform the City when the property becomes compliant.

Based upon the evidence presented, Special Magistrate Augello found that there was a violation of cited City Code section. She ordered fines of $250 per day from 7/15/22 through 7/21/22 plus administrative costs for the online advertisements. In addition, the Respondent was given 24 hours to pull down an active online advertisement on Mikes-rents.com and provide proof of compliance to the City or be fined $250 per day from date of order until removed.

B. Case No. 20220536 St. Pete Beach v. Ronald Ball and Lenne B Ball
Address: 513 55th Ave St. Pete Beach 33706 Sec.
8.2. Permitted principal uses and structures

Code Enforcement Manager Peyt Dewar presented the case summary and evidence for the City. The Respondent's mailing address in the Property Appraiser's Office is 511 55th Avenue, which was the address used for the violation notices, in addition to posting on the subject property.

Mr. McConnell asked for fines of $250 per day from the noticed compliance date of 7/31/22 until compliant, plus the four dates in August when short term rental reviews were posted.

Respondent Ronald Ball and his Attorney Russell Cheatham appeared and provided testimony regarding the owner's address and noticing; they testified that the owner complied as soon as possible after receipt of notice. A waiver of fines was requested; the Respondent's tenant was subletting without his knowledge.

Mr. McConnell contended that based on the owner's testimony, fines should be for $250 per day from 8/10/22 to 8/18/22.

Special Magistrate Augello found that there was a violation of the cited City Code, but no fines or costs would be assessed at this time. Any repeat violations may be fined up to $500 per day.

C. Case No. 20220522 St. Pete Beach v. Sharlene Morris
Address: 447 80th Ave St. Pete Beach FL 33706
Sec. 9.2- Permitted principal uses and structures

Mr. Dewar presented the case summary and evidence for the City. The property was advertised for transient occupancy in the RU-2 zoning district, which violates Section 9.2 of City Code. The property is compliant today; he recommended fines of $250 per day plus administrative costs retroactive to 7/25/22.

Respondent Sharlene Morris appeared and provided testimony that she was out of town and complied when she received her held mail from the Post Office.

Special Magistrate Augello found that there was a violation of the cited City Code section, however no fines or costs will be imposed at this time. She added that there may be no rentals or advertisements for less than 30 days going forward or fines up to $500 per day may be imposed.

D. Case No. 20220292 City of St. Pete Beach v. Beachfront Paradise Island, LLC
Address: 3675 Gulf Blvd St. Pete Beach FL 33706
Sec. 12.2. - Permitted principal uses and structures

Code Enforcement Officer Chuck Newman presented the case summary and evidence for the City, including short-term rental reviews. There are six units on the property. Community Development Director Michelle Gonzalez explained that subsequent to their last hearing, the Respondents were pursuing the grandfathering process, however there is no evidence that would apply to this property; she asked that fines be retroactive to the 5/9/22 hearing.

Mr. McConnell clarified that Code section 12.2 states that three short term rentals per 12 months are allowed per parcel, not per unit. No short-term rentals will be permitted until July 2023.

Attorney Julan Mustafa appeared on behalf of principal property owner Sameh Shaker. Ms. Gonzalez explained the AirBnB review process and provided a printed copy. The Respondents are likely to abandon the grandfathering process but have refrained from short-term rentals since receipt of the notice. Mr. McConnell clarified that the property reached the three allowable annual short-term rentals in May.

Special Magistrate Augello found that based on the evidence, the cited City Code was violated and imposed fines of $250 per day from 5/8/22 through 5/10/22 and for each of the four reviewed transient occupancies in June and July, plus administrative costs.

Mr. Mustafa did not object to his client providing the City with proof that rentals for the next 12 months will be for a minimum of 30 days.

5. **Old Cases** – None.

6. **Repeat Violation**

   A. Case No. 20220516 City of St. Pete Beach v. Stephen Gay
   Address: 3606 Gulf Blvd, St Pete Beach, FL 33706
   Sec. 12.2. - Permitted principal uses and structures

Mr. McConnell explained that a request was received through the City Manager to rehear this case, nullifying the previous order, and both parties consented.

Mr. Dewar referred to the Magistrate's Order from 4/13/22 immediately prohibiting rental of the property for less than 30 days until December of 2022. He cited and displayed language from State Statute regarding repeat violations. The City asked that the property be found in repeat violation following their presentation. Mr. Dewar reviewed the case summary and evidence of 37 transient occupancy advertisements in the RM residential district between 5/13/22 through 7/27/22, at $500 each, totaling $18,500 in requested fines. He reviewed emails and a video presentation. Property Manager Brandon Tecklenburg of Tech Travel was not present.

Attorney Elliott Haney appeared on behalf of Respondent Stephen Gay. He reviewed evidence that he had previously submitted via email last week to the City Attorney and Special Magistrate and contended that the 3606 Gulf Blvd. property was never rented for less than 30 days since the 4/13/22 order.

Special Magistrate Augello found that per ordinance, transient occupancy does include advertising. She found there was a repeat violation in advertising for occupancy for rentals of less than 30 days and assessed a one-time fine of $1,000 plus reasonable administrative fees and costs. Any repeat violations will be fined up to $500 per day that the violation exists.

7. **Lien Reductions** – None.

8. **Next Meeting:** October 10, 2022 – the morning and afternoon hearings will be combined at 10:00 AM with Special Magistrate Augello presiding.

9. There being no further business, the hearing was adjourned at 11:37AM.

Attest:

Amber LaRowe, City Clerk