



City of Key West, FL

Old City Hall
510 Greene Street
Key West FL 33040

Action Minutes - Final Code Compliance Hearing

Wednesday, April 29, 2015

1:30 PM

Old City Hall

ADA Assistance: It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number at 305-809-1000 or the ADA Coordinator at 305-809-3731 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

Call Meeting to Order

Code Violations

1 **Case # 13-296**
JJJ's A Place in the Sun, Inc.
John Correa
1029 Southard Street
Sec. 2-939 Licenses
Officer Bonnita Badgett
Posted: 3-6-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: A revocable license is required for the planters and all other items prior to placing them on the city right of way.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

2 **Case # 14-1745**
Scott Hendricks
1916 Patterson Avenue
Sec. 14-37 Building permits, professional plans; display of permits
Sec. 14-256 Required
Sec. 14-31 Adopted
Officer Peg Corbett
Certified Service: 1-22-2015
Initial Hearing: 2-25-2015

Continued from February 25, 2015

Count 1: A detached habitable space was built without the benefit of a building permit. **Count 2:** Electricity was installed in the detached habitable space without the benefit of an electrical permit. **Count 3:** Plumbing was installed in the detached habitable space without the benefit of a plumbing permit.

The request to continue this case to June 24, 2015 was granted by the Special Magistrate.

3

Case # 15-172

Southernmost Cigar Group LLC
Marc Miclette - R/A
230 East 7th Street Associates
Joseph Cohen - R/A
300 Front Street 1
Sec. 58-68 Commercial solid waste accounts
Officer Peg Corbett
Certified Service: 2-9-2015
Certified Service: 4-20-2015 - Property Owner
Initial Hearing: 3-20-2015

Continuance granted to May 27, 2015

Count 1: The subject business was issued a notice of hearing for July of 2013 for a delinquent waste management account which was paid and was dismissed. The account became delinquent again in February of 2014.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

4

Case # 15-190

Southernmost Cigar Group LLC
Marc Miclette - R/A
230 East 7th Street Associates
Joseph Cohen - R/A
300 Front Street 1
Sec. 30-1 Fees for false alarms and fire code inspections
Officer Peg Corbett
Certified Service: 2-9-2015
Certified Service: 4-20-2015 - Property Owner
Initial Hearing: 3-20-2015

In compliance April 28, 2015, request dismissal

Count 1: The fire inspection fees is more than 90 days past due. This

business was previously cited for the same violation in February, 2014.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

5

Case # 14-1631

Theresa Cioffi
3222 Riviera Drive
a/k/a 1600 Riviera Street
FBC Fuel/Gas 301.11 (ASCE 24-05 Sec. 7.4.1) Unsecured Fuel tank,
propane, within a flood zone, below flood level
Officer Scott Fraser
Certified Service: 12-20-2014
Initial Hearing: 1-28-2015

In compliance April 9, 2015, request dismissal

Count 1: For failure to obtain a fuel gas permit and properly secure the tank against buoyancy in accordance with the International Building Code.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

6

Case # 14-878

1415 Olivia St LLC
David MJR Graham, R/A
1415 Olivia Street
Sec. 62-2 Obstructions
Officer Leonardo Hernandez
Certified Service: 9-19-2014
Initial Hearing: 11-14-2014

Continuance granted to May 27, 2015

Count 1: For installing pavers and plants on the city's right of way.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

7

Case # 14-1546

Patricia Ledo Fernandez
2910 Fogarty Avenue
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business
Sec. 26-126 Clearing of property of debris and noxious material required

Officer Leonardo Hernandez
Certified Service: 2-28-2015
Initial Hearing: 4-29-2015

In compliance April 14, 2015, request dismissal

Count 1: A business tax receipt is required to rent your property.

Count 2: The property is overgrown with vegetation and yard waste is scattered on the ground.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

8

Case # 15-33

Robert Edward Sunderman
415 Bahama Street
Sec. 110-292 Failure to achieve a compliance agreement
Officer Leonardo Hernandez
Certified Service: 3-16-2015
Initial Hearing: 4-29-2015

New Case

Count 1: For failure to fulfill the conditions of the settlement agreement with the tree commission

The Special Magistrate found Mr. Sunderman in violation of failure to fulfill the conditions of the settlement agreement with the tree commission. Costs of \$250 were imposed. Also imposed was a fine of \$250 per day if compliance is not achieved by May 26, 2015 at 5 pm. A compliance hearing will be held on May 27, 2015.

9

Case # 15-43

Doctor's Spa
Adrienne Curran
1075 Duval Street C18
Sec. 114-104 Restriction on number of signs permitted
Officer Leonardo Hernandez
Certified Service: 1-15-2015
Initial Hearing: 2-25-2015

In compliance February 26, 2015, request dismissal

Count 1: For exceeding the number number of allowable signs

This case was dismissed by the Special Magistrate at the request of the Code Officer.

10

Case # 15-63

Aqua Key West LLC
Kimball Ingram
711 Duval Street
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez
Certified Service: 2-2-2015
Initial Hearing: 4-29-2015

In compliance February 27, 2015, request dismissal

Count 1: Portable signs are prohibited in the historic district

This case was dismissed by the Special Magistrate at the request of the Code Officer.

11

Case # 15-360

Michael Dicken
325 Duval Street
Sec. 26-192 Unreasonably excessive noise prohibited
Officer Leonardo Hernandez
Hand Served: 3-23-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: Mr. Thomas Gocham finds the drummer, Michael, loud drumming disturbing.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

12

Case # 14-1752

BO's Fish Wagon, Inc.
Holly Owen - President
Dragonfly Consulting - Registered Agent
801 Caroline Street
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 14-40 Permits in historic district
Officer Mary Lockyear
Certified Service: 1-23-2015 - Holly Owen
Initial Hearing: 2-25-2015

In compliance February 25, 2015, request dismissal

Count 1: A counter was installed without the benefit of a building permit. **Count 2:** A counter was installed without the benefit of HARC

approval.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

13

Case # 14-1788

National Playground Construction
William Calhoun - Registered Agent
1100 Varela Street
Sec. 62-3 Schedule of right-of-way permit fees
Sec. 14-150 Insurance coverage
Officer Mary Lockyear
Certified Service: 1-29-2015
Initial Hearing: 2-25-2015

Continuance granted to May 27, 2015

Count 1: Heavy equipment was used to install the playground equipment without obtaining a right-of-way permit for use of the sidewalk. **Count 2:** Heavy equipment was driven over the sidewalk without providing insurance to cover any damage to the sidewalk.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

14

Case # 15-11

Neptune Designs
Jay Pfahl
301 Duval Street A & B
Sec. 14-40 Permits in historic district
Sec. 114-104 Restriction on number of signs permitted
Officer Mary Lockyear
Certified Service: 1-28-2015
Initial Hearing: 2-25-2015

In compliance April 17, 2015, request dismissal

Count 1: For failure to obtain HARC approval for the 13 signs. **Count 2:** For exceeding the number of allowable signs.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

15

Case # 15-17

The Restaurant Store

Richard Tallmadge
1111 Eaton Street Front
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business - **Dismiss**
Sec. 14-40 Permits in historic district
Sec. 114-103 Prohibited signs
Officer Mary Lockyear
Certified Service: 1-9-2015
Initial Hearing: 2-25-2015

In compliance March 17, 2015, request dismissal

Count 1: For the exterior seating which is not licensed. **Count 2:** For failure to obtain HARC approval for the Bone Island Brewing sign.

Count 3: For exceeding the number of allowable signs.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

16

Case # 15-101

Abaco Gold
Angela Williamson
422 Front Street
Sec. 114-104 Restriction on number of signs permitted
Sec. 14-40 Permits in historic districts
Officer Mary Lockyear
Certified Service: 3-9-2015
Initial Hearing: 4-29-2015

New Case

Count 1: For exceeding the number of allowable signs. **Count 2:** For failure to obtain a certificate of appropriateness for the signs.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

17

Case # 13-332

Jean Venes Dieujuste
1300 15th Court 78
Sec. 14-37 Building permits; professional plans; display of permits
Officer Barbara Meizis
Certified Service: 12-17-2014
Initial Hearing: 1-28-2015

In compliance April 28, 2015, request dismissal

Count 1: For failure to obtain a building permit prior to replacing the floors and walls of the trailer and adding onto the trailer.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

18

Case # 14-1720

CAMA SDIRA LLC FBO Alex Model

C/O Camaplan

1501 White Street

Sec. 14-37 Building permits; professional plans; display of permits

Sec. 118-516 Stop work orders

Officer Barbara Meizis

Certified Service: 3-23-2015

Initial Hearing: 4-29-2015

In compliance March 27, 2015, request dismissal

Count 1: A building permit is required prior to the installation of a concrete fence. **Count 2:** A stop work order was issued on December 3, 2014 for the concrete fence. On March 4, 2015, the work had been completed without the benefit of a permit.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

19

Case # 14-1781

David W Lehmkuhl

620 Petronia Street

Sec. 14-37 Building permits; professional plans; display of permits

Sec. 14-40 Permits in historic district

Officer Barbara Meizis

Certified Service:

Initial Hearing: 4-29-2015

In compliance March 5, 2015, request dismissal

Count 1: A building permit is required prior to constructing a fence and gate. **Count 2:** A Certificate of appropriateness is required prior to constructing a fence and gate.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

20

Case # 15-51

James E & Laura D Thornbrugh
1107 Truman Avenue
Sec. 66-102 Date due and delinquent; penalties
Sec. 66-103 Transfer of license
Officer Barbara Meizis
Certified Service: 3-17-2015
Initial Hearing: 4-29-2015

New Case
Repeat Violation

Count 1: The business tax receipt for Island Advertising & Printing is delinquent. **Count 2:** Your expired business tax receipt is from 1025 White Street and needs to be transferred to your current location of 1107 Truman Avenue.

The Special Magistrate found Mr. & Mrs. Thornbrugh in violation for a delinquent business tax receipt. Costs of \$250 were imposed. Also imposed was a fine for the repeat violation of \$500 per day if compliance is not achieved by May 26, 2015 at 5 pm. A compliance hearing will be held on May 27, 2015.

21

Case # 15-65
Daniele Fazekas
818 Carstens Lane
Sec. 58-31 Container and receptacle requirements (f)
Officer Barbara Meizis
Certified Service: 2-18-2015
Initial Hearing: 4-29-2015

In compliance March 4, 2015, request dismissal

Count 1: Waste containers have been left out on the city right of way on the following days: Thursday, January 15, Friday, January 16 and Thursday, January 22. Trash pick up is on Monday.

This case was dismissed by the Special Magistrate at the request of the Code Officer.

22

Case # 15-165
Vila Natividad L/E
Ines M Brown T/C
1324 20th Terrace
Sec. 90-356 Building permits required
Sec. 90-365 Violations and penalties
Officer Barbara Meizis
Posted: 3-19-2015
Initial Hearing: 4-29-2015

New Case

Count 1: Building permits are required prior to construction of the addition. **Count 2:** Constructed an addition on the side of the structure in the setbacks without a building permit.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

23

Case # 14-1798

Matthew N Boucher

3128 Riviera Drive

Sec. 18-601 License required - Counts 1-8 and Counts 9-16

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations - Counts 17-18

Sec. 122-237 Prohibited uses - Counts 19-20

Officer Matt Willman

Certified Service: 2-26-2015

Initial Hearing: 2-25-2015

Continuance granted to May 27, 2015

Counts 1 - 8: The subject property was rented transiently to Brian Kindred from 12-27-14 through 1-3-15 for \$7,500 without the benefit of a transient license. **Counts 9 - 16:** The subject property was rented transiently to Kristen & Kevin Kaczmarek from 12-19-14 through 12-26-14 for \$7,500 without the benefit of a transient license. **Counts 17 - 18** The subject property is offered/advertised by the owner, Matt Boucher, on VRBO and Home Away for short term rentals. **Count 19-20:** The subject property is being rented for short term rentals which is not a permitted use in the Single Family zoning district.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

24

Case # 14-1821

Janice Isherwood

523 Elizabeth Street

Sec. 14-37 Building permits; professional plans; display of permits

Sec. 14-40 Permits in historic districts

Officer Matt Wilman

Hand Served: 4-25-2015

Initial Hearing: 4-29-2015

New Case

Count 1: A building permit is required prior to the construction of a

new deck. **Count 2:** A certificate of appropriateness is required prior to the construction of a new deck.

The Special Magistrate found Ms. Isherwood in violation of constructing a deck without benefit of a building permit or HARC approval. Costs of \$250 were imposed. The court reserves the right to imposed fines if compliance is not achieved by May 26, 2015. A compliance hearing will be held on May 27, 2015.

25

Case # 15-160

Stephen & Luna Phillips

1012 Varela Street 1

Sec. 18-601 License required

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)

Sec. 122-599 Prohibited uses

Officer Matt Willman

Certified Service: 2-26-2015

Initial Hearing: 4-29-2015

Continuance was granted to May 27, 2015

Count 1: The property is being held out on www.homexchange.com for short term rentals without a transient license. **Count 2:** The property is being held out on www.homexchange.com for short term rentals. **Count 3:** Transient rentals are prohibited in the Historic Medium Density Residential district (HMDR).

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

26

Case # 15-203

Ronald Kaisen

1211 Catherine Street

Sec. 18-601 License required

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)

Sec. 122-599 Prohibited uses

Officer Matt Willman

Posted: 4-9-2015

Initial Hearing: 4-29-2015

Settlement Agreement

Count 1: The property is being held out on VRBO for short term rentals without a transient license. **Count 2:** The property is being held out on VRBO for short term rentals. **Count 3:** Transient rentals are prohibited in the Historic Medium Density Residential district (HMDR).

The Special Magistrate was presented a Settlement Agreement that had been signed by Mr. Kaisen and it was approved. The Respondent(s) stipulates to the imposition of the Administrative Cost in the amount of \$250. If Respondent is found in violation of Sections 18-601, 122-1371(d)(9) and 122-599 of the City of Key West code of ordinances again in the future, Respondent(s) understand that the violation will be considered as repeat punishable by up to \$500 per day, per count.

27

Case # 15-248

Key Cove Landings LLC
Christopher Belland, R/A
Last Key Realty
Peter Rysman, R/A
3 Key Cove Drive
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Sec. 122-579 Prohibited uses
Officer Matt Willman
Certified Service: 2-28-2015 - owner
Certified Service: 3-3-2015 - Last Key Realty
Initial Hearing: 4-29-2015

Settlement Agreement - Last Key Realty
Settlement Agreement - Key Cove Landings LLC - Continuance granted to May 27, 2015

Count 1: The property is being held out on Last Key Realty and Home Away for short term rentals without a transient license. **Count 2:** The property is being held out on Last Key Realty and Home Away for short term rentals. **Count 3:** Transient rentals are prohibited in the Medium Density Residential district (MDR-1).

The request to continue the case for Key Cove Landings, LLC to May 27, 2015 was granted by the Special Magistrate.

The Special Magistrate was presented a Settlement Agreement that had been signed by Mr. Rysman and it was approved. The Respondent(s) stipulates to the imposition of the Administrative Cost in the amount of \$250. If Respondent is found in violation of Sections 18-601, 122-1371(d)(9) and 122-599 of the City of Key West code of ordinances again in the future, Respondent(s) understand that the violation will be considered as repeat punishable by up to \$500 per day, per count.

28

Case # 15-249

Key Cove Landings LLC

Christopher Belland, R/A
Last Key Realty
Peter Rysman, R/A
10 Key Cove Drive
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Sec. 122-579 Prohibited uses
Officer Matt Willman
Certified Service: 3-2-2015 - owner
Initial Hearing: 4-29-2015

**Settlement Agreement - Last Key Realty
Settlement Agreement - Key Cove Landings LLC - Continuance granted to May 27, 2015**

Count 1: The property is being held out on Last Key Realty and Home Away for short term rentals without a transient license. **Count 2:** The property is being held out on Last Key Realty and Home Away for short term rentals. **Count 3:** Transient rentals are prohibited in the Medium Density Residential district (MDR-1).

The request to continue the case for Key Cove Landings, LLC to May 27, 2015 was granted by the Special Magistrate.

The Special Magistrate was presented a Settlement Agreement that had been signed by Mr. Rysman and it was approved. The Respondent(s) stipulates to the imposition of the Administrative Cost in the amount of \$250. If Respondent is found in violation of Sections 18-601, 122-1371(d)(9) and 122-599 of the City of Key West code of ordinances again in the future, Respondent(s) understand that the violation will be considered as repeat punishable by up to \$500 per day, per count.

29

Case # 15-310
Sea Cups LLC
dba; Dante's
Wayne Smith - R/A
Brandon Shea Kocis, DJ
955 Caroline Street
Sec. 26-192 Unreasonably excessive noise prohibited
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business - **Dismiss**
Officer Matt Willman
Certified Service: 3-16-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: On March 9, 2015, Officer's Lockyear and Hernandez responded to a complaint of loud music. Noise readings were 99.3 dbc. **Count 2:** A business tax receipt is required for the live entertainment.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

30

Case # 14-154

Deutsche Bank Trust Company Americas
2321 Fogarty Avenue
Sec. 26-126 Clearing of property of debris and noxious materials required
Officer Jim Young
Certified Service: 3-3-2015
Initial Hearing: 4-29-2015

New Case

Count 1: Property is overgrown with landscaping and debris

The Special Magistrate found Deutsche Bank Trust Company in violation of the property being overgrown with landscaping and debris. Costs of \$250 were imposed. Also imposed is a fine of \$250 per day if compliance is not achieved by May 26, 2015 at 5 pm. A compliance hearing will be held on May 27, 2015.

31

Case # 15-0001

Airbnb, Inc.
c/o Lawyers Incorporating Service, R/A
528 Grinnell Street
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Office Jim Young
Certified Service: 2-17-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: On 30 Dec 15 a bedroom located at this property was being held out/advertised on website Airbnb.com for rent at a rate of \$225 per night without the required transient business tax receipt.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

32

Case # 15-0002

Airbnb, Inc.
c/o Lawyers Incorporating Service, R/A
719 Catherine Street
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Officer Jim Young
Certified Service: 2-17-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: On 30 Dec 14 this property was being held out/advertised on website Airbnb.com for rent at a rate of \$325 per night without the required transient business tax receipt.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

33

Case # 15-0003

Airbnb, Inc.
c/o Lawyers Incorporating Service, R/A
104 Geraldine Street
Sec. 122-1371. - Transient living accommodations in residential dwellings; regulations (d)(9)
Officer Jim Young
Certified Service: 2-17-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: On 30 Dec 14 a bedroom located at this property was being held out/advertised on website Airbnb.com for rent at a rate of \$100 per night without the required transient business tax receipt.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

34

Case # 15-0005

Airbnb, Inc.
c/o Lawyers Incorporating Service, R/A
925 Seminary Street Rear
Sec. 122-1371. - Transient living accommodations in residential dwellings; regulations (d)(9)
Officer Jim Young
Certified Service: 2-17-2015

Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: On 30 Dec 14 a bedroom located at this property was being held out/advertised on website Airbnb.com for rent at a rate of \$140 per night without the required transient business tax receipt.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

35

Case # 15-0027

Airbnb, Inc.
c/o Lawyers Incorporating Service, R/A
1 Baptist Lane
Sec. 122-1371. - Transient living accommodations in residential dwellings; regulations (d)(9)
Officer Jim Young
Certified Service: 2-17-2015
Initial Hearing: 4-29-2015

Continuance granted to May 27, 2015

Count 1: On 30 Dec 14 this property was being held out/advertised on website Airbnb.com for rent at a rate of \$395 per night without the required transient business tax receipt.

The request to continue this case to May 27, 2015 was granted by the Special Magistrate.

Liens

36

Case # 13-374

Anola Mira
Yvette Talbott
1104 Virginia Street
Certified Service: 4-8-2015

The Special Magistrate approved filing of the lien.

Adjournment