

STAFF REPORT

DATE: December 28, 2016

RE: **919 White Street (permit application # T16-8224)**

FROM: Karen DeMaria, City of Key West Urban Forestry Manager

An application was received requesting the removal of **(1) Royal Poinciana tree**. A site inspection was done on November 15, 2016 and documented the following:

Tree Species: Royal Poinciana (Delonix regia)



913 White Street

919 White Street





Property line survey pin

11/15/2016

This application does not have a signature from the property owner and there is not a signed and notarized letter of representative authorization signed by the property owner allowing Mark Gushiken to represent them, Therefore, this application can not be accepted for processing.

Sec. 110-323. Application.

All applications for a tree removal permit shall be made to the Urban Forestry Manager. The application shall include an inventory of all existing trees in the area of proposed construction impact, including ingress to and egress from this area. The inventory shall state size, diameter and species of each tree. **In order for the application to be acted upon, it must be signed by the property owner, or a notarized letter from the property owner must be attached to the application designating an authorized agent.** The applicant shall be responsible for clearly marking the subject trees on the site with flagging tape.

CINTRON & HOGAN, P. A.

Attorneys and Counselors at Law

Partners

Robert Cintron, Jr.
John F. Hogan

317 Whitehead Street
Key West, Florida 33040
Telephone 305.296.5676
Facsimile 305-296-4331

Of Counsel

Ronald I. Strauss
D. Andrew Byrne

December 7, 2016

Key West Tree Commission
P.O. Box 1409
Key West, FL 33040

RE: File Nos. 16-8224 and 16-8225/913 and 919 White Street

Dear Members of Tree Commission:

Kindly be advised that I represent Felix and Juanita Petitt, the owners of the mature Royal Poinciana tree located at 913 White Street. We have been advised that the owners of property next door to ours, Bernard Hecht and Timothy McLane, have applied to the Tree Commission for the removal of my client's tree. My clients not only object strenuously to the removal of their tree but they are perplexed as to why someone who does not own the tree can apply for removal of the tree and have that application considered by the Tree Commission when the owner of the tree does not consent to removal of the tree. Section 110-323 of the City's Code of Ordinances requires that an application for tree removal "must be signed by the property owner, or a notarized letter from the property owner must be attached to the application designating an authorized agent." The Tree Commission will be considering an application that on its face does not comply with the clear requirements of the City Code.

To be clear, it is our position that the Messrs. Hecht and McLane have no legal standing to apply for the removal of my client's royal poinciana tree and that the Tree Commission has no jurisdiction to consider removal of the tree in the absence of my clients written consent.

Sincerely yours,

Robert Cintron, Jr.

cc: Ronald Ramsingh, Esq.
Karen DeMaria

Application



8224

Tree Permit Application

Date: 11/4/2016

Please Clearly Print All Information unless indicated otherwise.

Tree Address 919 white street
Cross/Corner Street Truman /white
List Tree Name(s) and Quantity Poinciana, Royal (1)
Species Type(s) check all that apply () Palm (x) Flowering () Fruit () Shade () Unsure
Reason(s) for Application:

(x) REMOVE (x) Tree Health (x) Safety (x) Other/Explain below
() TRANSPLANT () New Location () Same Property () Other/Explain below
() HEAVY MAINTENANCE () Branch Removal () Crown Cleaning/Thinning () Crown Reduction

Other/Explain Interfering with utility wires, breaking drive way and side walk surfaces.

Reason for Request Property damage

Property Owner Name Felix H. Pettit & Juanita T. Pettit
Property Owner eMail Address 919 white st.
Property Owner Mailing Address 919 white st.
Property Owner Mailing City Key West State FL Zip 33040
Property Owner Phone Number (305) 294-1598
Property Owner Signature x

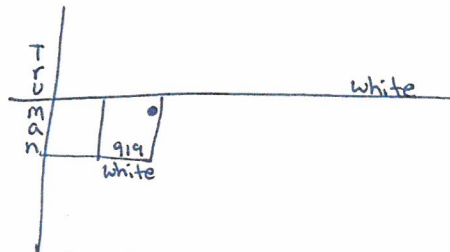
Representative Name Mark Gushiken - Attorney for neighbors Bernard Hecht
Representative eMail Address mgushiken@uslegalteam.com Timothy Malone
Representative Mailing Address 1990 W. New Haven Ave. Melbourne, FL 32904
Representative Mailing City Melbourne State FL Zip 32904
Representative Phone Number (321) 255-2332

NOTE: A Tree Representation Authorization form must accompany this application if someone other than the owner will be representing the owner at a Tree Commission meeting or picking up an issued Tree Permit.

Tree Representation Authorization form attached ()

<<<<< Sketch location of tree in this area including cross/corner Street >>>>>

Please identify tree(s) with colored tape



If this process requires blocking of a City right-of-way, a separate ROW Permit is required. Please contact 305-809-3740.

Karen DeMaria

From: Mark Gushiken <mgushiken@uslegalteam.com>
Sent: Friday, November 04, 2016 10:52 AM
To: Karen DeMaria
Subject: Royal Poinciana Tree Permit Application
Attachments: 2016-11-04_Key West Tree Removal App. 001.jpg

Good Morning Karen,

Thank you for speaking with me on the phone and telling me about key west rules and regulations. Please find my tree permit application attached.

Mark



Mark Gushiken,



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Karen DeMaria

From: Ronald Ramsingh
Sent: Thursday, December 01, 2016 5:18 PM
To: Mark Gushiken
Cc: Karen DeMaria
Subject: RE: Acceptance of Service

Thanks you. Again, staff will forward your request to the Tree Commission for consideration. Typically requests such as this are granted so long as the issue does not present a threat to life safety or property. I believe that due to the repeated requests for postponement, it does not present such a threat. If it is your belief that it does, please let me know.

Ron Ramsingh.

From: Mark Gushiken [mailto:mgushiken@uslegalteam.com]
Sent: Thursday, December 01, 2016 4:08 PM
To: Ronald Ramsingh <rramsingh@cityofkeywest-fl.gov>
Subject: RE: Acceptance of Service

Thank you,

To confirm: Due to short notice, our firm and our clients will not be able to attend and be adequately prepared for the December 2016 Tree Commission Meeting. We would like a continuance and request that our application be placed on the agenda for the meeting to be held on January 10, 2017. Please confirm the date and time, we look forward to hearing the decision of the Tree Commission.

Mark



Mark Gushiken,



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Karen DeMaria

From: Mark Gushiken <mgushiken@uslegalteam.com>
Sent: Thursday, December 01, 2016 10:31 AM
To: Ronald Ramsingh
Cc: Karen DeMaria
Subject: RE: Acceptance of Service

Mr. Ramsingh,

Thank you for getting back to me so promptly. Due to the short notice and prior arrangements we will be unable to clear our calendar for Tuesday December 13, 2016. I would like to request that the city place our application on the January Tree Commission agenda. I believe the meeting will be held on Tuesday, January 10, 2016 at 5:00 p.m. at Old City Hall, 510 Green St. in Key West. Can you please confirm with the city's response to our request?

Thank you,

Mark



Mark Gushiken,

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From: Ronald Ramsingh [mailto:rramsingh@cityofkeywest-fl.gov]
Sent: Wednesday, November 30, 2016 4:34 PM
To: Mark Gushiken <mgushiken@uslegalteam.com>
Cc: Robert Cintron, Jr. <kwlawyer@bellsouth.net>; Karen DeMaria <kdemaria@cityofkeywest-fl.gov>;

jhogan@mchlawfirm.com

Subject: RE: Acceptance of Service

Mr. Gushiken,

The city will place the 2 applications that have been filed by your client on the next Tree Commission agenda. That meeting will take place on December 13, 2016 at 5:00 p.m. at Old City Hall, 510 Green St. in Key West.

Sincerely,
Ron Ramsingh
Chief Assistant City Attorney
City of Key West

From: Mark Gushiken [<mailto:mgushiken@uslegalteam.com>]

Sent: Wednesday, November 30, 2016 10:50 AM

To: Ronald Ramsingh <rramsingh@cityofkeywest-fl.gov>

Subject: Acceptance of Service

Good Morning Mr. Ramsingh,

I am contacting you in regards to the tree permit application for my client Bernard Hecht & Timothy McLane. I attempted to call you, but there was no answer. Do you have a few minutes to speak?

Mark



Mark Gushiken,

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Public Comments

Karen DeMaria

From: Christine Fifer <cfiferbeach@gmail.com>
Sent: Tuesday, December 13, 2016 3:14 PM
To: Karen DeMaria
Subject: #9/10 on tonights agenda Poinciana on White Street

I would just like to make my voice heard about the Royal Poinciana that is up for consideration at tonights meeting

I work at the Armory on White Street. This tree is in my immediate neighborhood, and removing it would be criminal. That wall is already in shambles - remove it and simply place a fence in its place. This tree is more than significant, its grand, and its part of what makes our island special.

Thank you for your time,
Christine Fifer

business:
600 White Street, Key West FL 33040

home:
316 Elizabeth Street, Key West FL 33040