



# City of Key West, FL

City Hall  
1300 White Street  
Key West FL 33040

## Action Minutes - Final - Final

### Code Compliance Hearing

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Wednesday, July 26, 2017

1:30 PM

City Hall

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**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 1-800-955-8771 or for voice 1-800-955-8770 or the ADA Coordinator at 305-809-3811 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

**ALL VISUAL PRESENTATIONS FOR AGENDA ITEMS MUST BE RECEIVED (24) TWENTY-FOUR HOURS PRIOR TO THE MEETING.**

**Call Meeting to Order**

**Code Violations**

**1**

**Case # 17-758**

Jeremy & Kimberly Wilkerson

1110 Eaton Street 1

Sec. 26-126 Clearing of property of debris and noxious material required

Officer Bonnita Badgett

Certified Service:

Initial Hearing: 7-26-2017

**In compliance July 19, 2017; Request dismissal**

**Count 1:** Failure to keep area where garbage is being stored clean.

**The Special Magistrate granted the request to dismiss this case.**

2

**Case # 17-488**

James Messera

~~Kenneth Fagen~~

1409 Flagler Avenue

Sec. 26-126 Clearing of property of debris and noxious material required

Sec. 108-677 Parking and storage of certain vehicles

Sec. 26-31 Offensive and nuisance conditions prohibited

Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business

Officer Sophia Doctoche

Certified Service:

Initial Hearing: 6-28-2017

**Request for continuance for amended Notice of Hearing****Count 1:** Failure to maintain the property to prevent unsanitary conditions and a breeding place for snakes, rodents and vermin.**Count 2:** Failure to have a valid license plate for a trailer on the property or to store the trailer in a completely enclosed building.**Count 3:** Failure to maintain all substances that may cause a foul odor in the neighborhood along with maintaining the growth of the lot.**Count 4:** Failure to have business tax receipts for the businesses Carpenter on Wheels and property manager.**The Special Magistrate granted the request for continuance for an amended Notice of Hearing to August 30, 2017.**

3

**Case # 17-620**

Richard &amp; Marcia Weaver

651 William Street #4

Sec. 66-102 Dates due and delinquent; penalties

Officer Sophia Doctoche

Certified Service:

Initial Hearing: 6-28-2017

**In compliance July 11, 2017; Request dismissal****Count 1:** Failure to renew the business license which expired 30 September 2016.**The Special Magistrate granted the request to dismiss this case.**

4

**Case # 17-819**

Louis and Claudina Arnold  
2603 Flagler Avenue  
Sec. 14-37 Building permits; professional plans; display of permits;  
address; exceptions  
Officer Sophia Doctoche  
Certified Service: 6-23-2017  
Initial Hearing: 7-26-2017

**In compliance July 24, 2017; request dismissal**

**Count 1:** Failure to obtain a building permit for a structure that is underneath a shed in the front of the house.

**The Special Magistrate granted the request to dismiss this case.**

5

**Case # 17-877**

Southernmost Homes, Incorporated  
Joseph D. Cleghorn, Jr. - Registered Agent  
2002 Seidenberg Avenue  
Sec. 108-677 - Parking and storage of certain vehicles  
Officer Sophia Doctoche  
Certified Service: 7-5-2017  
Initial Hearing: 7-26-2017

**In compliance July 7, 2017; Request dismissal**

**Count 1:** One car with an expired license plate and another car without a visible license plate parked in a residentially zoned property without being in a completely enclosed building.

**The Special Magistrate granted the request to dismiss this case.**

6

**Case # 17-975**

Adam Kraskewicz  
Pamela Kraskewicz  
9 Pierce Lane  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Sophia Doctoche  
Certified Service: 7-11-2017  
Initial Hearing: 7-26-2017

**New Case**

**Count 1:** Subject business owner has not renewed their license which expired 30 September 2016.

**The respondents did not appear. Officer Sophia Doctoche gave testimony that they are not in compliance. The City asks for a Finding of Violation without fees or fines. The Special Magistrate granted the request for a Finding of Violation without fees or fines.**

7

**Case # 17-979**

Bumble Bee Silver Company  
Vinod Alwani - Registered Agent  
201 William Street  
Sec. 66-102 Dates due and delinquent; penalties.  
Officer Sophia Doctoche  
Certified Service: 7-3-2017  
Initial Hearing: 7-26-2017

**In compliance July 5, 2017; Request a Finding of Violation without fees or fines**

**Count 1:** Subject business owner has not renewed their license which expired 30 September 2016.

**The respondent did not appear. Officer Doctoche was in attendance. The City requests a Finding of Violation without fees or fines. The Special Magistrate granted the request for a Finding of Violation without fees or fines.**

8

**Case# 17-1075**

Peter Kendrick  
1313 Petronia Street  
Sec. 74-131 Required where public sewer available  
Sec. 62-2 Obstructions  
Officer Sophia Doctoche  
Hand Served: 7-20-2017  
Initial Hearing: 7-26-2017

**New Case**

**Count 1:** Failure to have proper sewer connection. **Count 2:** Plants located on City property are an obstruction to the sidewalk.

Peter Kendrick attended this hearing and gave testimony stating he received the notice and acknowledged that this was his problem and he was responsible. He called Haskin Plumbing right away and the permits have been pulled today. Officer Sophia Doctoche gave testimony. Officer Doctoche stated he is in compliance with the obstruction and the permits have been printed today. Haskins Plumbing told her that he will need about a week. Officer Doctoche was fine with the continuance. The complainant asked if he could speak. He asked that it gets resolved as quickly as possible. The Special Magistrate stated he will have to speak with the respondent or Code about his issues. The Special Magistrate granted continuation to August 30, 2017 for resolution of the connection issues.

9

**Case # 17-961**

John Allan Strong  
3704 Eagle Avenue  
Flood Hazard Construction FBC 1612.4  
Officer Scott Fraser  
Certified Service: 7-11-2017  
Initial Hearing: 7-26-2017

**Continuance granted to August 30, 2017**

**Count 1:** Within a FEMA designated type AE-7 flood zone, did construct, allow to be constructed or occupy an area under the main residence, below the established flood level, contrary to law, safety of its occupants and floodplain management requirements.

The Special Magistrate granted the request to continue this case to August 30, 2017.

10

**Case # 17-431**

Jean Dieuveze Azard

1300 15th Court #12

Sec. 14-37 Building permits; professional plans; display of permits;  
address; exceptions - **In compliance July 7, 2017**

Sec. 14-262 Request for inspection

Officer Leonardo Hernandez

Certified Service: 6-30-2017

Initial Hearing: 7-26-2017

**New Case**

**Count 1:** Failure to obtain after-the-fact plumbing permit and to get final inspections for all open after-the-fact permits for the construction of a laundry room and a concrete slab for a portable plastic shed. - In Compliance July 7, 2017. **Count 2:** After-the-fact plumbing permit has yet to be paid for in full and the need for final inspections for after-the-fact plumbing and electrical permits.

Jean Dieuveze Azard attended. Officer Leonard Hernandez gave testimony. The City requests the dismissal of Count 1. The Special Magistrate granted the request for dismissal of Count 1. Jean Dieuveze admitted to violation of count 2. Officer Hernandez asked for a Finding of Violation for count 2 and ask to reserve the fines with compliance in 30 days for compliance by August 30, 2017 with a \$250 administrative fee imposed now. The Special Magistrate granted the request.

11

**Case # 17-854**~~Ms. Maribel Perez - Property Owner - Dismissed~~~~Ms. Raquel Perez T/C - Property Co-Owner - Dismissed~~

Ernesto Balmaceda - Violator

2930 Flagler Avenue

Sec. 26-192 Unreasonably excessive noise prohibited.

Officer Leonardo Hernandez

Certified Service: 7-14-2017 - Raquel Perez

Certified Service: 7-13-2017 - Maribel Perez

Initial Hearing: 7-26-2017

**Continuance granted to August 30, 2017**

**Count 1:** The subject property has been visited on June 6, June 18, and the weekend of July 2 & 3, 2017 regarding disturbing noise. The complainant has been suffering disturbing noise for quite a long time and defendants have made zero efforts to cease activity.

**Judge Yates needed to make a disclosure about Raquel Perez. Ron Ramsingh, assistant City Attorney, stated that there will be an amended Notice of Code Violation to reflect Raquel Perez not being one of the respondents. The Special Magistrate granted the request for continuance to August 30, 2017.**

12

**Case # 16-1552**

Laney & Stephanie Caston  
1901 South Roosevelt Boulevard S302  
Sec. 18-601 License required  
Sec. 122-1371 Transient living accommodations in residential dwellings  
Sec. 122-1371 D(9) Transient living accommodations in residential dwellings - **Counts 3 - 14**  
Officer Beau Langford  
Certified Service: 1-23-2017  
Initial Hearing: 2-15-2017

**Continuance granted to December 20, 2017**

**Count 1:** For holding the property out for short term rentals on VRBO.com for the dates of 15 Jan 2017 through 27 Jan 2017 without a transient rental license. **Count 2:** For holding the property out for short term rentals on VRBO.com for the dates of 15 Jan 2017 through 27 Jan 2017 without the benefit of the required city, county and state licensing, medallion and fire inspection. **Counts 3 through 14:** The subject property owner is holding out for transient rental for 12 nights for a total of \$3,744.00.

**The Special Magistrate granted the request for continuance to December 20, 2017.**

13

**Case # 17-550**

Hainalka Raffai  
1221 Royal Street  
Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions  
Sec. 14-40 permits in historic districts  
Officer Gerald L Leggett  
Certified Service: 6-24-2017  
Initial Hearing: 7-26-2017

**Continuance granted to August 30, 2017**

**Count 1:** Failure to obtain a building permit for a newly constructed "Cabana". **Count 2:** Failure to obtain a certificate of appropriateness for the structure recently constructed in the rear of the property.

**The Special Magistrate granted the request for continuance to August 30, 2017.**



14

**Case # 17-735**

Gravity Pole Fitness  
Monica Matroci  
3224 Flagler Avenue  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Gerald L Leggett  
Certified Service: 7-3-2017  
Initial Hearing: 7-26-2017

**In compliance July 13, 2017; request dismissal**

**Count 1:** Subject business owner has not renewed their license which expired 30 September 2016.

**The Special Magistrate granted the request to dismiss this case.**

15

**Case # 17-978**

Dominic Ip  
1117 Fleming Street  
Sec. 18-117 Acts declared unlawful. - **Repeat**  
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business.  
Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions.  
Sec. 14-40 Permits in historic districts.  
Officer Gerald L Leggett  
Posted: 7-13-2017  
Initial Hearing: 7-26-2017

**Continuance granted to August 30, 2017**

**Count 1:** A licensed contractor is required to continue work within the scope observed performed as the subject property is being utilized as a rental property. **Count 2:** The subject property is being utilized as a rental property without an active business license. **Count 3:** A licensed contractor is required to apply for a building permit. **Count 4:** The subject property is in the historic district and will need a certificate of appropriateness.

**The Special Magistrate granted the request for continuance to August 30, 2017.**

16

**Case # 17-992**

Armondo Parra

Smathers Beach

Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business.

Officer Gerald L Leggett

Hand Served: 7-5-2017

Initial Hearing: 7-26-2017

**In compliance July 6, 2017; Request dismissal**

**Count 1:** Failure to have a license to operate at the subject location or within the City of Key West.

**The Special Magistrate granted the request to dismiss this case.**

17

**Case # 16-939**

R R Beason Jr Trust 12/18/2000

1603 Von Phister Street

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

Officer Jorge Lopez

Officer Scott Fraser

Certified Service: 10-5-2016

Initial Hearing: 10-19-2016

**Continued from June 28, 2017 for status**

**Count 1:** For failure to obtain building permits for the interior and exterior renovations.

**Lori Thompson represented the respondent. Officer Scott Fraser gave testimony stating the application has been submitted to the Building Department. The City is asking for a 30-day status hearing. Lori Thompson has no objection. The Special Magistrate granted the request for a 30-day status hearing for August 30, 2017.**

18

**Case # 17-49**

Keys Cooling, LLC

Christopher Gazzale - Registered Agent

Scott Ostlund - Property Owner

620 Thomas Street 286

~~Sec. 14-325 Permit required~~ - **Dismissed**~~Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions~~ - **Dismissed**~~Sec. 14-40 Permits in historic districts~~ - **Dismissed**

Sec. 14-262 Request for inspection

Officer Jorge Lopez

Posted: 3-29-2017

Initial Hearing: 3-29-2017

**In compliance July 25, 2017; request dismissal**

~~**Count 1:** Failure to obtain required permits for the installation of HVAC units. **Count 2:** Failure to apply and obtain the required mechanical permit for the HVAC units. **Count 3:** Failure to obtain a certificate of appropriateness for the HVAC units. **Count 4:** Failure to obtain required permits and inspections for the HVAC units.~~

**The Special Magistrate granted the request to dismiss this case.**

19

**Case # 17-138**

Tong Hok Yat

1717 Thompson Street

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

Sec. 14-262 Request for inspection

Sec. 122-238 Dimensional requirements

Sec. 90-392 Application

Officer Jorge Lopez

Certified Service: 4-19-2017

Initial Hearing: 5-31-2017

**Continued from May 31, 2017**

**Count 1:** New structure located in the setback without the benefit of required mechanical, electrical and plumbing permits. **Count 2:** Electrical, mechanical and plumbing work conducted without requesting the required final inspections. **Count 3:** New structure is located within 25 feet from the neighbor's fence. **Count 4:** The new structure is located in the setbacks without the benefit of a variance.

The respondent did not appear. Officer Jorge Lopez gave testimony. The City request a Finding of Violation and asked to reserve fees and fines with compliance for September 27, 2017 which the Special Magistrate granted.

20

**Case # 17-461**

Waterfront Brewery, LLC

Joseph Walsh - Registered Agent

201 William Street

Sec. 26-192 Unreasonably excessive noise prohibited

~~Sec. 14-40 Permits in historic districts - Dismissed~~~~Sec. 90-142 Historic Architectural Commission Design Guidelines adopted - Dismissed~~

Officer Jorge Lopez

Posted: 6-9-2017

Initial Hearing: 5-31-2017

**Continued from June 28, 2017**

**Count 1:** Responding to this complaint, I conducted a site visit on May 12, 2017. I met with the complainant and she filled out an affidavit stating she suffers from disturbing noise within the boundaries of her property. ~~**Count 2:** Failure to obtain the required certificate of appropriateness for the installation of speakers on the exterior of the building. **Count 3:** I observed and photographed carports located on the second floor of the building. Carports located in the historic districts and visible from city's right of way are prohibited.~~

Joe Walsh represented the Waterfront Brewery. Officer Jorge Lopez and Ron Ramsingh represented the City. Officer Lopez gave testimony for disturbing noise complaints from the tenants from the Key West Marina. Officer Lopez was questioned by Mr. Ramsingh and Mr. Walsh. He was asked if he personally heard the noise and if it was ruckus and jarring. He stated that it was. He was asked if he had a decibel meter and if he had taken a reading. He stated that he did not. Annie Miners and Dennis Krinitt were the complainants and witnesses that gave testimony about the disturbing noise. The City and Joe Walsh questioned Director Jim Young questioning him about the conditional use permit for the Waterfront Brewery including the required computerized distributed sound system. The Special Magistrate asked Mr. Gary W. Eck to speak as a witness of the disturbing noise and he spoke. Mr. Walsh gave testimony about the ruckus and jarring being an end run-around and there has never been a decibel reading violation. Mr. Ramsingh questioned Mr. Walsh about the conditional use permit specifically about the disturbed sound system. Mr. Walsh stated they have gotten this system 4 to 5 weeks ago. The Special Magistrate stated it appears from testimony that the Song Writers Week was the time when it really became an issue. It also appears that Mr. Walsh has now taken some type of remedial measure to abate this sound issue and it does not appear to be an issue currently. The Special Magistrate found that the Waterfront Brewery is in violation and will not be imposing fines or costs. He asked that they continue with the development to make sure that the sound is squared away and work with the neighbors.

21

**Case # 17-720**

Land 10031, LLC  
Frances Casey Lowe - RA  
3700 North Roosevelt Boulevard  
Sec. 26-192 Unreasonably excessive noise prohibited  
Officer Jorge Lopez  
Certified Service: 6-26-2017  
Initial Hearing: 7-26-2017

**Continuance granted to August 30, 2017**

**Count 1:** The car wash is operating 24 hours daily and the neighbor suffers disturbing noise within the boundaries of his property.

**The Special Magistrate granted the request for continuance to August 30, 2017.**

22

**Case # 17-733**

Michael & Cindy Delongchamp  
926 Southard Street  
Sec. 14-37 Building permits; professional plans; display of permits;  
address; exceptions  
Sec. 14-40 Permits in historic districts  
Officer Jorge Lopez  
Certified Service: 6-10-2017  
Initial Hearing: 6-28-2017

**In compliance July 21, 2017, request dismissal**

**Count 1:** Installation of a new fence without obtaining a building permit. **Count 2:** Installation of a new fence without obtaining a certificate of appropriateness.

**The Special Magistrate granted the request to dismiss this case.**

23

**Case # 17-811**

Far Beauty LLC  
Aviv Shmuel - Registered Agent  
218 Duval Street  
Sec. 18-415 Restrictions in historic districts  
Officer Jorge Lopez  
Hand Served: 6-23-2017  
Hand Served: 7-14-2017 - Amended Notice of Administrative Hearing  
Initial Hearing: 7-26-2017

**Continuance granted to August 30, 2017**

**Count 1:** On June 7, 2017, Hovav Frank was observed actively off premise canvassing a passerby on the City right of way within the restricted area and was issued a civil citation. On May 27, 2017, Haim Kanelsky was observed actively off premise canvassing a passerby within the restricted area on the City right of way and was given a courtesy notice. On June 19, 2017, Hovav Frank was observed actively off premise canvassing in the restricted area on the City right of way.

**The Special Magistrate granted the request to continue this case to August 30, 2017.**

24

**Case # 17-832**

Hilario Ramos Corporation  
Michael Halpern - Registered Agent  
120 Duval Street 122  
Sec. 14-40 Permits in historic district  
Officer Jorge Lopez  
Certified Service: 6-28-2017 - Registered Agent  
Initial Hearing: 7-26-2017

**In compliance June 27, 2017; request dismissal**

**Count 1:** The exterior of the subject property has been painted white without the required certificate of appropriateness.

**The Special Magistrate granted the request to dismiss this case.**

25

**Case # 17-932**

Zerby Rose Lane LLC  
Registered Agents Legal Services, LLC  
524 Rose Lane A  
Sec. 62-1 Deposits of oil, grease, and other waste  
Officer Jorge Lopez  
Certified Service: 7-7-2017  
Initial Hearing: 7-26-2017

**Settlement Agreement  
Irreparable Violation**

**Count 1:** On June 21, 2017, Officer Lopez photographed and video recorded waste water coming out from the subject property running onto Rose Lane going all the way to Duval Street.

**A settlement agreement of an irreparable violation was presented to the Special Magistrate which he approved. Costs of \$250 with a fine of \$250 were imposed for a total due of \$500. The respondent also stipulates to a suspended fine of \$4,500.**

26

**Case # 17-668**

Freedom Healing LLC  
Registered Agents Inc  
2027 Flagler Avenue  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Demi R Vazquez  
Certified Service: 6-28-2017  
Initial Hearing: 7-26-2017

**In compliance July 24, 2017; request dismissal**

**Count 1:** Subject business owner has not renewed thir license which expired 30 September 2016

**The Special Magistrate granted the request to dismiss this case.**



27

**Case # 17-708**

Jonathan Harper  
627 Whitehead Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Demi R Vazquez  
Certified Service: 6-24-2017  
Initial Hearing: 7-26-2017

**In compliance June 26, 2017; request dismissal**

**Count 1:** Subject business owner has not renewed their license which expired 30 September 2016.

The Special Magistrate granted the request to dismiss this case.

28

**Case # 17-767**

Wendell Wall  
1610 South Street  
Sec. 14-37 Building permits; professional plans; display of permits;  
address; exceptions  
FBC 1612.4 Flood Hazard Construction & ASCE 24-05 Unprotected  
Enclosed Below Design Flood Elevation  
Officer Demi R Vazquez  
Posted: 6-7-2017  
Initial Hearing: 6-28-2017

**Continuance granted to August 30, 2017**

**Count 1:** Failure to obtain building permits for a structure being built in the rear of the property. **Count 2:** Subject property being within a FEMA designated AE-7 flood zone without benefit of required building permits has demolished the interior, windows electrical and plumbing contrary to flood damage prevention provisions of the Florida Building Code. Said area being below the established minimum safe flood elevation for purposes other than storage and parking, contrary to the state building code.

The Special Magistrate granted the request to continue this case to August 30, 2017.

29

**Case # 16-455**

Donald R Lynch

820 Carstens Lane

Sec. 14-37 Building permits; professional plans; display of permits;  
address; exceptions - **Counts 1 - 3**Sec. 102-152 Required for permits - **Counts 4 - 5**Sec. 90-142 Historic Architectural Commission Design Guidelines  
adopted - **Count 6**

Officer Kenneth JW Waite

Certified Service: 2-3-2017 - amended notice

Posted: March 30, 2017

Initial Hearing: 10-19-2016

**Continued from June 28, 2017**

**Count 1:** For failure to obtain a building permit for the enclosure of the second story porch. **Count 2:** For failure to obtain a building permit for the exterior stairway. **Count 3:** For failure to obtain a building permit and inspections for the plumbing that was installed. **Count 4:** For failure to obtain a certificate of appropriateness for the enclosure of the second story porch. **Count 5:** For failure to obtain a certificate of appropriateness for the exterior stairway. **Count 6:** For failure to obtain a certificate of appropriateness for the satellite dish that was installed.

Gregory Oropeza represented the respondent. Ron Ramsingh represented the City of Key West. Mr. Oropeza gave testimony stating this is Mr. Lynch's motion to dismiss the code case. Mr. Oropeza gave testimony that this all squares around equity and fairness. The motion to dismiss is based on three principles of law which are equitable estoppel, laches and statute of limitations. Mr. Oropeza gave history of the building permits for this property and of finding a mistake with a permit being closed at this location. Mr. Oropeza gave testimony and examples on each principle stating the Lynch's are an innocent fifth party. The Special Magistrate questioned Mr. Oropeza about the specifics of the code case including what was and was not permitted. Mr. Oropeza stated that if the permit had not been closed in error, the improper work would have been discovered. Mr. Ron Ramsingh gave testimony. The city gave approval for a second story open-air gazebo and staircase except for the height of the roof. Mr. Ramsingh stated that at the end of all the testimony, you will conclude that there has been a systemic process here of pulling a permit, getting initial approval, conducting the work and before a final would be called canceling the permit then just leaving it alone. Mr. Ramsingh gave testimony against the three principles of law given by Mr. Oropeza. The city called Peg Corbett, Key West Licensing Official, who gave testimony about the building permits at this property. Mr. Oropeza cross examined. The City called Enid Torregrosa, City of Key West Historic Preservation Planner, who gave testimony about the HARC issues for this property. Mr. Oropeza cross examined. The City called Maureen Bramlage of 812 Carstens Lane giving testimony of living on Carey and Carstens Lanes for over 20 years and seeing this property in specific the second story work being

done after the Lynches bought the house which was enclosing the second story. Mr. Oropeza cross examined. Mr. Oropeza gave a brief conclusion stating the city would be estopped from requiring the Lynches to remove the second story enclosure. Mr. Ramsingh gave summation including stating that statements given by the witness that work was done by the Lynches without final inspections or permits. The Special Magistrate stated the statute of limitations does not apply. The credible evidence is that the Lynches did something affirmative to the building after they purchased. The city issued a certificate and they looked at the certificate. They are able to look at all permits and it is incumbent on the buyer to investigate why the permits were closed or canceled. As far as laches is concerned, the Special Magistrate does not feel that the passage of time is really significant in this particular instance. There is a safety issue with illegal work being done as it violates the code. The Special Magistrate denied the motion to dismiss. As stated in the HARC appeal hearing, the code case will be continued until the HARC decision is made.

30

**Case # 16-1620**

Roxanne E Fleszar

Michel Appellis

723 Catherine Street

Sec. 18-601 License Required - **Counts 1 and 2**Sec. 122-1371 Transient living accommodations in residential dwellings; regulations D (9) - **Count 3 through 9**

Officer Kenneth JW Waite

Certified Service: 2-23-2017

Initial Hearing: 4-26-2017

**Continuance granted to December 20, 2017**

**Count 1:** The subject property was held out for 7 nights rental, 15 August 2017 - 22 August 2017 without the required transient rental business tax receipt. **Count 2:** The subject property is being held out/advertised for short term rental without the benefit of the required city, county and state licensing and does not have the required transient medallion or the required fire inspection. **Counts 3 through 9:** The subject property is being held out for transient rental for 7 nights, 15 August 2017 through 22 August 2017 for a total of \$4,130.00.

The Special Magistrate granted the request to continue this case to December 20, 2017.

31

**Case # 17-710**

AIRBNB, Inc.  
Lawyers Incorporating Services 2710  
3333 Duck Avenue J204  
Sec. 122-1371 D (9) Transient living accommodations in residential dwellings; regulations - Counts 1 thru 7  
Kenneth JW Waite  
Certified Service: 5-16-2017  
Initial Hearing: 7-26-2017

**Continuance granted to September 27, 2017**

**Counts 1 - 7:** During a routine investigation of the online website www.airbnb.com, the subject property was held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 1 June 2017 through 8 June 2017.

**The Special Magistrate granted the request to continue this case to September 27, 2017.**

32

**Case # 17-724**

AIRBNB, Inc.  
Lawyers Incorporating Services 2710  
620 Thomas Street 165  
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations. D (9) - Counts 1 thru 7  
Officer Kenneth JW Waite  
Certified Service: 5-16-2017  
Initial Hearing: 7-26-2017

**Continuance granted to September 27, 2017**

**Counts 1 - 7:** During routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 11 June 2017 through 18 June 2017.

**The Special Magistrate granted the request to continue this case to September 27, 2017.**

33

**Case # 17-745**

AIRBNB, Inc.

Lawyers Incorporating Services 2710

714 Thomas Street

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations. D (9) - Counts 1 thru 7

Officer Kenneth JW Waite

Certified Service: 5-22-2017

Initial Hearing: 7-26-2017

**Continuance granted to September 27, 2017**

**Counts 1-7:** During a routine investigation of the online website [www.airbnb.com](http://www.airbnb.com), the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 1 July 2017 through 8 July 2017 for a total of \$1,638.00.

**The Special Magistrate granted the request to continue this case to September 27, 2017.**

34

**Case # 17-746**

AIRBNB, Inc. - Registered Agent  
Lawyers Incorporating Services 2710  
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations. D (9) - Counts 1 thru 4  
Shannon D. Whitfield - Tenant - **Irreparable Violation - Settlement Agreement**  
Sec. 18-601 License required  
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations  
Sec. 122-1371 D (9) Transient living accommodations in residential dwellings; regulations  
1207 Florida Street  
Officer Kenneth JW Waite  
Certified Service: 5-22-2017  
Initial Hearing: 7-26-2017

**Continuance granted to September 27, 2017 for AIRBNB, Inc Settlement Agreement for Shannon D. Whitfield**

**AIRBNB, Inc.: Counts 1-4:** During a routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 4 nights for the dates of 1 July 2017 through 5 July 2017 for a total of \$551.00.

**Shannon D. Whitfield: Count 1:** On 22 June 2017, Ofc. Doctoche and I visited the property in an attempt to hand serve Shannon Whitfield for holding out the property for short term rental on Airbnb.com. On arrival, we met a group of Danish tourists who had rented the upstairs unit from Ms. Whitfield for one night. I requested a copy of the rental agreement from the subject by the name of Andres Angulo. Mr. Angulo forwarded the reservation confirmation email he received from Ms. Whitfield through Airbnb.com. The email shows a one sighth stay checking in on 21 June 2017 and checking out on 22 June 2017 for a total of \$203.54. **Count 2:** The subject tenant is transiently renting and has not provided the city with county, state and city licensing per the ordinance. The subject property does not have a medallion and has not had a fire inspection by the City of Key West Fire Department. **Count 3:** The subject property was held out and rented short term without the benefit of transient rental license. The property was rented for 1 night the dates of 21 June 2017 through 22 June 2017 for a total of \$203.54.

**The Special Magistrate granted the request to continue this case to September 27, 2017 for AIRBNB, Inc. - Registered Agent. A settlement agreement was**

presented to the Special Magistrate duly executed by the respondent Shannon D. Whitfield - Tenant. Shannon D. Whitfield stipulates to the imposition of the administrative costs of \$250 with a fine of \$203.54 for a total of \$453.54. She also stipulates to a suspended fine of \$5,000.

**35****Case # 17-751**

AIRBNB, Inc.

Lawyers Incorporating Services 2710

3312 Northside Drive 106

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations. D (9) - Counts 1 thru 7

Officer Kenneth JW Waite

Certified Service: 5-22-2017

Initial Hearing: 7-26-2017

**Continuance granted to September 27, 2017**

**Counts 1-7:** During a routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 1 June 2017 through 8 June 2017 for a total of \$808.00.

**The Special Magistrate granted the request to continue this case to September 27, 2017.**

36

**Case # 17-827**

Anthony G. Carrello - Owner

Michelle C. Lane - Tenant

406 Fleming Street B

Sec. 18-601 License required

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

Sec. 122-1371 Transient living accommodations in residential dwelling; regulations. D (9) - Counts 3 thru 16

Officer Kenneth JW Waite

Certified Service: 6-16-2017 - Owner

Certified Service: 6-5-2017 - Tenant

Initial Hearing: 7-26-2017

**In compliance June 7, 2017; request Finding of Violation without fees or fines**

**Count 1:** During a routine investigation of the online website [www.flipkey.com](http://www.flipkey.com), the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 14 nights for the dates of 11 November 2017 through 25 November 2017. **Count 2:** The subject property is holding out/advertising for short term rental without the benefit of the required city, county and state licensing. The subject property does not have a transient medallion and has not been inspected by the City of Key West Fire Department. **Counts 3 - 16:** The subject property owner is holding out for transient rental for 14 nights the dates of 11 November 2017 through 25 November 2017 for a total of \$3,249.93.

**The Special Magistrate granted the request for Finding of Violation without fees or fines.**



37

**Case # 17-855**

Anthony G. Carrello - Owner

Michael C. Lane - Tenant

406 Fleming Street B

Sec. 18-601 License required - Count 1

Sec. 122-1371 Transient living accommodations in residential dwelling;  
regulations - Count 2Sec. 122-1371 Transient living accommodations in residential dwelling;  
regulations. D (9) - Counts 3 - 16

Officer Kenneth JW Waite

Certified Service: 6-2-2017 - Owner

Certified Service: 6-8-2017 - Tenant

Initial Hearing: 7-26-2017

**In compliance June 7, 2017; request Finding of Violation without fees or fines**

**Count 1:** During a routine investigation of the online website [www.airbnb.com](http://www.airbnb.com), the subject property was held out for a short term rental without the benefit of a transient rental license for 26 nights for the date of 1 December 2017 through 27 December 2017. **Count 2:** The subject property owner is holding out/advertising for short term rental without the benefit of the required city, county and state license. The subject property does not have a transient medallion and has not been inspected by the City of Key Fire Department. **Counts 3 - 16:** The subject property tenant is holding out for transient rental for 14 nights the dates of 1 December 2017 through 27 December 2017 for a total of \$3,087.00.

**The Special Magistrate granted the request for Finding of Violation without fees or fines.**

38

**Case # 17-866**

AIRBNB, Inc  
Lawyers Inc Service - Registered Agent  
721 Georgia Street A  
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations. D (9) - Counts 1-7 - **Repeat Violations**  
Officer Kenneth JW Waite  
Certified Service: 6-12-2017  
Initial Hearing: 7-26-2017

**Continuance granted to September 27, 2017**

**Counts 1-7:** The subject property was held out/advertised by the respondent for transient rental for 7 nights the dates of 19 June 2017 through 26 June 2017 for a total of \$834.00

**The Special Magistrate granted the request to continue this case to September 27, 2017.**

**HARC Appeals**

39

**SMA 17-01**

Donald and Susan Lynch  
William Rowan - Architect  
Gregory S. Oropeza, Esq.  
820 Carsten Lane  
H16-03-0015

**Continued from June 28, 2017**

Mr. Oropeza represents the respondents. Ron Ramsingh represents the Historic Architectural Review Commission. Mr. Oropeza gave testimony about the HARC hearings. The Lynches agreed to not change anything that exists and just legitimize what it there which was recommended by the staff. The board ultimately denied the project based on Mr. Bender's objections without any explanation or bases of the objections. Also Mr. Bender was retained as an expert for two individuals lobbying against this process which violated several provisions of state statutes and the charter of the city. Mr. Oropeza stated that Mr. Bender's opposition is void because of his failure to disclose his conflict of interest. For those reasons, we believe that the HARC denial should be overturned and the staff recommendation should be substituted for the HARC decision. Ron Ramsingh gave testimony speaking of ex parte communications. Mr. Ramsingh spoke with the State Commission on Ethics regarding this situation and they opined that there was no technical violation of ex parte communication laws with quasi-judicial board members. Mr. Ramsingh spoke of the act of enclosing which caused a massing. He asked to uphold the HARC decision to deny. Mr. Ramsingh disagrees that there was no evidence to sustain the HARC ruling as there was competent information. The Special Magistrate stated there was no ex parte communication prohibited here. This needs to go back for a better finding to support the substantial competent evidence. The Special Magistrate stated it will be sent back to reman for clarification.

**Adjournment**