

# STAFF REPORT

**DATE:** October 3, 2018

**RE:** Change to Existing Approved Settlement Agreement-922 Catherine Street

On May 12, 2015, a Settlement Agreement was approved by the Tree Commission with Robert Sunderman-South Wind Pools, regarding the unauthorized removal of a coconut palm tree at 922 Catherine Street. The agreement required that Mr. Sunderman pay a \$500 fine to the City of Key West Tree Fund and purchase one 8ft tall Coconut Palm to be planted at 922 Catherine Street.

In March 2018, the Settlement Agreement was sent to the Code Enforcement Special Magistrate for non-compliance. On August 20, 2018, Mr. Sunderman paid the \$500 fine (condition 2A of the agreement). To date, condition 2B has not been complied with. The property owners at 922 Catherine Street, Doug and Leslie Leohr, no longer want the coconut palm planted on their property due to the length of time and they had gone ahead and planted their own palm.

The Special Magistrate has stated that if there is a desired change to the Settlement Agreement, then the Tree Commission must make that decision. Mr. Sunderman would like to donate one 8 ft tall tree to the City of Key West to be planted at Bayview Park.

It is recommended that the Tree Commission accept a change to the Settlement Agreement thereby requiring one 8ft tall coconut palm be donated to the City of Key West within 30 days of this meeting. The tree will be planted at a location determined by the City with a preference toward the Bayview Park area. Coordination of the delivery and acceptance of the palm must be done through the Urban Forester.

## Karen DeMaria

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**From:** South Wind Pools <[southwindpools@gmail.com](mailto:southwindpools@gmail.com)>  
**Sent:** Tuesday, September 25, 2018 3:33 PM  
**To:** Karen DeMaria  
**Subject:** Re: 922 Catherine

Karen

Please make the arrangement for me to donate to the city a tree to plant at bay view park.

Thanks

Bob

On Mon, Sep 24, 2018 at 2:22 PM South Wind Pools <[southwindpools@gmail.com](mailto:southwindpools@gmail.com)> wrote:  
Karen

That work will give to city to plant at bayview.

Thanks

Bob

On Mon, Sep 24, 2018 at 2:21 PM Karen DeMaria <[kdemaria@cityofkeywest-fl.gov](mailto:kdemaria@cityofkeywest-fl.gov)> wrote:

Where is your property in town? Or you can give the palm to the City and I'll have it planted at one of the parks— Bayview?.

Sincerely,

Karen

**From:** South Wind Pools <[southwindpools@gmail.com](mailto:southwindpools@gmail.com)>  
**Sent:** Monday, September 24, 2018 2:19 PM  
**To:** Karen DeMaria <[kdemaria@cityofkeywest-fl.gov](mailto:kdemaria@cityofkeywest-fl.gov)>  
**Subject:** Re: 922 Catherine

Karen

The owners dont want a tree planted so i dont really have a choice and have been unresponsive. I really would prefer to plant a tree if i can do it at my property in town or just pay into tree fund let me know what works.

Thanks

Bob

On Mon, Sep 24, 2018 at 1:37 PM Karen DeMaria <[kdemaria@cityofkeywest-fl.gov](mailto:kdemaria@cityofkeywest-fl.gov)> wrote:

Bob:

If you want to pay a fine instead of providing a tree, that change, according to the Special Magistrate, must be approved by the Tree Commission. If this is what you want to do I can schedule you onto the October 9 Tree Commission agenda. Please let me know Tuesday, September 25, 2018 by 5 pm if you want to be on the Tree Commission agenda to discuss the change to the Settlement Agreement.

Sincerely,

Karen

**From:** South Wind Pools <[southwindpools@gmail.com](mailto:southwindpools@gmail.com)>  
**Sent:** Wednesday, September 19, 2018 2:45 PM  
**To:** Karen DeMaria <[kdemaria@cityofkeywest-fl.gov](mailto:kdemaria@cityofkeywest-fl.gov)>  
**Subject:** 922 Catherine

Did you come up with amount for tree fund. would like to wrap this up I am out of town till first week of October, but can have someone bring check by.

Thanks

Bob Sunderman

Southwindpools



**THE CITY OF KEY WEST  
Tree Commission**

Post Office Box 1409 Key West, FL 33041-1409  
Telephone: 305-809-3723

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**TREE COMMISSION OF THE CITY OF KEY WEST, FLORIDA  
COMPLIANCE SETTLEMENT AGREEMENT**

This ("Agreement"), is made by and between **Bob Sunderman of Southwind Pools**, having an address of **5635 4<sup>th</sup> Avenue, Key West, Florida, 33040**, ("Violator"), and the **City of Key West**, a municipal corporation, having an address of **3140 Flagler Avenue, P.O. Box 1409, Key West, Florida 33041-1409**, by and through the Tree Commission of the City of Key West, Florida ("Tree Commission").

**WITNESSETH**

**Whereas**, Chapter 110 of the Code of Ordinances for the City of Key West provides for hearings of violations, notice, procedure and compliance settlement with regard to the damage or destruction of certain protected trees; and

**Whereas**, in accordance with Chapter 110 of the Code of Ordinances for the City of Key West, the Tree Commission conducted a hearing and rendered a decision with respect to a certain violation of Chapter 110.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the parties agree as follows:

**1. Acceptance of Responsibility for Damage or Destruction:**

Violator accepts full and complete responsibility for the damage or destruction of a protected tree on real property located at **922 Catherine Street**, in the City of Key West, Florida, in violation of Chapter 110 of the Code of Ordinances for the City of Key West, as found in the findings made and decision issued by the Tree Commission at its hearing held on May 12, 2015.

**2. Remedy:**

Pursuant to Section 110-291 of the Code of Ordinance for the City of Key West, the Tree Commission has ordered, and Violator agrees to, the following remedy:

- a. The Violator (Southwind Pools) shall pay a fine of \$500 to the City of Key West Tree Fund.
- b. The Violator shall purchase and pay to replant the property with (1) 8 ft tall Coconut palm or similar native palm at Violators full expense and with the property owners approval. The palm shall be planted according to 'Best Management Practices' within 6 months of the date of this agreement.
- c. Consistent with permitting requirements, the replacement tree shall remain alive for a minimum of 1 year or replace with like.

- d. The City of Key West, Urban Forestry Program manager shall be contacted for inspection of required tree installation.

The remedy as indicated above is based upon the value of the damaged or destroyed tree, as found by the Tree Commission.

**3. Penalty for Non-Performance:**

Failure of Violator to comply with the remedy indicated in Paragraph 2 above shall result in the institution of any and all permitted administrative and legal actions.


**IN WITNESS WHEREOF**, Violator and the Tree Commission have caused this instrument to be executed as of the date first written.

**TREE COMMISSION**

**City of Key West, Florida, a municipal corporation, by and through the Tree Commission of the City of Key West**

Chairperson:  \_\_\_\_\_

**Robert Bethel**

Witness:  \_\_\_\_\_

Print Name: Karen Dellaria

Date: 5.27.15

**VIOLATOR**

**Bob Sunderman (Southwind Pools)**

 \_\_\_\_\_

Print Name: Robert Sunderman

Witness:  \_\_\_\_\_

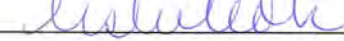
Print Name: Jo Bennett

Date: June 08, 2015



**PROPERTY OWNER AND VIOLATOR**  
**Doug Leohr**

**Signature:**  \_\_\_\_\_

**Witness:**  \_\_\_\_\_

**Print Name:** Leslie Leohr \_\_\_\_\_

**Date:** 6/17/15 \_\_\_\_\_



THE CITY OF KEY WEST – Tree Commission

Post Office Box 1409, Key West, FL 33041-1409  
(305) 809-3768

DATE: March 16, 2018

RE: Tree Commission Settlement Agreement-922 Catherine Street,  
Bob Sunderman, Southwind Pools

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

On June 8, 2015, Bob Sunderman signed a Settlement Agreement with the Tree Commission regarding the unauthorized removal of a protected coconut palm at 922 Catherine Street. The Settlement Agreement required the payment of a \$500 fine to the City of Key West Tree Fund and the planting of (1) 8 ft tall Coconut Palm or similar sized approved palm, on the property at 922 Catherine Street.

On January 24, 2017, a reminder letter was sent to Mr. Sunderman regarding his requirement regarding the signed Settlement Agreement. This letter was sent both regular and certified mail to Mr. Sunderman. The certified letter was returned unclaimed. To date, no communication has been received from Mr. Sunderman regarding compliance to the agreement, the fine has not been paid, and there is no evidence that the palm has been planted.

The property owner is Leslie Leohr. Her contact information is below. Attached are copies of the pertinent files.

Karen DeMaria

Leslie Leohr  
2247 Rollingwood Drive, Medina, OH 44256  
330-416-0510  
[lleohr@prideone.cc](mailto:lleohr@prideone.cc)

Tree Commission  
MEMORANDUM