

STAFF REPORT

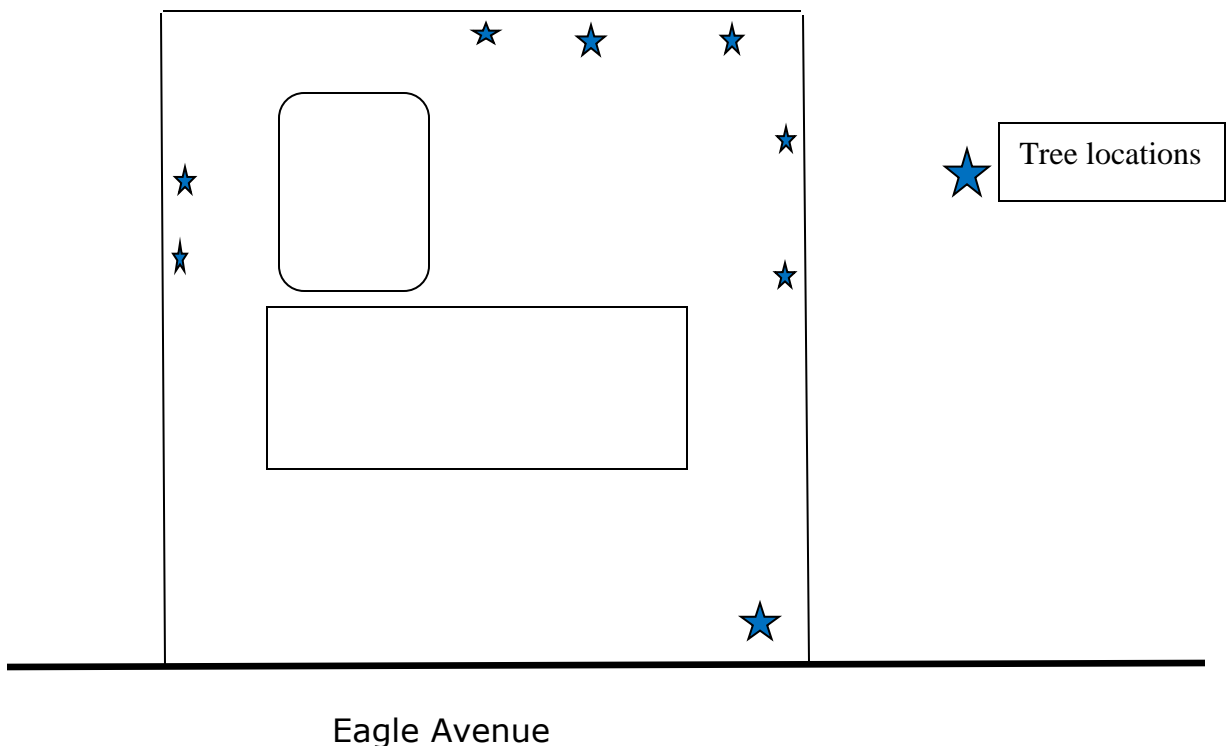
DATE: April 1, 2021

RE: **Settlement Agreement for 3539 Eagle Avenue (TC2020-0017), Donald Trujillo**

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

On June 11, 2019, the Tree Commission entered into a Settlement Agreement with the property owner of 3539 Eagle Avenue regarding the removal of (22) twenty two assorted palms without benefit of a palm removal permit. The agreement required the planting of 30 caliper inches of approved trees on the property.

Site inspections have documented that 21 caliper inches of approved trees have been planted on the property consisting of (3) Mango, (1) Lychee, (1) Sour Orange, (1) Avocado, (1) Key Lime, and (1) Myers Lemon tree.



Karen DeMaria

From: Karen DeMaria
Sent: Thursday, April 8, 2021 10:52 AM
To: Karen DeMaria
Subject: FW: 3539 Eagle Tree Commission Settlement Agreement

From: donald trujillo <donaldtru@yahoo.com>
Sent: Friday, April 2, 2021 1:49 PM
To: Karen DeMaria <kdemaria@cityofkeywest-fl.gov>
Subject: Re: 3539 Eagle Tree Commission Settlement Agreement

I would like to change the settlement because I have planted 10 trees in my yard and have run out of room to plant trees with sufficient space to grow. When I had my yard cleared I hired a licensed contractor to do the work and trusted he was doing it legally. When the contractor and I were at the first tree commission meeting and it was the contractor's turn to speak he said he didn't speak english which he had spoken perfect english to me in the past. I was forced to speak up and take the blame and agree to replant the 30 inches which I really had no idea what I was agreeing to. I have done my best to comply and am asking you to forgive the remaining inches. Please let me know if there are any further questions.

Thank you.

Donald Trujillo

On Thursday, April 1, 2021, 12:26:01 PM EDT, Karen DeMaria <kdemaria@cityofkeywest-fl.gov> wrote:

Donald:

I have placed on the April 12 Tree Commission agenda an item for you to be able to talk to the Tree Commission regarding your request to alter the Settlement Agreement. The meeting starts at 5 p.m. at City Hall on Monday, April 12, 2021. You are the 10th item on the agenda (see attached agenda).

I am in the process of creating a staff report for the file. Can you please response via e-mail or written letter as to why you want a change to the signed settlement agreement and what options you would like to discuss with the commission. I will include in my report documentation as to what has already been planted the property.

Thank you,

Sincerely,

Karen

Karen DeMaria

Karen DeMaria

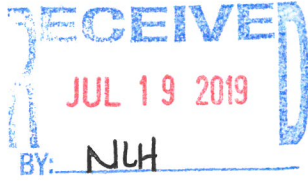
Urban Forestry Manager

Certified Arborist FL-6585A

City of Key West

305-809-3768





THE CITY OF KEY WEST

Tree Commission

Post Office Box 1409 Key West, FL 33041-1409

Telephone: 305-809-3723

TREE COMMISSION OF THE CITY OF KEY WEST, FLORIDA

COMPLIANCE SETTLEMENT AGREEMENT

This ("Agreement"), is made and entered into this 13th day of June 2019, by and between **Donald Trujillo**, having an address of **1415 Flagler Avenue, Key West, Florida 33040**, ("property owner"), **Gustavo Galo**, having an address of **PO Box 5780, Key West, FL 33045** ("respondent") and the **City of Key West**, a municipal corporation, having an address of 1300 White Street, 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:

Respondent accepts full and complete responsibility for the damage or destruction of regulated trees on real property located at **3539 Eagle Avenue**, 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 June 11, 2019.

2. Remedy:

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

- a. The property owner working with the respondent shall plant a total of 30 caliper inches of FL #1, dicot trees from the approved tree list, on the property (3539 Eagle Avenue).
- b. Trees shall be planted within 6 months of the date of the closure inspections of the building permits.
- c. The property owner and respondent shall plant according to current 'Best Management Practices'.
- d. The City of Key West, Urban Forestry Program manager shall be contacted for inspection of required tree installation.

Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.

- e. Consistent with permitting requirements, the replacement trees shall remain alive for a minimum of 1 year after planting or replace with like.

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

4. **Sale of Property:**

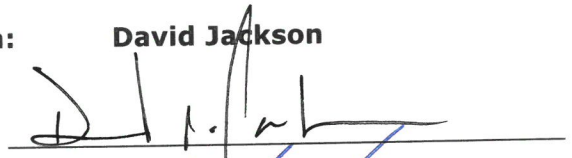
In the event the subject property is sold prior to the completion of compliance with this Agreement, the new owner shall be subject to the terms and conditions of this Agreement. It shall be the duty of the selling property within ten days of the effective date of the sales contract to provide the buyer with a copy of this Agreement. The Urban Forestry Manager shall issue a letter to the property owner when compliance is achieved.

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

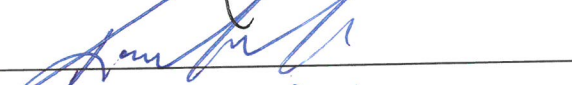
TREE COMMISSION

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

Chairperson: **David Jackson**



Witness:



Print Name:

Karen Dellaria

Date:

6-13-19

Property Owner: Donald Trujillo



Witness:



Print Name:

Deborah Moore

Date:

7/15/19

Respondent: Gustavo Galo

Gustavo Galo

Witness:

Margarita Pedroza

Print Name:

Margarita Pedroza

Date:

6/19/19