



City of Key West, FL

City Hall
1300 White Street
Key West FL 33040

Action Minutes - Final - Final

Code Compliance Hearing

Wednesday, June 28, 2017

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 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 # 17-455

Silver & Gold Treasures, LLC
Ricardo Adefuin
114 Fitzpatrick Street 116
Sec. 58-68 Commercial solid waste accounts
Officer Bonnita Badgett
Certified Service: 4-9-2017
Initial Hearing: 5-31-2017

Continued from May 31, 2017 for compliance

Count 1: Failure to have an active Waste Management garbage account.

Ricardo Adefuin attended this hearing. Debbie Millitt-Fowley stated that he has paid his back fees to Waste Management and he is in compliance. The Special Magistrate stated that \$250 in court costs are due and to make sure he understands he needs to pay it.

2

Case # 17-488

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 to July 26, 2017 for service**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 to continue this case to July 27, 2017 for service.

3

Case # 17-617

Lawrence U. Taube

3405 Flagler Avenue

Sec. 66-103 Transfer License

Sec. 66-102 Dates due and delinquent; penalties

Officer Sophia Doctoche

Certified Service: 6-6-2017

Initial Hearing: 6-28-2017

In compliance June 13, 2017, request dismissal**Count 1:** Failure to transfer license to the new property owner. **Count****2:** Failure to renew license which expired 30 September 2016.

The Special Magistrate granted the request to dismiss this case.

4

Case # 17-620

Richard & Marcia Weaver
651 William Street #4
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Service:
Initial Hearing: 6-28-2017

Request for continuance to July 26, 2017 for service

Count 1: Failure to renew the business license which expired 30 September 2016.

The Special Magistrate granted the request to continue this case to July 26, 2017 for service.

5

Case # 17-648

Peter Brawn
B. B&B-B Registries, LLC
812 Southard Street
Sec. 26-126 Clearing of property of debris and noxious material required
Officer Sophia Doctoche
Certified Service: 5-18-2017 - Peter Brawn
Certified Service: 5-4-2017 - G. B&B-B Registries, LLC
Initial Hearing: 6-28-2018

In compliance May 10, 2017; request Finding of Violation without fees or fines

Count 1: Failure to cut the overgrown weeds around the subject property and remove trash.

Susan Cardenas attended this hearing as representative for the respondent. Judge Yates made a disclosure that he has represented Mr. Brawn for this property. The City and Ms. Cardenas had no objection. Officer Sophia Doctoche gave testimony that there was an anonymous complaint about trash and being overgrown. Ms. Cardenas questioned Officer Doctoche. Judge Yates questioned that there is compliance with a request from the city with a finding of violation without fees or fines. Ms. Cardenas stated they dispute the finding of a violation. Mr. Ramsingh questioned Officer Doctoche. Ms. Cardenas called Peter Bower and questioned him. He stated he walks the property at least every day with no more than three days between to pick up all the trash and sweep. He trims and cleans but leaves the seedlings. Mr. Ramsingh clarified there are three prior cases that were brought into compliance before their hearing and one that went to hearing without a Finding of Violation. The Special Magistrate finds there is no violation. The Special Magistrate stated that Mr. Brawn is making an effort to keep this property clean and to be a good neighbor.

6

Case # 17-663

Marshall Shaker
Christine Fifer
600 White Street
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Service: 5-26-2017
Initial Hearing: 6-28-2017

In compliance May 24, 2017; request dismissal

Count 1: Failure to renew business license which expired 30 September 2016.

The Special Magistrate granted the request to dismiss this case.

7

Case # 17-879

Patrick Curry
1720 North Roosevelt Boulevard
Sec. 14-37 Building permits; professional plans; display of permits;
address; exceptions
Officer Sophia Doctoche
Certified Service:
Initial Hearing: 6-28-2017

In compliance June 9, 2017; request Finding of Violation without fees or fines

Count 1: Failure to obtain permits for air conditioning work that has been performed.

Patrick Curry attended this hearing. Officer Sophia Doctoche gave testimony. Mr. Curry gave testimony that for the sake of public safety and environmentally, he felt he needed to remove the unit. He testified he was guilty of removing the unit without a permit. The city is asking for a Finding of Violation without fees or fines. The Special Magistrate finds there is a violation without objection and finds that there is a violation without fees or fines.

8

Case # 16-917

Phillip & Patsy Amsterdam - Property Owner

512 Caroline Street

Sec. 18-601 License required.

Sec. 90-363 Certificate of occupancy - Required.

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

Officer Leonardo Hernandez

Certified Service: 12-15-2016 - Property Owner

Certified Service: 12-15-2016 - Registered Agent

Initial Hearing: 1-25-2017

Continuance granted to December 20, 2017

Count 1: This business is renting short term at least two illegal units without the required license. There are 8 actual units, one is allegedly employee housing but only 5 are recognized. **Count 2:** Required certificate of occupancy was never procured or issued for 3 units in question. **Count 3:** Required building permits were never procured or issued for the 3 units in question.

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

9

Case # 16-1028

Phillip & Patsy Amsterdam - Property Owner

511 Caroline Street

Sec. 18-601 License required.

Sec. 90-363 Certificate of occupancy - Required.

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

Officer Leonardo Hernandez

Certified Service: 12-15-2016 - Property Owner

Certified Service: 12-15-2016 - Registered Agent

Initial Hearing: 1-25-2017

Continuance granted to December 20, 2017

Count 1: This business is renting short term 5 units without the required license. **Count 2:** Required certificate of occupancy was never procured or issued for 5 units in question. **Count 3:** Required building permits were never procured or issued for the 5 units in question.

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

10

Case # 17-706

Omar Rubio

Higgs Beach "Deck by pier"

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

Sec. 26-192 Unreasonably excessive noise prohibited

Officer Leonardo Hernandez

Hand Served: 6-6-2017

Initial Hearing: 6-28-2017

In compliance June 20, 2017; request dismissal

Count 1: Failure to obtain a business tax receipt. **Count 2:** On May 30, 2017, Officer Hernandez responded to a noise complaint and determined that the noise was disturbing.

The Special Magistrate granted the request to dismiss this case.

11

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

Certified Service: 10-5-2016

Initial Hearing: 10-19-2016

Continued from April 26, 2017 for compliance

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

Lori Thompson and Owen Trepanier represented the respondent. Documents were given and Mr. Trepanier was given an opportunity to review them. Mr. Ramsingh stated that they are not in compliance. Mr. Trepanier gave testimony stating they have been working diligently to get the work done. The city asked that they be given 30 days to show a substantial amount of work done towards compliance. The city would ask if the continuance is granted that \$250 in Administrative costs with \$500 for the affidavit for the professional opinion that had been requested be imposed now and the \$250 per day fine not taxed right now. The Special Magistrate will grant the continuance with diligent effort to get the plans and building permits done. The Special Magistrate will impose the \$250 Administrative fees and \$500 for the affidavit for profession opinion but will not impose the fine as of yet. There will be a status hearing in 30 days on July 26,2017.

12

Case # 17-49

Keys Cooling, LLC

Christopher Gazzale - Registered Agent

Scott Ostlund - Property Owner

620 Thomas Street 286

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

Sec. 14-262 Request for inspection

Officer Jorge Lopez

Posted: 3-29-2017

Initial Hearing: 3-29-2017

Continued from May 31, 2017

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 Respondents did not appear. Officer Jorge Lopez asked for dismissal of Counts 1, 2 and 3. The Special Magistrate granted dismissal of Counts 1, 2 and 3 without objection. Officer Lopez stated they are still in violation as they have not contacted the Building Department to request the inspection. Officer Lopez gave further testimony. The Special Magistrate granted a Finding of Violation. There has been proper notice posted on March 29, 2017. The Special Magistrate imposed \$250 administrative cost and \$250 daily fine if compliance is not obtained by July 26, 2017. The compliance hearing will be held on July 26, 2017.

13

Case # 17-206

James Hamilton & Dwinell James

1019 Elgin Lane A

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

Sec. 14-40 Permits in historic districts

Officer Jorge Lopez

Certified Service: 4-19-2017

Initial Hearing: 5-31-2017

In compliance June 27, 2017; Request closing

Count 1: Failure to obtain required permits and inspections for the 10-12 ft. fence. **Count 2:** Failure to obtain certificate of appropriateness.

The Special Magistrate granted the request to dismiss this case.

14

Case # 17-256

Meisel Holdings FL 1321 Simonton St, LLC.

Erica Hughes-Steerling - Registered Agent

1321 Simonton 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: 6-9-2017

Initial Hearing: 6-28-2017

New Case

Count 1: Chain link fence installed without required permits and inspections. **Count 2:** Failure to submit the corrections needed to process the HARC application.

Mr. McChesney on behalf of the property owner attended. Officer Jorge Lopez asked Mr. McChesney to start. Mr. McChesney asked for a continuance pending the fence application to HARC. The city has no objection for a 60-day continuance. Mr. McChesney has no objection for the 60-day continuance. The Special Magistrate granted the request for continuance to August 30, 2017.

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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

Continuance granted to July 26, 2017

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 continue this case to July 26, 2017.

16

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

Sec. 90-142 Historic Architectural Commission Design Guidelines
adopted - **Request dismissal**

Officer Jorge Lopez

Posted: 6-9-2017

Initial Hearing: 5-31-2017

Continued from May 31, 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.

Mr. Walsh attended this hearing. The City requests dismissal of Counts 2 and 3. The City asked for a continuance for Count 1. Mr. Walsh agreed. The Special Magistrate granted the dismissal of Counts 2 and 3 with a continuance of Count 1 for 30 days to July 26, 2017.

17

Case # 17-767

Wendell Wall

1610 South Street

Sec. 14-37 Building permits; professional plans; display of permits;
address; exceptionsFBC 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 July 26, 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 July 26, 2017.

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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

Request continuance to July 26, 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.

The Special Magistrate granted the request to continue this case to July 26, 2017.

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Case # 16-867

Tropicar, Inc.
Robert Ramey III - Registered Agent
1300 Duval Street
Sec. 18-359 Identification by decal
Officer Kenneth JW Waite
Certified Service: 1-30-2017 - Registered Agent
Initial Hearing: 3-29-2017

In compliance June 22, 2017; Request closing

Count 1: For failure to obtain and post required decals on electric cars.

The Special Magistrate granted the request to dismiss this case.

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Case # 17-483

Far Beauty LLC dba Collage Beauty

Aviv Shmuel - Registered Agent

Giselle Geller - Violator

211 Duval Street A

Sec. 18-441 Required - **Repeat Violation**

Officer Kenneth JW Waite

Hand Served: 4-12-2017 - Giselle Geller

Hand Served: 4-12-2017 - Aviv Shmuel

Initial Hearing: 5-31-2017

Settlement Agreement**Count 1:** Failure to hold a valid off-premises canvassing permit.

A settlement agreement was presented to the Special Magistrate which he approved. Costs of \$250 and a fine of \$500 with a suspended fine of \$500 assessed from case number 16-1451 for a total of \$1,250.00. The respondent also stipulates to a suspended fine in the amount of \$1,000.00.

HARC Appeals

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SMA 17-01

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

Greg Oropeza on behalf of Mr. and Mrs. Lynch attended. Ron Ramsingh on behalf of the City attended. Wayne LaRue Smith on behalf of Kevin Scott, Lori Scott, Paul Gray, Richard Jenkins and Lori Jenkins who filed a motion for leave to intervene in this appeal attended. The City asked for a continuance for the appeal until the July hearing. All parties are in agreement for the continuance. The motion to intervene will be heard today. Mr. Smith gave testimony that all parties are within 200 ft. of the property that is appealing the HARC decision and would like a motion to intervene. Mr. Ramsingh gave testimony that on a HARC denial, they have no right to intervene and the City objects. Mr. Oropeza gave testimony that they have filed a stipulated opposition to Mr. Smith's motion and the property owners adopt the points the City have raised. Mr. Oropeza stated that the full record will be submitted before the hearing next month in its entirety. Mr. Smith would like to make clear that the interveners simply move to include the entire record and have no intension of seeking to add to that record at this level. The Special Magistrate asked all what is the prejudice to allow these parties to intervene. Mr. Ramsingh believes it will set a very bad precedent and over complicate a very simply quasi-procedure. Mr. Oropeza agreed with the city. Mr. Smith stated that every case is unique; what is appropriate for one case is not necessarily appropriate in another. The Special Magistrate stated that the leave to intervene is to make sure that as he considers this in a de novo review that he has everything that was submitted in the HARC proceedings. The Special Magistrate granted the motion to intervene to make sure that the record is complete before the tribunal. All parties are in agreement

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SMA 17-02

Tropical Soup Corporation
Joseph H. Walsh
Pike Architects, Inc.
Van D. Fischer, Esquire
Mallory Square
H17-03-0008

Continuance granted to August 30, 2017

Mr. Walsh, the respondent, and Mr. Van Fisher, counsel for the respondent attended this hearing. The City asked for a continuance to July 26, 2017. There is a conflict with opposing counsel so the City requests a Special Hearing for the third week in July as this will be a very lengthy hearing. Mr. Fisher and Mr. Walsh are agreeable for the Special Hearing in July. The Special Magistrate asked that counsels decided on a date. The Special Magistrate granted the continuance to August 30, 2017 pending notification of the Special Hearing the third week in July.

Adjournment