



City of Key West, FL

City Hall
1300 White Street
Key West FL 33040

Action Minutes - Final - Final

Code Compliance Hearing

Wednesday, May 29, 2019

1:30 PM

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 # 18-280

Robert Janicki

1205 11th Street

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

Sec. 14-262 Request for inspection

FBC P2503.1 Inspections

FBC 1612.4 Flood Hazard Construction

Sec. 18-117 Acts declared unlawful

Officer Bonnita Badgett

Certified Service: 5-18-2018

Initial Hearing: 5-30-2018

Continued from 24 April 2019 for compliance

Count 1: Building, electrical and plumbing work being done without the benefit of a permits. **Count 2:** Failure to request electrical inspection for work being done without the benefit of a permit. **Count 3:** Failure to request plumbing inspections for work being done without the benefit of a permit. **Count 4:** The new rear room in the main house, the tiki hut and shed shall comply to the ordinance for structures located in the flood hazard areas. **Count 5:** Cease using an unlicensed contractor.

Lori Thompson from Trepanier and Assoc. and Robert Janicki attended this hearing. Officer Bonnita Badgett agreed for Ms. Thompson to speak. Mr. Thompson gave a timeline of all that was done. The Tiki hut was recognized as a second unit and the impact fees were paid and updated the BTR. Ms. Thompson feels that count 1 thru 3 are in compliance. In regards to count 4, they felt that the LUD application would solve many of their issues and there was a resolution in 2006 by Ms. Stone that had the two structures legally recognized. Ms. Thompson stated that they are in conflict with the Building Dept. about compliance for these structures. They believe they are moving forward and ask for 60 days continuance to see if the issues can be resolved. Their first priority is to save this building but if they can't their only alternative is to demolish the tiki hut. The shed has been recognized as an accessory structure and not a third unit on the property and as such they have withdrew the application for this unit. Officer Badgett gave testimony stated that Mr. Wampler, Building Officer, and Scott Fraser, FEMA Cordinator, are attending this hearing. Ms. Badgett reiterated what Ms. Thompson had previously stated. Director Young asked that the CBO, Ron Wampler, speak about the life safety issues. Mr. Wampler stated that the first statement was in error about the 06-366 zoning hearing, all that did was allow a variance from the setbacks where the structure was with the condition that permits, verification and approvals be had within one year and that was in 2006. Nothing has moved forward since then. A tiki hut as per building code is exempt from having building permits that is erected as a simply all wood material shade shelter not intended to be occupied. This is not intended to have electrical, plumbing, mechanical or to be occupied. There should be no foundation and is basically

wooden poles stuck in the ground. All the work done to this two story thrashed roof building has been done without building permits. The CBO stated that the structure should be demoed in his opinion. He cannot issue a certificate of occupancy in good faith that this structure is anything comparable to what we have in the city that is habitable dwelling unit. There was no record of any permit for this structure. The only thing we allow in the city is open structures that are tiki huts. The Special Magistrate asked how they will be able to come into compliance if you can't get a CO. Ms. Thompson is getting an Engineer to certify the structural integrity; and the plumbing, electrical and mechanical permits have been applied for. We do have someone coming tomorrow to look at it. They understand the thatched roof is an issue and the owner would be amenable to replace with a compliant roof. The Special Magistrate stated he felt they were moving backwards by removing the roof. The CBO stated those posts will rot off at the ground. The Special Magistrate doesn't see how giving an extension that this will ever be able to come into compliance. Ms. Thompson stated that the resolution from 2006 as far as they believe should have rectified the issue about the tiki hut as all was done that needed to be done as specified in the resolution. The only thing required at that time to legalize the tiki hut was a breezeway from the house to the hut which was done and finalized by the City. The resolution was for habitual space. The CBO would like to see it demolished. Ron Ramsingh stated that from a Code perspective, there should be a starting of the fines and all of the issues can come on in the back end for mitigation if and when they come into compliance. Ms. Thompson was confused about the compliance of counts 1 and 2 believing the permits have been obtained and finalized. Officer Badgett gave testimony about the permits stating the permits were for the main house only. There is an electrical permit for the tiki hut but that has been stopped for more information needed so it has not been issued. There are no inspection approvals for the tiki hut. All counts are for the main house, tiki hut and shed. Mr. Janicki stated he hired contractors to take care of all these issues and his belief was that they know what they are doing as he gave them a copy of the violations. He believed he did all that he could to come into compliance. The Special Magistrate stated that the proper inspections have not been done. The Special Magistrate finds that there is a failure of compliance for Counts 1 - 4 and the fines will start running as of 30 May 2019. The Special Magistrate stated there are avenues for mitigation.

2

Case # 18-2101

Gold Empire U.S.A. / Orogold

Zohar Alon

Nir Chen

518 Duval Street

Sec. 18-705 Requirements of permit holder (3) written statement

Sec. 18-705 Requirements of permit holder (2) prices on each item

Officer Bonnita Badgett

Certified Mail: 2-5-16 - Nir Chen

Certified Mail: 2-5-2019 - Zohar Alon

Initial Hearing: 2-27-2019

Continued from 24 April 2019 - Repeat Violations

Count 1: Failure to furnish to the customer a written statement showing the final total cost of the item or service. - Repeat violation reference Code Case#18-1157. **Count 2:** Failure to clearly display each cosmetic item offered for sale with each item bearing a sale price posted directly on the item. - Repeat violation reference Code Case# 18-1994.

Attorney Lowell Kuvin represented the respondent. Ron Ramsingh, Chief Assistant City Attorney, represents the City. Officer Bonnita Badgett gave testimony that the City Manager received a complaint that all the products were not all priced and she was instructed to do an inspection. She did her inspection and while she was there the worker, Don, had someone in his chair and was putting cream on the face of Filiz the customer. She asked for the written statement and Don pointed to the next table. A worker brought it to her and she asked the customer if it was her signature; and she said no. As Don was finishing up with the customer, she went around the store and most of the items were priced but some were not. Don did sell the customer some deep wrinkle cream. She took pictures and did the inspection that day. She found two violations of not having a written statement and not having prices on all the products. These are repeat violations from Cases# 18-1157 and #18-1994. Mr. Kuvin asked was she present when Ms. Filiz walked into the store and she stated no she was not. Mr. Kuvin asked how many items she picked up and she said probably 20 items. She stated approximately three were missing prices. She does have pictures of marked and unmarked items. She didn't take a picture of all the items. She did speak with someone about the unmarked items and that was Mr. Chen. They both looked at the unmarked items. Mr. Kuvin called Mr. Chen to testify. Mr. Chen stated he does remember speaking with Officer Badgett that day. He stated it was only one item that was not marked. She told him that it could not happen again and he has had numerous inspections since then and has passed them all. Mr. Ramsingh asked Mr. Chen that he has testified now and before that he was brought into the store and has changed a lot of policies and improved compliance with the ordinances. Mr. Chen said he has. Mr. Chen does save the pre-written estimates. Mr. Ramsingh asked if he did save this one and he said if it was a sale that it was definitely saved. Mr. Ramsingh asked if he saved this one and he stated yes but he does not have. Mr. Ramsingh asked that he is stating that

he does save the statements but he does not have this one here today and Mr. Chen stated that was correct. Mr. Ramsingh gave argument that hearsay is permissible under case law and Florida statute in these types of hearing as long as it is not the sole basis of evidence. Officer Badgett observed a customer having cream applied to her face without any visible evidence of an estimate being provided prior to the application. She did ask her if this was her signature on another prewritten estimate and the customer stated that it was not. There is hearsay combined with her direct observations as a first hand witness. We have established a prima facie case of sec. 18-705 (3) and on the other count an admission that there were no prices on items. We asked that you issue a Findings of Order for this case. Mr. Kuvin stated that the Code Officer was not present when the customer walked into the store and it is perfectly plausible that this person may have signed a form when she walked into the store but was shown the wrong form. The only person who can testify if they signed the form is the customer who is not there today. Officer Badgett did not ask if she was given a form and refused to sign it. He asked that the Special Magistrate dismiss that charge for lack of evidence. As for the one item out of 30 that was not priced, he thinks they should go back and look at the LED case as that it was rectified after it was brought to their attention. The repeat case was in 2018 and his client was shut down in 2019 so that he could come into compliance with all the ordinances as well as to train the people in his store. Mr. Kuvin stated that since he has not had a case since he was shut down for items not being marked that this count should be dismissed as well. The Special Magistrate stated that in respect for sec. 18-705 (2) which are prices on each item. He is not convinced that there is substantial competent evidence in this particular incidence that the prices weren't on the items prior to the code inspection. They could have fallen off and there are a lot of reason why. By the testimony of Officer Badgett that almost all of the items but for a couple had the price tags on them. He can't say that there is enough evidence to say that the store violated this statute. As in 18-705 (3) which was read and in this quasi-judicial setting hearsay is admissible. Officer Badgett did ask for the written statement and then she asked the customer if it was her signature and she said no. There is substantial competent evidence to find that there was a violation at that time. He is going to take judicial notice of some testimony that Mr. Chen had previously which was he was coming in on December to try to rectify the problems that were going on at the store. It is a repeat violation. Ron Ramsingh stated that the City is asking for \$500 for repeat violation and the suspended fine was collected on the previous case with \$250 administrative fee for a total of \$750. The Special Magistrate stated that he has to charge the \$250 court cost. The fine will be \$500 for the repeat violation. This is a total of \$750.

3

Case # 19-73

Gold Empire USA, LLC.

Zohar Alon

Nir Chen

518 Duval Street

Sec. 18-705 (3) Requirements of permit holder

Officer Bonnita Badgett

Certified Mail: 2-5-2019 - Zohar Alon

Certified Mail: 2-5-2019 - Nir Chen

Initial Hearing: 2-27-2019

Continued from 24 April 2019 - Repeat Violation

Count 1: Failure to furnish to the customer a written statement showing the final cost of the item or service. Repeat violation Case# 18-1157.

Attorney Lowell Kuvin represents Gold Empire. Ron Ramsingh, Chief Assistant City Attorney, represents the City. Testimony was given via SKYPE from Ohio. The Notary Public for the swearing in was Jennifer Cotsmire, State of Ohio, which expires September 3, 2022. The Special Magistrate asked that a copy of her Notary commission be sent for verification. Mr. Ramsingh took testimony from Ms. Brown. Ms. Brown stated she visited Key West on January 10, 2019. She visited Orogold on this visit. She was stopped by a salesperson on the street and was asked to come into the store. She was curious as she had read about the cosmetic stores in the newspaper. The salesperson stated he name was Kai. She was asked questions about her face. Kai started putting creams on her face and arm without asking her if she wanted it. There was no paper showing the prices of the products so when Kai went to the counter to get something she turned over some of the cosmetic bottles to look for prices. He was not aggressive just assertive. She told him that she wasn't buying anything that day so he went up the cash register. He tried to persuade her by wanting to discuss prices but she said she wasn't buying anything. She showed a sample of cream that she had been given that showed the Orogold name on it. Mr. Ramsingh asked if at anytime when he was applying the cream did he give her an estimate. Ms. Brown stated that no prices were ever discussed or shown to me on an estimate list. Mr. Ramsingh asked if he asked for consent before he put any creams on. Ms. Brown stated no he didn't. Mr. Ramsingh asked if she purchased any items. Ms. Brown stated that she didn't. Attorney Lowell Kuvin took testimony from Ms. Brown. Mr. Kuvin asked if she remembers writing a statement about her visit to Orogold and if she had a copy in front of her. Ms. Brown stated yes she did. Mr. Kuvin asked her if she was sitting in a chair and someone put lotion on her face; and is that correct. Ms. Brown stated yes. Mr. Kuvin asked that she said she had read about this particular establishment in Key West before hand and was this in the Key West newspaper. Ms. Brown stated that she had read about the cosmetic shops not any particular one and it was in the Citizen. Mr. Kuvin asked if it was pro or con about cosmetic shops. Ms. Brown stated it was both. Mr. Kuvin asked what her impression of the articles were, pro or anti - cosmetic shop. Ms. Brown said it was journalism to show both sides. Mr. Ramsingh made an objection to the line of questioning as the issue is what happened on that day

not the newspaper articles. The Special Magistrate asked Mr. Kuvin why this line of questioning is relevant. Mr. Kuvin stated that after reading these articles she had a predisposition to make herself a victim so that she could fill out these particular forms and basically implicate my client. The Special Magistrate stated he would not entertain that kind of testimony as this is whether she was given a written statement and that is all it is. It has nothing to do with what Mr. Kuvin was talking about. The Special Magistrate stated that he was to move on. Mr. Kuvin asked if when she went into the store that there was not a price list anywhere in the store. Ms. Brown stated there was none presented to her. Mr. Kuvin asked is she remember saying that the prices were wildly expensive. Ms. Brown does remember saying that. Mr. Kuvin asked her if she asked about any of the prices and she stated no she did not. Mr. Kuvin asked when the cream was applied to her face was he standing in front of her and she stated yes. Mr. Kuvin said that she knew that he was going to put something on her face and she said she did not know what he was going to do. Mr. Kuvin said that she said that she picked up some products and saw the prices and she said she had picked up a couple of them when he walked to the register. Mr. Kuvin asked if there were any papers on the counter where the products were and she said she didn't recall any papers. She said she did not recall any papers and she wasn't asked to look at any papers. Mr. Ramsingh called Officer Bonnita Badgett to the podium. Mr. Ramsingh asked if there were any previous cases and she stated yes Case# 18-1157 was repeat with a Finding of Order for not providing a written statement. Mr. Kuvin asked if she had a copy of the prior violation and she stated she has a copy of the notice of code violation. Mr. Ramsingh asked if the Finding of Order on the screen is order for the initial case# 17-1157. Mr. Kuvin stated that this Finding of Order needs to be notarized to be used as evidence. The Special Magistrate said he will allow the Finding as a business record kept in the regular course of business. It is competent substantial evidence to support the prior violation. Mr. Kuvin called Nir Chen to the podium. Mr. Chen gave testimony about normal business practices regarding notices. The statement is in the store for the customer to sign as seen by Officer Badgett. Mr. Kuvin asked if Mr. Chen has ever been present when a customer refused to sign the statement. Mr. Chen stated that as far as five to six months ago he has been coming to the store, he knows it is sitting on the table for the customers to sign. Mr. Ramsingh asked when Mr. Chen arrived in the store. Mr. Chen stated he came in December and January. Mr. Ramsingh asked when in January he came back and he didn't remember. Mr. Ramsingh asked if Mr. Chen can say affirmatively that he was in Key West on January 10th. Mr. Chen said he was there. Mr. Chen said he knows Kai. Mr. Ramsingh asked how he remembers Ms. Brown. Mr. Chen said he never said he remembers her but he Mr. Ramsingh asked if he could testify that he saw Kai put cream on Ms. Brown's face. Mr. Chen said he can't testify to that but can only testify to the practices done at his store. Mr. Ramsingh gave closing statement that regarding prior violation for a repeat that 162.07 (3) indicates that formal rules of evidence shall not apply but fundamental due process shall be formal rules of evidence as this is a quasi-judicial proceedings. Ms. Brown who was the only person in the room that day and gave testimony that she did not receive a pre-written estimate of cost that is required under Sec. 18-705 (3). Officer Badgett gave testimony that there was a previous violation of the same ordinance in Case #18-1157 which makes it a repeat. Mr. Ramsingh ask that you enter a Findings of Order accordingly. Mr. Kuvin gave his closing statement that Ms. Brown testified and she was less than truthful about the article as she said it was an even unbiased story which Mr. Chen gave testimony that these particular

notices are left on the counter for people to look at. Ms. Brown checked the bottoms of the cosmetics to check for prices. Ms. Brown was sent in as a secret shopper so that she could file this particular complaint which she did. Ms. Brown testified that she wasn't sure if she seen papers or did not see papers. Mr. Kuvin stated that the court would have to take notice that this particular paper was on the counter and she chose not to look at it. Mr. Kuvin stated that the code states that they only have to sign it if they are a buyer. The form states at the bottom of the form signature of buyer and as such she was not required to sign anything at this particular time. Customer do not need to sign the form only buyers; and in this particular case she was not a buyer. Mr. Kuvin stated that Ms. Brown had a mission and knew what she was doing. Mr. Kuvin said he should way her bias and find his client not guilty of these charges. Mr. Ramsingh stated that there was no evidence presented about the form and either they gave it to the person and where it is or they didn't give it. There is no evidence that there is any distinction of a buyer versus a customer. There is no evidence that Ms. Brown was incredible in any way and she was very credible with her testimony. We ask that you find for a repeat violation. The Special Magistrate stated that Ms. Brown was very credible with her evidence that she offered. It was competent and substantial evidence of what happened that day. She did not show any type of biased issues. He believed her evidence to be plain and straight forward to the point. She is the only witness who can testify what happened on that day and she said there was no written statement given to her that day. The Special Magistrate read Sec. 18-705 (3). He stated the issue was not if she purchased the products it was whether she was given a written statement. I believe Mr. Chen that is laid out while he is there and he is credible but on that day he can't testify that it was. There were no photos for evidence of the store and the statements; or how the store was on that particular day. The Special Magistrate states that Ms. Brown presents a very compelling case that on that day that ordinance was violated; and it is a repeat violation. The City requests as a repeat we are limited to \$500 per count with the suspended fine from Case# 18-1157 of \$500 with \$250 court cost for a total of \$1,250.00 plus the cost of the Notary. Mr. Kuvin stated that the City or the witness herself should pay the cost of the Notary as she chose not to come. The Special Magistrate states he finds that there is a repeat violation for a \$500 fine plus the \$500 suspended fine from Case#18-1157 with \$250 administrative fee with the Notary cost not to exceed \$50. Mr. Ramsingh stated that Ms. Brown would have come down with the costs well exceeding the Notary cost which can be charged to the respondent by Sec. 162.09 but he didn't do that to make it easier for everyone. Mr. Kuvin states that Florida Statues The Special Magistrate said no that he would cap it at \$50 and what it is in Ohio.

4

Case # 19-103

H and S of Key West, LLC

Hal Schuhmacker

Christian M. Zuelch - RA

324 Southard Street

Sec. 14-40 Permits in the historic districts

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

Officer Bonnita Badgett

Certified Mail: 2-22-2019 - Hal Schuhmacker

Hand Served: 3-18-2019 - Christian M. Zuelch

Initial Hearing: 3-27-2019

Continued from 24 April 2019 for compliance

Count 1: Failure to obtain certificate of appropriateness for exterior work on the roof of the front porch. **Count 2:** Failure to obtain a building permit for exterior work on the roof of the front porch.

Mr. Schuhmacker did not attend this hearing. Officer Bonnita Badgett gave testimony that they did not come into compliance. Ron Ramsingh gave testimony that Mr. Schuhmacker did come into the Building Department asking why he was not entitled to go an Owner/Builder permit and the Building Department did explain to him; and there has not been any movement since then. The Special Magistrate did find that there was a failure of compliance. The respondent did have an opportunity to appear but he failed, neglected or refused to. The fines will start running.

5

Case # 19-105

Gold Empire USA/Orogold
Zohar Alon, AMBR
Nir Chen, AMBR
518 Duval Street
Sec. 18-705 Requirements of permit holder (3)
Officer Bonnita Badgett
Certified Mail: 2-1-2019 - Nir Chen
Certified Mail: 2-1-2019 - Zohar Alon
Initial Hearing: 2-27-2019

Continued from 24 April 2019 - Repeat Violation

Count 1: Failure to give a written statement showing the final cost of the item or service before applying cream to a customer.

Attorney Lowell Kuvin represented the respondent. Ron Ramsingh represents the City. Officer Badgett for the City. Beth Krakowski is the complainant. Mr. Ramsingh asked Ms. Krakowski if she was visiting Key West on approximately April 25, 2018 and she stated yes. He asked if she went into the store on Duval St. called Gold Empire at 518 Duval St. and she stated yes. Ms. Krakowski gave testimony that as she was walking down Duval St. that a salesperson gave her a sample and escorted her into the store. He sat her in a chair and applied cream to her face. She said she didn't want it and they persuaded her to stay and get a free facial. She received what she believed was a free facial and showed her other products. She said she tried to leave and they were very assertive in trying to sell her products. She said at the end they had a bag of stuff and took her to the register and rung her up. She at that point just wanted to get out of there so she took the stuff and left. When she got outside the store she realized how much she had gotten charged and wanted to return the things but while showing it to her husband she saw on the receipt that it said exchanges only no refunds. She thought she was out of luck and left. Mr. Ramsingh asked that prior to applying the product did they give a written estimate on how much it was going to cost and she stated no. Mr. Ramsingh asked if they asked her for her consent to apply the products before they applied them and she said no not at all. Mr. Ramsingh asked if they told her their return policy which was only an exchange before applying the products and she stated no not at all. Mr. Ramsingh asked how much she was charged for the products and she said \$2,045.50. Mr. Ramsingh asked who she made the complaint to after she left the store and she stated that she didn't make a complaint that day and it wasn't until a return visit almost a year later that we saw some people disputing the company on the sidewalk. We went up to them and shared our experience with the store and they informed us of the code violations that were happening at this store and found out that they were victims of those violations. We then agreed to pursue it as well as showing up here. Mr. Ramsingh asked if she was part of or a member of the group that was protesting in any way; and she stated no. Mr. Ramsingh asked if she was being paid to be at the code hearing in any way and she stated no. Mr. Ramsingh asked who she made her official complaint to and she said to the City of Key West. She stated that she gave an affidavit to the City of Key West

by mail. Mr. Kuvin asked how long it has been from the date that she purchased the products to the time she made the complaint. She stated the purchase was made in April 2018 and the complaint was made in January 2019; and Mr. Kuvin said approximately 9 months. Mr. Kuvin asked if whether she was more unhappy about the way she was treated in the store as opposed to whether you signed a piece of paper that showed how much the prices were. She said it would be fair to say that she was unhappy with the way that she was treated. Mr. Kuvin asked is she didn't realize until she met the people outside the store protecting that she could file a complaint; and she said she didn't realize she had the means to object what had happened to her until she saw the people in front of the building. Mr. Kuvin asked if she was aware she could dispute a credit card charge and she said under these circumstances she was not aware that she could. Mr. Ramsingh objected to this line of questions because it is not relevant to the violation as to whether or not Mr. Chen had violated the ordinance. Mr. Kuvin stated that the City has opened this line of questioning by allowing her to give testify not that she hadn't gotten a notice which would have been minutes of testimony but has allowed her to testify that someone place their hands on her and pushed her back down and that she was very unhappy. The Special Magistrate said he will listen to a couple of questions about this but the question is whether she was given a written statement with the prices on it not whether she disputed the charges. The Special Magistrate stated that if this line of questioning will show something spectacular about this issue, he would listen. Mr. Kuvin asked Ms. Krakowski that when she checked out was there a list of prices of the goods that she was purchasing that she signed on the bottom and she stated no. She got her credit card receipt and that is all she got. Mr. Kuvin asked that while she was in the store did anyone hand her a piece of paper and she stated no. He asked if there was any paper on the counter in front of her and she stated there were no papers. Mr. Ramsingh asked if she had ever seen the Mr. Kuvin called Mr. Chen to the podium. Mr. Chen said he would like to explain about the comment that she made about not knowing that she could complain or file anything. Mr. Chen stated he has to have two signs in his shop and they are there in six languages that states that for any reason if they want to file a complaint as per the city code they can; and it is right there in his store in black and white. She could have complained at any time before the time that she met the people that are in the street in front of his store. Mr. Chen stated that he is required by the code to have two signs in his store that tell customers that if they want to file a complaint that they can with code or with the police. Mr. Chen stated that he has never been cited for not having the signs in his store. Mr. Ramsingh asked Mr. Chen if he had stated that he didn't come to Key West until Dec. 2018. Mr. Chen stated he did not come permanently to Key West until Dec. 2018 but he had been here numerous occasions when he opened up the store. Mr. Chen took over the store on September 2017. The sign has been in the store and it was there in April 2018 because it has never moved. Mr. Kuvin asked to recall the Code Officer Bonnita Badgett. Officer Badgett was asked how long she had been assigned to this store and she said she believed 2017. Mr. Kuvin asked if she had ever cited this store for the two signs and Mr. Ramsingh had objection to this question as it does not pertain to the violation for this case. Mr. Kuvin said that it contravenes her testimony that she didn't know and had waited almost ten months to file a complaint and only filed a complaint admittedly after speaking to the people protesting outside the store. The Special Magistrate said he has noted that and would like to just talk about the violation that is right now. Mr. Ramsingh gave closing statement that he believes they have shown prima facie showing with competent

substantial evidence that a violation of 18-705 (3) has been committed. He believes that she was a very credible witness and has specific recollection that no paper was put before her now was she asked to sign any paper giving consent or anything like that. Mr. Kuvin gave closing statement that he believes that we have a person that went into the store and whether she received a paper or not, it was over ten months ago that this happened. He doesn't believe that his client is required to keep it for that long according to the code. His client purges these papers. He believes this is highly suspect that this particular person waited ten months and said she had no idea she could ever file a complaint yet as soon as she spoke to the protectors all of a sudden she says she never signed a piece of paper then filed a complaint. He believes that there is credible testimony from his client that the signs are there and that she knew or should have known as well as she should have seen the paper that was in front of her. Mr. Kuvin stated that he should dismiss the charge as there is not substantial evidence to uphold. The Special Magistrate asked Mr. Ramsingh if under this code that he needs to only keep the papers for six months and he stated that there is a requirement. Mr. Ramsingh stated that Mr. Chen did testify that he does have these papers but on the day of the trial he stated that he did not bring them. Director Young stated there is not a requirement to keep the form for six months. The Special Magistrate stated that the fundamental difference this case is from the others is the length of time of the violation to the filing of the complaint. He troubled by it because it is a long period of time between the violation and filing. He can't say with competent substantial evidence that there was the violation for the written statement for final costs because there is just too much time that passed. She did state that it clearly did not delineate the cost of each cosmetic item that she said by her testimony but for purposes of the time frame and the rest of it, he just can't reconcile the fact that she freely and voluntarily came forward with this complaint to do this. The Special Magistrate stated he is going to dismiss this case as the time period is way to long. Mr. Ramsingh stated he is worried about the president that will be set as there is no statute of limitations for code cases. The Special Magistrate stated he understood that but what most troubled him was the engagement with the people who disapprove of these shops and some of the technique's that are there and that's what troubled him the most. He stated that no one followed up with questions like did anyone make her file or any duress or any undo influence. too many other facts and circumstances not just time but how she came to make the complaint. The Special Magistrate does not feel that competent substantial evidence does not support a violation. He stated that if he did find a violation that it would be without fees or fines and because it is a repeat he couldn't do that.

6

Case # 19-604

Orogold Cosmetics

Nir Chen

Zohar Alon

518 Duval Street

Sec. 18-705 Requirement of permit holder (3) No written statement -

Repeat

Sec. 18-705 Requirement of permit holder (8) Consent Form

Sec. 18-705 Requirement of permit holder (9) Use of disposable applicators and disposable gloves

Sec. 18-705 Requirement of permit holder (3) No written statement -

Repeat

Sec. 18-705 Requirement of permit holder (8) Consent Form

Sec. 18-705 Requirement of permit holder (9) Use of disposable applicators and disposable gloves

Officer Bonnita Badgett

Certified Mail: 4-15-2019 - Nir Chen

Certified Mail: 4-15-2019 - Zohar Alon

Initial Hearing: 5-29-2019

New Case - Repeat Counts 1 & 4

Count 1: Failure to provide a written statement to sign before applying sample products to Mr. Keller's face. - **Repeat.** **Count 2:** Failure to provide a consent form before applying sample products to Mr. Keller's face. **Count 3:** Failure to use gloves while applying sample products to Mr. Keller's face. **Count 4:** Failure to provide a written statement to sign before applying sample products to Ms. De More's face. - **Repeat.** **Count 5:** Failure to provide a consent form before applying sample products to Ms. De More's face. **Count 6:** Failure to use gloves while applying sample products to Mr. De More's face.

Attorney Lowell Kuvin represented the respondent. Ron Ramsingh, Chief Assistant City Attorney, represented the city. Officer Bonnita Badgett for the City. Thomas Keller was the complainant. Mr. Kuvin gave testimony that he had spoken to the City about this case as he has just received this case today. He stated that Mr. Chen stated that it was not his signature on the certified mail card for this notice of hearing. Mr. Kuzin is not prepared for this case today. Mr. Kuzin stated that he would cross examine this witness today so that he doesn't have to come back again. He stated that Mr. Chen will go to his office to find this notice and this would afford his client due process. Mr. Ramsingh stated that fundamental due process is what needs to be observed at these hearing which is comprised of notice and opportunity to be heard. He has gotten notice as shown by the green card which was signed by him or a representative signed for on April 11, 2019 and an opportunity to be heard. Mr. Ramsingh objects to continuing this and objects to bifurcating into we present

our and they present theirs at some other point with new evidence. We have satisfied our burden under fundamental due process and are ready to proceed today and ask that we proceed today. Mr. Kuvin stated that just because we have a signature card does not mean that he received it which he did not. Mr. Ramsingh stated that is not the standard that he received it, it is someone that is 14 years or older at the address that is able to receive service. He does not have to be personally serviced. The Special Magistrate asked if this case was continued would it be an inconvenience for him to return. Mr. Keller stated he plans to be up north on June 27 and will be back the first of July. The Special Magistrate asked Mr. Kuvin if he is asking to continue the case and he stated he is. Ron Ramsingh stated that according to the agenda this case has not been continued previously. The Special Magistrate stated that Mr. Kuvin's stating he didn't have this case from his client and that he is not prepared to go forward as there are a number of significant allegations in this case from Mr. Keller. He wants to give Mr. Chen and Mr. Kuvin a chance to prepare their case as he wants to listen to what they have to say and to be fair. As Mr. Keller can't be at the June hearing, he is going to continue this case to July 31, 2019.

7

Case # 18-245

Michael Baker

Lori Wilder

3325 Eagle Avenue

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

Officer Sophia Doctoche

Posted: 4-4-2019

Initial Hearing: 4-24-2019

Continuance granted to 27 June 2019

Count 1: Failure to follow through with permit #18-1001 to change a wooden fence to a PVC fence since 15 March 2018.

The Special Magistrate granted the request to continue this case to 27 June 2019.

8

Case # 18-2089

Duval and Caroline, LLC
Joseph Walsh
429 Caroline Street
Sec. 66-109 Schedule of taxes
Sec. 14-40 Permits in historic districts
Officer Sophia Doctoche
Posted: 4-30-2019
Initial Hearing: 4-24-2019

Continued from 24 April 2019

Count 1: Failure to obtain seating authorization for the seats located at the subject property. **Count 2:** Failure to apply for and obtain an after the fact certificate of appropriateness for the subject property.

Joseph Walsh attended this hearing. Officer Sophia Doctoche gave testimony that Mr. Walsh submitted a request for impact fees for 51 seats. HARC stated that there was some renovations done without HARC approval to the inside of this building. Officer Doctoche spoke with Planning and HARC regarding the seats and moving on of the permits. They have not had any contact with Mr. Walsh. Mr. Walsh this morning turned in the money but no sketches or plans for the application. Director Young stated the monies from today are for the seating but this is on hold as he has not brought in the site plans for the seating so the monies is being held. Mr. Walsh stated he applied for permits last year to replace the bar that had been removed. Mr. Walsh stated they were taken over this building for a restaurant not a bar and as such did not need a conditional use. They are changing the bar seats to restaurant seats and need to pay the additional impact fees. He stated he did put in a site plan with the seating that he dropped off to Licensing. He is waiting for the amount the impacts fees are from Licensing and the amount the BTR will increase. He believes that Planning has nothing to do with this because it is not a conditional use. He stated he has permits in the Building Dept. since last September to replace what was there. Ron Ramsingh stated the Mr. Wright, Planning Director, will be coming in to speak. Mr. Wright spoke stating that Mr. Walsh is correct that we have not asked for him to apply for a conditional use or amend his prior conditional use. What we do ask for is if additional seats are requested that a site plan and a check are submitted to Licensing then forwarded to Planning so that we can confirm that the alteration of the seats or the new seats meet the requirements and we know what the floor plan is. Mr. Wright stated he believes this is the only Planning issue. Mr. Wright did state that the interior renovations do need HARC approval. Mr. Walsh stated he doesn't see where the jurisdiction of any of this is in the ordinances. Mr. Ramsingh stated he has submitted the permits but they have not moved along. Officer Doctoche stated that within the emails they are asking for more information so that the permits can move along. The Special Magistrate stated he is going to continue this case so that Mr. Walsh can get with the City to find out what exactly their criteria is so that this can move along. This will be continued to 27 June 2019.

9

Case # 19-107

Gold Empire USA, LLC/D'OR 24K

Nir Chen - Registered Agent

407 Front Street C

Sec. 18-705 Requirements of permit holder

Officer Sophia Doctoche

Certified Mail: 2-25-2019

Initial Hearing: 3-27-2019

Continued from 24 April 2019 - Repeat Violation

Count 1: Failure to furnish to the customer a written statement showing the final total cost of the item or service. Previously cited cases - #18-1157, #18-2101, #19-73

Attorney Lowell Kuvin represented the respondent. Ron Ramsingh represents the City. Officer Sophia Doctoche for the city. Jessica Miano Krewe is the complainant. Mr. Kuvin asked for a continuance as he did not the affidavits and other relevant documents that he requested but states he did not receive as such he is not prepared to go forward with this case. The Special Magistrate asked Mr. Ramsingh if there is an evidence packet and it was given to him. Mr. Ramsingh stated this case has been continued two previous times. The Special Magistrate asked Jessica, the complainant, if she would have an objection to a continuance. Ms. Miano stated she will not be in town as she will be leaving on June 7; however, her mother will be back in town the end of June but she leaves July 1. Ms. Miano stated that both her and her mother were witnesses as they were both there. Ms. Miano's mother is not here today as she is out of town. She was here last month but is not here today as she is out of town. Ms. Miano stated she will be leaving June 7 and will be in LA for months. The Special Magistrate stated he is not inclined to continue this case as the witness is not going to be here so we will be moving forward. Ms. Miano gave her statement stating that is was January 18 that her mother and her were walking on front street and a representative of this store came out and urged them to come into the store. He started applying creams and serums onto her mother's face. He put some type of scrub on her arm. She said they told him they would need to think about it and they left. Mr. Ramsingh asked if prior to the application of creams being applied was there a written estimate provided to her or her mother, and she stated no. He asked if she was familiar with the rapid rip-off response team that protests these stores and she said she has seen them but she does not know any of them. He asked if she is a member of that group at all and she stated no. He asked if she was asked to file a complaint by that group and she stated no. He asked if she was paid by the group and she stated no. He asked if she was in any way influence by that group and she stated no. He asked if consent was asked of her before the cream was put onto her arm and she stated no. He asked if she heard anyone ask her mom for her consent and she stated no. He asked if she was present at all times with this interaction and she stated yes. He asked if she every leave her mom so that there is an opportunity for someone to give her a consent form outside of your presence and she stated no. Mr. Kuvin asked if she had ever filed a complaint with the city and she stated she did not as she

was told that her mother would file on behalf of the both of them. He asked if she had seen this document and she stated that it is currently in front of her but she had not seen it previously. He asked if her name is anywhere on the document and she stated it says my daughter but does not say her name. He asked if it was true that they walked into the store and asked for samples. Ms. Miano stated that they walked by first and they handed them a packet of some sort of cream. At that time they urged them to come in and as they were going in her mother stated she had some sort of spot on her upper lip and if they had anything that she would like to hear what they had that could help her. He asked her to explain when they put the cream on her arm. She stated that in the waiting period of waiting for a cream to take effect on her mom that they grabbed her arm and applied the cream. Mr. Kuvin had questions for the Code Officer Sophia Doctoche. He asked if Sophia was present when this was going on in the store and she stated she was not. Mr. Ramsingh gave closing statement stating that this is another case of not providing a written statement prior to the application of the product and not getting any type of permission at all as a result of these aggressive sales tactics. Mr. Ramsingh stated that Ms. Miano Krewe gave competent substantial evidence that there was a violation and we asked that you do that. Mr. Kuvin gave closing statement that no where on the complaint does it state Jessical Miano Krewe's name only Kate Miano. He stated basically this testimony is all hearsay. She may have observed this happening to her mother but she doesn't know if her mother wanted to sign a form or presented with a form. She was there but she was obviously distracted at some point in time as someone assaulted her by grabbing her arm but he doesn't believe that is true. He stated he has had no chance to know this person and he has had no chance to do any research. She had not been listed as a witness and she just basically came up here and become Kate Miano who is actually the person who made the complaint. The Code Officer stated she was not in the store for any of this. I find it distressing that his client could be convicted of not giving a notice today for a person who is not here. The Special Magistrate finds the witness to be very credible and she sufficiently identified herself as the daughter and she is a direct witness to this. There is no testimony that there was a written statement given. The Special Magistrate finds there is a violation and imposes \$250 administrative costs with a \$500 repeat violation and a suspended fine from Case# 17-1598 of \$500 for a total of \$1,250.00.

10

Case # 19-152

BB's Barbershop

Avery V Gardner - Violator

Michael Drago - Violator

2215 Flagler Avenue

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

Officer Sophia Doctoche

Certified Mail: 4-8-2019 - Avery V Gardner

Certified Mail: 4-8-2019 - Michael Drago

Initial Hearing: 5-29-2019

New Case

Count 1: Operating as a barber without the benefit of a business tax receipt.

The Special Magistrate stated the respondents had proper notice. Officer Doctoche gave testimony that Mr. Gardener does have a state license but not a city BTR. Mr. Drago does not have either a state or city license. These gentlemen have not come in to obtain their city license. The Special Magistrate stated that the respondents did have property notice; and failed, refused or neglected to attend. There is competent, substantial evidence to show there is a violation. The City requests \$250 court costs and \$250 fine for each violator. The Special Magistrate imposed court costs of \$250 and a \$250 fine with compliance by the 25 June 2019 with the compliance hearing on 27 June 2019 for both respondents.

11

Case # 19-181

Richard C. Walker

2407 North Roosevelt Boulevard

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

Officer Sophia Doctoche

Certified Mail: 3-19-2019

Initial Hearing: 4-24-2019

In compliance 2 May 2019; Request dismissal

Count 1: Built a ramp without the benefit of a permit.

The Special Magistrate granted the request to dismiss this case.

12

Case # 19-209

David Perets

Jp Morgan Chase Bank N.A./Ct Corporation System

2905 Venetian Drive

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

Officer Sophia Doctoche

Certified Mail: 4-15-2019 - Ct Corporation System

Initial Hearing: 5-29-2019

In compliance 16 April 2019; Request dismissal

Count 1: Failure to remove overgrowth from the property to prevent a breeding area.

The Special Magistrate granted the request to dismiss this case.

13

Case # 19-224

Lavenir LED Advertisement, LLC

Emiro A. Pajaro - RA

616 Simonton Street

Sec. 114-103 Prohibited signs

Sec. 114-103 Prohibited signs

Sec. 108-609 Use of parking areas for purposes other than parking prohibited

Sec. 70-116 Prohibited parking

Officer Sophia Doctoche

Certified Mail: 3-23-2019

Initial Hearing: 4-24-2019

Continued from 24 April 2019 - Irreparable Violations

Count 1: Vehicle with signage parked at the subject property is prohibited in the Historic District. **Count 2:** Vehicle displaying unpermitted portable and animated signs as defined in 114-101 in the historic district on 3/4/19, 3/22/19, 3/23/19, 3/17/19, 4/2/19, 4/4/19, 4/6/19, 4/12/19 and continuing daily. **Count 3:** All parking areas are to be used for automobile vehicles - no sales activity or services. **Count 4:** Vehicle was parked on a public place displaying advertisement.

Wayne LaRue Smith attended on behalf of the respondent. Ron Ramsingh, Chief Assistant City Attorney attending on behalf of the City. The Special Magistrate thanked the attorneys for their written closing arguments and the thought process that went in to this. The Special Magistrate stated that after reviewing all that was given and sections cited that in this particular instance Mr. Smith stated it right that when the City of Key West may attempt to regulate the use of LED screens on vehicles but has not done so yet and can only do so through a legislative process. In reviewing the sections, there is nothing in there that addresses this type of advertising which is mobile lighted billboards. Speaking on Count 4, the driver did violate the code by parking but he cured it immediately which is what we want. As this was cured immediately, the Special Magistrate stated he is going to dismiss Count 4. Count 3 will be dismissed as well. On Counts 1 and 2, this is definitely an animated, portable, vehicle sign which is prohibited in the historic district on any building or site; and within one foot of a building/vacant lot/parking lot but this sign is out in the middle of the street and is not 1 foot from a building. The Special Magistrate finds that there is a violation for count 4 but it was cured immediately and has not happened again. There will be no fines or fees and it will be dismissed. The Special Magistrate stated that on the other three counts, he understands the City's position but the code just does not support these violations.

14

Case # 19-240

IV's in the Keys

Danette Nelson - RA

531 Whitehead Street

Sec. 14-40 Permits in historic districts

Sec. 114-103 Prohibited signs

Officer Sophia Doctoche

Certified Mail: 3-25-2019

Initial Hearing: 4-24-2019

In compliance 1 May 2019; Request dismissal

Count 1: Failure to obtain a certificate of appropriateness for lattice and signs. Previous case# 18-2028 - cited for sec. 114-103. **Count 2:** Business signs at the subject property have previously been cited case# 18-2028. The signs are prohibited in the historic district and have not been approved by HARC.

The Special Magistrate granted the request to dismiss this case as they came into compliance on 1 May 2019.

15

Case # 19-252

531 Whitehead St, LLC

Assaf Azoulay - RA

531 Whitehead Street

Sec. 14-40 Permits in historic districts

Sec. 114-103 Prohibited signs - **In compliance 10 April 2019;****Request dismissal**

Officer Sophia Doctoche

Certified Mail: 4-12-2019

Initial Hearing: 5-29-2019

Continuance granted to 27 June 2019

Count 1: Signage and lattice that has not been approved by HARC.

Count 2: Failure to remove prohibited signage.

The Special Magistrate granted the request to continue this case to 27 June 2019.

16

Case # 19-271

James and Laura Thornbrugh

2016 Roosevelt Drive

Sec. 66-102 Dates due and delinquent; penalties - **Repeat**

Officer Sophia Doctoche

Posted: 4-4-2019

Initial Hearing: 3-27-2019

Continued from 24 April 2019 for compliance

Count 1: Did not renew their property rental business tax receipt that has been expired since 30 Sept 2018. **Repeat violation** - Cases #16-688 and 17-1060.

The Special Magistrate stated the respondents are not at the hearing and they did receive proper notice. Officer Sophia Doctoche gave testimony and stated that Mr. and Mrs. Thornbrugh were not in compliance. The Special Magistrate imposed the fine of \$250 with the court cost of \$250.

17

Case # 19-272

James and Laura Thornbrugh

2014 Roosevelt Drive

Sec. 66-102 Dates due and delinquent; penalties - **Repeat**

Officer Sophia Doctoche

Posted: 4-4-2019

Initial Hearing: 3-27-2019

Continued from 24 April 2019 for compliance

Count 1: Did not renew their property rental business tax receipt that has been expired since 30 Sept 2018. **Repeat violation** - Cases #16-688, 17-1060 and 17-1056.

The Special Magistrate stated the respondents are not at the hearing and they did receive proper notice. Officer Sophia Doctoche gave testimony and stated that Mr. and Mrs. Thornbrugh were not in compliance. The Special Magistrate imposed the fine of \$250 with the court cost of \$250.

18

Case # 19-416

Brendan C. Milligan

1430 Grinnell Street

Sec. 66-102 Dates due and delinquent; penalties

Officer Sophia Doctoche

Certified Mail: 3-23-2019

Initial Hearing: 4-24-2019

Continued from 24 April 2019 for compliance**Count 1:** Failure to renew their license since 30 September 2018.

The Special Magistrate stated the respondent is not at the hearing and he did receive proper notice. Officer Sophia Doctoche gave testimony and stated that Mr. Milligan is not in compliance. The Special Magistrate imposed the fine of \$250 with the court cost of \$250.

19

Case # 19-420

Rick's Garage Doors, Inc.

Rick L. Smith

29527 Constitution Avenue

Sec. 66-102 Dates due and delinquent; penalties

Officer Sophia Doctoche

Certified Mail: 4-8-2019

Initial Hearing: 5-29-2019

In compliance 24 April 2019; Request dismissal**Count 1:** Failure to renew business tax receipt which was due 30 September 2018.

The Special Magistrate granted the request to dismiss this case.

20

Case # 19-422

Stonecrafters South, LLC
Anthony Alchin - RA
3120 39th Avenue North Suite 1
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Mail: 4-17-2019
Initial Hearing: 5-29-2019

In compliance 23 April 2019; Request dismissal

Count 1: Failure to renew business tax receipt which was due 30 September 2019.

The Special Magistrate granted the request to dismiss this case.

21

Case # 19-426

Peter Pike, Architect P.A.
471 US Highway 1, #101
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Mail:
Initial Hearing: 4-29-2019

In compliance 1 May 2019; Request dismissal

Count 1: Failure to renew business tax receipt which was due 30 September 2018.

The Special Magistrate granted the request to dismiss this case.

22

Case # 19-517

Alan Ronald Walker

1111 Watson Street D

Sec. 18-150 Certificate of competency required

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 Sophia Doctoche

Hand Served: 4-30-2019

Initial Hearing: 4-24-2019

Settlement Agreement

Count 1: Alan Walker is not recognized as a licensed contractor and is advertising on social media. **Count 2:** Alan Ronald Walker has not obtained a business tax receipt for his business within City limits. **Count 3:** Failure to obtain permits for work being performed to the wall at the rear of the subject property. **Count 4:** Failure to obtain a certificate of appropriateness for work being performed.

A settlement agreement was presented to the Special Magistrate which he approved. Costs of \$250 and a fine of \$250 with a suspended fine of \$1,000 for a total due of \$500. This has been paid in full.

23

Case # 19-576

Eco Green Turf & Lawn

Spiegel & Utrera P.A.

26731 Overseas Highway C337

Sec. 66-102 Dates due and delinquent; penalties

Officer Sophia Doctoche

Certified Mail: 4-29-2019

Initial Hearing: 5-29-2019

In compliance 8 May 2019; Request dismissal

Count 1: Failure to renew the subject business tax receipt which expired 30 September 2018.

The Special Magistrate granted the request to dismiss this case.

24

Case # 19-628

J.S.W. Associates, Inc.
John S Waring, III
1230 Seminary Street
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Mail: 5-3-2019
Initial Hearing: 5-29-2019

In compliance 30 April 2019; Request dismissal

Count 1: Failure to renewed their license which expired 30 September 2018.

The Special Magistrate granted the request to dismiss this case.

25

Case # 19-629

KWest Productions
Philip Weicker - Violator
3314 Northside Drive #84
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Mail: 4-10-2019
Initial Hearing: 5-29-2019

In compliance 23 April 2019; Request dismissal

Count 1: Failure to renew business tax receipt which was due 30 September 2018. Previously cited with Notice of Code Violation - Case# 18-977.

The Special Magistrate granted the request to dismiss this case.

26

Case # 19-650

Premier Booting Services, Inc.
Zachariah Evangelista
2100 Ponce De Leon Boulevard #1180
Sec. 66-102 Dates due and delinquent; penalties
Officer Sophia Doctoche
Certified Mail: 4-29-2019
Initial Hearing: 5-29-2019

In compliance 1 May 2019; Request dismissal

Count 1: Failure to renew their license which expired 30 September 2018.

The Special Magistrate granted the request to dismiss this case.

27

Case # 19-666

College Beauty
Raziel Buchris
Maor Illouz
211 Duval Street A
Sec. 18-705 Requirements of permit holder SUB (9)
Officer Sophia Doctoche
Certified Mail: 4-17-2019 - College Beauty
Certified Mail: 4-17-19 - Maor Illouz
Certified Mail: 4-17-19 - Raziel Buchris
Initial Hearing: 5-29-2019

City Request Dismissal

Count 1: Failure to use disposable gloves as required or obtain the required cosmetology license from the State of Florida.

The City is requesting a dismissal. The Special Magistrate granted the request to dismiss this case.

28

Case # 19-296

Braden B Plant

620 Thomas Street 279

Sec. 66-103 Transfer of license - Counts 1 & 2

Sec. 66-102 Dates due and delinquent; penalties - Counts 3 & 4

Officer Beau Langford

Certified Mail: 4-27-2019

Initial Hearing: 5-29-2019

Continuance granted to 27 June 2019

Count 1: Business tax receipt #19766 needs to be transferred from Tri-Star Properties LLC to Braden B Plant. **Count 2:** Business tax receipt #16316 needs to be transferred from Tri-Star Properties LLC to Braden B Plant. **Count 3:** Business tax receipt #19766 has not renewed their license which expired 30 September 2018. **Count 4:** Business tax receipt #16316 has not renewed their license which expired 30 September 2018.

The Special Magistrate granted the request to continue this case to 27 June 2019.

29

Case # 17-1146

Jordan James & Sara Key

1309 Newton Street

Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions - **In compliance 9 Nov 2018; Request dismissal**Sec. 14-40 Permits in historic districts - **In compliance 9 Nov 2018;****Request dismissal**

Sec. 14-262 Request for inspection

Officer Jorge Lopez

Certified Service: 3-26-2018

Initial Hearing: 4-25-2018

Continuance granted to 27 June 2019 for compliance

Count 1: For failure to obtain a mechanical permit to install the A/C condenser on the roof. **Count 2:** For failure to obtain HARC approval for installation of the A/C condenser on the roof. **Count 3:** For failure to obtain an inspection for the A/C condenser.

The Special Magistrate granted the request to continue this case to 27 June 2019.

30

Case # 17-1213

Erwin Mayer & Didier R Moritz - property owner

1300 15th Court Lot 77

Sec. 90-363 Certificate of Occupancy - required

Sec. 58-61 Determination and levy of charge

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

Officer Jorge Lopez

Certified Service: 11-16-2017

Initial Hearing: 12-20-2017

Continued from 24 April 2019 for compliance

Count 1: For failure to obtain a certificate of occupancy for the addition that was built. **Count 2:** For failure to pay impact fees related to utilities.

Count 3: For failure to obtain building permits for the addition to the trailer and for the installed plumbing.

Albert Kelley spoke for the respondent. Mr. Kelley stated that there is an order just signed 29 May 2019 to continue the case. There is not a date as of yet for the next hearing. If you get a scheduling order, please forward to the City. Mr. Kelley represents Poinciana Park in the litigation. Mr. Kelley suggests continuance to July. Mr. Ramsingh had no objection to the July hearing. The Special Magistrate granted the request for continuance to 31 July 2019.

31

Case # 18-241

Theresa Cioffi

Wilmington Trust Company

CT Corporation System - Registered Agent

3222 Riviera Drive

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

Sec. 122-238 Dimensional requirements

Sec. 26-32 Nuisance illustrated - **Dismissed**Sec. 26-126 Clearing of property of debris and noxious material required -
Dismissed

Officer Jorge Lopez

Certified Service: 6-15-2018 - Registered Agent

Certified Service: 7-17-2018 - Theresa Cioffi - Amended Notice

Initial Hearing: 5-30-2018

Continued from 24 April 2019

Count 1: Observed the roof built in the setbacks and a detached dwelling that the city does not recognize which did not have the required permits and inspections. **Count 2:** The roof is located in the rear side of the subject property in the setbacks. **Count 3:** ~~Observed the pool with stagnant water that is a breeding ground or feeding area for mosquitoes.~~ - Dismissed. **Count 4:** ~~Debris located on the driveway of this property which causes a nuisance or other unsightly or unsanitary condition.~~ - Dismissed.

Keith Ustler represents the respondent. The servicer of the property is JP Morgan Chase Bank. Mr. Ustler is requesting a continuance of judgment today. The bank has just come into title on May 1. The title to the property was significantly delayed for foreclosure. The case was filed in July 2010 and final judgment was issued by the court on January 2015 and the title issuance was delayed until May 2019. The intent of the client is to put it on the market and sell it which it is in the hands of a real estate. The intent is to sell the property and have the new owner take care of the code violations. The Special Magistrate asked if he was admitting to the violation and Mr. Ustler stated he does not have the ability to do that which is why he is asking for a continuance from the court. The Special Magistrate asked what is the City's position on the continuance. Director Young stated the City does not object as the property is not occupied and they are okay with 30 days. The Special Magistrate granted the request for continuance to the 27 June 2019 code hearing.

32

Case # 18-1211

Island-West Investments Corp.

Richard Estevez - Owner

Hugh J Morgan - Registered Agent

1213 14th Street 41

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

Officer Jorge Lopez

Certified Mail: 12-12-2018 - Hugh Morgan

Certified Mail: 12-18-2018 - Richard Estevez

Initial Hearing: 1-30-2019

Continued from 24 April 2019 for compliance

Count 1: Failure to obtain a building permit for an addition built. A demolition permit had been applied for on 6 Nov 2018 and more details are needed along with the property card.

Mr. Sireci represents Island-West Investments. Mr. Goldman represents Mr. Estevez, the mobile home owner and Mr. Estevez attended this hearing. Director Young gave testimony that they are not in compliance as the addition is still there. There had been earlier discussion that Mr. Estevez was going to demo this structure but Mr. Estevez hired Meriden Engineering to see what he can work with the City to keep. They will be meeting with the City of Key West Building Inspector about this. Mr. Goldman is requesting a continuance for 30 days for now and this will give Meriden time to speak with the City. Mr. Goldman stated they will keep the City abreast of all that is taking place. The City has no objection for 30 days. The Special Magistrate granted the request for continuance for 30 days to be heard at the 27 June 2019 code hearing.

33

Case # 18-1996

KW Zion, LLC

Kellie Alpert - RA

Irish Oak Barrel, LLC

Wayne Larue Smith - RA

506 Southard Street

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

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

Sec. 14-40 Permits in historic districts

Sec. 14-262 Request for inspection

Sec. 122-63 Review; enforcement - **In compliance 23 April 2019;****Request dismissal**

Officer Jorge Lopez

Certified Mail: 3-6-2019 - Kellie Alpert

Certified Mail: 3-8-2019 - Wayne Larue Smith

Initial Hearing: 3-27-2019

Continued from 24 April 2019

Count 1: Failure to obtain permit for plumbing work performed in the rear side exterior of the building. **Count 2:** Failure to obtain permit for electrical work installed in the rear side exterior of the building. **Count 3:** Failure to obtain a certificate of appropriateness for the plumbing and electrical work performed in the rear side exterior of the building. **Count 4:** Failure to obtain a required electrical inspection for electrical work performed on the rear side of the building. **Count 5:** Failure to abide by the Conditional Approval Permit of no amplified live music or outdoor music on the premises.

This case has come into compliance on 29 May 2019 and Director Young requests a dismissal. The Special Magistrate granted the request to dismiss this case.

34

Case # 18-2020

Robert Chinnis Construction, Inc

Robert R. Chinnis - RA

506 Southard Street

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

Sec. 14-40 Permits in historic districts

Sec. 14-262 Request for inspection

Officer Jorge Lopez

Hand Served: 2-27-2019

Initial Hearing: 3-27-2019

Continued from 24 April 2019 for compliance

Count 1: Failure to obtain a permit for plumbing work performed in the rear side exterior of the building. **Count 2:** Failure to obtain a permit for electrical work performed on the rear side of the building. **Count 3:** Failure to obtain a certificate of appropriateness for plumbing and electrical work performed on the rear side of the building. **Count 4:** Failure to obtain a required electrical inspection for electrical work performed on the rear side of the building.

Director Young stated this case is in compliance as of 29 May 2019 for the violation. This case will remain open as there are pending fees.

35

Case # 18-2033

SK II, Inc.

Robert A. Spottswood - RA

2700 North Roosevelt Boulevard

Sec. 122-63 Review; enforcement

Officer Jorge Lopez

Certified Mail:

Initial Hearing: 3-27-2019

Continued from 24 April 2019 for compliance

Count 1: The masonry wall behind store plaza was damaged and needs to be replaced as per Resolution 89-26. Our records indicate that an application has not been submitted to rebuild the masonry wall. The only permit applied for is Permit #2018-2722 to remove fence debris.

Jason Wolf attended for the respondent. Director Young asked that Mr. Wolf update the court on status. Mr. Wolf stated that they have started construction and they anticipate about three weeks for completion. The Special Magistrate stated they will set this for the 27 June 2019 code hearing agenda for compliance. The City has no objection.

36

Case # 18-2036

Judith Morales

2612 Seidenberg Avenue

Sec. 14-37 Building permits; professional plans; display of permits;
address; exceptionsSec. 14-37 Building permits; professional plans; display of permits;
address; exceptionsFBC 1612.4 & ASCE 24-05 Flood Hazard construction, unprotected
enclosed below design flood elevation

Officer Jorge Lopez

Certified Mail: 2-15-2019

Initial Hearing: 3-27-2019

In compliance 22 May 2019; Request dismissal

Count 1: Failure to obtain building permits for a garage converted into a living space. **Count 2:** Failure to obtain a building permit for a fence that was installed in the back yard and a gate on the side of the house.

Count 3: Within a FEMA delineated type AE-8 flood zone, constructed a residential building below the minimum flood safety elevation in the Special Flood Hazard area and on 5 Nov 2013 FEMA Coordinator rejected the application.

The Special Magistrate granted the request to dismiss this case.

37

Case # 19-68

Key West Fish & Chips

Joel E Dos Santos

629 Duval Street

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

Officer Jorge Lopez

Certified Mail: 4-19-2019

Initial Hearing: 5-29-2019

In compliance 30 April 2019; Request dismissal

Count 1: Currently operating without the required business tax receipt.

The Special Magistrate granted the request to dismiss this case.

38

Case # 19-253

Poinciana Park Partners, LLP - Mobile Home Park Owner

Erwin & Didier M. Mayer

Evelyne Cajuste & Pierre Louis - Mobile Home Owner

1300 15th Court Lot 45

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

Sec. 14-262 Request for inspection

Officer Jorge Lopez

Posted: 4-26-2019 - Mobile Home Owner

Posted: 4-26-2019 - Mobile Home Park

Initial Hearing: 4-24-2019

Continuance granted to 27 June 2019

Count 1: Failure to obtain building permits for the structure built in the rear side of the mobile home. **Count 2:** Failure to obtain an electrical permit for the enclosed structure. **Count 3:** Failure to obtain the required electrical inspection.

The Special Magistrate granted the request to continue this case to 27 June 2019.

39

Case # 19-411

Margaret Baldwin

422 Fleming Street

Sec. 66-102 Dates due and delinquent; penalties

Officer Jorge Lopez

Posted: 4-26-2019

Initial Hearing: 4-24-2019

In compliance 20 May 2019; Request dismissal

Count 1: Subject license delinquent since 30 September 2018

The Special Magistrate granted the request to dismiss this case

40

Case # 19-455

Addison's Barber Parlor, LLC

Alexier Socarraz

1075 Duval Street C22

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

Officer Jorge Lopez

Certified Mail: 4-20-2019 - Alexier Socarraz

Initial Hearing: 5-29-2019

In compliance 24 April 2019; Request dismissal

Count 1: Does not have a business tax receipt for the City of Key West.

The Special Magistrate granted the request to dismiss this case

41

Case # 19-457

Antonio Charles Allen

2215 Flagler Avenue

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

Officer Jorge Lopez

Certified Mail: 5-3-2019

Initial Hearing: 5-29-2019

New Case

Count 1: Failure to obtain a business tax receipt for operating as a cosmetologist.

Director Young stated that Mr. Allen came into compliance today 29 May 2019 and requested dismissal. The Special Magistrate granted the request for dismissal.

42

Case # 19-397

Zachary Lee Humphries

1225 Ashby Street

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

Sec. 18-150 Certificate of competency required

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

Officer Paul Navarro

Posted: 4-24-2019

Initial Hearing: 4-24-2019

Continued from 24 April 2019 - Repeat Violations

Count 1: Doing exploratory work without permits. Violating settlement agreement from previous cases - #18-866, #18-1095, #18-1677. **Count 2:** Mr. Humphries is not a licensed contractor. Violating settlement agreement from previous cases - #18-866, #18-1095, #18-1677. **Count 3:** Mr. Humphries is not recognized as a business within the City limits and he advertises himself as a contractor on Key West Garage Sale (Facebook). Violating settlement agreement from previous cases - #18-866, #18-1095, #18-1677.

The Special Magistrate stated the respondent was given proper notice with a posting on 24 April 2019. Officer Paul Navarro gave testimony that Mr. Humphrey was doing unpermitted work, is not a licensed contractor and is advertising on social media. He did sign a settlement agreement July of 2018 for these same violations. The Special Magistrate stated that for this settlement agreement there was a suspended fine of \$1,500. The city is requesting court costs of \$250 with \$500 fine for each of the 3 repeat counts with the suspended fine of \$1,500. The Special Magistrate finds that there is a violation as alleged and the respondent failed, refused or neglected to appear despite proper notice. The Special Magistrate imposed the fines and costs.

43

Case # 19-509

Curry Refrigeration & Air-Conditioning Inc

Patrick Curry - Registered Agent

1022 Duval Street

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

Sec. 14-262 Request for inspection

Officer Paul Navarro

Certified Mail: 4-23-2019

Initial Hearing: 4-24-2019

Continued from 24 April 2019 for compliance

Count 1: New condenser unit being placed and the old unit removed without required permits. Repeat violation - Case #17-879. **Count 2:** ~~Failure to obtain required permit for refrigeration and air conditioning equipment. - Dismissed.~~ **Count 3:** ~~Condenser unit installed without obtaining a certificate of appropriateness.- Dismissed.~~ **Count 4:** Failure to obtain the required inspections.

Patrick Curry attended this hearing. Officer Paul Navarro gave testimony that Mr. Curry never obtain his inspection. Mr. Curry stated that he has a signed permit from All Aspects, a private inspection provider. Officer Navarro stated that they did not submit the inspection to the Building Dept. but it was finalized. Curry Refrigeration & Air-Conditioning, Inc. came into compliance on 31 May 2019. This case cannot be closed until the fees are paid.

44

Case # 19-104

Steadman D Jackson

1713 George Street

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

Sec. 108-677 Parking and storage of certain vehicles

Officer Dorian Patton

Certified Mail: 3-29-2019

Initial Hearing: 4-24-2019

In compliance 28 May 2019; Request dismissal

Count 1: Overgrown property and debris has fallen onto the City right of way. **Count 2:** Unlicensed scooter parking in the front yard.

The Special Magistrate granted the request to dismiss this case.

45

Case # 19-238

Verna O Fisher

1005 United Street A

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

Officer Dorian E Patton

Certified Mail: 5-10-2019

Initial Hearing: 5-6-2019

In compliance 14 May 2019; Request dismissal**Count 1:** Failure to obtain building permits for demolition work and bathroom remodel.**The Special Magistrate granted the request to dismiss this case.**

46

Case # 19-532

Computers Are My Life

Mike Mongo

1407 United Street

Sec. 66-102 Dates due and delinquent; penalties - **Repeat**

Officer Dorian Patton

Certified Mail

Initial Hearing: 5-29-2019

In compliance 29 May 2019; Request Finding of Violation with Fees and Suspended Fine**Count 1:** Failure to renew business license which expired 30 September 2018. Two previous code cases were opened for this issue - #17-1078 & #18-979.**The Special Magistrate stated the respondent did receive proper notice; and failed, refused or neglected to attend. Officer Dorian Patton stated the City is requesting a finding of the violation with court costs of \$250 and a suspended fine of \$500. The Special Magistrate imposed court costs of \$250 and a suspended fine of \$500.**

47

Case # 18-536

Brugman Holdings LLC - Owner

Thomas J Sireci, Jr - Registered Agent

10 Hilton Haven Drive C

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

Director Jim Young

Certified Service: 5-30-2018 - Owner

Certified Service: 5-23-2018 - Registered Agent

Initial Hearing: 6-27-2018

Continuance granted to 27 June 2019**Count 1:** Failure to obtain an after-the-fact building permit for interior framing of shed and dock behind shed.**The Special Magistrate granted the request to continue this case to 27 June 2019.**

48

Case # 18-1962

Garner Winifred Sands
324 Truman Avenue
Sec. 58-61 Determination and levy of charge
Officer Bonnita Badgett
Certified Mail: 3-9-2019
Initial Hearing: 3-27-2019

Continued from 27 March 2019

Count 1: Failure to pay a back utility bill of \$80,588.48

Joseph Albury attends for the respondent Garner Winifred Sands. Special Magistrate Kelley stated that he received a motion to continue from Mr. Albury for which he denied because of the lateness of the hour it was sent. Donald Yates attends for the receivership for Sands Family Holdings, LLC. Special Magistrate Albert Kelley stated there is a court order to rescind the quick claim deed that gave Winifred Sands and Carlos Sands ownership of the property. He questions why we do not have any one else named in the case as the case is still named to Winifred Sands. Do we need to continue this case and name the proper parties? Also this case covers two properties 324 Truman Avenue, owned by Sands Family Holdings, LLC and 322 Truman Avenue, owned by TD Group according to the City which neither are named in this case. There is a court order stating that Winifred Sands does not have an interest in this property anymore. We need to either dismiss this case and get the proper parties before us. He believes that he has the wrong parties before him. He definitely feels we need to continue this case because of the lateness of the hour. Ron Ramsingh stated he became aware of this issue earlier today and he will be looking in to naming the proper/additional parties most likely it will be replacement parties. He believes a continuance would be wise. If this needs to be amended, we will certainly file that or if need be a dismissal we will do that as well. Donald Yates gave testimony stating he was appointed the receiver for Sands Family Holdings that resulted in the rescinding of the deed. The code case was opened after the deed was rescinded. Ms. Sands has no interest in the property other than a member of Sands Family Holdings LLC along with 13 other people. The other issue is 322 Truman Ave. owned by TD Group and do they have something to do with the issue on the property. He is attempting to get to the bottom of this. There is an attempt to determine who owes the money either all or a portion that it gets paid. The property is for sale and had been listed last week. There is a court order to pay out all that is due once the sale occurs. The intent is to settle this case. Special Magistrate Kelley stated that Mr. Albury is shown to represent Winifred Sands and Sands Family Holdings, Inc. Mr. Albury stated that he is only there to represent Winifred Sands and that will be corrected. We are working towards a resolution. Special Magistrate Kelley stated that due to the lateness of the hour and the confusing situations we have here that the best angle would be to continue this case so that the City can look into the ownership of the property

to see if the case needs to be amended or the case needs to be dismissed and file a new case with the proper parties. Donald Yates asked to schedule it to the July 31 hearing so that more research can be done on the case. The Special Magistrate Kelley granted the request to continue this case to 31 July 2019.

HARC Appeals

49

SMA 19-01

Tannex Development, L.C.
Barton W. Smith, Esq.
Mallory Square
H17-03-0008

Barton Smith represents Tannex Development, LC. Van Fisher represents Tropical Soup, Corp. Ron Ramsingh, Chief Assistant City Attorney on behalf of the City of Key West. The Special Magistrate has read the Notice of Appeal and examined the exhibits; and then the Motion for Leave to Intervene and then the response to Motion for Leave to Intervene. Mr. Smith stated he sent a Memorandum of Law that was sent on Friday. Mr. Ramsingh stated that from a procedural standpoint, our position is very simple but the most salient points of the history are the Special Magistrate's order dated March 5, 2018 that if you recall that once we took an appeal to the Circuit Court I filed a motion to temporarily relinquish jurisdiction back to you so you could clarify is this was a mandate or a remand back to HARC with instructions. You signed an order on March 5, 2018 indicating that you intended to issue a mandate than it went back to Mr. Koenig on March of this year affirming your ruling; therefore, your ruling of a mandate stands so we are under a mandate to issue a certificate of appropriateness for which we did. I got this Memorandum of Law at 4:57 on Friday and we were off on Monday. I was able to review this on Tuesday and what I believe is that Mr. Smith did not have an opportunity to appeal as a real party of interest essentially under our code living within the circumference of the subject property. We have a circuit court order to give the certificate of appropriateness without a hearing. It is a simple operation of law that we issued the certificate of appropriateness. Whether or not he is entitled to any appellate relief is not up to you the Special Magistrate as it must be determined at least at the Circuit Court level if not higher. Mr. Smith gave testimony that the city code has a procedure for appeals from HARC which includes an appeal for the certificate of appropriateness that has been granted by the legal subject property owner that is located within 200 feet of the boundary of the lot of which the work is to be done. Mr. Smith said that procedural by the code this is where we must come. Mr. Smith stated that they are asked that this be reversed and remanded back to so that HARC can actually do what it is obligated to do under the ordinance which is to weigh the facts with the correct standard and whatever that may be there is then correct procedural posture for anyone that wants to take an appeal; otherwise, we are then appealing to the entity that made the decision which seems holy improper procedurally. Mr. Ramsingh stated that when this was clarified as a mandate and went to the Circuit Court they had the ability to appeal then. The time to appeal has passed and we are here trying to reargue a motion from almost 14 months ago. The Special Magistrate stated it was decided on appeal to mandate at that time. Mr. Smith stated that according to the ordinance that they could not appeal until the certificate of appropriateness was granted and now that it their point of entry. The Special Magistrate stated there is not an argument that you can't file a notice of appeal through the port of entry that you have under the ordinance and that is not the issue. The issue is whether what you are appeal has already been decided and it's done. Mr. Smith stated that the Circuit Court petition was for the Oct. 2017 order not the March 2018 order. He stated the fact is that this creates a due process issue for any property owner where the certificate is issued. Mr. Smith stated the fact is that

this needs to be a hearing in front of HARC as HARC is the independent body who determines by the evidence whether it is compliant with the standards. Mr. Smith stated they are requesting that the mandate be reversed and have an actual hearing on the correct standard. Mr. Ramsingh stated that if you granted his release, it would be an ultra vires action. The Special Magistrate stated he will read all that was given to him before he issues a ruling, but it will be very hard to go back on what was previously ruled on. Mr. Fisher gave testimony that Tropical Soup believes that the time has past for an appeal. Mr. Fisher stated that Mr. Smith is trying to appeal a ministerial action. Under the ordinance for appeal of the certificate of appropriateness, the appeal can be made once the certificate is granted not when it is issued. Mr. Fisher stated that when the appeal was mandated back that Tannex had the ability to appeal by the ordinance but did not. Mr. Fisher stated that Tannex had multiple opportunities to appeal but did not. Mr. Fisher stated that the issuance of the certificate of appropriateness in no way denied or violated Tannex's due process rights because there were multiple opportunities for Tannex to get involved. If this case was remand back to HARC it would make the last two years irrelevant of the appeal litigation meaningless. Mr. Fisher stated that the right to appeal is when the certificate of appropriateness is granted not issued. Mr. Ramsingh stated that the issuance of the certificate of appropriateness was an observance of the mandate not a decision by HARC. Mr. Smith believes that the ordinance states that this could be appealed by them by 10 days after the May 3rd issuance of the certificate. The Special Magistrate stated can they appeal the HARC issuance of the certificate. Mr. Fisher stated that the issuance was not a decision of HARC that it was a ministerial act. The Special Magistrate stated he will let everyone know his decision when he gets back into town.

Adjournment