



THE CITY OF KEY WEST
Code Compliance Division
P.O. BOX 1409
KEY WEST, FL 33041
(305) 809-3740

**NOTICE OF IRREPARABLE CODE VIOLATION
AND ADMINISTRATIVE HEARING**

DATE: June 27, 2012
RE: CASE NUMBER 12-918

CERTIFIED MAIL RECEIPT#: 7003 3110 0003 4758 1234

To:
Walbach LLC
Stacy M. Rocheleau, Reg. Agent
725 S. Eighth St Ste B
Las Vegas, NV 89101

Subject Address:
1318 Petronia Street
Key West, FL 33040

TAKE NOTICE that the City of Key West Code Compliance Division has requested the City of Key West Special Magistrate to conduct an administrative hearing regarding code violation(s) reported to you by

NOTICE OF CODE VIOLATION concerning the above noted subject address.

You were noticed that your property is in violation of the City of Key West Code of Ordinances for the following reason(s):

Count 1: The captioned property was held out and/or advertised as being available transiently on 24 June 2012 through 1 July 2012.

18-601. - License required.

(a) The short-term rental of a residential property is a business activity that requires the property owner to hold a business tax receipt issued by the city. A state or county license without an accompanying city license is insufficient. Notwithstanding the existence of any other regulation of the city regulating the transient use of property, the short-term rental of a residential property without a business tax receipt violates the law.

(b) It shall be unlawful for a property owner to lease a residential property for a period of less than 30 days or one calendar month without having obtained a business tax receipt under this division.

To wit: Based on an anonymous complaint a site inspection was conducted. At this time a Mr. Stuart Frank. Upon request he presented a rental agreement between himself and a Mr. Larry Doyle. This agreement states that the Frank family have agreed to pay \$2,395.00 for the dates of 24 June 2012 through 1 July 2012.

For you info: A Transient Unit is defined as a Transient Living Accommodation as Defined in 86-9. Section 86-9 of the Key West Code of Ordinances defines a Transient Living accommodation is any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is 1) rented for a period or periods of less than 30 days or one calendar month, whichever is less; or which is 2) advertised or held out to the public as a place rented to transients, regardless of the occurrence of an actual rental. Such a short-term rental use of or within a single-family dwelling, a two-family dwelling or a multifamily dwelling (each also known as a "residential dwelling") shall be deemed a transient living accommodation.

Count 2: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 24, 2012.

Count 3: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 25, 2012.

Count 4: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 26, 2012.

Count 5: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 27, 2012.

Count 6: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 28, 2012.

Count 7: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 29, 2012.

Count 8: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on June 30, 2012.

Sec. 122-1371 TRANSIENT LIVING ACCOMMODATIONS IN RESIDENTIAL DWELLINGS; REGULATIONS

(d) General regulations. The following regulations shall pertain to transient lodging use of or within a residential dwelling.

(9) It shall be unlawful for any owner, tenant, broker, realtor, agent or other representative of the owners to hold out or advertise a residential dwelling for transient rental if the property is not permitted, as provided hereunder. A broker or realtor who is found in violation of this regulation shall be subject to business tax receipt revocation.

To wit: The captioned property was held out and/or advertised as being available transiently on June 24, 2012 through July 1, 2011 without the benefit of a valid transient rental license.

Count 9: The captioned property is located in the Historic Medium Density Residential (HMDR) district which prohibits transient rentals.

Sec. 122-599 Prohibited uses in HMDR

In the historic medium density residential district (HMDR), all uses not specifically or provisionally provided for in this subdivision are prohibited.

To wit: Transient rentals are not permitted in Historic Medium Density Residential areas.

Count 10: The captioned property was held out and/or advertised as being available transiently on 24 June 2012 through 1 July 2012.

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

No person shall engage in, manage, carry on or practice, wholly or in part, within the city limits, any business, profession or occupation without first procuring a city business tax receipt. For the purposes of this article, any person holding himself out to the public by sign, printed matter, telephone directory classified section, city directory or otherwise as being engaged in business or as offering services or property to the public for a consideration, regardless of whether such person actually transacts any business or practices a profession, shall be considered as engaging in business and shall be liable for a business tax receipt fee thereon.

To Wit: A business tax receipt is required in the city of Key West for all those holding themselves out for business.

In accordance with Florida Statutes § 162 and Code of Ordinances, City of Key West, § 2-631 through § 2-647, The City of Key West has scheduled a hearing to be held at **Old City Hall, 510 Greene Street, Key West, Florida at 1:30 P.M. on:**

August 22, 2012

The Chambers will be open at 1:00 PM. These proceedings may be televised.

The purpose of this hearing is to determine if a violation(s) exists, the appropriate action to be taken, if any is required, and if any fines or penalties are to be imposed. **YOU ARE REQUESTED TO APPEAR AT THIS HEARING** to present evidence and/or testimony to show cause, if any, why you should not comply with City Ordinances. **YOUR FAILURE TO APPEAR MAY RESULT IN A FINE OR PENALTY BEING IMPOSED AGAINST YOU AND A LIEN BEING IMPOSED UPON YOUR PROPERTY.**

You have a right to have an attorney present at the hearing. If an attorney represents you, your attorney must file written notice with this office prior to the hearing date.

If you intend to request a continuance from the Hearing Date set out above you must submit a written request for a continuance addressed to the Special Magistrate and mailed to PO Box 1409, Key West, FL 33041 or delivered to the Special Magistrate's Legal Analyst at 3139 Riviera Drive, Key West, FL 33040. All requests must be received at least five (5) working days prior to the Hearing Date set out above. If the request is not received five (5) working days prior to the Hearing Date you or your attorney must appear on the Hearing Date to petition the Special Magistrate for a continuance. If any continuance is granted this will not stay discovery and all records previously requested must be supplied to the City or formally objected to.

Be advised that, if you decide to appeal any decision of the Special Magistrate in this code enforcement hearing, you shall be responsible to ensure that a verbatim record of the proceedings of this code enforcement hearing is made, such that any evidence and testimony upon which an appeal may be based can be submitted to the appellate court.

If you are found to be in violation of City of Key West Ordinances, administrative costs in the amount of **\$250.00** may be levied for administrative recovery for prosecution and investigation in addition to levied fines associated with the violation(s). **Failure to pay these costs will result in a lien against the property in violation.**

PER FLORIDA STATUTES SECTION 162.09, YOUR FAILURE TO CORRECT THE VIOLATION (S) MAY RESULT IN THE IMPOSITION OF A FINE OF UP TO \$250.00/DAY, AND \$500.00/DAY FOR A REPEAT VIOLATION. IF THE VIOLATION (S) IS IRREPARABLE OR IRREVERSIBLE, A FINE OF UP TO \$5000.00 MAY BE IMPOSED BY THE SPECIAL MAGISTRATE. FINES MAY BE IMPOSED ON A PER DAY/ PER VIOLATION BASIS.



Peg Corbett
Code Compliance Officer
City of Key West
(305) 809-3740

Hand Served this day of , 2012

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Joseph L Lamarca-III
Bonnie Chu
2821 Colanthe Avenue
Las Vegas, NV 89102

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