Kelly Perkins

From: Wayne Smith <wayne@thesmithlawfirm.com>
Sent: Monday, November 14, 2016 1:54 PM
To: Ronald Ramsingh
Cc: Shawn D. Smith; Enid Torregrosa; Kelly Perkins
Subject: HARC Application no. H16-03-0020 (820 Carsten Lane)
Attachments: 773 So.2d 1245.rtf

Mr. Ramsingh,

Moments ago, I copied you on a letter to the HARC Commissioners regarding this application. I have been working with Mr. Oropeza in an attempt to find some compromise. While we have made progress, the applicant and the neighbors still do not agree on all points. The neighbors have acquiesced to the existence of what was apparently approved by HARC in 2006, but are opposed to any expansion beyond what appeared in the 2007 plans. During my discussions with Mr. Oropeza, I learned that there may be a 2015 building permit issued for the exterior staircase that was never approved by HARC. During my research and preparation for Wednesday's HARC meeting, I came across the attached case, which states:

> "The general rule [is] that a 'building permit issued in violation of law or under mistake of fact' may be rescinded although construction may have been commenced." *Godson v. Town of Surfside, 150 Fla. 614, 8 So. 2d 497, 498 (Fla. 1942)*. The issuance of a building permit will not estop the government authority from enforcing its ordinances and revoking a permit which has been obtained in violation of its ordinance. *See Corona Properties of Florida, Inc. v. Monroe County, 485 So. 2d 1314 (Fla. 3d DCA 1986)*; *Dade County v. Gayer, 388 So. 2d 1292 (Fla. 3d DCA 1980)*."

I offer this to you in the event that it is useful.

I also request that this email and the attached case be included in the record of HARC Application No.H16-03-0020 as I anticipate that the applicant may attempt to urge that the City is estopped from taking a position that HARC must approve the exterior staircase, or the expanded building proposed by the applicant to sit in the footprint of the non-HARC approved staircase.

Thank you for your attention.

Wayne

Wayne LaRue Smith*
The Smith Law Firm
509 Whitehead Street
Key West, Florida 33040
Voice: 305-296-0029
Fax: 305-296-9172
E-mail: wsmith@thesmithlawfirm.com
*
Martindale-Hubbell AV PREEMINENT Peer Rated for Highest Level of Professional Excellence 2016

From: Ronald Ramsingh [mailto:rramsingh@cityofkeywest-fl.gov]
Sent: Friday, October 21, 2016 10:02 AM
To: Wayne Smith
Cc: Shawn D. Smith
Subject: RE: HARC Applications 16-9264 & 16-9265 (820 Carsten Lane)

I respectfully decline.

Ron

From: Wayne Smith [mailto:wayne@thesmithlawfirm.com]
Sent: Friday, October 21, 2016 9:32 AM
To: Ronald Ramsingh <rramsingh@cityofkeywest-fl.gov>
Cc: Shawn D. Smith <sdsmith@cityofkeywest-fl.gov>
Subject: HARC Applications 16-9264 & 16-9265 (820 Carsten Lane)

Mr. Ramsingh,

We have been retained to represent five neighbors of this applicant. In June of this year, HARC staff concluded that the entire two-story addition required HARC approval because the massive addition to this cigar-maker's cottage was illegally constructed without a building permit (while a permit was issued in early 2007, that same permit was cancelled rendering it void) and, therefore, the 2006 HARC approval for a 23 foot high two-story structure open of four sides expired in 2008. There is a pending Code violation for building the addition without a building permit.

Now, HARC staff informs these neighbors that "the City Attorney has concluded that the two-story structure (not the staircase and not the enclosure) is legal for HARC as it matches the massing that was approved in 2006." However, the illegal structure, completed without a permit, is 25 feet high, not 23 feet. This is a significant change to the massing, even if it could be argued that the 2006 HARC approval somehow applies. At a minimum, HARC should be required to approve the 25 foot height as the 2006 HARC minutes plainly reference a conceptual drawing (since lost, apparently) of a structure that was to be 23 feet at its peak. There are other issues that HARC should be required to address, in addition to the unpermitted enclosure of the second floor of the addition, including the addition of skylights and hip walls.

I write to ask if you could take some time to speak with me today, to help me understand this change in the City's view of the application. The five neighbors are quite upset about this recent development and I would like to be able to fully explain the City's conclusions.

I am available most of the afternoon.

Thank you,

Wayne

Wayne LaRue Smith*
The Smith Law Firm
509 Whitehead Street
Key West, Florida 33040
Voice: 305-296-0029
Fax: 305-296-9172
E-mail: wsmith@thesmithlawfirm.com
*

TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, a Florida municipal corporation, Appellant, v. WARREN MERETSKY and ANNE MERETSKY, his wife, Appellees.

CASE NO. 4D99-4194

COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

773 So. 2d 1245*; *2000 Fla. App. LEXIS 16233*; *25 Fla. L. Weekly D 2846

December 13, 2000, Opinion Filed

SUBSEQUENT HISTORY: [**1] Rehearing Denied January 17, 2001. Released for Publication January 17, 2001.

PRIOR HISTORY: Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Estella M. Moriarty, Judge; L.T. Case No. 98-15094 (05).

DISPOSITION: Affirmed in part and reversed in part.

COUNSEL: James A. Cherof, Town Attorney, and Michael D. Cirullo, Jr., Assistant Town Attorney, of Josias, Goren, Cherof, Doody & Ezrol, P.A., Fort Lauderdale, for appellant.

Robert A. Eisen of Law Office of Robert A. Eisen, Boca Raton, for appellees.

JUDGES: HAZOURI, J., WARNER, C.J., and SHAHOOD, J., concur.

OPINION BY: HAZOURI

OPINION

[*1246] HAZOURI, J.

This is an appeal from a final summary judgment rendered by the trial court holding that the appellant, Town of Lauderdale-by-the-Sea (Town), did not abandon, vacate or otherwise convey any portion of a public right-of-way to the appellees, Warren and Anne Meretsky, but also holding that the Town granted the Meretskys a "permissive use" of a portion of the Town's public right-of-way. The Town also appeals from the denial of its motion for summary judgment on its counterclaim. We affirm in part and reverse in part.

The Meretskys own their residence at 4560 Tradewinds Avenue in the Town. [**2] It is on a corner lot and the cross street along the side of their house is Lombardy Avenue. Prior to February 1998, Anne Meretsky consulted with Town Code Officer Daniel Stallone regarding how the Town's zoning regulations would affect the placement of a swimming pool and wall enclosure they wished to build. Based upon these consultations, Anne Meretsky filed an Application for Zoning Variance which was reviewed by Stallone and corrected by him. The application requested permission "to construct an enclosure around a pool on the south side of property 35 feet into south side set back [sic] and 10 feet into front set back [sic] west side." [1] In the application, the Meretskys only make reference to wanting to reduce the setback requirement so that they can build the wall and leave some room around the pool. There is no mention in the application that the Meretskys want to intrude

into the public right-of-way; however, the survey map of the property attached to the application shows that the requested wall enclosure on the south side of the lot encroaches 10 feet into the Lombardy Avenue right-of-way.

1 The minimum setback for the south side is 25 feet under the Town Code.

[**3] Anne Meretsky submitted the application. On February 17, 1998, the Town Board of Adjustment held a hearing on the application and recommended denying the variance. On February 24, 1998, the Town Commission considered the Meretsky's application. The records of that meeting indicate that the discussion was limited to setbacks and *not* rights-of-ways. The Town Commission approved the variance request. The Meretskys contend that the Town Commission understood that the wall would be constructed outside of the property line of the residence and on the Lombardy Avenue swale. A building permit was issued to the Meretskys for the wall's construction and it was built on the grassy swale on the Town's right-of-way five feet from the pavement on Lombardy Avenue. As constructed, it presented a sight hazard at the intersection of Lombardy and Tradewind Avenues.

On September 9, 1998, the Town Commission directed the Town administration to take action to prevent further construction of the wall. The Town Municipal Services Director hand delivered a cease and desist order to the Meretsky's residence ordering work to stop on the wall immediately. At that point, all the cement block portions of [**4] the wall had been completed. Despite the issuance of the cease and desist order, the wall was completed.

[*1247] The Meretskys' amended complaint sought a declaratory judgment finding their building permit valid and that the portion of Lombardy Avenue inside their wall was vacated and abandoned by the Town to the Meretskys. The Town answered the Meretskys' amended complaint and included a number of affirmative defenses and a counterclaim seeking injunctive relief and declaratory relief in order to have the wall removed from the Town's right-of-way.

The Town filed a motion for summary judgment as to Meretskys' amended complaint and the Town's counterclaim. At the summary judgment hearing, the Meretskys admitted that the property was not vacated or abandoned; however, in an affidavit Anne Meretsky stated that she relied on the variance and the building permit to build the pool and wall. She further stated that she would not have built the pool if she was not permitted to build the wall ten feet from the edge of the pool. She and her husband spent $ 39,662.80 on the wall and $ 74,662.80 on the entire project.

At the summary judgment hearing, the trial judge determined that the Town had granted [**5] the Meretskys a "permissive use" of the property. The amended final summary judgment states that there was no genuine issue of material fact. The trial court denied the Town's motion for summary judgment on its counterclaim, but granted final summary judgment on the amended complaint to the extent that it found that the Town did not abandon or vacate the right-of-way or grant a fee interest to the Meretskys. The trial court then concluded:

4. A request for Summary Judgment permits the Court to grant Summary Judgment to either party should the facts and law so dictate. [2] Accordingly, Summary Judgment is granted to Meretsky on Meretsky's Amended Complaint to the extent only that Meretsky is granted a permissive use of the Lombardy Avenue Right-of-way upon which the Wall sits and which is enclosed by the Wall. The Town, by virtue of the granting of the variance and the subsequent granting of building permits, did in fact grant to Meretsky a permissive use of that portion of the Lombardy Avenue Right-of-way upon which the Wall was constructed and which is enclosed by the Wall.

2 The trial court granted a summary judgment for the Meretskys even though they did not file a motion for summary judgment. While the court is not wholly without authority to do that, the better practice is to require a timely motion. *See First Union Nat'l Bank of Florida v. Maurer, 597 So. 2d 429* (Fla. 2nd DCA, 1992); *City of Pinellas Park v. Cross-State Utils. Co., 176 So. 2d 384 (Fla. 2nd DCA 1965)*. We need not decide if this was appropriate here because we reverse the summary judgment for the Meretskys on other grounds.

[**6] The Town argues that the Town Commission was without authority to grant the Meretsky's application to build the wall on the public right-of-way as its construction violates the Town's Code of Ordinances and state law. The Town also disagrees with the trial court's finding that the permission to build, i.e., the variance granted, is equivalent to an ordinance. The Meretskys respond that the Town Commission did have the authority to grant a permissive use of the grassy swale within its right-of-way and the town code does not prohibit the granting of it.

"The general rule [is] that a 'building permit issued in violation of law or under mistake of fact' may be rescinded although construction may have been commenced." *Godson v. Town of Surfside, 150 Fla. 614, 8 So. 2d 497, 498 (Fla. 1942)*. The issuance of a building

permit will not estop the government authority from enforcing its ordinances and revoking a permit which has been obtained in violation of its ordinance. *See Corona Properties of Florida, Inc. v. Monroe County, 485 So. 2d 1314 (Fla. 3d DCA 1986)*; *Dade County v. Gayer, 388 So. 2d 1292 (Fla. 3d DCA 1980)*. The Town asserts [**7] that *Gayer* is dispositive. We agree.

[*1248] The Gayers began to construct a coral rock wall around their home without a building permit from the Dade County Building and Zoning Department. Someone made a complaint and the Gayers then applied for a permit to build a wall containing a setback of ten feet inside the property line and the sketch submitted confirmed this. A permit was issued but when construction resumed, the wall was erected into the public right-of-way. Construction was halted due to the violation.

The Gayers then applied to the Zoning Appeals Board for a "non-use variance of zoning regulations, set-back requirements and variance of subdivision regulations with requirements that no structures shall be permitted in a mapped street." The Zoning Board approved the application but required a flashing light be put up to maintain safety. The Gayers said they were advised of the setback requirements but thought the ten-foot setback meant ten feet from the pavement. This approval was appealed to the Board of County Commissioners who, by resolution, rejected the Zoning Boards's approval and ordered the wall be removed.

The Gayers petitioned for certiorari to the circuit court [**8] which set aside the Board of County Commissioner's resolution. Dade County then filed a petition for common law certiorari. Dade County contended that the doctrine of estoppel is not applicable to sanctioned acts which are prohibited by law. Under the Dade County code, "no building or any other type of structure shall be permitted on, or in, a mapped street, except required and approved underground installations." In quashing the circuit court's order, thereby reinstating the denial of the variance, the third district stated:

While at first blush it seems that the application of the rule may be harsh, it would be inconceivable that public officials could issue a permit, either inadvertently, through error, or intentionally, by design, which would sanction a violation of an ordinance adopted by the legislative branch of the government. Only the duly constituted members of the Metropolitan Dade County Commission enjoy that prerogative and then *only in accordance with established procedure*.

Gayer, 388 So. 2d at 1294 (emphasis added).

In the instant case, the Town asserts that its Code of Ordinances prohibits construction of the wall on the public right-of-way. [**9] Section 17-1, Town of Lauderdale-By-The-Sea Code of Ordinances provides:

Sec. 17-1. Obstructions prohibited.

It shall be unlawful to erect, build, construct, deposit or place, or to procure or cause to be erected, built, constructed, deposited or placed upon or in any street, or any place where the public has a right of passage, any house, cellar, stable, shed, fence enclosure, wall, foundation, or any other structure or any lot or part thereof abutting on a street, to permit any obstruction to remain upon the sidewalk in front of such lot, or part thereof; or permit any sidewalk in front of such lot or part thereof to remain in such condition as to prevent convenient and safe use thereof by the public.

The Meretskys argue that this ordinance applies only to obstructions to streets and sidewalks where the public has a right of passage and their wall does not obstruct a street or sidewalk. Although "right of passage" is not specifically defined, it is a place in addition to the "street" and includes the property owned by the Town alongside the street whether or not it has a sidewalk where the public can travel. Under *section 861.01, Florida Statutes* (1997), [**10] "whoever obstructs any public road or established highway by fencing across or into same . . . shall be guilty of a misdemeanor. . . ." Public roads include city street systems. *§ 335.01, Fla. Stat.* (1997). *Section 334.03(23), Florida Statutes* (1997), defines "road" as:

[*1249] [A] way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

Section 334.03(22), Florida Statutes (1997), defines "right-of-way" as "land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility."

It thus appears that whether through mistake on the part of the parties or through misrepresentation by the Meretskys, which the Town suggests, the Town Commission authorized an act contrary to its own ordinances [**11] and, therefore, its approval was ultra vires and void.

The trial court opined that the permissive use was on "the same level of an ordinance" but under *section 166.041, Florida Statutes* (1997), there are certain procedures to follow and requirements to be met in order to adopt an ordinance, none of which were followed here.

Therefore, the Meretskys should not have been granted a permissive use of the right of way.

Based upon the foregoing, the trial court erred in its application of the law to this case. Summary judgment should not have been granted in favor of the Meretskys on the amended complaint.

The question remains as to whether the Town should or could be equitably estopped from requiring that the wall be removed, as sought in its counterclaim. A zoning authority may be equitably estopped to enforce a change in zoning regulations against one who has substantially altered his or her position in reliance on the original regulation and a building permit issued thereunder. *See, e.g., City of Margate v. Amoco Oil Co., 546 So. 2d 1091 (Fla. 4th DCA 1989)*. However, when there is no authority to grant the building permit, the governmental [**12] entity cannot be estopped from revoking the permit. *Ammons v. Okeechobee County, 710 So. 2d 641 (Fla. 4th DCA 1998)*; *Metropolitan Dade County v. Fountainebleau Gas & Wash, Inc., 570 So. 2d 1006 (Fla. 3d DCA 1990)*; *Dade County v. Gayer, 388 So. 2d 1292 (Fla. 3d DCA 1980)*; *City of Miami Beach v. Meiselman, 216 So. 2d 774 (Fla. 3d DCA 1968)*. The Meretskys were on constructive notice of the contents of the ordinance and are presumed to have constructive knowledge of the nature and extent of the powers of governmental agents who issue permits. *See Ammons, 710 So. 2d at 644*. Therefore, the Town is not estopped from requiring that the wall be removed.

Based upon the foregoing, the trial court erred in not granting final summary judgment in favor of the Town on the counterclaim.

Accordingly, the final summary judgment on the amended complaint granting the Meretskys a permissive use of the right-of-way is reversed with directions to enter final judgment for the Town. The denial of the Town's motion for summary judgment on its counterclaim is reversed and the trial court is directed to enter final judgment [**13] on the Town's counterclaim requiring the Meretskys to remove the wall from the right-of-way. We affirm that portion of the final summary judgment that found that the Town did not abandon, vacate or otherwise convey any portion of the right-of-way to the Meretskys.

WARNER, C.J., and SHAHOOD, J., concur.

Town of Lauderdale-By-The-Sea v. Meretsky, 773 So. 2d 1245, 2000 Fla. App. LEXIS 16233, 25 Fla. L. Weekly D 2846 (Fla. Dist. Ct. App. 4th Dist. 2000)

Restrictions: *Unrestricted*
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SHEPARD'S SUMMARY

Unrestricted *Shepard's* Summary
No subsequent appellate history.
Citing References:
Citing Decisions: **Citing decisions with no analysis assigned (4)**
Other Sources: **Law Reviews (1)**, **Treatises (6)**, **Court Documents (9)**

LexisNexis Headnotes: HN1 (2), HN7 (2)

PRIOR HISTORY (0 citing references)

(CITATION YOU ENTERED):
Town of Lauderdale-By-The-Sea v. Meretsky, 773 So. 2d 1245, 2000 Fla. App. LEXIS 16233, 25 Fla. L. Weekly D 2846 (Fla. Dist. Ct. App. 4th Dist. 2000)

CITING DECISIONS (4 citing decisions)

FLORIDA SUPREME COURT

1. **Cited by:**
Liberty Counsel v. Fla. Bar Bd. of Governors, 12 So. 3d 183, 2009 Fla. LEXIS 862, 34 Fla. L. Weekly S 347 (Fla. 2009)
12 So. 3d 183 *p.192*

FLORIDA DISTRICT COURT OF APPEALS

2. **Cited by:**
Neapolitan Enters., LLC v. City of Naples, 185 So. 3d 585, 2016 Fla. App. LEXIS 1183, 41 Fla. L. Weekly D 299 (Fla. Dist. Ct. App. 2d Dist. 2016)
185 So. 3d 585 *p.593*

3. **Cited by:**
Palm Beach Polo, Inc. v. Vill. of Wellington, 918 So. 2d 988, 2006 Fla. App. LEXIS 385, 31 Fla. L. Weekly D 202 (Fla. Dist. Ct. App. 4th Dist. 2006) **LexisNexis Headnotes HN1**, **HN7**

918 So. 2d 988 *p.992*

4. **Cited by:**
Palm Beach Polo, Inc. v. Vill. of Wellington, 2005 Fla. App. LEXIS 18573, 30 Fla. L. Weekly D 2660 (Fla. Dist. Ct. App. 4th Dist. Nov. 23, 2005) **LexisNexis Headnotes HN1**, **HN7**
2005 Fla. App. LEXIS 18573

LAW REVIEWS AND PERIODICALS (1 Citing Reference)

5. *ARTICLE: DO CODE ENFORCEMENT VIOLATIONS "RUN WITH THE LAND"? COMPETING INTERESTS OF LOCAL GOVERNMENTS AND PRIVATE PARTIES AND THEIR CONSTITUTIONAL CONSIDERATIONS IN CODE ENFORCEMENT PROCEEDINGS*, 43 Stetson L. Rev. 257 (2014)
43 Stetson L. Rev. 257 *p.257*

TREATISE CITATIONS (6 Citing Sources)

6. *2-24 Florida Civil Procedure @ 24-2*

7. *2 Florida Civil Procedure @ 24-2*

8. *3-38 Florida Real Estate Transactions @ 38.11*

9. *3 Florida Real Estate Transactions @ 38.11*

10. *1-6 Land Use Law @ 6.16*

11. *2-19 LN Practice Guide: FL Pretrial Civil Procedure 19.17*

BRIEFS (7 Citing Briefs)

12. *KIVISTO v. SOIFER*, 2014 U.S. Briefs 1339, 2015 U.S. S. Ct. Briefs LEXIS 1748 (U.S. May 1, 2015)

13. *LIBERTY COUNSEL v. FLORIDA BAR BD. OF GOVERNORS*, 2009 U.S. Briefs 276, 2009 U.S. S. Ct. Briefs LEXIS 2333 (U.S. Sept. 1, 2009)

14. *CITY OF PALM BAY v. WELLS FARGO BANK, N.A.*, 2011 FL S. Ct. Briefs 830, 2011 FL S. Ct. Briefs LEXIS 794 (Fla. Aug. 19, 2011)

15. *MANATEE COUNTY v. 1187 UPPER JAMES OF FLORIDA, LLC*, 2012 FL App. Ct. Briefs 7406, 2012 FL App. Ct. Briefs LEXIS 790 (Fla. Dist. Ct. App. 2d Dist. May 4, 2012)

16. *BANK OF NEW YORK v. BURGSTEINER*, 2011 FL App. Ct. Briefs 2545, 2011 FL App. Ct. Briefs LEXIS 1175 (Fla. Dist. Ct. App. 4th Dist. Nov. 17, 2011)

17. *CASA INV. CO. v. NESTOR*, 2008 FL App. Ct. Briefs 2310, 2008 FL App. Ct. Briefs LEXIS 766 (Fla. Dist. Ct. App. 3d Dist. Oct. 10, 2008)

18. *CASA INV. CO. v. NESTOR*, 2008 FL App. Ct. Briefs 2310, 2008 FL App. Ct. Briefs LEXIS 765 (Fla. Dist. Ct. App. 3d Dist. Sept. 10, 2008)

MOTIONS (2 Citing Motions)

19. *MANATEE COUNTY v. 1187 UPPER JAMES OF FLORIDA, LLC, a Florida Ltd.*, 2014 FL Cir. Ct. Motions LEXIS 7552 (Sept. 25, 2014)

20. *MANATEE COUNTY v. 1187 UPPER JAMES OF FLA., LLC*, 2014 FL Cir. Ct. Motions LEXIS 4726 (Sept. 25, 2014)

THE SMITH LAW FIRM
A PROFESSIONAL ASSOCIATION
509 WHITEHEAD STREET • KEY WEST, FLORIDA 33040

WAYNE LARUE SMITH, MBA, JD
ALSO ADMITTED WASHINGTON, D.C.

BRETT TYLER SMITH

November 14, 2016

Chairman Bryan Green
Vice-Chairman Richard McChesney
Commissioner Bert Bender
Commissioner Jane Hinkle
Commissioner Richard Logan
Commissioner Letisia Powell
Commissioner Lori Thompson
Historic Architectural Review Commission
City of Key West
3132 Flagler Avenue
Key West, Florida 33040

RE: Application Number H16-03-0015
820 Carsten Lane

Dear Commissioners:

This law firm represents Michael T. McGrath and Paul F. Gray who own 822 Carsten Lane, immediately adjacent to the applicants' property at 820 Carsten Lane. Dr. McGrath and Mr. Gray oppose the proposed design (agenda item 3) but do not oppose the proposed demolition (agenda item 4). We ask that you consider the following in connection with this HARC application.

Overview:

820 Carsten Lane is a frame vernacular cigar maker's cottage, constructed during the Spanish American War era and first appearing on the Sanborn Maps in 1912. The original cottage is a contributing structure; the two-story addition, a portion of which is set for demolition, is not. Photographs of the cottage, taken prior to the addition of the rear two-story addition in 2007, are attached as composite Exhibit 1.

History of 2nd story addition:

On January 9, 2007, then owner Susan Schock obtained a building permit for a two-story porch to be constructed at the rear of 820 Carsten Lane (permit #07-00000029-000-000-RA-00). Kinky Construction (Michael Skoglund) was the designated contractor. A copy of the building permit is attached as Exhibit 2. The plans submitted for the addition depict a two-story porch, open on three sides, with a gabled roof to be constructed with a height of 23 feet 4 inches above grade and 22 feet above finished floor. A copy of the submitted plans is attached at Exhibit 3.

HARC approved the design (HARC application #06-1103-1617), but the records of that approval cannot be located by City staff. We can reasonably infer that HARC approved the same design that was submitted for the building permit. However, because the two-story porch was never built as planned, as detailed below, and because the permit was cancelled, the proper conclusion would that the 2006 HARC approval expired in late 2008. However, while the City staff initially took this position, that the 2006 HARC approval expired, in June of this year, the City has now concluded that the 2006 HARC approval survived.

Construction of the two-story porch addition commenced in January 2007. In late January 2007, the auger holes were inspected. A copy of the auger hole inspection status report is attached as Exhibit 4. The framing was inspected in March 2007, and was approved with exceptions. The conditions imposed by the exceptions are not detailed in the City records and there is no indication that those conditions were satisfied. The only inspection that can be established as valid is the auger holes. A copy of the framing inspection status report is attached as Exhibit 5. Electrical and roofing permits were applied for, but were never picked up.

According to Michael Skoglund, the contractor on the project, owner Susan Schock insisted on exceeding the scope of the building permit in a number of respects. Upon determining that the owner would not proceed with construction consistent with the permit and the approved plans, contractor Michael Skoglund resigned and cancelled the building permit for which he had applied. The City of Key West, apparently concurring with contractor Michael Skoglund, cancelled the building permit altogether. A print-out of building permits for the property, showing that the 2007 permit was cancelled altogether, is attached as Exhibit 6.

Then owner Susan Schock proceeded to construct a two-story porch addition, at a height of 25 feet above grade, and 23 feet 8 inches above the finished floor, which did not conform to the plans prepared by Michael Skoglund (Exhibit 3) and without the benefit of a valid building permit or City inspections. To this day, we have no way of knowing if the as-built structure complies with applicable building codes, though we do know that it is currently a completely illegal structure. When this unlawful construction was completed, the two-story porch addition had an interior staircase and was open on three sides. Photographs depicting the illegal addition, prior to its expansion and enclosure, are attached as composite Exhibit 7.

Subsequent to the 2007 construction of this illegal addition, both the prior owner and the current owner, your current applicant, have continued to flout the City Code. An illegal unpermitted bathroom has been added to the addition. An illegal unpermitted kitchenette has been added, and the upstairs portion of the illegal open porch addition has been illegally enclosed

– resulting in an unpermitted and unlawfully existing duplex. The neighbors report an unending stream of transient rentals with the concomitant noise and parking issues. Code Compliance has red-tagged the illegal addition and ordered either its demolition or that the owner obtain an after the fact building permit – which would also require HARC approval. Such approval would be significantly inconsistent with the HARC Guidelines and, thus, if the owner were to opt to pursue an after the fact permit, the illegal structure, as it currently exists (photos of which accompany the pending HARC application for an even more incompatible replacement) could not be approved.

Assuming that HARC, today, will follow staff advice and determine that the current owner should somehow obtain the benefit of what should be a long expired 2006 HARC approval for a design that was never constructed, it is important to understand all of the variations between the plans that were HARC approved in 2006 and what exists, illegally, today. The major differences between the 2006 design (Exhibit 3) and what was illegally built (per William Rowan drawings of existing structure from this current application) are:

1. The height of the two-story addition, from finished floor was approved to be 22 feet (23'4" above grade). The actual structure height is 23 feet 8 inches above finish floor (25' or more above grade).

2. The porch, as originally approved, was to be open on all four sides on the second level, and open on three sides on the lower level. The existing two story structure is completely enclosed on the second level, and is enclosed on three sides on the lower level.

3. The 2006 design called for an interior staircase. There exists now an exterior staircase that was never approved or permitted.

4. The eave of the 2006 addition design was to be close to ridge of the historic cottage. The eave of the existing unlawful structure is four feet above ridge of the historic cottage with large wall area of the addition visible from street.

5. The 2006 design had all railings with open balusters. The railings on the existing structure are enclosed as hip walls.

In short, the existing illegal structure bears virtually no resemblance to the design that was apparently approved by HARC in 2006. The existing two-story structure was not approved by HARC ten years ago, and cannot be approved retroactively today. It is completely inconsistent with the HARC Guidelines. "The city commission finds that the preservation of this traditionally low-rise cityscape in Old Town, interrupted only by significant, symbolically important structures, is a matter of public policy benefiting the people of Key West and the long-term stewardship of historic neighborhoods in Key West". HARC Guidelines, page 38. The existing two-story addition is wildly out of scale and proportion to the original cottage, neighboring homes and the streetscape. It was constructed illegally in a fashion that far exceeds

the scope of what was briefly permitted in 2007. The current structure should not, for these reasons, be considered as creating any sort of grandfathered rights to retain a structure that does not conform to what was apparently approved in 2006.

The proposed design is completely inconsistent with the HARC guidelines:

The proposed design violates HARC Guidelines for Additions & Alterations (pg. 37) in the following respects:

- #3 Incompatible with original structure, neighboring buildings and streetscape.
- #4 Height, scale and mass are not appropriate to the original or neighboring buildings. The proposed design seeks to expand an already massive two-story addition to a one and one half story cottage, increasing the square footage from 612 square feet to 1,432 square feet.
- #5 The proposed addition will be highly visible on both Carsten and Carey Lanes
- #6 The proposed addition will dramatically alter the balance and symmetry of the historic structure.
- #7 The proposed design will result in a structure so enlarged that its proportions will be completely out of scale with its surroundings.

The proposed design violates HARC Guidelines Section VII, Historic Architecture Design Principles, pages 52 & 53:

- Massing, structure is incompatible with existing massing patterns of buildings in its historic zone.
- Project exceeds size and scale of other buildings in the vicinity.
- Project is incompatible with existing buildings and streetscapes.

In summary, the proposed addition is completely inconsistent with the HARC guidelines in virtually all respects. The existing illegal structure, which was built without permits or appropriate inspections and was never approved by HARC as built. The existing illegal structure bears little resemblance to the drawings approved by the City and briefly permitted ten years ago. The proposed design should not gain any benefit from the fact that the current and prior owners completely disregarded the City Code requirements and built an offending structure that never was and never could be approved. The application should be denied, except to approve the demolition of the non-contributing and illegally constructed two-story addition.

During the course of the March 22, 2016 HARC meeting for this application, this Commission requested that the applicants and their architect meet with the neighbors to address their objections. Various neighbors collectively reached out to the applicants in an attempt to explore alternatives to a second story that would be more appropriate for the small scale, low rise neighborhood. The neighbors even proposed that the application be scaled back to what exists (without the exterior staircase and the exterior walkway, even though its dimensions, height and design are not consistent with what was apparently approved in 2006. The applicant remains

committed to expanding the offending addition even more. This is not an "after-the-fact" application; it is a request for a new approval of a two-story addition that is utterly inconsistent with the Guidelines and, for that reason, should be denied.

Sincerely,

Wayne LaRue Smith

Z:\1856\02\2016-06-27 HARC Opposition Memorandum\2016-11-14 HARC Opposition Memorandum.docx

EXHIBIT 1


'97 5 10

EXHIBIT 2

THE CITY OF KEY WEST

Building Department 809 - 3974
604 Simonton Street, Key West, Florida 33040

BUILDING PERMIT

FOR NEXT BUSINESS DAY INSPECTIONS, CALL **293-6462** BEFORE 3:00 PM.

PERMIT # 07-00000029-000-000-RA-00 ISSUED 1/09/07
LICENSE# 07-00013807 EXPIRES 12/29/08
HIGH DENSITY RESIDENTIAL
APPLICATION BY... KINKY CONSTRUCTION
ON PROPERTY OF... SCHOCK SUSAN
FOR A PERMIT TO.. * * 2 STORY PORCH ADDITION AT REAR OF RESIDENCE * * SEE PLANS IN FILE!
* HARC #06-1103-1617 *
* NOTE: NOC REQ'RD * *
820 CARSTENS LN * TM

WARNING TO OWNERS

YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY PRIOR TO RECORDING YOUR NOTICE OF COMMENCEMENT.

This card and approved plans must be posted in a location clearly visible from the street. The location of construction must have posted a clearly legible address visible from the street.

PERMIT VOID IF CONSTRUCTION IS NOT STARTED WITHIN 90 DAYS.

FOUNDATION
APPROVED___BY___
DATE ___/___/___

FOOTING
APPROVED___BY___
DATE ___/___/___

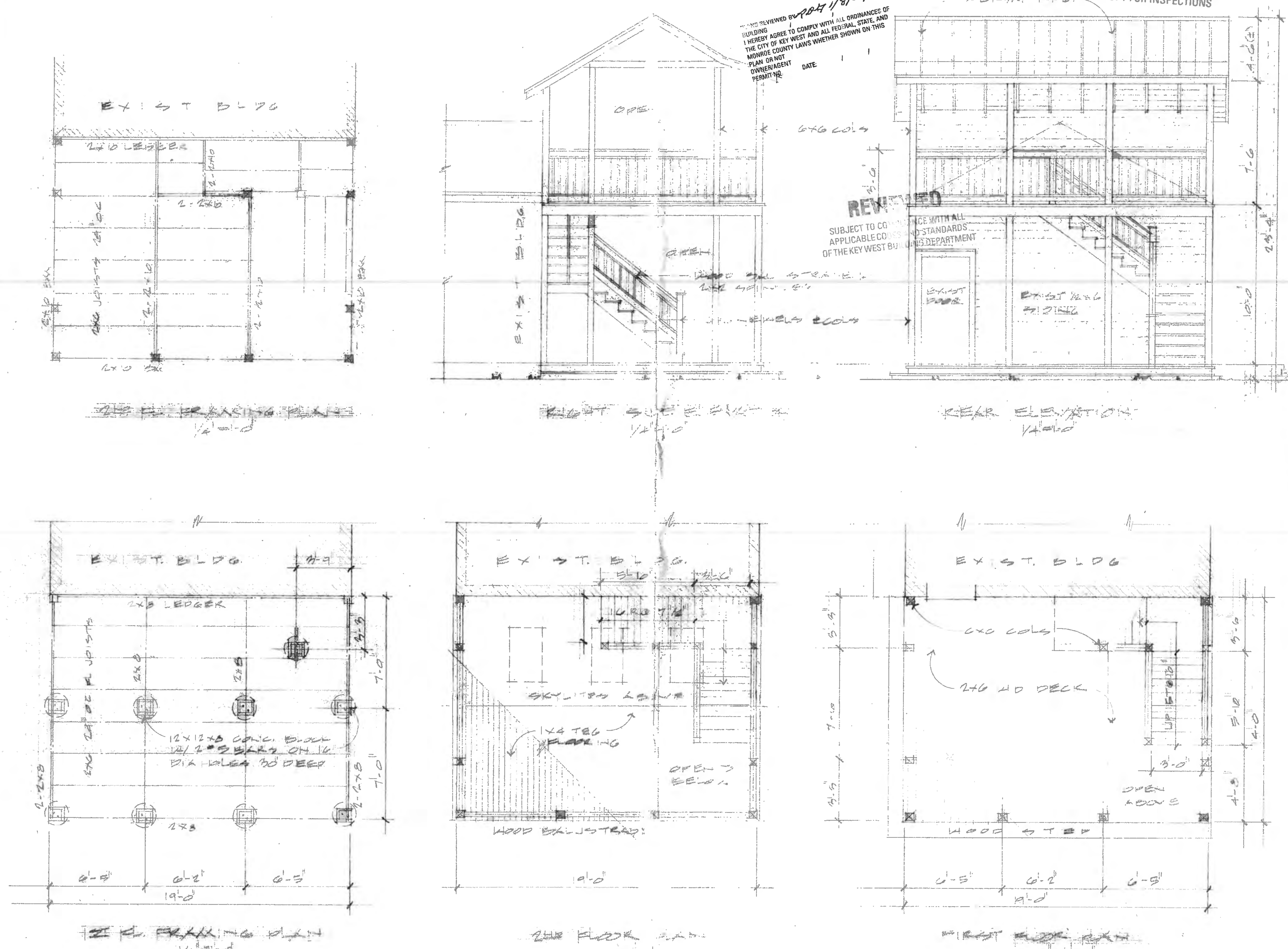
FRAMING
APPROVED___BY___
DATE ___/___/___

STRAPPING
APPROVED___BY___
DATE ___/___/___

SHEATHING
APPROVED___BY___
DATE ___/___/___

FINAL
APPROVED___BY___
DATE ___/___/___

EXHIBIT 3



FIELD COPY FOR INSPECTIONS

PLANS REVIEWED BY 1/8/07
BUILDING
I HEREBY AGREE TO COMPLY WITH ALL ORDINANCES OF THE CITY OF KEY WEST AND ALL FEDERAL, STATE, AND MONROE COUNTY LAWS WHETHER SHOWN ON THIS PLAN OR NOT
OWNER/AGENT DATE
PERMIT NO.

REVIEWED
SUBJECT TO COMPLIANCE WITH ALL APPLICABLE CODES AND STANDARDS OF THE KEY WEST BUILDING DEPARTMENT

ADDITION TO
820 CARSTEN LN.
KEY WEST, FL
12-26-6

A SKOGLUND
ARCHITECT
KEY WEST FL

1

EXHIBIT 4

Inspection Status

Use your browser's Back button to select another inspection or select Options Menu to choose another building permits option.

Parcel ID:	0001-1410-000000- -	**Address:**	820 CARSTENS LN
Application Date:	01/04/07	**Owner:**	SCHOCK SUSAN
Application #:	07 - 29	**Application Type:**	RENOVATION, CONVERSION: RESIDENTIAL

Inspections for Permit Number: 000 000 00 - REPAIRS, ADDITIONS

Inspection type/sequence:	AUGER HOLES / 0001
Inspector assigned:	MT CAUSLEY - BUILDING INSPECTO
Schedule Date:	01/24/07
Results Date:	01/25/07
Results Status:	APPROVED

Request Comments:
22S: 01/23/2007 02:10 PM LCLARK ----------
296-2632 am inspec
T/S: 01/25/2007 08:29 AM DNICKLAU ----------
AP - 7 holes - MTC dwn

Result Comments:
T/S: 01/25/2007 08:30 AM DNICKLAU ----------

EXHIBIT 5

Inspection Status

Use your browser's Back button to select another inspection or select Options Menu to choose another building permits option.

Parcel ID:	0001-1410-000000- -	**Address:**	820 CARSTENS LN
Application Date:	01/04/07	**Owner:**	SCHOCK SUSAN
Application #:	07 - 29	**Application Type:**	RENOVATION, CONVERSION: RESIDENTIAL

Inspections for Permit Number: 000 000 00 - REPAIRS, ADDITIONS

Inspection type/sequence:	FRAMING / 0001
Inspector assigned:	DAVID RAY
Schedule Date:	03/20/07
Results Date:	03/21/07
Results Status:	APPROVED WITH EXCEPTION

Request Comments:
T/S: 03/19/2007 01:58 PM LCLARK ----------
29-2632
T/S: 03/21/2007 08:31 AM DRAY ----------

Result Comments:
T/S: 03/21/2007 08:31 AM DRAY ----------
framing approved with the letter which contractor is to give to the building Dept. The electrical inspecter had required. pertaining to weather proofing.

EXHIBIT 6

Select Permit by Address - Results

Permit Number	Address	Parcel	Contractor/Other Name	Application Type	Status
00-00001591	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	FENCE	CLOSED
00-00001599	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	RENOVATION, CONVERSION: RESIDENTIAL	PERMIT EXPIRED / EXTENDED
03-00003822	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SOUTHWIND POOLS, INC.	POOLS/SPA - RESIDENTIAL	COMPLETED
03-00003822	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	POOLS/SPA - RESIDENTIAL	COMPLETED
03-00003822	820 CARSTENS LN	0001 -1410 -000000- - - - - -	KENNEDY ELECTRIC COMPANY	POOLS/SPA - RESIDENTIAL	COMPLETED
04-00002274	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	FENCE	CANCELLED
06-00006459	820 CARSTENS LN	0001 -1410 -000000- - - - - -	OWNER AS CONTRACTOR	FENCE	CLOSED
06-00006459	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	FENCE	CLOSED
07-00000029	820 CARSTENS LN	0001 -1410 -000000- - - - - -	KINKY CONSTRUCTION	RENOVATION, CONVERSION: RESIDENTIAL	PERMIT PRINTED
07-00000029	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	RENOVATION, CONVERSION: RESIDENTIAL	PERMIT PRINTED
07-00000030	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	ROOFING	CANCELLED
07-00000031	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	ELECTRIC ONLY	PERMIT EXPIRED / EXTENDED
07-00001344	820 CARSTENS LN	0001 -1410 -000000- - - - - -	KINKY CONSTRUCTION	RENOVATION, CONVERSION: RESIDENTIAL	CANCELLED
07-00001344	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	RENOVATION, CONVERSION: RESIDENTIAL	CANCELLED
07-00001472	820 CARSTENS LN	0001 -1410 -000000- - - - - -	DAN-ACE ROOFING & TEX COTE CO.	ROOFING	CLOSED
07-00001472	820 CARSTENS LN	0001 -1410 -000000- - - - - -	SCHOCK SUSAN	ROOFING	CLOSED
15-00000488	820 CARSTENS LN	0001 -1410 -000000- - - - - -	OWNER	EXTENSION - ELECTRICAL	COMPLETED

Status Detail

Parcel ID:	0001-1410-000000- -	**Address:**	820 CARSTENS LN
Application Date:	03/16/07	**Owner:**	SCHOCK SUSAN
Application #:	07 - 1344	**Application Type:**	RENOVATION, CONVERSION: RESIDENTIAL
Valuation:	$0	**Square Footage:**	0

Tenant Name:
Tenant Unit Number:
Application Status: CANCELLED
General Contractor: KINKY CONSTRUCTION
Zoning Description: HIGH DENSITY RESIDENTIAL

Structure Details

EXHIBIT 7

Kelly Perkins

From: Enid Torregrosa
Sent: Tuesday, November 15, 2016 9:39 AM
To: Kelly Perkins
Subject: Fw: 820 Green
Attachments: coderun.pdf; ATT00001.txt; Scan 2016-5-25 0002.pdf

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From: KEVIN SCOTT <Avpetro@sbcglobal.net>
Sent: Thursday, June 30, 2016 10:44:35 AM
To: Enid Torregrosa
Cc: Kelly Perkins; Wayne Smith
Subject: 820 Green

Enid:

Please forward the following email to Chairman Green. I am requesting that it be placed in the record if appropriate to do so.

Thank you for your assistance.
Kevin Scott

Chairman Green:

In our conversation prior to the HARC meeting on Tuesday night you asked why Neighbors now object to the illegal two story addition at 820 Carsten after years without complaint. This is a fair question that merits a proper response. The premise that Neighbors did not previously have complaints with the illegal structure or its use is factually untrue. Attached please find a Code Compliance report for the period 2007 to present. As early as March 28, 2007 Kurt Fazekas, Owner of 818 Carsten, filed a code complaint regarding the height of the two story addition under construction at 820 Carsten. As you can see by the attached, Inspectors identified a "second story deck with a roof" and after locating a permit, closed the case as an invalid complaint. Ironically, Mr. Fazekas' complaint correctly identified one of many substantial departures in the construction from the approved plan. It is relevant to note that by March 28, 2007 Building Inspectors had already identified the structure as not to plan and the permit had been cancelled. At the time of my purchase from Mr. Fazekas I was made aware of Code's determination. Until very recently my Neighbors and I have relied upon Code's determination that the structure was legally constructed.

The Code report shows repeated transient rental complaints resulting in transient rental violations on April 4, 2008, June 26, 2008 and July 9, 2008. On December 31, 2008 owner of 818 Mr. Fazekas made a transient rental complaint. The record notes: "He has called several times and nothing has been done." Complaints of transient rental violations continued into 2010. February 11, 2010 a transient rental complaint was closed by Code Compliance after Inspector reported "Spoke with tenants who stated they were staying for a full month". These complaints persisted through 2015 under new owners. Although the Code report does not show complaints for 2015 and 2016, neighbors made repeated complaints regarding transient rental use during that time to both Owners and Code Compliance. On April 10, 2016 a petition signed by nine of the surrounding neighbors was delivered to Code Compliance demanding among other things, an end to the transient rentals. A copy is attached. Shortly thereafter the structure was red tagged. I can happily report no further problems with transient rental have occurred since that time.

I am not suggesting Code complaints or a neighbors willingness (or unwillingness) to turn in their neighbors is criteria for consideration of a HARC application. We believe thorough application of all applicable HARC requirements is the only basis for a fair determination. However violations undertaken by current Owners in an attempt to otherwise obtain what would not be permitted are relevant. Continued enclosure to establish an existing right is not only an abuse of the process, but complicates the Boards ability to make a determination based on the merits of the proposal. This is not just the wrong project. It is the wrong project being sought in

the wrong way.

Thank you for your time and consideration.

Kevin Scott
818 Carsten Ln
Key West, FL

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
PROHIBITED ACTIVITY	3/28/07	INVALID COMPLAINT	3/29/07
0001-1410-000000- -			
820 CARSTENS LN	Z -Jeff Berman		
KEY WEST FL 33040			

NARRATIVE: 03/28/2007 09:41 AM JBAKER ---------- 3/28/07
There is a huge addition to this house. It is about 2 ½ 3/28/07
stories tall. She also cuts limbs off the trees of 818 3/28/07
Carstens Lane. Complainant is Kurt Fazekas (317-694-1800) 3/28/07

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY: SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
3/28/07	Initial Inspection	COMPLETED	3/29/07	Z -Jeff Berman	1.00

RQST TEXT: 03/28/2007 05:13 PM JBERMAN ---------- 3/29/07
I did an inspection of the property from the right of way. 3/29/07
I did observe what appears to be a second story deck with a 3/29/07
roof. I checked the building dept. and located a permit 3/29/07
07-29 for a second story deck. I notified the complainant. 3/29/07
RSLT TEXT: 03/29/2007 04:22 PM JBERMAN ---------- 3/29/07
No violation has permits. Case closed 3/29/07

TOTAL TIME: 1.00

CASE TYPE — DATE ESTABLISHED — STATUS — STATUS DATE
RE #/PARCEL #/TAX ID etc
ADDRESS — INSPECTOR — TENANT NAME — TENANT NBR

CE TRANSIENT RENTAL COMPLAINT — 4/25/08 — PENDING FEES — 6/30/09
0001-1410-000000- -
820 CARSTENS LN — Desk Officer
KEY WEST FL 33040

12/31/08 Initial Inspection COMPLETED 5/01/09 Z -Jeff Stotts
RSLT TEXT: Time Stamp: 05/01/2009 02:57 PM KEYWJAS1 ---------- 5/04/09
Back in 12/29 i called resident and on 1/2/08 they recieved 5/04/09
a copy of ordenance 18-601 and 18- 602. 5/04/09
Time Stamp: 05/04/2009 09:27 AM KEYWJAS1 ---------- 5/04/09

5/01/09 NOV with NOH ISSUED 5/01/09
Respond to: Date: 0/00/00
Send to: OWNER
Mail tracking #:7008 1140 0002 4724 9366
Name/address: SCHOCK SUSAN
516 E ST SE
WASHINGTON, DC 20003
Telephone: (305) 292-4637
Fax:
EMail:

5/04/09 NOV with NOH ISSUED 5/04/09
Respond to: Date: 0/00/00
Send to: OWNER
Mail tracking #:7008 1140 0002 4724 9366
Name/address: SCHOCK SUSAN
516 E ST SE
WASHINGTON, DC 20003
Telephone: (305) 292-4637
Fax:
EMail:

5/04/09 NOV with NOH ISSUED 5/04/09
Respond to: Date: 0/00/00
Send to: OWNER
Mail tracking #:7008 1140 0002 4724 9366
Name/address: SCHOCK SUSAN
516 E ST SE
WASHINGTON, DC 20003
Telephone: (305) 292-4637
Fax:
EMail:

PERSONAL CONTACT PENDING

TOTAL TIME:

VIOLATIONS: DATE DESCRIPTION QTY CODE STATUS RESOLVED

5/01/09 Sec. 18-602 1 REBUTTABLE PRESUMPTION ACTIVE
LOCATION: 820 CARSTENS LN
NARRATIVE: Unlicensed house is being rented transiently 5/04/09

5/01/09 Sec. 18-601 1 TRANSIENT LICENSE ACTIVE
LOCATION: 820 CARSTENS L
NARRATIVE: The short-term rental of a residential property is a 5/04/09
business activity that requires the property owner to hold 5/04/09

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE TRANSIENT RENTAL COMPLAINT	4/25/08	PENDING FEES	6/30/09
0001-1410-000000- -			
820 CARSTENS LN	Desk Officer		
KEY WEST FL 33040			

VIOLATIONS:

DATE	DESCRIPTION	QTY	CODE	STATUS	RESOLVED
5/01/09	Sec. 18-601	1	TRANSIENT LICENSE	ACTIVE	
	LOCATION: 820 CARSTENS L				
	NARRATIVE: a business tax receipt issued by the city.			5/04/09	
5/04/09	Sec. 122-1371	1	TRANSIENT LIVING ACCOMMOD	ACTIVE	
	LOCATION: 820 CARSTENS LN				
	NARRATIVE: Unlicensed residential transient use			5/04/09	
5/04/09	Sec. 122-626	1	INTENT	ACTIVE	
	LOCATION: 820 CARSTENS LN				
	NARRATIVE: The HHDR district shall not accommodate transient			5/04/09	
	residential uses.			5/04/09	

FINES:

DESCRIPTION	CHARGE	PAID	BILLED	LIEN AMT	LIEN PAID
CE ADMINISTRATION COST	250.00	.00	.00	.00	.00
CE IRREPARABLE FINE	750.00	.00	.00	750.00	.00

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE OBSTRUCTION OF STREETS	4/28/09	PENDING FEES	6/30/09
0001-1410-000000- -			
820 CARSTENS LN	Bonnita Badgett		
KEY WEST FL 33040			

VIOLATIONS:

DATE	DESCRIPTION	QTY	CODE	STATUS	RESOLVED
4/30/09	Sec. 62-31	1	MAINTENANCE OF AREA	ACTIVE	
	LOCATION: CAREY LANE				
	NARRATIVE: pavement of trash or debris.			4/30/09	

FINES:

DESCRIPTION	CHARGE	PAID	BILLED	LIEN AMT	LIEN PAID
CE ADMINISTRATION COST	250.00	.00	.00	.00	.00
CE IRREPARABLE FINE	500.00	.00	.00	500.00	.00

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE DELINQUENT SEWER ACCT	6/14/07	DISMISSED	12/14/07
0001-1410-000000- -			
820 CARSTENS LN	Z -Gary Addleman		
KEY WEST FL 33040			

NARRATIVE: 06/14/2007 09:30 AM KEYWJDB ---------- 6/14/07
Delinqunet Sewer account sewer has been disconnected 6/14/07

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY: SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
7/05/07	Initial Inspection	COMPLETED	8/13/07	Z -Gary Addleman	
	RQST TEXT: 07/05/2007 10:25 AM KEYWJDB ----------			7/05/07	
	Talked to Susan Shock and she stated that she is not in			7/05/07	
	town and does not want to get the sewer turned back on			7/05/07	
	until she comes back into town. She said that she will pay			7/05/07	
	the bill by credit card today I transferred her to the			7/05/07	
	revenue department to pay it.			7/05/07	
	07/23/2007 01:50 PM KEYWJDB ----------			7/05/07	
	Susan Shock called again today and stated that she paid as			7/05/07	
	much as she could and her and Valerie are at an agreement			7/05/07	
	and a payment plan that can suit her budget at this time			7/05/07	
	she is going to pay it as soon as she can and that she is			7/05/07	
	not getting re-connected she is going to pay the minimum			7/05/07	
	every month			7/05/07	
	RSLT TEXT: 08/13/2007 03:29 PM KEYWDLM ----------			8/13/07	
	set up for posting			8/13/07	
8/18/07	Follow up Inspection	COMPLETED	12/14/07	Z -Gary Addleman	
	RQST TEXT: 12/14/2007 10:15 AM KEYWDLM ----------			12/14/07	
	RSLT TEXT: Case went before the special magistrate on 10-27-07 and was			12/14/07	
	dismissed. Per Shirley Sealey, sewer was paid in full on			12/14/07	
	10-16-07.			12/14/07	
				TOTAL TIME:	

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE OBSTRUCTION OF STREETS	4/28/09	PENDING FEES	6/30/09
0001-1410-000000- -			
820 CARSTENS LN	Bonnita Badgett		
KEY WEST FL 33040			

NARRATIVE:

Time Stamp: 04/28/2009 03:18 PM KEYWBLM ----------	4/28/09
Maureen Bramlage complained of a washer placed on ROW.	4/28/09
Time Stamp: 06/30/2009 09:20 AM KEYWDLM ----------	6/30/09
Case went before the special magistrate on 6-24-09 and was	6/30/09
found in violation. Costs of $250.00 were imposed along	6/30/09
with a fine of $250.00 per count (2 counts). Total due the	6/30/09
City is $750.00.	6/30/09
Time Stamp: 08/24/2009 08:43 AM KEYWDLM ----------	8/24/09
Sent collection letter	8/24/09
Time Stamp: 09/28/2009 04:24 PM KEYWDLM ----------	9/28/09
Sent Notice of Lien Hearing for 10-21-09.	9/28/09
Time Stamp: 12/07/2010 03:17 PM KEYWDLM ----------	12/07/10
Deleted admin costs, then reentered the to remove it from	12/07/10
the old cost center and enter it onto the new cost center.	12/07/10

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY:

SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
4/27/09	Initial Inspection	COMPLETED	4/28/09	Bonnita Badgett	.25
	RSLT TEXT: Time Stamp: 04/28/2009 03:19 PM KEYWBLM ----------			4/28/09	
	Washer placed on Carey Lane without arrangement of pickup			4/28/09	
	by Waste Management.			4/28/09	
4/28/09	Follow up Inspection	COMPLETED	4/28/09	Bonnita Badgett	.25
	RQST TEXT: Washer is still there. No arrangement with Waste Mangement			4/28/09	
	RSLT TEXT: Time Stamp: 04/28/2009 03:23 PM KEYWBLM ----------			4/28/09	
	send NOCV.			4/28/09	
4/28/09	Notice of Code Violation	ISSUED	4/28/09		
	Respond to:	Date: 0/00/00			
	Send to: OWNER				
	Mail tracking #: 7007 3020 0000 5344 3370				
	Name/address: SCHOCK SUSAN				
	516 E ST SE				
	WASHINGTON, DC 20003				
	Telephone: (305) 292-4637				
	Fax:				
	EMail:				
4/30/09	Follow up Inspection	COMPLETED	4/30/09	Bonnita Badgett	.50
	RQST TEXT: Check to see if Washer is still on row.			4/30/09	
	RSLT TEXT: Time Stamp: 04/30/2009 01:18 PM KEYWBLM ----------			4/30/09	
	send NOCV/NOH for not maintaining the row and placing bulk			4/30/09	
	debris on row.			4/30/09	

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE OBSTRUCTION OF STREETS	4/28/09	PENDING FEES	6/30/09
0001-1410-000000- -			
820 CARSTENS LN	Bonnita Badgett		
KEY WEST FL 33040			

HISTORY:	SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
	4/30/09	NOV with NOH	ISSUED	4/30/09		
	Respond to:		Date: 0/00/00			
	Send to:	OWNER				
	Mail tracking #:	7007 3020 0000 5344 3370				
	Name/address:	SCHOCK SUSAN				
		516 E ST SE				
		WASHINGTON, DC 20003				
	Telephone:	(305) 292-4637				
	Fax:					
	EMail:					
	5/04/09	Follow up Inspection	COMPLETED	5/04/09	Bonnita Badgett	.50
		RQST TEXT: May 4, 2009 12:04:54 PM keywblm			5/04/09	
		check to see if washer is still on row.			5/04/09	
		RSLT TEXT: Time Stamp: 05/04/2009 12:00 PM KEYWBLM ----------			5/04/09	
		washer still there. I took a picture.			5/04/09	
	5/04/09	Follow up Inspection	COMPLETED	5/05/09	Bonnita Badgett	.50
		RQST TEXT: washer now is at the end of Carey Lane and Margaret. On			5/05/09	
		list for Waste Management pickup.			5/05/09	
		RSLT TEXT: Time Stamp: 05/05/2009 09:16 AM KEYWBLM ----------			5/05/09	
	2/14/11	Findings and Order W/Bill	ISSUED	2/14/11		
	Respond to:		Date: 0/00/00			
	Send to:	OWNER				
	Mail tracking #:					
	Name/address:	SCHOCK SUSAN				
		516 E ST SE				
		WASHINGTON, DC 20003				
	Telephone:	(305) 292-4637				
	Fax:					
	EMail:					
		Follow up Inspection	PENDING			
		Order Acknowledging Compliance	PENDING			
		Closed Case	PENDING			
					TOTAL TIME:	2.00

VIOLATIONS:	DATE	DESCRIPTION	QTY	CODE	STATUS	RESOLVED
	4/28/09	Sec. 58-31	1	CONTAINER AND RECEPTACLE	ACTIVE	
		LOCATION: CAREY LANE				
		NARRATIVE: Washer placed on City right-of-way				4/28/09
	4/30/09	Sec. 62-31	1	MAINTENANCE OF AREA	ACTIVE	
		LOCATION: CAREY LANE				
		NARRATIVE: Not keeping clear the area from your property line to				4/30/09

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE OBSTRUCTION OF STREETS	1/05/09	COMP AFTER NOTICE	3/12/09
0001-1410-000000- -			
820 CARSTENS LN	Bonnita Badgett		
KEY WEST FL 33040			

NARRATIVE: A complaint came by email regarding a sink placed on Carey Lane.Time Stamp: 01/05/2009 08:38 AM KEYWBLM ----------

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY: SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
1/05/09	Initial Inspection	COMPLETED	1/07/09	Bonnita Badgett	
	RQST TEXT: January 5, 2009 8:44:13 AM keywblm				1/05/09
	I went by last week and again this morning. Send NOCV. I				1/05/09
	gave file to Debbie.				1/05/09
	RSLT TEXT: 01/07/2009 08:15 AM KEYWDLM ----------				1/26/09
	Sent NOCV				1/26/09
	January 12, 2009 3:48:23 PM keywblm				1/26/09
	The sink is gone but there are about 10 bags of mulch on				1/26/09
	the row now. I left my business card. No one was home.				1/26/09
	January 16, 2009 10:22:51 AM keywblm				1/26/09
	On Monday 1/12/09 the sink was gone but 10 bags of wood				1/26/09
	mulch was on the row. I took pictures and left my business				1/26/09
	card. I went back on Tuesday and spoke to a young woman and				1/26/09
	she called the owner and left a message. I went back on				1/26/09
	Friday morning early and the area is clear of debris. I				1/26/09
	will keep this case open for two more weeks to see if the				1/26/09
	area will stay clear. The neighbors will call I am sure if				1/26/09
	items are left in ROW and also I will go by.				1/26/09
	January 22, 2009 11:04:36 AM keywblm				1/26/09
	Area clear.				1/26/09
	January 26, 2009 2:20:00 PM keywblm				1/26/09
	I went by today and spoke to some of the neighbors in the				1/26/09
	area. I explained regarding due process . Area clear behind				1/26/09
	820 Carstens Lane. Took picture				1/26/09
2/09/09	Follow up Inspection	COMPLETED	2/24/09	Bonnita Badgett	.25
	RQST TEXT: see if row is clear of any debris.February 6, 2009 1:31:25				2/06/09
	PM keywblm				2/06/09
	February 12, 2009 9:18:25 AM keywblm				2/06/09
	Row has a spa pump . Neighbor complained again. I posted				2/06/09
	the property of NOCV on 2/11/09				2/06/09
	RSLT TEXT: I went by the property today and the garbage can was still				3/03/09
	out . Pick up was yesterday. Neighbor emailed me. Send				3/03/09
	NOH.Time Stamp: 02/24/2009 03:43 PM KEYWBLM				3/03/09
	----------				3/03/09
	Time Stamp: 03/03/2009 01:46 PM KEYWBLM Area was clear				3/03/09

CASE TYPE | DATE ESTABLISHED | STATUS | STATUS DATE
RE #/PARCEL #/TAX ID etc
ADDRESS | INSPECTOR | TENANT NAME | TENANT NBR

CE OBSTRUCTION OF STREETS | 1/05/09 | COMP AFTER NOTICE | 3/12/09
0001-1410-000000- -
820 CARSTENS LN | Bonnita Badgett
KEY WEST FL 33040

2/09/09	Follow up Inspection	COMPLETED	2/24/09	Bonnita Badgett		
	RSLT TEXT: on 2/27 and also clear on 3/3/09 ----------				3/03/09	
3/10/09	Follow up Inspection	COMPLETED	3/10/09	Bonnita Badgett		.25
	RQST TEXT: see if row is clear.				3/09/09	
	RSLT TEXT: Time Stamp: 03/12/2009 03:05 PM KEYWBLM ----------				3/12/09	
	As per Jim , close case.				3/12/09	
3/12/09	Closed Case	COMPLETED	3/12/09			
					TOTAL TIME:	.50

VIOLATIONS: DATE	DESCRIPTION	QTY	CODE	STATUS	RESOLVED
2/06/09	Sec. 62-2	1	OBSTRUCTION OF STREETS	IN COMPLIANCE	3/12/09
	LOCATION: TOTAL YARD				
	NARRATIVE: Debris on right-of-way behind the house.			2/06/09	

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE TRANSIENT RENTAL COMPLAINT	2/11/10	CASE CLOSED	3/08/10
0001-1410-000000- -			
820 CARSTENS LN	Z -tt Anderson		
KEY WEST FL 33040			

NARRATIVE: Time Stamp: 02/11/2010 02:12 PM KEYWDLM ---------- 2/11/10
Received a complaint that this property is being rented 2/11/10
transiently again. The renters were outside at the time. 2/11/10
The yard can be seen on the Carey Lane side. 2/11/10

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY: SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
2/11/10	Initial Inspection	COMPLETED	3/08/10	Z -tt Anderson	.50
	RSLT TEXT: March 8, 2010 8:54:46 AM keywsaa.			3/08/10	
	Went by property with JY Feb 24. Spoke to tenants, who			3/08/10	
	stated that they were staying for a full month. Closing case			3/08/10	
	per JJY.			3/08/10	

TOTAL TIME: .50

CASE TYPE / RE #/PARCEL #/TAX ID etc / ADDRESS	DATE ESTABLISHED / INSPECTOR	STATUS / TENANT NAME	STATUS DATE / TENANT NBR
CE TRANSIENT RENTAL COMPLAINT	1/28/15	DISMISSED	2/26/15
0001-1410-000000- -			
820 CARSTENS LN	Z -Mathew Dale Willman		
KEY WEST FL 33040			

NARRATIVE: Time Stamp: 01/28/2015 09:57 AM KEYWDLM ---------- 1/28/15
Received an anonymous complaint that this house is being 1/28/15
rented transiently. Is listed on flipkey as Key West Garden 1/28/15
House. 1/28/15

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY: SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
1/29/15	Initial Inspection	COMPLETED	2/18/15	Z -Mathew Dale Willman	1.00

RSLT TEXT:
January 30, 2015 4:16:01 PM keywmdw2. 2/20/15
Count 1 of 3: Sec. 18-601. - License required. 2/20/15
To Wit: This office was advised that subject property is 2/20/15
being offered for short term rental. An ad was located on 2/20/15
flip Key web site offering it for $240/night with a one 2/20/15
night minimum stay. There is not a TRL for this location. 2/20/15
Corrective Action: Cease rental activity & remove ad from 2/20/15
any websites. Notice of Hearing issued. 2/20/15
Count 2 of 3: Sec. 122-1371. - Transient living 2/20/15
accommodations in residential dwellings; regulations. d. (9) 2/20/15
To Wit: This office was advised that subject property is 2/20/15
being offered for short term rental. An ad was located on 2/20/15
flip Key web site offering it for $240/night with a one 2/20/15
night minimum stay. The property owner (Susan) is mentioned 2/20/15
in the ad/reviews. 2/20/15
Corrective Action: Cease rental activity & remove ad from 2/20/15
any websites. Notice of Hearing issued. 2/20/15
Count 3 of 3: Sec. 122-629. - HHDR Prohibited uses. 2/20/15
To Wit: Transient Rental is not an allowed use in this 2/20/15
zoning district. Thus making the rental a prohibited use. 2/20/15
Corrective Action: Cease rental activity & remove ad from 2/20/15
any websites. Notice of Hearing issued. 2/20/15
February 13, 2015 4:42:33 PM keywmdw2. 2/20/15
To Wit: I spoke with Susan Schock (305-310-7239) today who 2/20/15
advised that the house has sold - not sure of that. I 2/20/15
advised her to be in court on the 25th to explain the facts 2/20/15
to the judge. 2/20/15
February 18, 2015 2:36:07 PM keywmdw2. 2/20/15
To Wit: Good Service received 2/20/15
February 18, 2015 6:39:07 PM keywmdw2. 2/20/15
To Wit: I spoke with Steve Ide & will meet him tomorrow to 2/20/15
confirm that Susan is gone from the property. The website 2/20/15
has been changed showing only monthly rental. 2/20/15
February 20, 2015 11:56:05 PM keywmdw2. 2/20/15

CASE TYPE / RE #/PARCEL #/TAX ID etc / ADDRESS	DATE ESTABLISHED / INSPECTOR	STATUS / TENANT NAME	STATUS DATE / TENANT NBR
CE TRANSIENT RENTAL COMPLAINT	1/28/15	DISMISSED	2/26/15
0001-1410-000000-			
820 CARSTENS LN	Z -Mathew Dale Willman		
KEY WEST FL 33040			

1/29/15 Initial Inspection COMPLETED 2/18/15 Z -Mathew Dale Willman

RSLT TEXT: To Wit: I inspected the property to find the house vacant. 2/20/15
Pics were taken, case is in compliance as there is a cert of 2/20/15
title for a pending sale of the property. The website has 2/20/15
been changed and does not advertise short term rentals. 2/20/15
Previous Owner Susan Schock states that she will not pay & 2/20/15
will let the lien go on the property which we will not do. 2/20/15

2/25/15 Administrative Hearing COMPLETED 2/25/15

NARRATIVE: 02/26/2015 03:54 PM KEYWDLM ---------- 2/26/15
Case went before the Special Magistrate and was dismissed 2/26/15
at the request of the Code Officer. 2/26/15

2/01/15 Notice of Hearing ISSUED 2/01/15

Respond to: Matt Willman Date: 2/17/15
Send to: OWNER
Mail tracking #: 7013 2630 0000 9541 5262
Name/address: SCHOCK SUSAN
516 E ST SE
WASHINGTON, DC 20003
Telephone: (305) 292-4637
Fax:
EMail:

TOTAL TIME: 1.00

VIOLATIONS: DATE	DESCRIPTION	QTY	CODE	STATUS	RESOLVED
1/30/15	Sec. 18-601 LOCATION:	1	TRANSIENT LICENSE	IN COMPLIANCE	2/26/15
1/30/15	Sec. 122-1371 LOCATION:	1	TRANSIENT LIVING ACCOMMOD	IN COMPLIANCE	2/26/15
1/30/15	Sec. 122-629 LOCATION:	1	HHDR prohibited uses	IN COMPLIANCE	2/26/15

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE TRANSIENT RENTAL COMPLAINT	4/25/08	PENDING FEES	6/30/09
0001-1410-000000- -			
820 CARSTENS LN	Desk Officer		
KEY WEST FL 33040			

NARRATIVE:

Time Stamp: 04/25/2008 01:32 PM KEYWDLM ----------	4/25/08
Received a complaint that this house is being rented out	4/25/08
transiently.	4/25/08
Time Stamp: 06/26/2008 09:59 AM KEYWDLM ----------	6/26/08
Received another complaint about the transient rental at	6/26/08
this property. Complainant stated that there are 2 units.	6/26/08
No occupational license to rent.	6/26/08
Time Stamp: 07/09/2008 02:55 PM KEYWDLM ----------	7/09/08
Received another complaint from Kirk, 317-694-1800, about	7/09/08
this property being rented out transiently.	7/09/08
Time Stamp: 01/22/2009 09:47 AM KEYWJAS1 ----------	1/22/09
Myself and the city assist. atty. will set up a meeting	1/22/09
with Mr. Fazekas, who now has expressed a desire to	1/22/09
testify, (317-694-1800) to outline how to use his input for	1/22/09
the case.	1/22/09
Time Stamp: 05/05/2009 12:44 PM KEYWJAS1 ----------	5/05/09
We have found her house on a Craig s list page;	5/05/09
[house-gh4te-1140329484@craigslist.org]. In this listing	5/05/09
she is renting out her house transiently without a license	5/05/09
and in the HHDR zone. She has been sent a NOCV and NOH by	5/05/09
both registered mail and by posting the property.Hearing is	5/05/09
for May 18, 2009.	5/05/09
Time Stamp: 06/30/2009 09:18 AM KEYWDLM ----------	6/30/09
Case went before the special magistrate on 6-24-09 and was	6/30/09
found in violation. Costs of $250 were imposed along with	6/30/09
a fine of $250 per count (3 counts). Total due the city is	6/30/09
$1000.00.	6/30/09
Time Stamp: 08/21/2009 04:13 PM KEYWDLM ----------	8/21/09
Sent collection letter.	8/21/09
Time Stamp: 09/28/2009 04:25 PM KEYWDLM ----------	9/28/09
Sent Notice of Lien Hearing for 10-21-09.	9/28/09
Time Stamp: 12/08/2010 10:58 AM KEYWDLM ----------	12/08/10
Deleted admin costs, then reentered them to remove it from	12/08/10
the old cost center and enter it onto the new cost center.	12/08/10

NOTICE NAMES: SCHOCK SUSAN OWNER 305-292-4637

HISTORY:

SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
12/31/08	Initial Inspection	COMPLETED	5/01/09	Z -Jeff Stotts	
	RQST TEXT: 12/31/2008 08:19 AM KEYWDLM ----------				12/31/08
	Received another complaint from Kurt Fazekas (317-694-1800)				12/31/08
	about this property being rented transiently. He stated				12/31/08
	that he has called several times and nothing is being done.				12/31/08

CASE TYPE | DATE ESTABLISHED | STATUS | STATUS DATE
RE #/PARCEL #/TAX ID etc
ADDRESS | INSPECTOR | TENANT NAME | TENANT NBR

CE BUILDING ORDINANCE 4/25/16 ACTIVE 4/25/16
0001-1410-000000- -
820 CARSTENS LN Kenneth JW Waite
KEY WEST FL 33040

4/25/16 Initial Inspection COMPLETED 4/25/16 Kenneth JW Waite

RSLT TEXT: non-transient rental license. A Notice of Code Violation will prepared on this date. Case remains open. 5/09/16
April 27, 2016 4:49:31 PM keywkjw. 5/09/16
Further investigation shows permit 07-0029 was pulled for a 2 story porch in the rear of the residence. The permit never went further than plan check. An amendment will be made to the current NOCV due to this discovery. 5/09/16
April 28, 2016 6:16:58 PM keywkjw. 5/09/16
I met with the owner of the property Mr. Lynch on this date. Mr. Lynch allowed us into the upstairs enclosure which was photographed and placed into Optiview. The Amended Notice of Code Violation was hand delivered on this date signed and placed into OptiView. Mr. Lynch is awaiting HARC approval to remove and rebuild the 2nd story rear per permit #16-300015. HARCs meeting on May 24th will determine if the encosure will be approved. As for Count 2 Sec. 66-87 Mr. Lynch has obtained a non-transient rental license. Count 2 is now dismissed. 5/09/16
May 9, 2016 12:13:48 PM keywkjw. 5/09/16
To Witt: 5/09/16
Responding to a complaint in reference to a satellite dish installed on the property I conducted a site investigation. I observed the satellite in the rear of the property via Carey Lane. Per HARC television dishes and antennas should be mounted out of sight of the public right-of-way and obscured behind landscaping or fencing whenever possible. 5/09/16
5/09/16
Corrective Action: Please obtain a HARC certificate of appropriateness for satellite dish. 5/09/16

4/25/16 Notice of Code Violation ISSUED 4/25/16
Respond to: Kenneth Waite Date: 5/09/16
Send to: ACTUAL LOCATION OWNER
Mail tracking #: 7013 2630 0000 9542 4073 7013 2630 0000 9542 4066
Name/address: DONALD R. LYNCH DONALD R. LYNCH
820 CARSTEN LANE 1200 FOURTH ST # 138
KEY WEST, FL 33040 KEY WEST, FL
KEY WEST, FL 33040
Telephone:
Fax:
EMail:

4/28/16 Notice of Code Violation ISSUED 4/28/16
Respond to: Kenneth Waite Date: 4/13/17
Send to: OWNER ACTUAL LOCATION
Mail tracking #: 7013 2630 0000 9542 4127 7013 2630 0000 9542 4110

CASE TYPE	DATE ESTABLISHED	STATUS	STATUS DATE
RE #/PARCEL #/TAX ID etc			
ADDRESS	INSPECTOR	TENANT NAME	TENANT NBR
CE BUILDING ORDINANCE	4/25/16	ACTIVE	4/25/16
0001-1410-000000- -			
820 CARSTENS LN	Kenneth JW Waite		
KEY WEST FL 33040			

CASE DATA: District Number

NARRATIVE:

April 25, 2016 11:07:50 AM keywmea.	4/25/16
Received a complaint letter: 9 neighbors signed a letter	4/25/16
stating that without HARC approval or permit, the owner	4/25/16
added a bathroom and kitchenette to the upstairs open porch	4/25/16
essentially turning the historic single family residence	4/25/16
into a two unit rental. They request that the unpermitted	4/25/16
alteration be removed. There is a Harc request in Naviline	4/25/16
for this month's HARC meeting.	4/25/16
Complete letter is in OptiView	4/25/16

NOTICE NAMES:

DONALD R. LYNCH	OWNER
DONALD R. LYNCH	ACTUAL LOCATION

HISTORY:

SCHEDULED	ACTION	STATUS	RESULTED	INSPECTOR	TIME
4/25/16	Initial Inspection	COMPLETED	4/25/16	Kenneth JW Waite	.50

RSLT TEXT:

April 25, 2016 6:07:59 PM keywkjw.	5/09/16
Upon receiving this complaint I visited the subject address	5/09/16
today 4.25.2016 . I was greeted by Mrs. Valerie Roach in	5/09/16
front of the home. She advised she, and her husband Mike	5/09/16
Roach have been living at the residence for a week and no	5/09/16
construction has taken place in that time. A six month lease	5/09/16
had been signed and she advised when her husband returned,	5/09/16
my self and Code Ofc. Hernandez were welcome back to take a	5/09/16
look at the property as well as the rental agreement.Shortly	5/09/16
after leaving Code Ofc. Hernandez received a call from Mike	5/09/16
who invited us back to take a look around.When we arrived	5/09/16
Mike presented the rental agreement which were then	5/09/16
photographed for evidence and placed into Optiview. Mike	5/09/16
escorted us through the living space, bedroom, kitchen, and	5/09/16
backyard. While observing the back of the property I noticed	5/09/16
the upstairs unit had 2 sets of three glass paneled windows,	5/09/16
with what appeared to be a set of French doors in	5/09/16
between.Mike advised the unit was locked and he did not have	5/09/16
access inside. I then asked if we could take a look inside	5/09/16
through the windows and he escorted us up to the unit. A	5/09/16
shower was visible from the deck, along with wooden boards	5/09/16
leaning up against the wall, and a few stools. Mike was	5/09/16
later advised a stop work order (Red Tag) would be placed on	5/09/16
the unit. Further investigation, obtained via Navaline	5/09/16
proved, the home owner Mr. Lynch has not obtained a	5/09/16

CASE TYPE / RE #/PARCEL #/TAX ID etc / ADDRESS	DATE ESTABLISHED / INSPECTOR	STATUS / TENANT NAME	STATUS DATE / TENANT NBR
CE BUILDING ORDINANCE	4/25/16	ACTIVE	4/25/16
0001-1410-000000- -			
820 CARSTENS LN	Kenneth JW Waite		
KEY WEST FL 33040			

Name/address: DONALD R. LYNCH
1200 FOURTH ST # 138
KEY WEST, FL
KEY WEST, FL 33040

DONALD R. LYNCH
820 CARSTEN LANE
KEY WEST, FL 33040

Telephone:
Fax:
EMail:

Administrative Hearing	PENDING
Notice of Hearing	PENDING
NOV with NOH	PENDING
Findings and Order W/Bill	PENDING
Follow up Inspection	PENDING
Order Acknowledging Compliance	PENDING
Closed Case	PENDING

TOTAL TIME: .50

VIOLATIONS:	DATE	DESCRIPTION	QTY	CODE	STATUS	RESOLVED
	4/25/16	Sec. 14-37 LOCATION:	1	BUILDING PERMITS,DISPLAY	ACTIVE	
	4/25/16	Sec. 66-87 LOCATION:	1	BUSINESS TAX RECEIPT REQU	ACTIVE	

Mr. Jim Young
Director of Code Compliance City of Key West
3139 Riviera Drive
Key West, FL 33040
HAND DELIVERED

April 10, 2016

Re: 820 Carsten Lane, Key West

Director Young;

In 2007 a HARC Certificate of Appropriateness and building permit was granted for a second story, open porch, at 820 Carsten Lane in the City's Old Town Historic District. No approval was given for the porch to be enclosed, or for bathroom or kitchen facilities.

The owner of 820 Carsten without HARC approval or permit, added a bathroom and kitchenette to the upstairs open porch essentially turning the historic single family residence into a two unit rental. The current owner, by his own admission, has proceeded to enclose the porch without permit. Such additions and alterations violate HARC Ordinance as well as Sec 102-152 of the City LDR's.

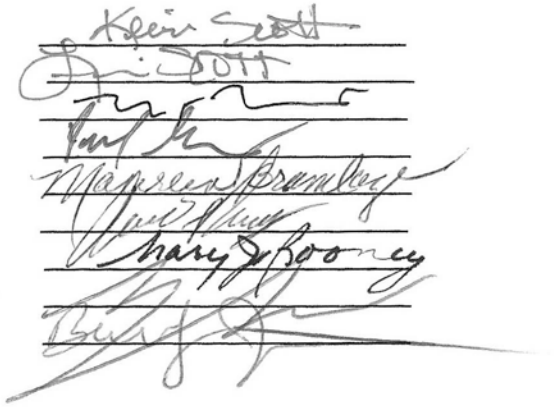
The result of these un-permitted alterations has been a continued stream of transient renters for the upstairs porch as well as visual damage to the historic character of the neighborhood. A review of police records reveals several recent neighborhood noise and parking complaints related to the property.

We respectfully request that you immediately use any and all means of enforcement available under LDR 102-158 and other appropriate statute to have the un-permitted alterations removed.

Should you require additional information or documentation, please feel free to contact any of the adjacent property owners listed below. Thank you for your time and attention to this matter.

Formally requested and signed by:

Kevin Scott, 818 Carsten Lane 512-608-8887
Laurie Scott, 818 Carsten Lane 512-608-9981
Mike McGrath, 822 Carsten Lane 305-240-4127
Paul Gray, 822 Carsten Lane 412-780-1689
Maureen Bramlage, 812 Carsten Lane 305-295-0162
David Rooney, 806 Carey Lane 305-292-3745
Mary Jo Rooney, 806 Carey Lane 617-308-6268
Richard Jenkins, 808 Carey Lane 954-931-5067
Bev Jenkins, 808 Carey Lane



Kelly Perkins

From: KEVIN SCOTT <avpetro@sbcglobal.net>
Sent: Friday, November 11, 2016 3:33 PM
To: Enid Torregrosa; Kelly Perkins
Cc: Wayne Smith
Subject: 820 Carsten Ln

Please present the following Statement with attachment to the HARC Board and include in the HARC record for the 820 Carsten proposal on the November 16 agenda.

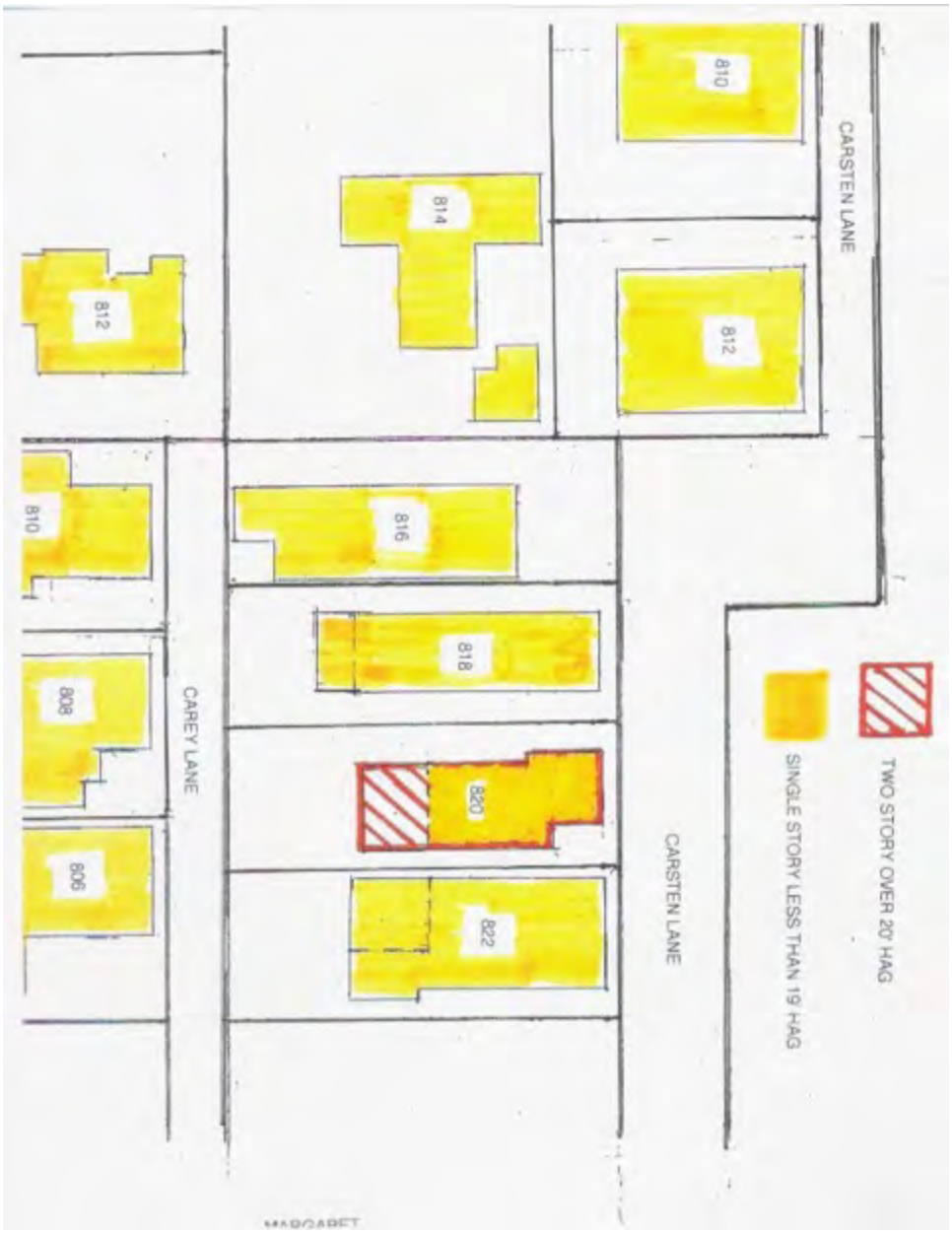
HARC Board Members:

Attached please find a plan view of the Cary-Carsten neighborhood showing comparative heights of the buildings surrounding the proposed second story at 820 Carsten. Yellow buildings indicate single story structures with a height of 19 feet or less. These structures are predominately "Cigar Makers Cottages" as depicted on Page 69 of the HARC Guidelines. The red hatched area indicates the proposed second story area at 820 Carsten with a height in excess of 20 feet. None of the structures on Carey or Carsten are two story with the exception of 820 Carsten.

Please note the small size of both the buildings and lots in the neighborhood. Structures are uniformly low-rise, situated on small lots in close proximity to each other. The narrow, single lane roadways of both Cary and Carsten add to the compact nature of the area. Within the small spaces and limited setbacks, the single 25 ft. second story dwarfs the contributing historic structure it is attached to and looms over surrounding historic structures.

Thank you,

Kevin Scott
818 Carsten Ln,
Key West, FL 33040


CARSTEN LANE
CAREY LANE
CARSTEN LANE
MARGARET
TWO STORY OVER 20' HAG
SINGLE STORY LESS THAN 19' HAG
810
812
814
816
818
820
822
808
806

Kelly Perkins

From: KEVIN SCOTT <avpetro@sbcglobal.net>
Sent: Friday, November 11, 2016 3:02 PM
To: Enid Torregrosa; Kelly Perkins
Cc: Wayne Smith
Subject: 820 Carsten

Please present the following Statement with Attachment to the HARC Board and include in the HARC record for the 820 Carsten proposal on the November 16, 2006 Agenda.

HARC Board Members:

The attached plan view provides a visual aid to evaluating the proposal for a second story at 820 Carsten Ln. It incorporates existing and proposed plans as provided by Mr. Rowan, information taken from the 2006 HARC minutes, and 2006 plans for a second story open porch approved by the City. The exact measurements for the second story porch provided in these documents are as follows; Approved in 2006: 13'4"L, 19'W, 23'H. Existing (but now enclosed): 13'6"L, 19'2"W, 25'H. Proposed: 16'2"W, 21'L, 25'H.

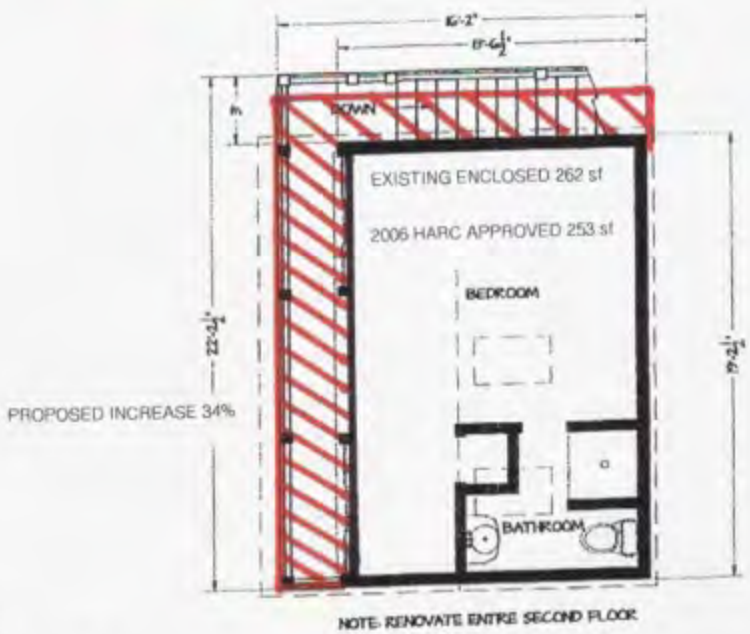
The existing enclosed structure is approximately the same width and length as what was approved in 2006 however it is 2 feet higher than both the HARC minutes and the approved drawings allowed. Applicants are requesting an after-the-fact permit for this enclosure. Not included are the exterior stairs and unenclosed walkway. The stairs and open walkway are not referenced in the 2006 approved plans, are well in excess of the approved dimensions, and were not covered by the 2006 HARC Certificate. The red hatched area shows the increase in the enclosed area proposed by the applicant that is beyond what was approved in 2006.

Thank you,

Kevin Scott
818 Carsten Ln,
Key West, FL 33040

820 CARSTEN 2nd STORY ANALYSIS

PROPOSED 340 sf
(NO HARC APPROVAL)



HEIGHT

2006 HARC APPROVED: 23'

PROPOSED: 25'

INCREASE: 2'

N

2ND FLOOR (EXISTING)

1/4" = 1'-0"

City of Key West
HARC Board Members
3140 Flagler Ave.
Key West, FL 33040

November 7, 2016

Mr. Chairman and Members of the Board:

As members of the Carey-Carsten Neighborhood we have watched the application for a second story addition at 820 Carsten Lane with great concern. In the interest of obtaining a positive resolution to this situation we wish to present a proposal for consideration by the HARC Board.

We believe that neither Staff, Board, or any casual observer would consider a two story structure appropriate in this neighborhood of small, single story, Cigar Makers Cottages. And the existing upstairs porch at 820 Carsten is not a legal structure. But we understand the current owners desire to develop their upstairs porch into living space. We propose the HARC Board agree to honor the 2006 HARC Certificate provided the new (or rebuilt) structure complies with that Certificate and does not exceed the height, width, length or other dimensions specified in the HARC minutes and plans approved by City in 2006. While not agreeing this is necessarily the right outcome, Neighbors would drop our objections and not attempt to obstruct approval of the project if it does not exceed the 2006 HARC approved dimensions. We make this proposal in the interest of a solution that provides fairness to all concerned.

Critical to this Proposal are the following:

- The Board is only honoring the previously awarded 2006 Certificate and associated plans approved by the City. It is not providing any new HARC approval for a second story in the neighborhood other than the enclosure of what was approved in 2006.
- The Board makes clear that there is no endorsement of a second story nor would a second story be appropriate to the Neighborhood. The Board would be equally clear that this is not a tacit approval of the current owners illegal enclosure or previous owners illegal actions.
- The new construction must conform to the terms of the 2006 Certificate and the resulting plans approved by the City in 2007. This means the height, width, length and other dimensions that were not complied with in 2007, and resulted in the cancellation of the permit, must now be complied with.
- Applicant's repeated code violations and unwillingness to engage with Neighbors in a meaningful way has created mistrust. We ask that if this proposal is agreed to, a framing survey from a licensed surveyor detailing height, width, length of the upstairs addition be provided when framing is complete and ready for inspection. This survey will insure that valid code complaints from the Neighborhood regarding the prior construction that went un-addressed in 2007 do not occur again. Additionally it will insure Applicant can proceed with their project without interruption from Neighbors who may suspect the building is once again not being constructed according to plan.

We like to think that the Board would strictly enforce the HARC Guidelines that prohibit inappropriate structures and would not tolerate illegal structures that do. But we also recognize the Board encourages compromise as a means of resolution and desires a sense of fairness in its outcomes. With that in mind, we submit this proposal. In addition to a positive resolution we hope this provides a clear message to future applicants desiring second story additions. By

honoring only the pre-existing HARC Certificate from 2006, HARC will be clear in its position that HARC approvals for second story additions on Cary and Carsten are not appropriate, and will not be forthcoming. It will also be clear that special consideration will not have been given to this Applicant beyond what was previously approved in 2006.

Thank you.

Respectfully Submitted:

Kevin Scott, 818 Carsten Ln, 512 608-8887

Laurie Scott, 818 Carsten Ln, 512 608-8885

Mike McGrath, 822 Carsten Ln, 305 240-4127

Paul Gray, 822 Carsten Ln, 412 708-1689

Maureen Bramlage, 812 Carsten Ln, 305 295-0162

David Rooney, 806 Carey Ln, 305 292-3745

MaryJo Rooney, 806 Carey Ln, 617 308-6268

Richard Jenkins, 808 Carey Ln, 954 931-5067

Bev Jenkins, 808 Carey Ln, 954 931-5067

Trish Brennan 816 Carsten Ln,