



THE CITY OF KEY WEST
Code Compliance Division

P.O. BOX 1409
KEY WEST, FL 33041
(305) 809-3740

AMMENDED NOTICE OF IRREPARABLE CODE VIOLATION AND ADMINISTRATIVE HEARING

DATE: March 14, 2013
RE: CASE NUMBER 13-292

CERTIFIED MAIL RECEIPT#: 7012 2210 0000 6252 7074

To:
Torres Real Estate LLC
1118 Fleming St
Key West, FL 33040

Subject Address:
Alexander's Guest House
1118 Fleming 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: Sec. 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: The subject property was held out and/or advertised as being available transiently on 22 February 2013 for a total of 17 units. Transient license is for 15 units only.

Count 2: Sec. 122-1371. - Transient living accommodations in residential dwellings; regulations.

(a) Intent. These regulations apply only to the transient use of residential dwellings. In 1986, the city enacted former zoning code section 35.24(44) which provided the following definition of a

transient living accommodation: "Commercially operated housing principally available to short-term visitors for less than twenty-eight (28) days." (This definition shall hereinafter be referred to as the "former transient definition.") Some property owners and developers interpreted the former transient definition to mean that an owner could rent his or her residential dwelling for less than half the year without the dwelling losing its residential status, and therefore without the need for a city-issued transient license (so long as state licensing requirements were met). This interpretation went unchallenged by the city. Three categories of transient use of residential dwellings resulted: (1) some owners obtained a transient license allowing unrestricted transient use; (2) some owners followed the former transient definition and, accordingly, rented their properties less than half the year; and (3) some owners put their residences to a transient use without city or state license and without regard to existing regulations. In addition, many residential dwelling owners never put their properties to a transient use and they no longer have the opportunity to do so under the city's current rate of growth ordinance.

The city commission finds that short-term or transient rentals affect the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship; although short-term tenants no doubt are good citizens generally, they do not ordinarily contribute to activities that strengthen a community.

Therefore, the city intends by these regulations to establish a uniform definition of transient living accommodations, and to halt the use of residences for transient purposes in order to preserve the residential character of neighborhoods. The city has provided only a brief phase-out period in recognition that in many instances investment expectations have already been met either through rental income or rising market value.

Finally, certain guest houses currently hold a number of the city's category 10C business tax receipt which denotes transient use of a residential property. The city intends to develop a uniform guest house business tax receipt category, and then to re-designate all 10C licenses held by guest houses accordingly.

(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 subject property was held out and/or advertised as being available transiently on 22 Feb 2013 for a total of 17 units when they are only licensed for 15.

Count 3: Sec. 122-599 Prohibited uses - 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.

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:**

March 27, 2013

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.**

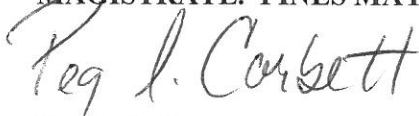
You have a right to have an attorney present at the hearing. If an attorney represents you, your attorney must file written notice with this office prior to the hearing date.

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) 809-3731 Desk
(305) 797-0665



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

DATE: March 14, 2013
RE: CASE NUMBER 13-292

CERTIFIED MAIL RECEIPT#: 7012 2210 0000 6252 7098

To:
Orlando F Torres, R/A
5742 West 2nd Court
Hialeah, FL 33012

Subject Address:
Alexander's Guest House
1118 Fleming Street
Key West, FL 33040

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(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: The subject property was held out and/or advertised as being available transiently on 22 February 2013 for a total of 17 units. Transient license is for 15 units only.

Count 2: Sec. 122-1371. - Transient living accommodations in residential dwellings; regulations.

(a) Intent. These regulations apply only to the transient use of residential dwellings. In 1986, the city enacted former zoning code section 35.24(44) which provided the following definition of a

transient living accommodation: "Commercially operated housing principally available to short-term visitors for less than twenty-eight (28) days." (This definition shall hereinafter be referred to as the "former transient definition.") Some property owners and developers interpreted the former transient definition to mean that an owner could rent his or her residential dwelling for less than half the year without the dwelling losing its residential status, and therefore without the need for a city-issued transient license (so long as state licensing requirements were met). This interpretation went unchallenged by the city. Three categories of transient use of residential dwellings resulted: (1) some owners obtained a transient license allowing unrestricted transient use; (2) some owners followed the former transient definition and, accordingly, rented their properties less than half the year; and (3) some owners put their residences to a transient use without city or state license and without regard to existing regulations. In addition, many residential dwelling owners never put their properties to a transient use and they no longer have the opportunity to do so under the city's current rate of growth ordinance.

The city commission finds that short-term or transient rentals affect the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship; although short-term tenants no doubt are good citizens generally, they do not ordinarily contribute to activities that strengthen a community.

Therefore, the city intends by these regulations to establish a uniform definition of transient living accommodations, and to halt the use of residences for transient purposes in order to preserve the residential character of neighborhoods. The city has provided only a brief phase-out period in recognition that in many instances investment expectations have already been met either through rental income or rising market value.

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1112 Curry Lane
Key West, FL 33040

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Key West, FL 33040

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