

SMITH/HAWKS  
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VIA HAND DELIVERY AND EMAIL

September 29, 2020

Cheri Smith, MMC, CPM, City Clerk  
City of Key West  
1300 White Street  
Key West, FL 33040  
Email: [CSmith@CityofKeyWest-FL.Gov](mailto:CSmith@CityofKeyWest-FL.Gov)

**COPY**

RECEIVED  
CITY CLERK'S OFFICE  
2020 SEP 29 PM 3: 17  
CITY OF KEY WEST  
KEY WEST, FLORIDA

**Re: Memorandum in Support of Appeal of the Substantial Improvement and Substantial Damage Determination for 1409-1413 Flagler, LLC 1413 Flagler Street, Key West, Florida (RE # 00040730-000000)**

Dear Cheri,

This firm represents the interest of 1409-1413 Flagler, LLC, a Florida limited liability company ("Owner"), the owner of the property located at 1413 Flagler Avenue, Key West, FL 33040 (the "Subject Property"). On August 21, 2020, we submitted a Notice of Appeal of the Substantial Improvement Determination and Substantial Damage Determination ("Appeal") that was rendered by the Floodplain Administrator, Scott G. Fraser ("Floodplain Administrator"), on or about August 12, 2020, pursuant to Section 34-129(2) of the City of Key West Code of Ordinances. A copy of the Notice of Appeal, which contains a copy of the Substantial Improvement Determination ("SI Determination") and Substantial Damage Determination ("SD Determination") appealed, along with the Floodplain Administrator's Substantial Improvement Analysis, is attached hereto as Exhibit "1". Please allow this letter to serve as a memorandum in support of the Appeal.

**BACKGROUND**

The Owner retained Gary the Carpenter Construction, Inc., a Florida corporation (the "Contractor") to perform renovations and repairs on the two-story building located on the Subject Property. The Contractor has worked as a certified building contractor and a registered roofing contractor in the State of Florida since 2003.

On or about September 3, 2019, the Contractor submitted Building Permit Application No. 2019-3125 ("Subject Permit") for renovations and repairs to the first and second floor of the Subject Property, which were estimated to cost approximately \$114,240.00. After the Floodplain Administrator performed the first Substantial Improvement analysis, the Subject Permit was subsequently revised on or about October 23, 2019, to reduce the scope of work, thereby reducing the estimated cost of the improvements to \$57,240.00.

{00207920 - v6 }

On or about May 18, 2020, the Contractor submitted a Cost of Improvements Affidavit for a Substantial Improvement review of the Subject Property, which stated that the total cost for the labor and materials (including overhead and profit) for the entire renovation project is \$59,660.00. On May 29, 2020, the Contractor submitted an additional affidavit (hereinafter referred to as the “Contractor’s Affidavit”), with multiple receipts and proposals attached thereto, affirming that the total estimated cost for the renovation of the Subject Property is \$59,660.00.<sup>1</sup> A copy of the Contractor’s Affidavit is attached hereto as Exhibit “2”.

It is undisputed that the pre-renovated market value of the structure on the Subject Property was \$165,394.00. When the cost of renovations and/ or repairs equals or exceeds 50 percent of the pre-renovated market value of the structure, the improvements are considered to be a “Substantial Improvement” under Section 34-132 of the City of Key West Code of Ordinances (“Code”). As such, the 50% threshold for determining whether the improvements to the Subject Property are considered substantial is \$82,697.00.

Based on the cost of improvements submitted by the Contractor, the renovations are below the 50% threshold and therefore do not constitute a “substantial improvement.” Nevertheless, on August 12, 2020, the Floodplain Administrator issued an SI Determination based on his finding that the value of the improvements to the Subject Property amount to \$114,001.00, which is \$31,304 (68.9%) over the 50% threshold. The Floodplain Administrator’s SI Determination further found that “[b]ased on the City standard renovation cost value of 185<sup>sf</sup> for the 714<sup>sf</sup> of reconstruction, the improvement value is \$132k (79%).” The Floodplain Administrator stated that the SI Determination was based on his review of “receipts and estimates submitted, coupled with the [Chief Building Official’s] value for improvements not yet constructed nor permitted – in a light most favorable to the property owner[.]” See Floodplain Administrator’s SI Analysis, p. 5.

### **BASIS FOR APPEAL**

Pursuant to FEMA’S Substantial Improvement/ Substantial Damage Desk Reference P-758 (“FEMA Desk Reference”), an owner may appeal an SI/SD determination on the basis of insufficient information, errors, repair/improvement costs that should be included/excluded, inappropriate valuations of costs for the proposed work, or an inappropriate method to determine the market value of the building. See FEMA Desk Reference, p. 5-9.

#### **I. THE SUBSTANTIAL IMPROVEMENT DETERMINATION**

Section 34-125 of the Code establishes the “[d]uties and powers of the floodplain administrator.” SI and SD Determinations by the Floodplain Administrator are specifically governed by Section 34-125(4) of the Code, which states in relevant part the following:

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, shall:

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<sup>1</sup> A copy of the Cost of Improvements Affidavit was also attached to the Contractor’s Affidavit as Exhibit B. (00207920 - v6 )

- (a) Estimate the market value, or require the applicant to submit appraisals - not older than one year - of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; for proposed work to repair damage caused by flooding, the determination requires evaluation as specified in the definition of "substantial damage"[]

Furthermore, Section 34-125(4)(e) of the Code contains a list of the costs that the Floodplain Administrator must include when making an SI or SD Determination. Section 34-125(4)(e) provides that pursuant to FEMA desk reference P-758, the floodplain administrator shall include the following costs:

- i. Materials, labor, including the estimated value of donated or discounted materials and owner or volunteer labor as explained in Secs. 4.4.4 & 4.4.5 of FEMA desk reference P-758;
- ii. Site preparation related to the improvement or repair;
- iii. Demolition and construction debris disposal as explained in Sec. 4.4.6 of FEMA desk reference P-758;
- iv. Labor and other costs associated with demolishing, moving, or altering building components to accommodate improvements, additions, and making repairs as explained in Secs. 4.4.6 & 4.4.7 of FEMA desk reference P-758;
- v. Costs associated with complying with any other regulations or code requirement that is triggered by the work, including costs to comply with the requirements of the Americans with Disabilities Act as explained in Sec. 4.4.8 of FEMA desk reference P-758;
- vi. Costs associated with elevating a structure when the proposed elevation is lower than the Base Flood Elevation;
- vii. Construction management supervision;
- viii. Contractor's overhead and profit;
- ix. Sales tax on materials;
- x. Structural elements and exterior finishes;
- xi. Interior finish elements;
- xii. Utility and service equipment;

- xiii. In the event of an owner/builder, paragraphs i through xii shall be estimated as fair market value in the City of Key West.<sup>2</sup>

**A. THE FLOODPLAIN ADMINISTRATOR USED THE WRONG METHOD FOR DETERMINING THE COST OF THE IMPROVEMENTS**

The Contractor provided the City of Key West (“City”) with the costs for the improvements and repairs to the structure on the Subject Property. The Cost of Improvements Affidavit that was submitted on or about May 18, 2020, included a detailed breakdown of the actual and estimated cost of the labor and materials needed for the improvements. *See Exhibit 2.* However, the City arbitrarily rejected those costs and instead relied on its own valuation of the cost of the improvements. The Floodplain Administrator claims that the SI Determination was based on the “newly supplied private building value appraisal, material receipts, a site visit and *typical construction costs* in a light most favorable to the property owner.” (emphasis added). Nothing in Section 34-125 or any other provision of the Code authorizes the Floodplain Administrator to substitute the actual costs provided by the Contractor with “typical construction costs.”

The method for determining the cost of improvements and the cost of repairs for purposes of an SI and SD determination is governed by Section 4.4 of the FEMA Desk Reference. *See Code Sec. 125(4)(e).* Section 4.4.3 of the FEMA Desk Reference specifically states that an acceptable method to determine the costs is based on “[i]temized costs of materials and labor, or estimates of materials and labor that are prepared by licensed contractors or professional construction cost estimators.” Here, a licensed contractor provided the City with an itemized list of the estimated and actual cost of the materials and labor in accordance with Section 4.4.3 of the FEMA Desk Reference. *See Exhibit 2.* Therefore, it was improper for the Floodplain Administrator to substitute the costs provided by the Contractor with his own arbitrary determination of the cost of the improvements.

Pursuant to Sections 4.4.4 and 4.4.5 of the FEMA Desk Reference, estimated market value can be relied on to determine the cost of donated or discounted materials and volunteer labor. The Owner did not have any donated or discounted materials, or volunteer labor. As such, the Floodplain Administrator did not have authority to substitute the actual and estimated cost of materials and labor provided by the Contractor with what he determined to be “typical construction costs.”

Moreover, it is improper for the Floodplain Administrator to attribute higher costs to the materials than the actual cost of the materials that the Owner plans to use. When choosing construction materials, there is a wide range of options that an owner can choose from. These options can vary significantly in cost based on the quality, brand, and availability of the materials. For instance, Dade County Pine and Mahogany are significantly more expensive than Oak, and granite is significantly more expensive than laminate. The same is true with respect to fixtures from Restoration Hardware, which are exponentially more expensive than fixtures from Home Depot. Faucets from Restoration Hardware currently range from \$750.00 to \$1,155.00, whereas faucets from Home Depot start at \$13.47.

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<sup>2</sup> Section 34-125(4)(e)(xiii) of the Code does not apply here given that the Owner retained the Contractor to perform the renovations and repairs to the Subject Property.

Here, the materials the Owner utilized were for an efficiency unit that is quasi affordable housing. It will have laminate flooring and low-end Home Depot fixtures and furnishings and should not be comparable to the remodeling of a high end or mid-range remodeling. In order to keep construction costs low, the Owner intentionally selected inexpensive materials for the renovation project when possible. There is a distinction between inexpensive materials and discounted materials. While the estimated market value can be used to determine the cost of discounted materials, the same is not true for inexpensive materials where the actual cost of the materials shall be used.

The amounts provided by the Contractor in the Cost of Improvements Affidavit are accurate based on the materials selected by the Owner for the renovations and repairs. For instance, the average cost of laminate flooring, including the cost of installation, is between \$2.00 and \$8.00 per square foot.<sup>3</sup> The Cost of Improvements Affidavit states that the estimated cost of flooring for the Subject Property, which is 714 square feet, is \$3,000.00. *See* Exhibit 2. This means that the estimated cost of flooring for the Subject Property is approximately \$4.20 per sq ft, which is consistent with the national average. Furthermore, the average cost for an interior door, including installation is between \$149 and \$348.<sup>4</sup> The Cost of Improvements Affidavit states that the cost for the two (2) interior doors is \$560.00, which again is consistent with the national average.

If Mr. Fraser’s procedure is utilized, any project could and most likely would trigger a substantial improvement requirement to raise above Base Flood Elevation for homes in New Town that typically spend far less on home improvements than homes in Old Town. An 1,800 sq ft home in New Town that is valued at \$200,000.00 would exceed the substantial improvement threshold by doing an interior renovation of 550 square feet of the home, less than 1/3 of the home based on this formula.

The Floodplain Administrator’s SI and SD Determinations are inconsistent with “[b]uilding valuation tables published by building code organizations and cost-estimating manuals and tools available from professional building cost-estimating services[,]” all of which take into account the quality of the construction when determining the value of improvements and repairs. *See* FEMA Desk Reference, Sec. 4.4.3. Marshall & Swift is one of the leading cost-estimating services in the industry and estimates construction costs using cost data, which is continuously updated and adjusted to account for local differences. To provide an accurate cost estimate, Marshall & Swift adjusts the costs based on the quality of the construction, which is generally classified as low cost, average, good, very good or excellent. In this case, the Floodplain Administrator erred by failing to take into account the quality of the construction in violation of the industry standard for cost valuation.

## **II. THE SUBSTANTIAL DAMAGE DETERMINATION**

Section 34-132 of the Code defines “Substantial Damage” as “[d]amage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged

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<sup>3</sup> *See* <https://www.homeadvisor.com/cost/flooring/install-laminate-flooring/#:~:text=The%20average%20installation%20cost%20of,may%20be%20suitable%20for%20DIY,; see also> [https://www.homedepot.com/c/cost\\_install\\_laminate\\_floors](https://www.homedepot.com/c/cost_install_laminate_floors) (which states that the average cost of laminate flooring, including materials and installation is between \$3.80 and \$4.80 per square foot).

<sup>4</sup> *See* [https://www.homedepot.com/c/cost\\_install\\_doors](https://www.homedepot.com/c/cost_install_doors).

condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.” In order to make a Substantial Damage Determination, the Floodplain Administrator must first make a determination as to the cost of the repairs.<sup>5</sup> See Code Sec. 34-125(4)(b).

Here, the Floodplain Administrator made an SD Determination without determining the cost of the repairs in violation of Section 34-125(4)(b) of the Code. Instead, the Floodplain Administrator made the baseless assumption that the cost to repair the Subject Property was equivalent to the cost of the proposed improvements. While the cost of improvements can include the cost to repair, the cost to repair is limited to the cost of the “work necessary to restore a damaged building to its pre-damage condition.” See FEMA Desk Reference, p. 4-4.

The SD Determination states that the “City has determined at least sixty-eight percent (68.9%) of this structure has been damaged by accumulated deterioration or decay since its construction during 1948.” The Floodplain Administrator failed to provide any basis for this determination. However, it is clear this finding was based on the Floodplain Administrator’s determination that the cost of improvements (rather than repairs) are valued at \$114,001.00, which is 68.9% of the market value of the structure. See Floodplain Administrator’s SI Analysis, p. 6. Therefore, the Floodplain Administrator improperly issued an SD Determination based on the alleged cost of improvements rather than the cost to repair the Subject Property to its pre-damaged condition in violation of Sections 34-125 and 34-132 of the Code.

### CONCLUSION

The Owner requests that the City Commission review the proposed renovations and repairs to the Subject Property under the standards contained in Chapter 34 of the Code and the FEMA Desk Reference, and respectfully requests that the Subject Improvement and Substantial Damage Determinations be overturned pursuant to Section 34-129 of the Code.

Sincerely,



Nikki Pappas

NP/bg

Enclosures

Cc:

Scott Fraser, CFM, [SFraser@CityofKeyWest-FL.Gov](mailto:SFraser@CityofKeyWest-FL.Gov)

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<sup>5</sup> In other words, an insurance adjuster cannot determine if a vehicle is totaled after an accident without first determining how much it will cost to repair the vehicle.





SMITH HAWKS, PL  
OPERATING ACCOUNT  
138 SIMONTON STREET  
KEY WEST, FL 33040

BB&T  
BRANCH BANKING AND TRUST COMPANY  
1-800-BANK BBT BBT.com  
63-9138/2631

7310

8/21/2020

PAY TO THE ORDER OF City of Key West

\$\*\*2,000.00

Two Thousand and 00/100\*\*\*\*\*

DOLLARS

City of Key West  
1300 White Street  
Key West, FL 33040

MEMO

Fee for Appeal of Substantial Improvement Determin

*[Handwritten Signature]*  
AUTHORIZED SIGNATURE



SMITH HAWKS, PL OPERATING ACCOUNT

7310

City of Key West

8/21/2020

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SMITH HAWKS, PL OPERATING ACCOUNT

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City of Key West

8/21/2020

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SMITH/HAWKS  
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Email: [Nikki@SmithHawks.com](mailto:Nikki@SmithHawks.com)

VIA HAND DELIVERY AND EMAIL

August 21, 2020

Cheri Smith, MMC, CPM, City Clerk  
City of Key West  
1300 White Street  
Key West, FL 33040  
Email: [CSmith@CityofKeyWest-FL.Gov](mailto:CSmith@CityofKeyWest-FL.Gov)

**Re: Notice of Appeal of Substantial Improvement Determination for  
1409-1413 Flagler, LLC – 1413 Flagler Street, Key West, Florida  
(RE # 00040730-000000)**

Dear Cheri,

Please allow this correspondence to serve as a Notice of Appeal of the Substantial Improvement Determination that was rendered by the Floodplain Administrator, Scott G. Fraser, on or about August 12, 2020, pursuant to Section 34-129(2) of the City of Key West Code of Ordinances. A copy of the Substantial Improvement Determination appealed, along with the Floodplain Administrator's Substantial Improvement Analysis, is attached hereto as composite Exhibit "A". A check in the amount of \$2,000.00 is enclosed for payment of the fee for the appeal.

Please contact me regarding coordinating the appeal. Thank you for your consideration and assistance, and please do not hesitate to contact me with any questions.

Sincerely,



Nikki Pappas

NP/bg

Enclosure

Cc:

Scott Fraser, CFM, [SFraser@CityofKeywest-FL.Gov](mailto:SFraser@CityofKeywest-FL.Gov)

**COMPOSITE  
EXHIBIT A**



THE CITY OF KEY WEST

Post Office: Box 1409 Key West, FL 33041 (409) 305-809 (811)

August 12, 2020

Key West FL 33040

RE: Notice of Substantial Improvement Determination - 1413 Flagler Ave, Key West, FL 33040 - Parcel ID # 00040730-000000

1409-1413 FLAGLER LLC  
PO Box 1527  
Key West FL 33040

The City Building Department has determined that this structure is located within a mapped Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM), Panel 12087C1516K, with an effective date of February 15, 2005. As required by our floodplain management ordinance and/or Florida Building Code, we have evaluated the permitted renovations, improvements made beyond the permitted scope of work, proposed repairs along with pending work yet to be completed and determined that these improvements constitute a Substantial Improvement of this structure.

This determination is based on a comparison of the cost estimate of the proposed cost of repairs to the pre-renovation market value of the structure (excluding land value). When the cost of repairs equals or exceeds 50 percent of the pre-renovated market value of the structure, the improvements are considered to be a Substantial Improvement under the requirements of the National Flood Insurance Program (NFIP) and the city's Floodplain Management Ordinance dated May 17, 2016.

As a result of this determination, you are required to bring the existing building and additions to this building into compliance with the flood damage-resistant provisions of the regulations and/or code [FBC Sec. 1612].

We would be pleased to meet with you and your designated representative (architect/builder) to discuss how to bring your building into compliance. There are several aspects that must be addressed to achieve compliance. The most significant requirement is that the lowest floor, as defined in the regulations/code, must be elevated to or above the Design Flood Elevation (DFE). You may wish to contact your insurance agent to understand how raising the lowest floor higher than the minimum required elevation can reduce NFIP flood insurance premiums.

When you're ready, please submit a permit application along with plans and specifications that incorporates compliance measures. Construction activities that are undertaken without proper permits are violations and may result in citations, fines, or other legal action.

Yours truly,

**Scott Fraser**

Scott Fraser, Floodplain Administrator

*Key to the Caribbean - average daily temperature 77° Fahrenheit.*

**COMPOSITE EXHIBIT A**



THE CITY OF KEY WEST

City Office Box 1409 Key West, FL 33040, 1409 (305) 892-3810

August 12, 2020

1409-1413 FALGLER LLC  
PO Box 1527  
Key West FL 33040

RE: Notice of Substantial Damage Determination - 1413 Flagler Ave, Key West, FL 33040 – Parcel ID # 00040730-000000

To: 1409-1413 FALGLER LLC

The City of Key West has assessed the existing storm-damaged residential structure located at 1413 Flagler Ave, Key West, FL 33040 – Parcel ID #00040730-000000 that was damaged as a result of accumulated deterioration or decay.

The City Building Department has determined that this structure is located within a mapped Special Flood Hazard Area on the Flood Insurance Rate Map (FIRM), Panel 12087C1516K, with an effective date of February 18, 2005. As required by our floodplain management ordinance and/or Florida Building Code, we have evaluated the proposed repairs and determined that the damage constitutes Substantial Damage for the structure. This determination is based on a comparison of the cost estimate of the proposed cost of repairs to the pre-damage market value of the structure (excluding land value). When the cost of repairs equals or exceeds 50 percent of the pre-damage market value of the structure, the damage is considered to be Substantial Damaged under the requirements of the National Flood Insurance Program (NFIP) and the city's Floodplain Management Ordinance dated May 17, 2016.

The City has determined at least sixty-eight percent (68.9%) of this structure has been damaged by accumulated deterioration or decay since its construction during 1948.

As a result of this determination, you are required to bring the building into compliance with the flood damage-resistant provisions of the regulations and/or code [FBC Sec. 1612].

We would be pleased to meet with you and your designated representative (architect/builder) to discuss how to bring your home into compliance. There are several aspects that must be addressed to achieve compliance. The most significant requirement is that the lowest floor, as defined in the regulations/code, must be elevated to or above the Design Flood Elevation (DFE). You may wish to contact your insurance agent to understand how raising the lowest floor higher than the minimum required elevation can reduce NFIP flood insurance premiums.

When you're ready, please submit a permit application along with plans and specifications for reconstruction home that incorporates compliance measures. Construction activities that are undertaken without a proper permit are violations and may result in citations, fines, or other legal action.

Yours truly,

**Scott Fraser**

Scott Fraser, FEMA Coordinator/Floodplain  
Administrator

*Key to the Caribbean – average daily temperature 77 ° Fahrenheit.*

**COMPOSITE EXHIBIT A**

## Substantial Improvement Analysis

### Second Review

1413 Flagler Ave, Key West

August 13, 2020

Roofing #19-0444

Demo, Partial #19-0471

Building Permit: #19-1029  
(Tie beams)

Building Permit: #19-3125  
(Storage area)

Mechanical #19-3126

Plumbing #19-3127

Electrical #19-3133  
(Single unit w/storage under)



Scott G. Fraser, Floodplain Administrator  
City of Key West  
1300 White Street  
Key West, FL 33040  
305-809-3810  
sfraser@CityofKeyWest-FL.gov

**Purpose:**

An initial Substantial Improvement Analysis was performed during September 2019 which concluded the intended renovations would exceed the 50% threshold. Among the options for reanalysis presented in that report was the opportunity to submit a private appraisal, which the Owner now presents.

Further information regarding the value of improvements submitted by the owner was also considered as part of this second analysis.

**Site:**

Pending Building Permit Applications are for extensive renovations to a residential two-story CBS pre-FIRM<sup>1</sup> structure originally constructed during 1948. This building is separate from and behind a single-story residential duplex on the same lot; the other front building has an assigned street addresses of 1409-1411 Flagler Ave. The relevant building is within a FEMA designated AE-6 flood zone<sup>2</sup> within the Special Flood Hazard Area. This building isn't a contributing historic structure.

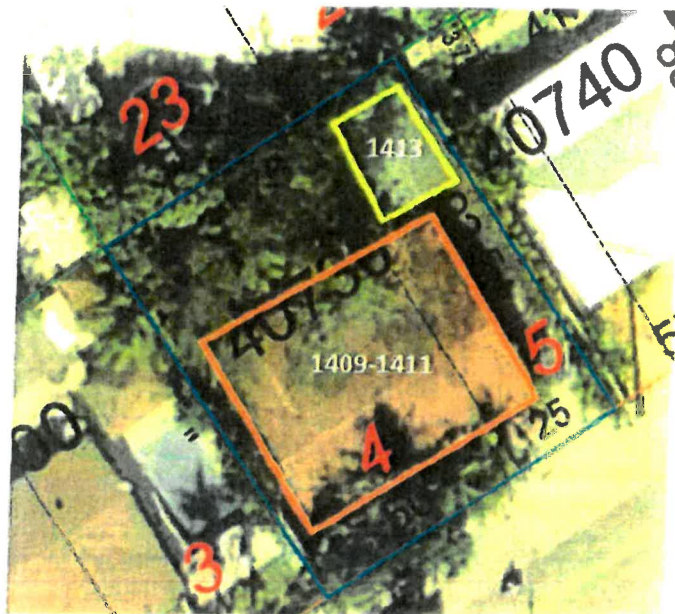


Figure 1 Yellow = Subject Building; Orange = Front building

No Elevation Certificate for this building was submitted. An earlier certificate (attached) for the adjacent front building shows the highest adjacent grade at an elevation of +5.6-ft NGVD<sup>3</sup>. The first finished floor of the relevant building is slab-on-grade very close to the ground level. Absent certified elevations, this building is approximately -1.4-ft below the minimum flood elevation at this site for substantially renovated buildings. The initial construction plans submitted<sup>4</sup> show the ground floor is intended as inhabited space.

<sup>1</sup> Prior to 12/31/1974 FEMA's default FIRM date for Key West

<sup>2</sup> FIRMette Attachment C

<sup>3</sup> Line C2g of Elevation Certificate for 1409-1411 Flagler Ave dated 5/15/2020

<sup>4</sup> Plans page A101 dated 8/21/19



**NFIP Requirements & Duties of the Floodplain Administrator:**

The community's participation in the National Flood Insurance Program (NFIP) – administered by FEMA - is contingent upon its compliance with program requirements; The City is regularly audited by FEMA (for the NFIP) and the Insurance Services Office (ISO for the CRS) to ensure compliance. Chief among these requirements is enforcement of rules regarding the mitigation of Substantially Improved/Damaged structures within the Special Flood Hazard Area.

The City's participation in FEMA's Community Rating Program (CRS) – 25% discount – hinges entirely upon the City's compliance with basic NFIP program requirements, especially with structures substantially improved or substantially damaged.

During the early 1970s, buildings existing before flood maps were created, were grandfathered into the NFIP at their given elevations. This grandfathering is extinguished<sup>5</sup> and mitigation against flood damage required once the structure has been improved by more than 50% of its depreciated market value, known as Substantial Improvement or the 50% Rule; with residential uses this usually requires either elevation or reconstruction. With instances of Substantial Damage, all building improvements must meet minimal flood mitigation standards.

The City's Floodplain Administrator is charged<sup>6</sup> with the responsibility of making Substantial Improvement/Damage determinations and does so with in consultation with the Chief Building Official.

The Florida Building Code authorizes the Chief Building Official to set the value of proposed construction<sup>7</sup>.

**Background/History:**

During late April 2019, City Building Inspectors and the Floodplain Administrator began receiving complaints that buildings at this location within a flood zone were being renovated beyond the 50% Substantial Improvement threshold without complying with required minimum flood elevation requirements. These complaints originated from contractors concerned with disparate treatment.

After conferring with then-Chief Building Official (CBO) Ronald Wampler, the Floodplain Administrator conducted a site visit accompanied by a Building Inspector. Work on the front building (1409-1411 Flagler) was found to have vastly exceeded the permitted scope of work; the rear two-story concrete structure (1413 Flagler) had been gutted as well. The contractor was notified both buildings would be flagged for 50% review as new permit requests were received.

Further permitting of the front building was stalled until compliance with flood damage mitigation requirements was demonstrated via elevation; which was accomplished. That building was elevated and is now completed and not subject of this analysis.

February 7, 2019 – Building permit #BLD2019-0444<sup>8</sup> was issued for:

“Remove existing roofing on accessory structure and replace plywood as necessary, replace fascia. Install Grace Ice and Water shield and V-Crimp panels. 530 sq. ft.”

February 8, 2019 – Building permit #BLD2019-0471 was issued for:

“Demo interior and fixtures for accessory structure for exploratory purposes.”

<sup>5</sup> Exceptions for Historic Contributing Structures

<sup>6</sup> City of Key West Ordinances Sec. 34-125(4) Duties and powers of the floodplain administrator

<sup>7</sup> 2017 FBC, Building, Sixth Edition, [A] Sec. 109.3

<sup>8</sup> Photographs in Attachment D



March 18, 2019 – Building permit #BLD2019-1029 was issued to replace the mid-level and top tie beams.

April 30, 2019 – Following complaints, the Floodplain Administrator conducted a site visit.

The front building was determined to be a Substantial Improvement, with elevation required.

This rear building did not yet have a renovations permit submitted, only permits for tie-beam replacements, roofing repair and exploratory demolition. Thus, no Substantial Improvement Determination was made. However, the building was flagged for review when renovation applications are received. The contractor (Gary the Carpenter) was notified of this status.

September 3, 2019 – Building Permit Application #BLD2019-3125 was submitted for:

“RENOVATION TO UPSTAIRS & DOWNSTAIRS UNITS NEW KITCHEN BATH AND BEDROOM  
REPLACE WINDOWS & ENTRANCE DOORS.”

The plans didn't indicate any intended elevation of the existing first finished floor to the minimum flood elevation for substantially improved buildings within the SFHA.

September 17, 2019 - The City Floodplain Administrator reviewed the application<sup>9</sup>, and performed the first Substantial Improvement analysis<sup>5</sup>.

October 23, 2019 – Following receipt of the Substantial Improvement Analysis, the Contractor submitted a revision to Building Permit Application #BLD2019-3125, stipulating the ground floor unit wouldn't be finished nor occupied and would only be used for storage:

“downstairs unit for storage only, upstairs apartment to remain revise project cost.”

The Floodplain Administrator advised approval would be rendered with this revision after the owner filed a Non-Conversion Agreement with the County Clerk, stipulating habitation of the ground unit wouldn't occur. The Contractor subsequently advised the Owner didn't wish to file such a document. Thus, the permit hasn't been issued.

July 28, 2020 – A site visit was conducted with CBO Terrence Justice, the Floodplain administrator, Contractor along with attorneys for the City and the property owner.

Contractor advises they will opt for window A/C units rather than central air conditioning as plug-in appliances don't count toward 50% calculations.

August 13, 2020 – The Floodplain Administrator completed the requested second Substantial Improvement analysis.

#### **New Observations:**

A site visit agreed upon by the property owner, found renovations had continued upon this structure despite a lack of certain permitting. Earlier claims that the old doors would be re-used were discounted upon observing all new metal exterior doors had already been installed. Also installed were new windows throughout the building, soffits, fascia, floor blocking, Durock flood overlay, roof lookouts, porch roof with rafters, strapping, rim boards and the exterior had been refinished with new stucco.

Only about 20% of the roof's underlying planking had been replaced. The interiors remained unfinished and new upper and lower tie beam replacements completed.

#### **Details**

<sup>9</sup> City of Key West Ordinances Sec. 34-125(4) Duties and powers of the floodplain administrator

- **Building Value**

- The newly submitted private appraisal has the depreciated market value of this structure as \$165,394, reflecting a 26% increase (+\$44k) over the earlier adjusted Property Appraiser's value for this building. This raises the 50% threshold in the Owner's favor.



Figure 2 April 30, 2019



Figure 3 July 28, 2020

**Value of Improvements:**

- The original self-declared value of improvements was \$154,537 (93.4%).
- Based upon the City standard renovation cost value of \$185<sup>sf</sup> for the 714<sup>sf</sup> of reconstruction, the improvement value is \$132k (79%).
- Reviewing receipts and estimates submitted, coupled with the CBO's value for improvements not yet constructed nor permitted – in a light most favorable to the property owner – these improvements are valued at \$114,001 (68.9%), or \$31,304 beyond the 50% threshold.
  - This is down from an improvement value of 127.4% from the 2019 analysis, which didn't include the recommended private property appraisal, which has since been submitted.

Staff attempts to engage a professional construction costs estimator were unsuccessful due to a lack of adequate construction plans and Owner's counsel asserting what was submitted is all that's required by law; staff objects to this concept and cites the following:

- The Floodplain Administrator needs and requires such plans to further reconsider the 50% Substantial Improvement threshold.
  - City Ord. Sec. 34-126. – Permits para. 3 (g) –
    - *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The Information provided shall:
      - Give such other data and information as required by the floodplain administrator.
  - City Ord. Sec. 34-125 - Duties and powers of the floodplain administrator

- *Para 4 - Substantial improvement and substantial damage determinations.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, shall:
  - \* Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; for proposed work to repair damage caused by flooding, the determination requires evaluation as specified in the definition of "substantial damage"; and
- The Building Plans Reviewer will need engineered drawing depicting the roofing repairs before such a permit may be issued.
  - Florida Building Code 6<sup>th</sup> Edition, Sec. 107 - Submittal Documents

**Summary:**

Reconsideration took into account a newly supplied private building value appraisal, material receipts, a site visit and typical constructions costs in a light most favorable to the property owner.

Upon second review, the Floodplain Administrator has determined this structure qualifies as both Substantially Damaged (via accumulated deterioration or decay<sup>10</sup>) and Substantially Improved through the proposed renovations. While the value of improvements decreased considerably from the earlier 2019 analysis [127.4% (93,902 over) to 68.9% (\$31,304 over)] the 50% threshold will be exceeded if the ground level unit is remodeled for any form of habitation.

As a Substantially Damaged structure, all repairs are required to achieve floodplain compliance upon project completion. Reconstruction of the ground floor enclosure as habitable space below the flood level fails to achieve compliance.

As a Substantially Improved structure, these plans also fail to achieve floodplain compliance.

FEMA's 50% threshold is an absolute; as it also is under the CRS program. There's no margin for additional tolerance, as the 50% is the tolerance threshold.

Options available to the homeowner include:

- Reconstruct the habitable living unit on the second floor, with the unfinished ground floor use limited to storage, in accordance with the Owner's most recent building permit revision request.
- Reconstruct the building at code-compliant elevation.
- Apply to the City Planning Board for a floodplain variance<sup>11</sup>, to which the City would object.
- Appeal this Substantial Improvement determination to the City Commission<sup>7</sup>.

<sup>7</sup> City of Key West Ordinances Sec. 34-129(2) Variances and appeals

<sup>10</sup> City of Key West Ordinances Sec. 34-132. - Definitions, specific

<sup>11</sup> City of Key West Ordinances Sec. 34-129(1) Variances and appeals

**Relevant Data: Owner:**

1409-1413 FLAGLER LLC PO Box 1527  
Key West FL 33041LLC  
PO Box 1527  
Key West FL 33041

Florida Limited Liability Company

1409-1413 FLAGLER, LLC  
Filing Information  
Document Number  
L19000021708  
FEI/EIN Number  
NONE

Date Filed  
01/25/2019  
State  
FL  
Status  
ACTIVE

Principal Address  
1409-1413 FLAGLER AVE  
KEY WEST, FL 33040  
Mailing Address  
500 FLEMING ST  
KEY WEST, FL 33040  
Authorized Person(s) Detail  
Name & Address

PO BOX 1527  
KEY WEST, FL 33040  
Registered Agent Name & Address  
STERLING, ERICA HUGHES

Title MGR  
ROSSI FAMILY LLLP  
1409-1413 FLAGLER AVE  
KEY WEST, FL 33040

# **Attachments**

**Substantial Improvement Analysis**

**Second Follow-up Review**

**1413 Flagler Ave, Key West**

**August 13, 2020**

**Attachment A**

1413 Flagler Ave

Building Value:                      \$165,394                      Pvt App

Permit Number	Permit Values		Percent Improvements
BLD2019-1029	\$ 32,000	RENOVATION EXTERIOR	
BLD2019-3125		RENOVATION EXTERIOR	
BLD2019-3126	\$ -	MECHANICAL HVAC	
BLD2019-3127	\$ 7,500	PLUMBING	
BLD2019-3133	\$ 6,000	ELECTRICAL	
TREE2019-0253	\$ -	CANOPY DICOT	
BLD2019-0444	\$ 8,000	Roofing	
BLD2019-0471	\$ 2,000	Demo, exploratory	
	\$ 17,500	Windows, Doors	
	\$ 2,800	Cabinates	
	\$ 3,000	2nd flr Durarock	
	\$ 8,000	Stucco	
	\$ 3,361	Drywall	
	\$ 4,000	façade	
		lookouts, framing, blocking, rafters, ceiling joists & strapping	
	\$ 5,000		
	\$ 3,800	Framing, interior	
	\$ 3,000	Flooring	
	\$ 1,800	Trim, interior	
	\$ 3,840	Plumbing fixtures	
	\$ 2,500	Insulation (missing from estimate)	
	\$ -	Painting	
	\$ 114,051	<b>Total Improvements</b>	<b>68.9%</b>

50% Threshold  
\$82,697

Excess of 50%  
\$31,334

PA Building Value	105,452	
Plus 15%	\$15,818	
Building Value:	\$121,270	

Negated with private appraisal



Attachment B



Figure 4 April 30, 2019

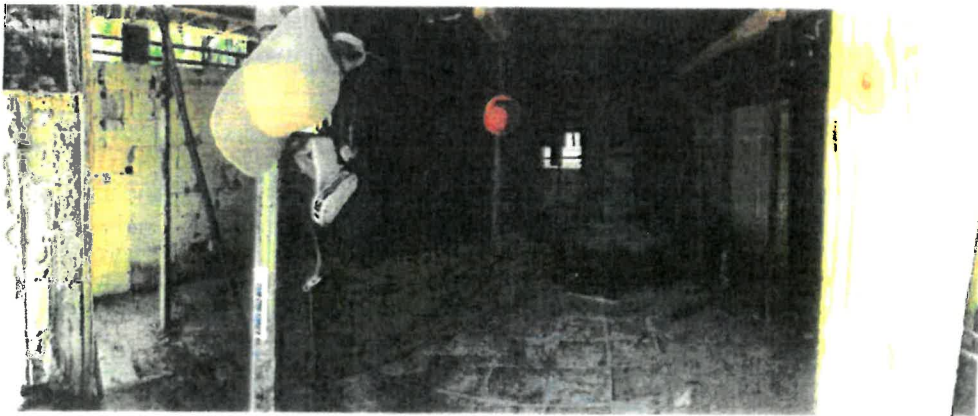


Figure 5 April 30, 2019





Figure 6 May 7, 2019



Figure 7 April 30, 2019

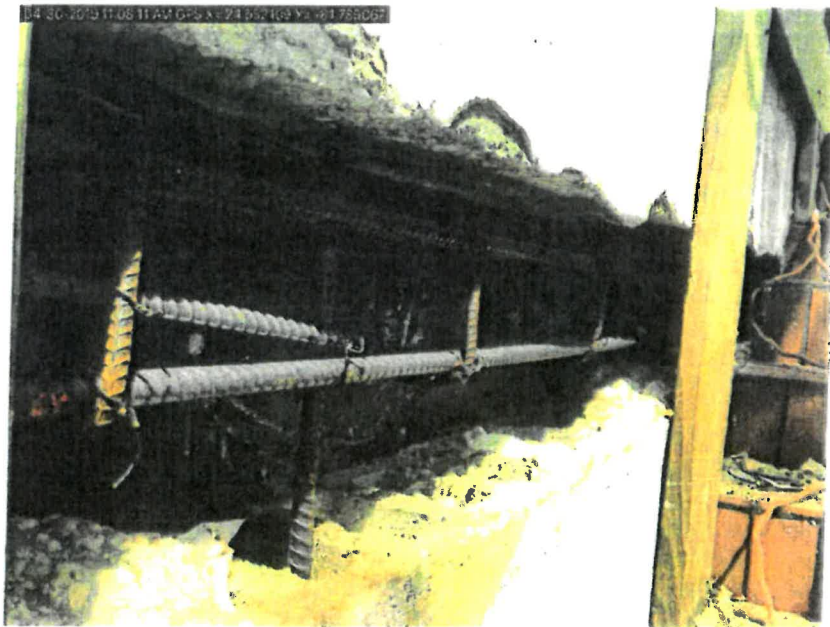


Figure 8 April 30, 2019

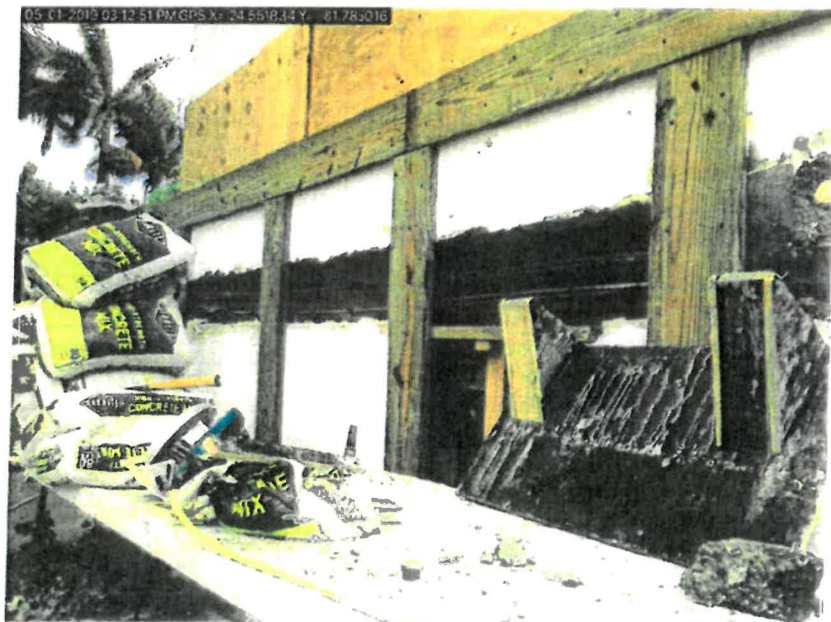


Figure 9 May 1, 2019

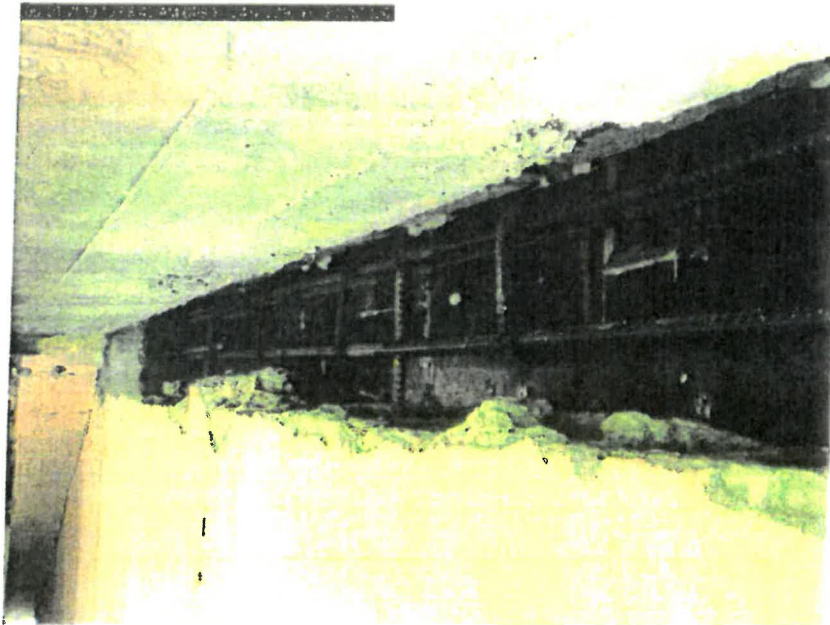


Figure 10 May 1, 2019



Figure 11 May 7, 2019





Figure 12 May 7, 2019



Figure 13 May 22, 2019

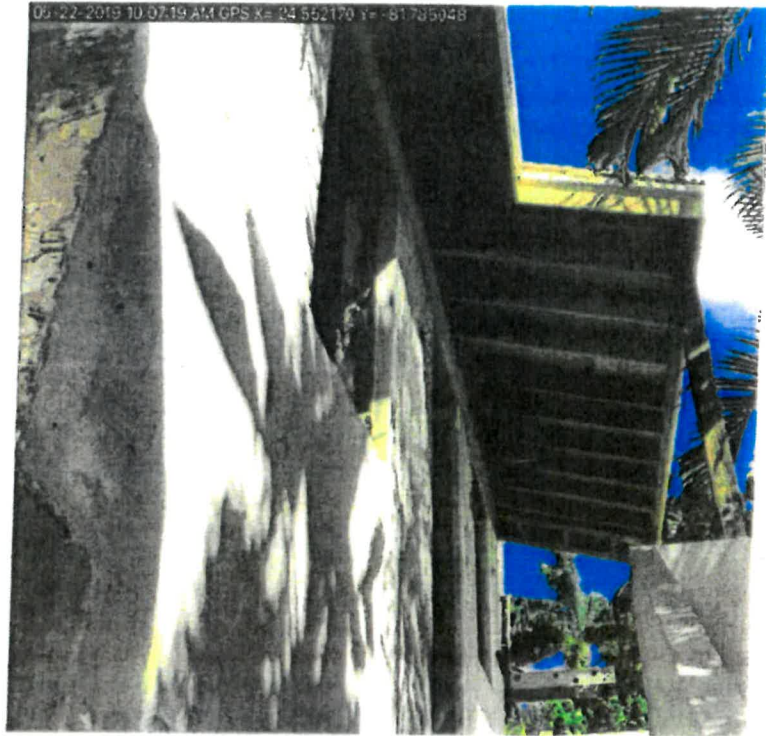
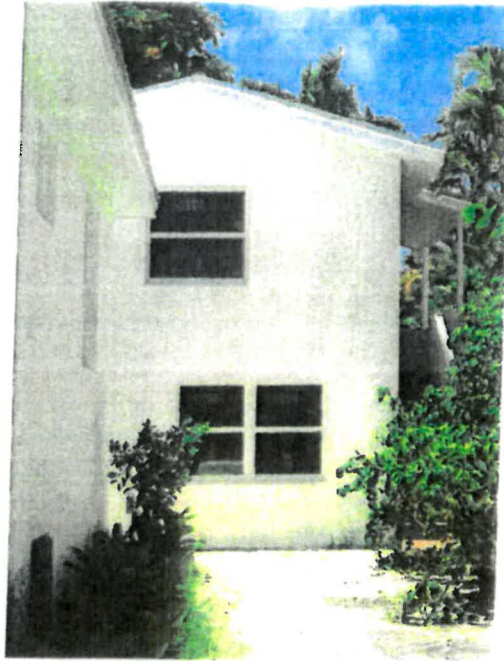


Figure 14 May 22, 2019



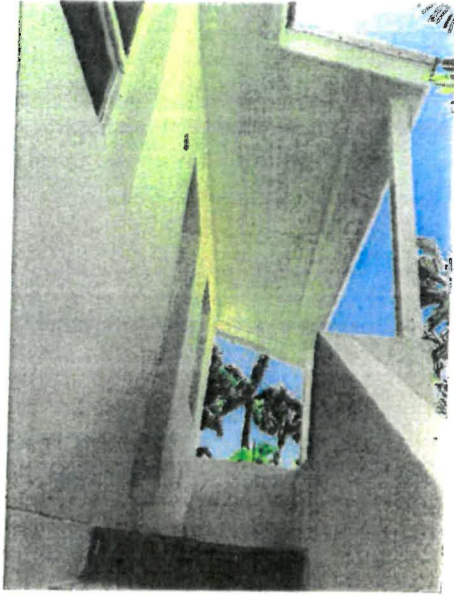
Figure 15



*Figure 16 July 28, 2019*



*Figure 17 July 28, 2019*



*Figure 18 July 28, 2019*



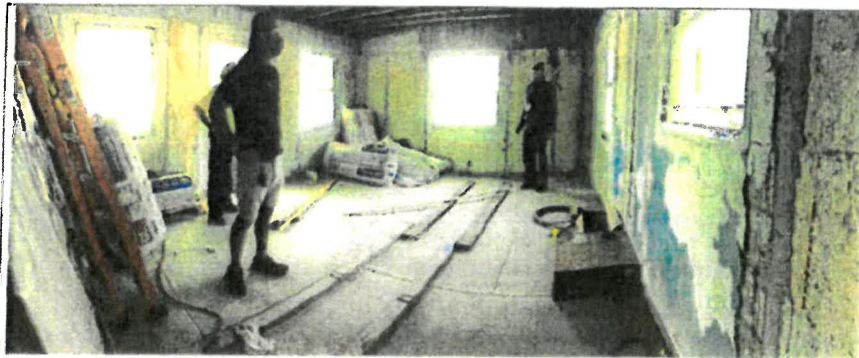


Figure 19 July 28, 2019 - 2<sup>nd</sup> Floor



Figure 20 July 28, 2019 Ground floor



Figure 21 July 28, 2019 - Ground floor

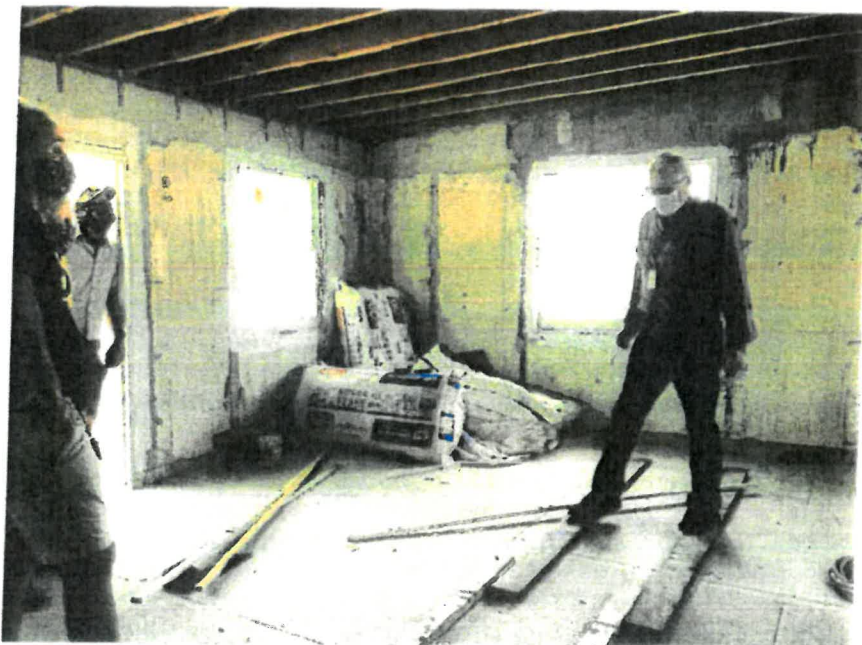


Figure 22 July 28, 2019 - 2nd floor







**Disclaimer**

The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for ad valorem tax purposes only and should not be relied on for any other purpose.

By continuing into this site you assert that you have read and agree to the above statement.

**Summary**

Parcel ID 00040730-000000  
 Account# 1041416  
 Property ID 1041416  
 Mitlage Group 10KW  
 Location 1413 FLAGLER Ave. KEY WEST  
 Address  
 Legal Description KW TROPICAL BLDG AND INVESTMENT CO SUB LOT 4 AND PT LOT 5 SQR 2 TR 19 PB1-34 OR264-408/09 OR455-920 OR781-1034 OR1165-2111 OR2933-1563 OR2933-1565 OR2947-0539  
*[Note: Not to be used on legal documents.]*  
 Neighborhood 6157  
 Property Class MULTI FAMILY LESS THAN 10 UNITS (0800)  
 Subdivision Tropical Building and Investment Co  
 Sec/Twp/Rng 05/68/25  
 Affordable Housing No



1041416 1413 FLAGLER AVE 02-21-19

**Owner**

1409-1413 FALGLER LLC  
 PO Box 1527  
 Key West FL 33041

**Valuation**

	2019	2018	2017	2016
+ Market Improvement Value	\$313,407	\$305,607	\$305,607	\$257,307
+ Market Misc Value	\$6,536	\$4,858	\$5,031	\$5,379
+ Market Land Value	\$307,714	\$319,324	\$316,993	\$356,691
= Just Market Value	\$627,657	\$629,789	\$627,631	\$619,377
= Total Assessed Value	\$627,657	\$556,673	\$506,067	\$460,061
- School Exempt Value	\$0	\$0	\$0	\$0
= School Taxable Value	\$627,657	\$629,789	\$627,631	\$619,377

**Land**

Land Use	Number of Units	Unit Type	Frontage	Depth
MULTI RES DRY (080D)	6,938.00	Square Foot	75	92.5

**Buildings**

Building ID	3183	Exterior Walls	C.B.S	
Style	GROUND LEVEL	Year Built	1953	
Building Type	M.F. - R2 / R2	Effective Year Built	1992	
Gross Sq Ft	1766	Foundation	CONCR FTR	
Finished Sq Ft	1610	Roof Type	GABLE/HIP	
Stories	1 Floor	Roof Coverage	CONC/CLAY TILE	
Condition	AVERAGE	Flooring Type	CONC ABOVE GRD	
Perimeter	206	Heating Type	NONE with 0% NONE	
Functional Obs	0	Bedrooms	4	
Economic Obs	0	Full Bathrooms	2	
Depreciation %	33	Half Bathrooms	0	
Interior Walls	PLYWOOD PANEL	Grade	SS0	
		Number of Fire Pl	0	
Code	Description	Sketch Area	Finished Area	Perimeter
FLA	FLOOR LIV AREA	1,610	1,610	0
OPF	OP PRCH FIN LL	156	0	0
TOTAL		1,766	1,610	0

Building ID 3184 Exterior Walls STONE/BRICK

9/17/2019

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Style	2 STORY ON GRADE	Year Built	1948
Building Type	M.F. - R2 / R2	EffectiveYearBuilt	1987
Gross Sq Ft	762	Foundation	CONCR FTR
Finished Sq Ft	714	Roof Type	GABLE/HIP
Stories	2 Floor	Roof Coverage	ASPHALT SHINGL
Condition	AVERAGE	Flooring Type	CONC ABOVE GRD
Perimeter	152	Heating Type	NONE with 0% NONE
Functional Obs	0	Bedrooms	2
Economic Obs	0	Full Bathrooms	2
Depreciation %	35	Half Bathrooms	0
Interior Walls	WALL BD/WD WAL	Grade	500
		Number of Fire Pl	0

Code	Description	Sketch Area	Finished Area	Perimeter
FLA	FLOOR LIV AREA	714	714	0
OPF	OP PRCH FIN LL	48	0	0
TOTAL		762	714	0

**Yard Items**

Description	Year Built	Roll Year	Quantity	Units	Grade
FENCES	1988	1989	1	114 SF	2
CONC PATIO	1988	1989	1	816 SF	2
ASPHALT PAVING	1964	1965	1	387 SF	1
CONC PATIO	2008	2009	1	384 SF	2

**Sales**

Sale Date	Sale Price	Instrument	Instrument Number	Deed Book	Deed Page	Sale Qualification	Vacant or Improved
1/29/2019	\$599,000	Warranty Deed	2204254	2947	0539	03 - Qualified	Improved
9/20/2018	\$100	Quit Claim Deed	2192289	2933	1565	30 - Unqualified	Improved
9/20/2018	\$100	Warranty Deed	2192288	2933	1563	30 - Unqualified	Improved

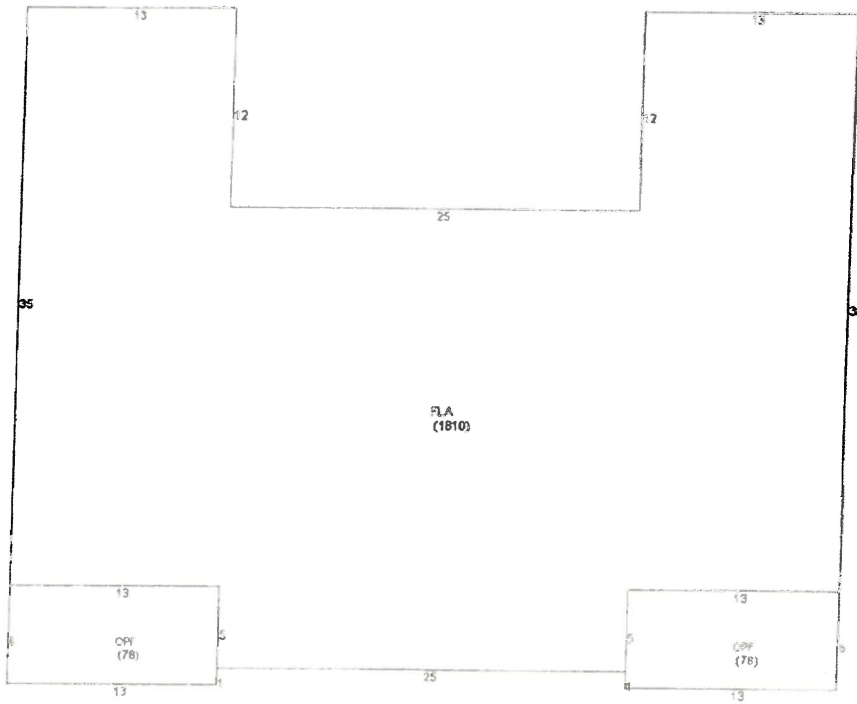
**Permits**

Number	Date Issued	Date Completed	Amount	Permit Type	Notes
19-1883	5/24/2019		\$15,000	Residential	ROUGH & SET 2 WC, 2 LAVS, 2 TUBS, 2 KITCHEN SINKS, 2 TANKLESS WATER HEATERS.
19-1871	5/23/2019		\$17,291	Residential	INSTALL ALL ELECTRICAL
19-1740	5/15/2019		\$125,000	Residential	ELEVATE FLOOR LEVEL & LIVING SPACE ABOVE FLOOD LEVEL, INTERIOR RENOVATION NEW EXTERIOR DOORS & WINDOWS NEW ROOF TRUSSES
19-1029	5/9/2019		\$10,000	Residential	REPLACE MID AND TOP TIE BEAMS ON WALL OF REAR BUILDING
19-0905	3/8/2019	3/19/2019	\$250	Residential	RELOCATE EXISTING TEMPORARY POWER FROM EXISTING 2 GANG METER CENTER TO POWER POLE TYPE TEMPORARY TO BE MOUNTED TO CONCRETE FENCE WALL. SAME SIDE LOCATION.
19-447	2/22/2019		\$16,250	Residential	REMOVE EXISTING ROOFING ON MAIN HOUSE INSTALL VCRIMP
19-471	2/22/2019		\$0	Residential	DEMO INT ADN INT FIXT FOR ACCESSORY STRUCTURE
19-0494	2/8/2019	2/14/2019	\$935	Residential	TEMPORARY ELECTRIC POWER POLE
19-470	2/7/2019		\$2,400	Residential	DEMO INT FINISHES AND FIXT ON MAIN HOUSE
19-444	2/6/2019		\$3,445	Residential	REMOVE EXIST ROOFING ON ACCESSORY STRUCTURE REPLACE IF NECESSARY
06-3379	6/5/2006	7/26/2006	\$2,300	Residential	RELOCATE AND INSTALL 2 GANG METER CENTER TO FRONT OF HSE
03-3674	10/22/2003	11/20/2003	\$1,500	Residential	BLDG#1 REPLACE SEWER
03-3677	10/22/2003	11/20/2003	\$2,000	Residential	BLDG#2 REPLACE SEWER

**View Tax Info**

[View Taxes for this Parcel](#)

Sketches (click to enlarge)

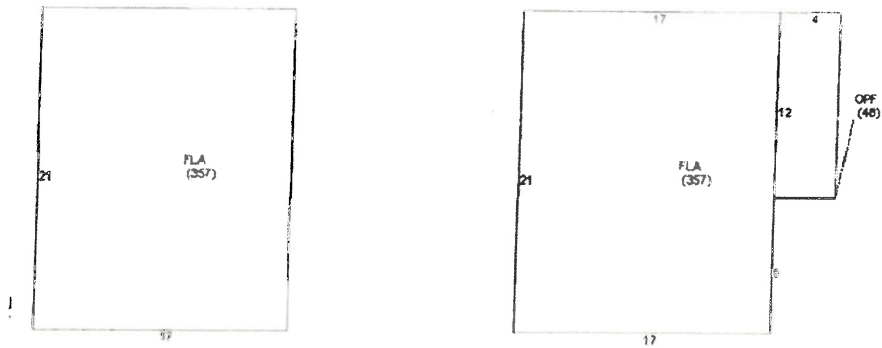


BUILDING # 1

# COMPOSITE EXHIBIT A

9/17/2019

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BUILDING #2

Photos

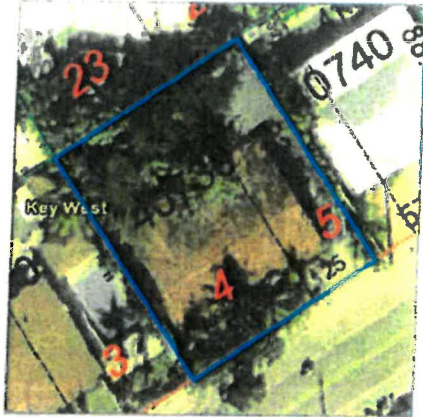




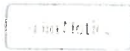
9/17/2019

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Map



**TRIM Notice**



2019 Notices Only

No data available for the following modules: Commercial Buildings, Mobile Home Buildings, Exemptions.

User Privacy Policy  
GDPR Privacy Notice

Last Data Upload: 9/17/2019, 5:52:47 AM

© 2019 Schneider  
Spatial



Version: 2.3.4

## ELEVATION CERTIFICATE

Important: Follow the instructions on pages 1-9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A - PROPERTY INFORMATION		FOR INSURANCE COMPANY USE
A1. Building Owner's Name 1409 1413 Flagler, LLC		Policy Number:
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 1409 - 1411 Flagler Avenue		Company NAIC Number:
City KEY WEST	State Florida	ZIP Code 33040
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) PARCEL ID # 00040730-000000		
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.)    RESIDENTIAL		
A5. Latitude/Longitude: Lat 24.55193 W    Long 81.79849 N    Horizontal Datum: <input type="checkbox"/> NAD 1927 <input checked="" type="checkbox"/> NAD 1983		
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.		
A7. Building Diagram Number    8		
A8. For a building with a crawlspace or enclosure(s):		
a) Square footage of crawlspace or enclosure(s)    1620.00 sq ft		
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade    12		
c) Total net area of flood openings in A8 b)    1848.00 sq in		
d) Engineered flood openings? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
A9. For a building with an attached garage:		
a) Square footage of attached garage    N/A sq ft		
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade    N/A		
c) Total net area of flood openings in A9 b)    N/A sq in		
d) Engineered flood openings? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION		
B1. NFIP Community Name & Community Number CITY OF KEY WEST    120168		B2. County Name MONROE
B3. State Florida		
B4. Map/Panel Number 12087C1517	B5. Suffix K	B6. FIRM Index Date 02-18-2005
B7. FIRM Panel Effective/Revised Date 02-18-2005		B8. Flood Zone(s) AC
B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth) 7		
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9. <input type="checkbox"/> FIS Profile <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> Community Determined <input type="checkbox"/> Other/Source		
B11. Indicate elevation datum used for BFE in Item B9: <input checked="" type="checkbox"/> NGVD 1929 <input type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other/Source		
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Designation Date: N/A <input type="checkbox"/> CBRS <input type="checkbox"/> OPA		

**ELEVATION CERTIFICATE**

OMB No. 1660-0008  
Expiration Date: November 30, 2022

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 1409 - 1411 Flagler Avenue			Policy Number:
City KEY WEST	State Florida	ZIP Code 33040	Company NAIC Number

**SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)**

C1. Building elevations are based on:  Construction Drawings\*  Building Under Construction\*  Finished Construction  
 \*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO  
 Complete Items C2.a-h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.  
 Benchmark Utilized: BASIC Vertical Datum: NGVD 1929

Indicate elevation datum used for the elevations in items a) through h) below:  
 NGVD 1929  NAVD 1988  Other/Source


Datum used for building elevations must be the same as that used for the BFE.

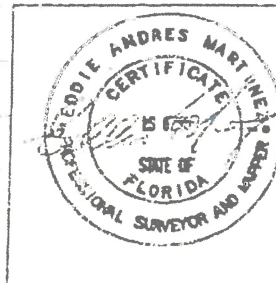
		Check the measurement used.
a) Top of bottom floor (including basement, crawlspace, or enclosure floor)	9.4	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters
b) Top of the next higher floor	N/A	<input type="checkbox"/> feet <input type="checkbox"/> meters
c) Bottom of the lowest horizontal structural member (V Zones only)	N/A	<input type="checkbox"/> feet <input type="checkbox"/> meters
d) Attached garage (top of slab)	N/A	<input type="checkbox"/> feet <input type="checkbox"/> meters
e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment and location in Comments)	10.3	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters
f) Lowest adjacent (finished) grade next to building (LAG)	4.2	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters
g) Highest adjacent (finished) grade next to building (HAG)	5.6	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters
h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support	4.6	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters

**SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION**

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor?  Yes  No  Check here if attachments

Certifier's Name EDDIE ANDRES MARTINEZ, PSM	License Number LS6755
Title PROFESSIONAL SURVEYOR & MAPPER	
Company Name MONROE COUNTY SURVEYING & MAPPING	
Address 1100 TRUMAN AVENUE	
City KEY WEST	State Florida
	ZIP Code 33040
Signature 	Date 05-15-2020
	Telephone (305) 293-0466
	Ext. N/A



Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e) if applicable)  
 A5. COORDINATES OBTAINED BY GPS OBSERVATION, USING A SOKKIA SURVEY GRADE GPS UNIT, ON THE STATE OF FLORIDA'S FDOT FPRN GPS/GNSS RTK NETWORK  
 A6 a) 8 VENTS @ 32 Sq In As Per Scott Fraser = 256 Sq In / 1 Vent @ 430 Sq In / 1 Vent @ 300 Sq In / 1 Vent @ 480 Sq In / 1 Vent @ 380 Sq In TOTALING = 1846 Sq In.  
 C2 e) A/C IS ELEVATED ON ALUMINUM BRACKET ON REAR WALLS OF HOUSE  
 REVISED FOR ADDITIONAL VENTING ON 05-15-2020

**ELEVATION CERTIFICATE**

OMB No. 1660-0008  
Expiration Date: November 30, 2022

**IMPORTANT: In these spaces, copy the corresponding information from Section A.**  
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.  
1409 - 1411 Flagler Avenue

**FOR INSURANCE COMPANY USE**  
Policy Number:

City KEY WEST	State Florida	ZIP Code 33040	Company NAIC Number
------------------	------------------	-------------------	---------------------

**SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED)  
FOR ZONE AO AND ZONE A (WITHOUT BFE)**

For Zones AO and A (without BFE), complete items E1-E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For items E1-E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
  - a) Top of bottom floor (including basement, crawlspace, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the HAG
  - b) Top of bottom floor (including basement, crawlspace, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the LAG
- E2. For Building Diagrams 6-9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 1-2 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is \_\_\_\_\_  feet  meters  above or  below the HAG
- E3. Attached garage (top of slab) is \_\_\_\_\_  feet  meters  above or  below the HAG
- E4. Top of platform of machinery and/or equipment servicing the building is \_\_\_\_\_  feet  meters  above or  below the HAG
- E5. Zone AO only. If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance?  Yes  No  Unknown. The local official must certify this information in Section G.

**SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION**

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, and E are correct to the best of my knowledge.

Property Owner or Owner's Authorized Representative's Name \_\_\_\_\_

Address \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_ Telephone \_\_\_\_\_

Comments \_\_\_\_\_

Check here if attachments

**ELEVATION CERTIFICATE**

OMB No. 1660-0008  
Expiration Date: November 30, 2022

**IMPORTANT: In these spaces, copy the corresponding information from Section A.**

Building Street Address (including Apt. Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.  
1409 - 1411 Flagler Avenue

City State ZIP Code  
KEY WEST Florida 33040

**FOR INSURANCE COMPANY USE**  
Policy Number.

Company NAIC Number

**SECTION G - COMMUNITY INFORMATION (OPTIONAL)**

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8-G10. In Puerto Rico only, enter meters.

- G1.  The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below)
- G2.  A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3.  The following information (Items G4-G10) is provided for community floodplain management purposes.

G4. Permit Number BLD2019-1740	G5. Date Permit Issued 30 May 2019	G6. Date Certificate of Compliance/Occupancy Issued Pending as of 21 May 2020
-----------------------------------	---------------------------------------	--

- G7. This permit has been issued for:  New Construction  Substantial Improvement
- G8. Elevation of as-built lowest floor (including basement) of the building: 9.4  feet  meters Datum NGVD-29
- G9. BFE or (in Zone AO) depth of flooding at the building site: 7.0  feet  meters Datum NGVD-29
- G10. Community's design flood elevation: 8.0  feet  meters Datum NGVD-29

Local Official's Name Scott G. Fraser Title Floodplain Administrator

Community Name Key West, City of Telephone 305-809-3810

Signature **Scott G. Fraser** Digitally signed by Scott G. Fraser Date: 2020.05.21 10:44:40 -04'00' Date 21 may 2020

Comments (including type of equipment and location, per C2(e), if applicable)

Substantial improvement of pre-FIRM residential duplex with elevation above DFE and installation of additional flood vents

Check here if attachments

**BUILDING PHOTOGRAPHS**

**ELEVATION CERTIFICATE**

See Instructions for Item A6

OMB No. 1660-0008  
Expiration Date: November 30, 2022

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 1409 - 1411 Flagler Avenue			Policy Number:
City KEY WEST	State Florida	ZIP Code 33040	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.



Photo One

Photo One Caption FRONT VIEW OF HOME 05-02-2020

Clear Photo One



Photo Two

Photo Two Caption REAR VIEW OF HOME AND A/C 05-02-2020

Clear Photo Two



**ELEVATION CERTIFICATE**

**BUILDING PHOTOGRAPHS**

Continuation Page

OMB No. 1650-0008  
Expiration Date: November 30, 2022

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>			<b>FOR INSURANCE COMPANY USE</b>
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 14C9 - 1411 Flagler Avenue			Policy Number:
City KEY WEST	State Florida	ZIP Code 33040	Company NAIC Number

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with date taken, "Front View" and "Rear View", and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8.

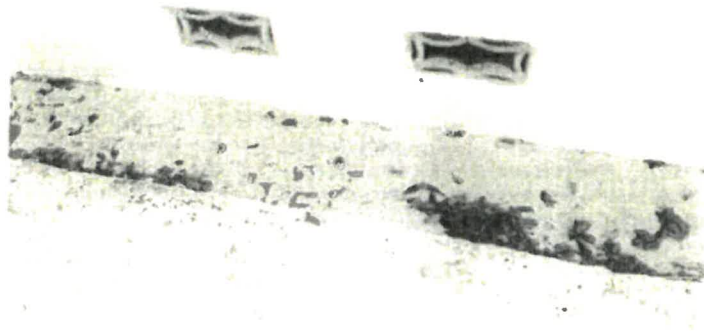


Photo Three

Photo Three Caption: VIEW OF TYPICAL FLOOD VENT 05-02-2020

Clear Photo Three

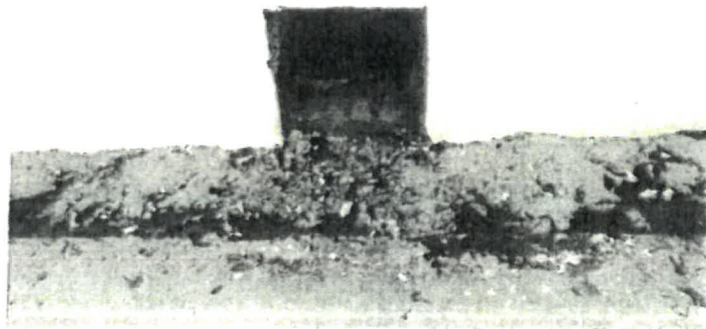


Photo Four

Photo Four Caption: TYPICAL VIEW OF ONE OF 4 ADDITIONAL VENTS 05-15-2020

Clear Photo Four



This Instrument Prepared by and Returned to:

Nikki Pappas  
SMITH HAWKS, P.L.  
138 Simonton Street  
Key West, Florida 33040

Permit No. 2019-3125  
RE: 00040730-000000

**AFFIDAVIT OF GARY BURCHFIELD**

**STATE OF FLORIDA  
COUNTY OF MONROE**

BEFORE ME, the undersigned authority, personally appeared GARY BURCHFIELD, as President of GARY THE CARPENTER CONSTRUCTION, INC., a Florida for-profit corporation, who, after being first duly sworn, deposes and says of his personal knowledge the following:

1. I am the President of GARY THE CARPENTER CONSTRUCTION, INC., a Florida corporation (the "Contractor") and have worked as a certified building contractor and a registered roofing contractor in the State of Florida since 2003.
2. I was retained by 1409-1413 Flagler, LLC, a Florida limited liability company ("Owner"), the owner of the property located at 1413 Flagler Avenue, Key West, FL 33040 (the "Subject Property"), to perform renovations and repairs on the two-story building located on the Subject Property.
3. This affidavit is being executed by the Contractor and submitted for the purposes of the City of Key West's substantial improvement review for the work that was performed on the Subject Property under Building Permit No. 2019-3125.
4. I hereby attest that \$59,660.00 is a true and valid estimate for the total cost of the labor, materials, and services that will be furnished or caused to be furnished by the Contractor for the work that will be performed on the Subject Property pursuant to Building Permit



No. 2019-3125, as evidenced by the quotes, estimates and invoices that are attached hereto as composite Exhibit "A."

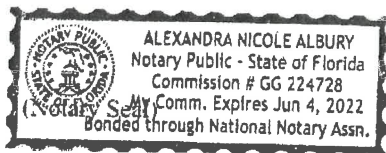
5. I have also produced the attached itemized list of repairs that was submitted with the Costs of Improvements Affidavit dated May 18, 2020, a copy of which is attached hereto as Exhibit "B", which accurately reflects the estimated cost for the work that will be performed on the Subject Property.
6. I hereby attest that I, or a member of my staff, personally inspected the Subject Property and reviewed the plans that were submitted for the renovation and repairs and that \$59,660.00 is an accurate estimate for the work that is to be done.
7. I hereby attest that no other work will be performed on the Subject Property aside from what is shown on the plans that have been submitted.


Signed, sealed, and delivered this 29 day of May, 2020.

Gary The Carpenter Construction, Inc.  
a Florida corporation

  
GARY BURCHFIELD, President

The foregoing instrument was acknowledged before me by means of  physical presence OR  online notarization, this 29 day of May, 2020 by GARY BURCHFIELD, as President of GARY THE CARPENTER CONSTRUCTION, INC., a Florida corporation  who is personally known to me OR  has produced \_\_\_\_\_ as identification.



  
Notary Public  
Printed Name: Alexandra Albury  
My Commission Expires: June 4, 2022

**COMPOSITE  
EXHIBIT A**



# E & E Concrete of Key West, Inc.

Family Owned and Operated

3322 Riviera Drive

Key West, FL 33040

(305)292-1562 Fax 305-292-5433

CUSTOMER INFORMATION		PHONE		DATE				
NAME Mark Rossi				1-10-20				
ADDRESS 1413 Flagler								
		= Quote =						
SOLE	CASH	GOOD	CHARGE	ON ACCT	MISC	RET	PAY OUT	
QTY.	DESCRIPTION			PRICE	AMOUNT			
50 LF	TIE Beam Repair			55.-	9100	00		
1585 <sup>99</sup>	Stucco			3.00	4755	00		
							TAX	
							TOTAL	9555.00

VISA, MASTERCARD & DISCOVER  
RESIDENTIAL & COMMERCIAL

4765

Thank You

**COMPOSITE  
EXHIBIT A**





**Rivas Electric, Inc.**  
**916 Georgia Street**  
**Key West, FL 33040**

**PROPOSAL**

Date
1/27/2020

Name / Address
Mr. Mark Rossi 208 Duval Street Key West, FL 33040

Description	Total
<p>Project: 1413 Flagler Avenue</p> <p>Rear 2 story building with 2 small units. Both units are open floor plans with one right angle partition isolating bathroom.</p> <p>Install 1 - 2 gang meter center, 2 sub feeds, 2 - 100 amp. panels and ground system.</p> <p>Each unit having one range, one refrigerator, 4 ceiling fixtures and 9 receptacles.</p> <p>Labor and materials</p>	5,367.64
<b>Total</b>	<b>\$5,367.64</b>

Phone #	Fax #
3052965454	305-296-7669

**COMPOSITE  
EXHIBIT A**



Gary's Plumbing and Fire, Inc.

Ph. (305) 296-6013  
6109 2nd Terrace Suite 1  
Key West, FL 33040  
Ph. (305) 296-6013

garysplumbing1@aol.com

# Proposal

Date

1/8/2020

**Name / Address**

Gary The Carpenter  
800 Simonton St  
Key West, FL 33040

**Project**

1413 Flagler Ave.

**Total**

**Qty**

Ref: Plumbing 1413 Flagler Ave.  
Provide all labor and material necessary to complete the plumbing portion of the above referenced address as per plans. Project includes the following:  
\* Rough in and trim out of 2 water closets, 2 lavatories, 2 showers, 2 kitchen sinks and 1 water heater.  
\* Sanitary in PVC  
\* Water in Viega Pexcel  
\* Permits additional at cost.

Proposal amount	6,310.00	6,310.00
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We appreciate your continued business.

Signature / Title \_\_\_\_\_

**Subtotal** \$6,310.00

**Sales Tax (7.5%)** \$0.00

**Total** \$6,310.00

# COMPOSITE EXHIBIT A



Manley deBoer Lumber - Key West  
 Manley deBoer Lumber - KW  
 1109 Eaton Street  
 Key West, FL 33040  
 305-294-5900  
 Fax: 305-294-4577

**CUSTOMER COPY**



**INVOICE**

1909-064458 PAGE 2 OF 2

SOL RICKS DURTY HARRY 202 DUVAL ST KEY WEST FL 33040	<b>SHIP TO</b> 1413 FLAGLER- RICKS DURTY HARR 1413 FLAGLER KEY WEST FL 33040 305-296-5513
---	---

ACCOUNT	JOB
125	0
SOLD ON	9/23/2019 8:02:54 AM
DELIVER ON	9/23/2019
BRANCH	1000
CUSTOMER PO#	
STATION	POS4
CASHIER	CHANDR
SALESPERSON	
ORDER ENTRY	CODI

SIGNATURE: [Signature] DATE: 9/27/19 CGI 420459

Quantity	Item	Description	D	T	Price	Per	Amount
1	SOK 123-010	CGI 160FD 34.5X80 WHT CLR 7/16"LAMI SATIN HDW LHNG RHOS !!!! NON-RETURNABLE !!!!		Y	1715.9300	EA	1,715.93
1	SOK 3-011	1X2 U-CLIP !!!! NON-RETURNABLE !!!!		Y	5.0000	EA	5.00
1	SOK 3-012	CGI 160FD 35X80 WHT CLR 7/16"LAMI SATIN HDW RHNG LHOS !!!! NON-RETURNABLE !!!!		Y	1782.3900	EA	1,782.39
1	DEL:	DELIVERY CURBSIDE KW/INV NO CHARGE ON DELIVERY PER BRAD				PC	

Payment: [Signature]

FL 7.50%	SubTotal	9,625.69
	Sales Tax	721.93
	Deposit	-10,347.62
<b>Please Pay This Amount</b>		<b>0.00</b>

No cash receipts without original receipt.  
 Weekly stock orders are not returnable after 12 days.  
 Hurricane damaged items are not returnable.  
 Special order items are returned, exchanged, or have restocking material in good condition.

**COMPOSITE EXHIBIT A**

# **EXHIBIT B**



### Costs of Improvements Affidavit



City of Key West Building Department 305-809-3956 1300 White Street, Key West, Florida 33040

Address of proposed work: 1413 Flaster Key West FL

Contractor (or owner-builder) Name: Gary the Carpenter

License #: CBC 250924 RC 24627091

Phone #: (305) 292-0261

E-mail: garythecarpenter@hotmail.com

I hereby attest to the fact that I, or a member of my staff, personally inspected the above mentioned property and have reviewed the applicable drawings related to the repairs, remodeling, renovation, addition, rehabilitation, etc. I have also produced the attached itemized list reflecting the aforementioned work. This information is hereby submitted for a Substantial Improvement review. The aforementioned work is all that is proposed for this structure as shown on the submitted plans. All costs listed herein represent true and valid estimates for the work to be done.

I understand that I am subject to penalties (for any and all violations of this affidavit) if the inspection of the property reveals that I have done work not included within the attached cost breakdown or if any nonconforming or illegal structures or additions are included without having presented plans and charges for such modifications or if any false monetary costs are revealed.

I understand that any permit issued by the City of Key West pursuant to this affidavit does not authorize work on any illegal structures or nonconforming uses on the subject property.

See Attached Itemized List or may use form on reverse of this page.

Total Labor and Materials (Including overhead & profit) entire project: \$ 59,660.00

Chapter 838.06 F.S. False Official Statement - Whoever knowingly makes a false statement in writing and with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree punishable as provided for in s. 775.082 or s. 775.063.

State of Florida  
County of Monroe

Before me this day personally appeared Gary Burchfield who being duly sworn deposes and says that he/she attests to the validity of all information submitted herein; and that he/she has read, understands, and agrees to comply with all the aforementioned conditions.

*[Signature]*  
\_\_\_\_\_  
(signature) Contractor or Owner/Builder

5/18/20  
\_\_\_\_\_  
(Date)

Sworn to and subscribed before me this 18 day of May A.D. 2020

Notary Public, State of Florida

My commission Expires: 5/15/24

Personally Known to me  OR Produced Identification: \_\_\_\_\_

Type of Identification Produced: *[Signature]*

Rev. Oct. 2013

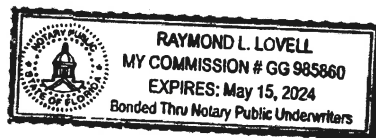


EXHIBIT B

## Costs of Improvements Affidavit

Item	Materials			Labor			Substantial Improvement Calculations			
	Qty.	Cost	S.T.	Hrs.*	Rate	S.T.	Sub-total	Exempt	Line Total	
Demo				30	65 <sup>00</sup>	1950 <sup>00</sup>	1950		1950 <sup>00</sup>	
Site Prep.										
Temp. Stabilization										
Slabs										
Fill										
Elevation										
Const. Mgmt.										
Foundation										
Modular Building										
Modular Building										
Bearing walls										
Tie Beams	801 <sup>+</sup>	2600	2000	43	55 <sup>00</sup>	2365	4365 <sup>00</sup>		4365 <sup>00</sup>	
Framing, Walls	20	600 <sup>00</sup>	600 <sup>00</sup>	10	65 <sup>00</sup>	650	1250 <sup>00</sup>		1250 <sup>00</sup>	
Framing, Floors										
Framing, Roof										
Covering, Walls	560	1860	1500	45	65 <sup>00</sup>	2925 <sup>00</sup>	4725		4725 <sup>00</sup>	
Flooring	300	1660	1060	16	125 <sup>00</sup>	2000	3060 <sup>00</sup>		3000 <sup>00</sup>	
Carpeting										
Covering, Roof	225	2500	2600	54	75	4050	6550		6550 <sup>00</sup>	
Finishing, Walls										
Finishing, floors										
Finishing, Roof										
Windows	9	680	6120 <sup>00</sup>	36	125 <sup>00</sup>	4500 <sup>00</sup>	16620		16620	
Windows										
Doors, Interior	2	360	360	4	65	260	560		560	
Doors, Ext.	2	1800	3600	16	65	1040	4640		4640	
Bathrooms, 2-Fixture										
Bathrooms, 3-Fixture	2	900	600	12	65	780	1580		1580	
Kitchens	2	1800	2600	25	65	1625	4225		4225	
Bedrooms										
Living Room										
Dining Room										
Decks/Porches										
Cabinets										
Insulation	320	350	360	8	25	200	550		550	
HVAC			0				0		0	
Mechanical, Other										
Plumbing			2800				3509		6309	
Electrical			2000				3366		5366	
Lighting/Fans			400				1300		1700	
Security Sys.										
Appliances, Built-in	4	2800	2800	8	65	520	3320		3320	
Dirt/Mud Removal										
Dry-out, building										
Pavers/Driveway										
Docks/Seawalls										
Filtration										
Clean-up				25	30	750	750		750	
Trash Removal	10	35	350				350		350	
Materials			29820	Labor			29840	59660		595840 <sup>00</sup>
In lieu of completing this side, a separately attached list of costs or contractor quotes may be used. <b>HOWEVER, any attachments must also be notarized.</b>							Job Total	Exempt from S.I.	Substantial Improvement Costs	

\*Owner/Builder Hourly Rate \$30

# EXHIBIT B