



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

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

DATE: October 21, 2013
RE: CASE NUMBER 13-00001239

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5341 8934

To:
Mr. Armando Hernandez
623 Angela Street
Key West, Florida 33040

Subject Address:
623 Angela 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 1-1

Sec. 110-256. Tree abuse.

(a)

Generally. Tree abuse is prohibited, and abused trees shall not be counted toward fulfilling landscape requirements. The city may require the abused trees to be replaced.

(b)

Prohibited acts. A tree shall be considered abused if a person takes an action so that one of the following occurs:

(1)

Significant damage has been inflicted upon any part of a tree, including the root system, by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application or change to the natural grade.

(2)

Damage inflicted to or cutting upon a tree which permits infection or pest infestation.

(3)

Cutting upon any tree which permanently reduces the function of the tree or causes it to go into shock.

(4)

Cutting upon a tree which destroys its natural shape.

(5)

Hatracking as defined in [section 110-252](#)

(6)

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Bark has been removed.

(7)

Tears and splitting of limb ends or peeling and stripping of bark.

(8)

Use of climbing spikes, or cutting into the tree for the purposes of climbing on any species of tree for any purpose other than total removal.

(9)

Girdling a tree with the use of wires (e.g., use of weedeater, mower damage).

(c)

Additional prohibitions.

(1)

No private property owner or agent shall damage, cut, or carve any tree or tree root located on the owner's property; or allow any liquid, solid or biological substance that is harmful to trees to be placed within the dripline.

(2)

No person shall cut or otherwise damage a root or roots of a tree located on public property without first obtaining a permit from the tree commission.

(3)

If a root or roots of a tree on private property migrates into another property, the owner of the tree must consult with the Landscape Division before commencing any work that will result in severing the root.

(d)

Exceptions. Exceptions to this section are as follows:

(1)

Australian pines, Florida holly, and Melaleuca trees are not protected by this section.

(2)

Utility line clearing in conformance with ANSI A-300 standards and National Electrical Safety Code clearances does not constitute tree abuse.

(3)

No action in removing a lightning damaged tree or trees severely damaged by hurricane, windstorm, flood or like event shall be considered tree abuse.

FYI:...

Sec. 110-295. Authority of special master.

The code enforcement special master shall have the authority to enforce compliance with the terms of this article.

To Wit: Responding to this complaint I conducted a site visit on Friday 10.11.2013 where no one answer the door so I proceeded to ask neighboring property to allow me the use of their yard to assess the alleged code violation. I was granted access to 621 Angela by its owner and I was able to observe from their yard that a large portion of the bark from this Norfolk pine tree has been removed. This tree is approximately 100-150 feet high and the neighbors are concern that the way it is being removed it poses a safety threat to all around it. From my findings I agree it does pose an imminent safety threat so I issued a courtesy notice asking property owner to cease activity and contact a professional tree removal company to continue the removal and that he was going to receive this irreparable notice of code violation. OMI was contacted to see if they can assist on the alleged use of poisonous materials / chemicals against this tree.

CORRECTIVE ACTION: Cease activity and seek professional tree removal assistance.

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:**

October 30th, 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.



Leonardo Hernandez

Code Compliance Officer

City of Key West

305-797-8701 Cell – 305-809-3730 Desk **Work Schedule Sun-Wed 3pm-12am**

Hand served this day of 2013 @ am/pm.

Received by: Served By: