



**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: April 26, 2013  
RE: CASE NUMBER 13-518

CERTIFIED MAIL RECEIPT#: 7012 2210 0000 6252 8057

To:  
Gary Rivenson & Donna Stabile  
907 United Street  
Key West, FL 33040

Subject Address:  
907 United Street  
Key West, FL 33040

CERTIFIED MAIL RECEIPT#: 7012 2210 0000 6252 6626

Gary Rivenson & Donna Stabile  
529 West 42<sup>nd</sup> Street Apt 6F  
New York, New York 10036

**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:** You rented this property beginning on April 11, 2013 through April 18, 2013. In an email exchange dated March 9, 2013 between Jason Wheat, renter and "Forrest-southernmostkw@aol.com", the amounts were, "In the lease agreement I provided two credit cards to split up total payment between my wife and I. On Laura Morris's card a total of \$2,000, and on Jason Wheat's card a total of \$1,352.75." The total of \$3,352.75 was confirmed by a reply email dated March 15, 2013 wherein "Forrest-southernmostkw@aol.com" stated, "Jason,

*RFK*

You are confirmed. I have the contract and I will run/swipe the credit cards when you check in. I will meet you at the property or make arrangements and let you know. Let me know if you have any questions. Thank you, Forrest". This code officer made contact with Mr. Jason Wheat on April 15, 2013. He provided me with a Florida driver's license as identification and confirmed that he was renting this house for the week. He invited me inside and allowed me to take photos of the interior of the home which match the websites' photos.

**Counts 2 through 9: Sec. 122-1371 Transient living accommodations in residential dwellings; regulations.**

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

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

**To wit:** The property owners held out the property as being available for rent transiently contrary to Sec.122-1371(d)(9) on April 11, 12, 13, 14, 15, 16, 17, 18, 2013 without the benefit of a valid transient rental license.

**Count 10: Sec. 66-87. - Business tax receipt required for all holding themselves out to be engaged in business**

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

**To wit:** You rented this property transiently without benefit of a business tax receipt on April 11, 2013 through April 18, 2013.

**Count 11: 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:** You rented this property transiently from April 11, 2013 through April 18, 2013 contrary to what is allowed in this zoning district.

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:

**May 22, 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.**

  
Barbara Meizis  
Code Compliance Officer  
City of Key West  
(305) 809-3740

*Attachments: Copy of emails  
Websites listing house for rent  
Photos*