



THE CITY OF KEY WEST
Code Compliance Division

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

NOTICE OF ADMINISTRATIVE HEARING

DATE: December 4, 2013
RE: CASE NUMBER 13-00001412

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5347 8327

To:
Mrs. Linda B. Wheeler
1213 White Street
Key West, Florida 33040

Subject Address:
1213 White Street
Key West, Florida 33040

According to the records of The City of Key West, you are the current property owner/ representative or the business owner at the above-referenced property. You are hereby 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. 122-1406. Obstructions to visibility.

(a)

Obstruction to traffic and traffic visibility. There shall be no structure or planting which materially obstructs traffic and traffic visibility.

(b)

Corner lots. In any district where a corner or front yard setback is required, no structure, fence, planting or sign shall be located so as to interfere with traffic visibility across a corner between a height of 2½ and ten feet above the average grade within a triangle bounded by the curblines adjacent to the corner lot lines and a straight line drawn between points on each such curbline 20 feet from the intersection of such curblines or extension thereof.

(c)

Public right-of-way. There shall be no structure or planting on city or public right-of-way without prior approval of the planning board and city commission, and then only after due consideration is given to the type, height and size of such structure and planting.

(d)

Vision clearance. Notwithstanding any part of the land development regulations or any permit granted or variance granted by the city, no type of structure, vehicle, tree, planting, vegetation, sign or fence or any type of obstacle or any portion thereof shall be placed or retained in such a manner which would create a traffic hazard or would obstruct vision clearance at corners, curb cuts or railroad crossings in any zone.

A handwritten signature in blue ink, appearing to be "JFK", is located in the bottom right corner of the page.

FYI:

Sec. 122-1183. Walls and fences.

(a)

Definition. For the purpose of the land development regulations, the term "fence" shall be used to describe a manmade structure erected for separation, security or privacy purposes through the means of intermittent posts supporting vertical or horizontal members made of wood, metal, chain link, or barbed wire. While the opacity may vary, the height and location are dictated by the regulations within this subpart B. A wall may be erected for the same purposes but shall include only those structures with continuous footers. The main structure of the wall may be constructed with brick, stone or concrete block. The latter may be used in combination with decorative veneers of brick, rock, stone, stucco or any other material meeting accepted aesthetic performance criteria. Any wall or fence erected within the city shall meet professionally accepted building standards and the regulations cited in this section.

(b)

Building permit; review. Notwithstanding other sections of the land development regulations, fences, walls, hedges, landscaped berms, and minor structures such as lampposts (standards) or flagpoles (permanent type) may be permitted in any district subject to issuance of a building permit. Fences in the historic district shall also be subject to review by the historic architectural review commission as part of the permitting process.

(c)

Application procedure. Application for approval of any fence should be made in the same manner as for authorization of a building permit with a full description of materials to be used and dimensions and placements clearly stated on the plans. The building official will inspect the area and judge the application on the basis of the guidelines for fences and other minor structures set forth in subsection (d) of this section.

(d)

Standards for fences and hedges. Fences shall be erected on the lot of the applicant and shall not extend into a public right-of-way. The fence may abut but shall not be located on any property line. It shall be unlawful for any person to erect a fence within the city except in accordance with the following:

(1)

In the city's residential areas the following restrictions as to fence height and construction shall apply:

a.

Solid or open fences not exceeding four feet in height constructed of wood, rock, concrete block, chain link or wrought iron may be permitted on the front, rear and side yard property lines of any parcel of land.

b.

If there are located utility electrical transformer banks, water towers or other facilities owned or leased by a public utility in residential zones which require the fencing of such for safety precautions, the fence around such facilities shall be at least six feet in height, and barbed wire may be used on the top of such six-foot fence.

c.

Fences up to six feet in height may be constructed on the front, rear and side yard property lines of any parcel of land, provided that the upper two feet of such six-foot fence has openings of at least 50 percent or more in the construction of the fence. Solid fences up to six feet in height may be constructed on rear and side yard property lines of any parcel of land provided such solid six-foot fence is not constructed on property lines intersecting at street corners and that the adjoining property owners file their written consent with the building department consenting to the construction of such six-foot solid fence.

d.

The fence shall be located so as to avoid interference with traffic visibility pursuant to [section 122-1406](#)

(2)

In nonresidential areas of the city, wire-mesh or chainlink fences may be constructed at any height on any property lines, and barbed wire may be used on such fences, provided the barbed wire portion of the fence does not extend outside and beyond the property line of such property, and such fence is at least six feet high.

(3)

Hedges and landscaped berms located within a front yard shall be maintained so as not to obstruct the view of vehicular traffic at intersections.

To Wit: Responding to this complaint received by our City of Key West on 11.08.2013 I conducted a site visit on 11.08.2013. I took photographs. Conducted another site inspection on 11.13.2013 where I took more photographs and I measured fence and hedge from a triangle bounded point and hedge was found to be an obstruction to visibility. On November 14th, 2013 a notice of code violation was mailed to property owner. On November 16th, 2013 proof of good service was signed as received. I conducted a follow up inspection to check status of compliance on 11.21.2013 bringing code officer Paul Nickle along with me. We met with Ms. Wheeler who I this time was given a copy of a photograph of her fence and hedges from street view and marked with the bounded triangle to show her what she needed to do to achieve compliance and she was also provided with a copy of our Sec. 122-1406 Obstruction to visibility highlighting the subsections that were relevant to this code violation. Ms. Wheeler replied that she had documents showing that the fence is grandfather in and that she was not cutting the hedges and that she will bring them to our attorney or court. On 11.30.2013 I conducted another follow up inspection to find that hedge has only been partially trimmed on a 5 foot area horizontally. Obstruction to visibility still exists.

CORRECTIVE ACTION: Trim hedges to allow safe visibility.

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:**

December 18th, 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) 809-3730 Desk
(305) 797-8701 Cell

WORK SCHEDULE WED-SUN 3PM-12AM

Hand Served this day of _____, 2013

RECEIVED BY: _____

SERVED BY: _____