



THE CITY OF KEY WEST
Code Compliance Division

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

NOTICE OF ADMINISTRATIVE HEARING

DATE: January 2, 2014
RE: CASE NUMBER 13-00001465

CERTIFIED MAIL RECEIPT#: 7013 2630 0000 9565 5699

To: Southern Most Cigar Club
Mr. Marc Miellette
300 Front Street # 1
Key West, Florida 33040

Subject Address:
300 Front Street # 1
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 1-2

Sec. 14-37. Building permits; professional plans; display of permits.

(a)

Building permit required; display. Building permits shall be procured from the building official before performance of any work or construction of any character, whether permanent or temporary. Within 48 hours after it is issued, the applicant must cause the permit to be posted and displayed at the work site so that it is readily visible from an adjacent public street throughout the term of the work. No work shall be performed unless a proper permit is so posted.

(b)

Professional plans required. Professional plans shall be required as follows:

(1)

Plans for work requiring a building permit shall be submitted in duplicate or in triplicate if required by the state to the building official and shall be prepared by, and bear the seal of, an architect or structural engineer duly registered in the state, except if the work is by the owner-occupant upon a one- or two-family residence, and the work is cosmetic, nonstructural repair, alteration or addition.

(2)

Notwithstanding subsection (b)(1) of this section, plans for work which requires a building permit and which involves mechanical, plumbing or electrical repairs, alterations or additions shall be prepared by and shall bear the impress seal of an engineer duly registered in the state, as reasonably required in the interest of health and safety by the building official.

(c)

Work done by owner-occupant. A building permit may be issued to the owner-occupant of real property to construct or cause to be constructed, while the owner-occupant is present on the site, a one- or two-

family residential structure for his own use and not offered for sale or lease or to repair the structure without being required to be a qualified contractor himself in accordance with this article and without being required to employ a licensed contractor. The owner-occupant may not construct or repair or cause the construction or repair of more than one such structure during any one-year period.

Count 2-2

Sec. 14-40. Permits in historic districts.

(a)

Requirements. No building or work permit required by this Code for work in the historic zoning districts of the city or in tidal waters contiguous to and within 600 feet of the historic zoning districts shall be issued until a certificate of appropriateness has been granted by vote of the historic architectural review commission, attested by signature of its presiding member, and until the city manager finds that the building or work permit conforms to all laws and regulations of the city.

(b)

Contents. All permits issued by the city shall show the nature and extent of the intended work in detail sufficient to demonstrate that the project is consistent with all city laws and regulations and of the historic architectural review commission.

(c)

Stop work order; penalty. The building official is authorized to post a signed and dated notice to stop work on any site on which work is being performed in violation of the city laws and regulations or of the historic architectural review commission. Any person shall be guilty of an offense punishable as provided in [section 1-15](#) if the person:

(1)

Performs work with actual or constructive knowledge that the work site has been posted by such notice, which notice has not been withdrawn by a dated, signed order of the building official; or

(2)

Removes, defaces, conceals or alters such notice to stop work, without a dated, signed authorization of the building official.

Where such offenses are of a continuing nature, no two separate offenses shall be charged against the same person within any one-hour period.

To Wit: Roof Top Cafe management called KWPD dispatch for noise complaint and installation of speakers outside restaurant without permits. KWPD dispatch called me to assist. Responding to this complaint I conducted a site inspection on November 17th, 2013, police officer Billy Vasquez was at the Roof Top talking to management. Andy, Roof Top Cafe manager on duty was given a complaint form to fill out and then I went over to speak to Marc from Southernmost Cigar Club. At the time of inspection there was no loud noise. There was not need to use the meter as it was not loud at all. However, I told Marc to make sure he remains within the allow decibel level. I reminded him that we were going to have to monitor compliance. Also, I issued and gave Marc a courtesy notice requesting him to apply for after the fact HARC certificate of appropriateness and required building permit for the installation of four speakers installed on the 2nd floor deck that I observed from downstairs. A notice of code violation was mailed on 12.5.2013 and good service was received on December 13th, 2013 from shop owner. Southern Most Cigar Shop has been in compliance in regards as to the noise complaint as of today January 2nd, 2014, but no permit applications have been submitted for the after the fact installation.

CORRECTIVE ACTION: Please apply for after the fact building permit and HARC certificate of appropriateness for the installation of speakers.

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:**

January 29, 2014

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

lhernand@keywestcity.com

WORKING HOURS MONDAY-FRIDAY 3PM-12AM

Hand served this _____ *day of* _____, 2014 @ _____ *am/pm.*

Received by: _____ *Served By:* _____