



THE CITY OF KEY WEST
Director of Building

Post Office Box 1409 Key West, FL 33041-1409

October 26, 2011

Trustees William Weech American Legion Post 168
C/o Commander Josephus Chaplis, Sr.
P.O. Box 903
Key West, FL 33040

RE: 803 Emma Street

To Whom It May Concern:

On October 11, 2011, the City of Key West Building Department notified your organization that a dangerous and unsafe condition exists at 803 Emma Street. This October 11, 2011, letter advised your Board of Trustees that it had until October 24, 2011 to contact the City Building Department in person or in writing as to how the dangerous and unsafe situation was to be addressed to protect the public and users of the building. As of the close of business October 25, 2011, no communication of any kind from your organization has been received. Therefore, this letter shall serve as notice to your organization pursuant to [Section 14-106](#) of the City of Key West Code of Ordinance, that a complaint of unsafe and dangerous conditions exist at 803 Emma Street. Please see excerpt of [Section 14-106](#) through [Section 14-116](#) attached.

Also be aware that you are hereby notified that a hearing will be held at the City of Key West Building Department located at 3140 Flagler Avenue, Key West, Florida, beginning at 9:00 a.m. on November 9, 2011. Interested parties have the right to file an answer to the complaint, and should appear in person or otherwise to give testimony for the hearing. If as a result of the hearing the Chief Building Official determines that the building is dangerous, he shall require the building to be repaired so as to render it no longer dangerous, or to vacate and close the building for any and every use.

We sincerely appreciate your courtesy and cooperation in this matter. If you have any questions, concerns or need additional information, please do not hesitate to contact me at 305-809-3958.

Sincerely,

A handwritten signature in black ink that reads "John P. Woodson".

John P. Woodson
Chief Building Official

cc: Jim Scholl
Shawn Smith
Clayton Lopez

ATTACHMENT (3)



THE CITY OF KEY WEST
Director of Building
Post Office Box 1409 Key West, FL 33041-1409

October 11, 2011

Trustees William Weech American Legion Post 168
C/o Commander Josephus Chaplis, Sr.
P.O. Box 903
Key West, FL 33040

RE: 803 Emma Street

To Whom It May Concern:

It has come to the attention of the City of Key West Building Department that the building located at 803 Emma Street remains in a condition determined by the Chief Building Official in July 2010 to be unsafe and dangerous. The following is our record of the events.

According to our records, a letter dated July 13, 2010 was sent to and received by the Trustees American Legion Post 168 (attached) describing the unsafe condition of 803 Emma Street. Pursuant to Key West City Code of Ordinances [Section 14-106 – Issuance of complaint; hearing](#) was scheduled to be held at 9:00 am on August 9, 2010. The Chief Building Official scheduled this hearing because he determined the building met the appropriate standards of [Section 14-71 – Conditions rendering dwelling unfit or building dangerous](#).

Subsequent to this letter being mailed, a meeting was held in July 2010 at Assistant City Manager Mark Finigan's office. Present at that meeting were Trustees of the American Legion Post 168, Mark Finigan, Architect Michael Miller and myself. At that meeting it was decided it was not necessary to hold the August 9th hearing as an agreement was made to employ the services of an architect and an engineer to expedite the repair process.

An architect and an engineer were hired. The existing building conditions were documented in a report titled "*Report and Recommendation – Analysis of Existing Building Conditions*" prepared by Michael Miller, Architect with input from Garland Wilson, P. E. Structural Engineer. Included in that report were the engineer's recommendations as follows:

- (1) It is not economically feasible to repair existing wall (front façade of the building). It must be replaced and stuccoed to look like original.
- (2) If replacement is expected in 1-2 years, this wall appeared stable and not immediate repairs were required but the wall must be monitored for movement.
- (3) If replacement is expected in 2-5 years, the front wall must be braced with steel, (Ugly... may cost what replacing the wall would.). It was suggested the City's permission be obtained to use the parking spaces in front to bring struts into pad footing and block off sidewalk.
- (4) It makes no sense to replace the front wall and not the rest of the building walls. The bracing will be expensive and only justifiable if the wall is worth saving. The engineer's opinion is that it is not.

The City has become aware of the following:

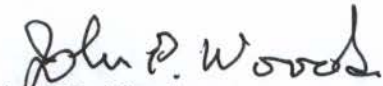
- (1) There is presently no architect or engineer retained by the Legion to monitor the conditions of the front façade and report same to you and the City Building Department.

- (2) You have not demonstrated to the City that there are any plans, drawings, or specifications to stabilize façade at this time or by July 2012, the termination date of the engineer's recommendations as to the stability of the front façade without any remedial actions.

Please advise the City Building Department by October 24, 2011, as to your next steps and a timeline for actions to be addressing these two issues. Your failure to do so will result in actions by the City to protect public safety by implementing Section 14-106 – Issuance of complaint; hearing or Section 14-113 – Emergency Cases. of the City Code of Ordinances.

We sincerely appreciate your courtesy and cooperation in this matter. If you have any questions or concerns, please feel free to contact me at 305-809-3958.

Sincerely,



John P. Woodson
Chief Building Official

ATTACHMENT (1)



THE CITY OF KEY WEST

Director of Building

P.O. Box 1409, Key West, FL 33040

July 13, 2010

Trustees American Legion NBR 168
P.O. Box 903
Key West, Florida 33040

Subject: 803 Emma Street

To Whom It May Concern:

The building located at 803 Emma Street, Key West, Florida has been found to be unsafe. Pursuant to Section 14-106 of the City of Key West Code of Ordinance found below, the façade and other areas that are spalling, are in need of immediate repair.

Sec. 14-106 – Issuance of complaint; hearing

Whenever a petition is filed with the building official by a public authority or whenever it appears to the building official, on his own motion, that any dwelling is unfit for human habitation or any building is dangerous, the building official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner-occupant of and parties in interest in such dwelling or building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the building official at a place therein fixed within the city, not less than ten days nor more than 30 days after the serving of such complaint. The owner-occupant and parties in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building official.

A hearing will be held at the Building Department located at 3140 Flagler Avenue Key West, Florida at 9:00am August 9, 2010. Parties in interest shall have the right to file an answer to the complaint, and appear in person or otherwise and give testimony at the hearing.

We sincerely appreciate your courtesy and cooperation in this matter. If you have any questions or concerns, please feel free to contact me direct at 305-809-3958.

Sincerely,

A handwritten signature in black ink that reads "John P. Woodson".

John Woodson
Chief Building Official

Excerpt

City of Key West Code of Ordinance Sec. 14-106 through Sec. 14-116

Page 1 of 3

Sec. 14-106. - Issuance of complaint; hearing.

Whenever a petition is filed with the building official by a public authority or whenever it appears to the building official, on his own motion, that any dwelling is unfit for human habitation or any building is dangerous, the building official shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner-occupant of and parties in interest in such dwelling or building a complaint stating the charges in that respect and containing a notice that a hearing will be held before the building official at a place therein fixed within the city, not less than ten days nor more than 30 days after the serving of such complaint. The owner-occupant and parties in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the building official.

(Code 1986, § 31.027(a))

Sec. 14-107. - Order to repair, alter or improve building.

If, after such notice and hearing as provided in section 14-106, the building official determines that the dwelling under consideration is unfit for human habitation or the building under consideration is dangerous, he shall state in writing his findings of fact in support of such determination. The building official shall issue and cause to be served upon the owner-occupant thereof an order requiring the owner-occupant, within the time specified therein, to repair, alter or improve such building so as to render it fit for human habitation or to vacate and close the dwelling as a human habitation, or it shall require the owner-occupant within the specified time therein to repair, alter or improve such building so as to render it safe or to vacate and close the building for any and every use.

(Code 1986, § 31.027(b))

Sec. 14-108. - Noncompliance by owner-occupant of dwelling.

If the owner-occupant of a dwelling fails to comply with the order to repair, alter or improve or to vacate and close the dwelling as provided in this division, the building official may cause such dwelling to be repaired, altered or improved or to be vacated and closed. The building official shall cause to be posted on the main entrance of any dwelling so closed a placard with the following statement:

This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

(Code 1986, § 31.027(c))

Sec. 14-109. - Noncompliance by owner-occupant of building.

If the owner-occupant of a building fails to comply with an order to repair, alter or improve or to vacate and close a building as provided in this division, the building official may cause such building to be repaired, altered or improved or to be vacated and closed. The building official shall cause to be posted on the main entrance of any building so closed a placard with the following statement:

This building is dangerous. It is hereby closed and its use is prohibited.

(Code 1986, § 31.027(d))

Sec. 14-110. - Failure to comply with order to remove or demolish.

If the owner-occupant fails to comply with an order to remove or demolish the dwelling or building, the building official may cause such dwelling or building to be removed or demolished. The duties of the building official set forth in sections 14-108, 14-109 and this section shall not be exercised until the city commission shall have ordered the building official to proceed to effectuate the purposes of this article with respect to the particular property which the building official shall have found to be unfit for human habitation or dangerous and which property shall be described in an ordinance or a resolution of the commission.

(Code 1986, § 31.027(e))

Excerpt

City of Key West Code of Ordinance Sec. 14-106 through Sec. 14-116

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Sec. 14-111. - Costs.

The amount of the cost of such repair, alteration, or improvement or vacating and closing or removal or demolition by the building official pursuant to this division shall be a lien against the real property upon which such cost was incurred. Such cost shall be placed upon the city's tax books against the property and may be collected and such lien may be foreclosed, in the same manner as taxes and tax liens are collected and foreclosed, or by suit, as the city may determine. If the dwelling or building is removed or demolished by the building official, he shall sell the materials of such dwelling or building and shall credit the proceeds of such sale against the cost of removal or demolition, and any balance remaining shall be deposited in the registry of the county circuit court by the building official, to be secured in such a manner as may be directed by such court and disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(Code 1986, § 31.027(f))

Sec. 14-112. - Validity of proceedings.

Failure on the part of any owner-occupant or party in interest to receive or have served upon him any complaint, notice or order provided for in this division shall not affect or invalidate the proceedings with respect to any other owner-occupant or party in interest or any other person.

(Code 1986, § 31.027(g))

Sec. 14-113. - Emergency cases.

In emergency cases where it reasonably appears there is immediate danger to the life or safety of any person or to the safety of other property, unless a dwelling unfit for human habitation or a dangerous building is immediately repaired, demolished or vacated, the building official shall cause the immediate repair or demolition of such dwelling or building. The cost of such repair or demolition shall be recovered and collected as is provided in section 14-111 or the building official may revoke the certificate of occupancy and order vacation of the premises until necessary repairs, etc., render the premises fit for use or habitation.

(Code 1986, § 31.028)

Sec. 14-114. - Service and filing of complaints, notices and orders.

- (a) Complaints, notices or orders issued by the building official pursuant to this division shall be served upon persons either personally or by registered mail. If the whereabouts of any person is unknown and the whereabouts cannot be ascertained by the building official in the exercise of reasonable diligence and the building official shall make an affidavit to that effect, the serving of such complaint, notice or order upon such person may be made by publishing the notice once a week for two successive weeks in a newspaper published in the city, service being deemed complete upon the date of the last publication. A copy of any notice, complaint or order served by publication shall be posted in a conspicuous place on the premises affected by the notice, complaint or order on or before the date of the last publication.
- (b) A copy of such complaint or order shall also be filed by the building official in the office of the clerk of the county circuit court as in cases of *lis pendens* notice as provided by law.

(Code 1986, § 31.029)

Sec. 14-115. - Unauthorized removal of complaints, notices or orders.

No person without the written consent of the building official shall remove or permit the removal of any complaint, notice or order posted in accordance with sections 14-108 and 14-109.

(Code 1986, § 31.030)

Excerpt

City of Key West Code of Ordinance Sec. 14-106 through Sec. 14-116

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Sec. 14-116. - Failure to comply with order.

If any order issued and served in accordance with this division is not complied with within the time specified therein, the dwelling or building with respect to which the order has been issued is declared to be a public nuisance. It shall be unlawful for any person having knowledge of the issuance of such order to occupy, as a human habitation, or to use such dwelling or building or any part thereof or to suffer or permit the dwelling or building or any part thereof to be occupied as a human habitation or used therefor.

(Code 1986, § 31.031)