



City of Key West, FL

Old City Hall
510 Greene Street
Key West FL 33040

Action Minutes - Final Code Compliance Hearing

Wednesday, April 23, 2014

1:30 PM

Old City Hall

ADA Assistance: It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number at 305-809-1000 or the ADA Coordinator at 305-809-3731 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

Call Meeting to Order

Code Violations

1

Case # 12-836

SHS Investment of South Florida Inc.

Si Stern

Robert M Weinberger, Registered Agent

820 White Street

Sec. 14-40 Permits in historic district

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

Sec. 90-363 Certificate of occupancy - required

Officer Bonnita Badgett

Certified Service: 8-31-2012 - Owner

9-13-2012 - Registered Agent

Initial Hearing: 9-26-2012

Continued from March 19, 2014

Count 1: Placed low voltage cameras outside without HARC approval.

In compliance. **Count 2:** A business tax receipt is required for all 32 rooms. Only licensed for 19 guestrooms and 1 transient rental. **Count**

3: A certificate of occupancy is required for the extra 12 rooms.

The Special Magistrate continued this case to May 28, 2014 at the request of Carlene Smith, Planning Department for the City of Key West.

2

Case # 12-1802

Teresa A Cathey

718 Thomas Street

Sec. 58-61 Determination of levy charge

Sec. 90-363 Certificate of Occupancy; Required

Officer Bonnita Badgett
Certified Service: 2-22-2013
Initial Hearing: 2-27-2013

In compliance April 21, 2014, request dismissal

Count 1: There are two units on the property. The city only recognizes one. **Count 2:** A Certificate of Occupancy is required for the second unit.

This case was dismissed by the Special Magistrate at the request of the Officer Badgett. Compliance was met on April 21, 2014.

3

Case # 14-157

Amy Lachat
822 Windsor Lane 824
Sec. 58-31 Determination of Levy Charge
Sec. 90-363 Certificate of occupancy - required
Officer Bonnita Badgett
Certified Service: 4-2-2014
Initial Hearing: 4-23-2014

In compliance April 14, 2014, request dismissal

Count 1: City only recognizes 1 unit.

This case was dismissed by the Special Magistrate at the request of the Officer Badgett. Compliance was met on April 14, 2014.

4

Case # 14-412

Louis Gazzale
1320 Leon Street
Sec. 58-31 Container and receptacle requirements
Officer Bonnita Badgett
Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

In compliance March 24, 2014, request dismissal

Count 1: Recycle/trash containers were on the city right of way on Monday, February 24, 2014 and Monday, March 24, 2014. Trash pick up is on Wednesdays.

This case was dismissed by the Special Magistrate at the request of the Officer Badgett. Compliance was met on March 24, 2014.

5

Case # 14-467

Melvin H Eaton II
1401 United Street
Sec. 58-31 Container and receptacle requirements
Officer Bonnita Badgett
Certified Service: 4-1-2014
Initial Hearing: 4-23-2014

In compliance March 25, 2014, request dismissal

Count 1: The recycle/trash bins were on the city right of way on Thursday, February 27, 2014 and Monday March 24, 2014. Trash pick up is on Wednesdays.

This case was dismissed by the Special Magistrate at the request of the Officer Badgett. Compliance was met on March 25, 2014.

6

Case # 14-707
Sybil E Wingert, L/E
1517 Rose Street
Sec. 26-192 Prohibition against unreasonable noise
Officer Bonnita Badgett
Hand Served: 4-16-2014
Initial Hearing: 4-23-2014

Repeat violation from code case 13-1441

Count 1: On April 8, 2014, the City received a noise complaint from John Penoske regarding the roosters disturbing their peace.

The Special Magistrate will listen to CD's that were received by the complainant and the respondent to determine if there is a violation.

7

Case # 13-292
Torres Real Estate LLC
Orlando F Torres, R/A
Alexander's Guest House
1118 Fleming Street
Sec. 18-601 License Required
Sec. 122-1371 Transient living accommodations in residential dwellings
Sec. 122-599 Prohibited uses - HMDR
Officer Peg Corbett
Certified Service: 3-15-2013
Initial Hearing: 3-27-2013

Continuance granted to November 19, 2014
Irreparable violation

Count 1: The subject property was held out and/or advertised as being available transiently on 22 February 2013 for a total of 17 units. Transient license is for 15 units only. **Count 2:** The subject property was held out and or advertised as being available transiently on 22 February 2013 for a total of 17 units when they are only licensed for 15. **Count 3:** Transient rentals are not permitted in Historic Medium Density Residential areas.

This Special Magistrate continued this case to November 19, 2014 at the request of the City.

8

Case # 13-1417

Dasha Renee Ray

1215 Mac Millan Drive

Sec. 62.2 Obstructions - **Dismiss**

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

Sec. 14-261 Failure to obtain electrical permit

Sec. 90-363 Certificate of occupancy - Required

Sec. 58-61 Determination and levy of charge

Sec. 74-206 Owner's responsibility for payment

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

Officer Peg Corbett

Certified Service: 1-7-2014

Initial Hearing: 1-29-2014

Continuance granted to May 28, 2014

Count 1: A scooter was blocking the city sidewalk. **Count 2:** The property owner was issued a permit to "enclose empty space at rear for laundry and infill of a carport under existing roof for storage only: in October 2001. The area is currently occupied by a tenant. No permits for the renovation for the second kitchen or the second bathroom.

Count 3: The property owner did not apply for or obtain an electrical permit for the second kitchen. **Count 4:** The property owner has a second unit which is occupied without the benefit of a certificate of occupancy. **Count 5:** The property owner has not obtained the required utility accounts for the second unit. **Count 6:** The property owner has a delinquent utility account. **Count 7:** The subject property has two units individually rented without the benefit of the required business tax receipt.

The Special Magistrate continued this case to May 28, 2014 at the request of the City.

9

Case # 13-1512

Five Guys Burgers & Fries
Corporation Service Company, R/A
E. Miles Prentice, Mgr.
500 Truman Avenue 1
Sec. 114-103 Prohibited signs
Sec. 114-104 Restriction on the number of signs permitted
Officer Peg Corbett
Certified Service: 1-16-2014
Certified Service: 2-7-2014 - revised notice
Initial Hearing: 1-29-2014

Continuance granted to May 28, 2014

Count 1: The subject business has an interior illuminated sign and five paper signs/banners attached to the windows facing both Duval and Truman contrary to city ordinance. **Count 2:** The subject business has six signs

The Special Magistrate continued this case to May 28, 2014 at the request of the attorney.

10

Case # 14-309

Norma Jean Peacock Sonzogni
Nancy Fay Peacock Ruiz T/C
825 Southard Street
Sec. 14-40 Permits in historic district
Sec. 14-37 Building permits; professional plans; display of permits
Officer Peg Corbett
Certified Service: 3-10-2014
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Count 1: For failure to obtain a certificate of appropriateness for the deck and pavers. **Count 2:** For failure to obtain a building permit for the deck and pavers.

The Special Magistrate continued this case to May 28, 2014 at the request of the City.

11

Case # 14-388

Peter Legrady
Peppers of Key West
500 Truman Avenue 6
Sec. 114-103 Prohibited signs
Sec. 114-104 Restriction on number of signs permitted

Officer Peg Corbett
Certified Service: 3-15-2014
Initial Hearing: 4-23-2015

Continuance granted to May 28, 2014

Count 1: On February 21, 2014, during a site visit, there were two neon signs and five paper signs hanging inside the window of the subject business. **Count 2:** On the same site visit, ten signs were counted, four directory, two awning, two logo signs and two separate sets of stenciling on the outside of the windows which were installed without benefit of a certificate of appropriateness.

The Special Magistrate continued this case to May 28, 2014 at the request of the City.

12

Case # 13-1621

Timothy Behan
1801 N Roosevelt Blvd M18
Sec. 14-185 Compartmentation and flotation devices
Sec. 14-37 Building permits; professional plans, display of permits
Officer Leonardo Hernandez
Posted: 1-30-2014
Initial Hearing: 2-26-2014

**Continued from March 19, 2014 for compliance
In compliance - still owes \$250 in administrative fees**

Count 1: Decking material shall be of a type not adversely affected by moisture or shall be treated. **Count 2:** For failure to obtain building permits for the ceiling beams and deck joists

The Special Magistrate closed this case. Permits were paid for and the administrative fees were paid.

13

Case # 14-259

Yebo Island Grille, LLC
Joel Dos Santos
Paul Mills, SC P.A. Registered Agent
629 Duval Street
Sec. 108-91 Scope; major and minor developments
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez
Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Count 1: The food trailer was opened without HARC approval, in violation of major and minor development plans within the historic district. **Count 2:** Portable signs are prohibited in the historic district.

The Special Magistrate continued this case to May 28, 2014 at the request of the attorney.

14

Case # 14-260

Linda Wheeler

1213 White Street

Sec. 108-452 Required sight distances for landscaping adjacent to public rights-of-way and point of access

Sec. 122-1406 Obstructions to visibility

Officer Leonardo Hernandez

Certified Service: 3-25-2014

Initial Hearing: 4-23-2014

New Case

Count 1: The hedges at the corner of White and Duncan exceed the height and length for clear visibility. **Count 2:** The hedges at the corner of White and Duncan obstructs traffic and traffic visibility.

The Special Magistrate continued this case to May 28, 2014 so that he could read through everything that Ms. Wheeler presented.

15

Case # 13-1528

Peter N Brawn

1413 South Street

Sec. 26-126 Clearing of property of debris and noxious material required - **Dismiss**

Sec. 62-31 Maintenance of area between property line and adjacent paved roadway

Sec. 10-7 Nuisance animals prohibited - **Dismiss**

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

Sec. 14-40 Permits in historic district

Officer Barbara Meizis

Certified Service: 3-7-2014

Initial Hearing: 3-19-2014

Continued from March 19, 2014

Count 1: The lot is overgrown and there are various piles of yard debris, including palm fronds, which attract rats and vermin. **Count 2:** The area between your property line and the nearest adjacent paved

roadway, including the swale, needs to be kept clean. **Count 3:** The barking dogs on this property are a nuisance. **Count 4:** A building permit is required prior to adding concrete blocks and mortar to the existing wall. **Count 5:** A certificate of appropriateness is required prior to adding concrete blocks and mortar to the existing wall.

The Special Magistrate found Mr. Brawn in violation. Costs of \$250 were imposed. Also imposed were fines of \$200 for 62-31 and \$200 for 14-37 and 14-40. Total amount due to the city is \$650.

16

Case # 14-193

David Austin
820 Ashe Street
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 14-40 Permits in historic districts
Sec. 14-262 Request for inspection
Officer Barbara Meizis
POSTED: 3-14-2014
Initial Hearing: 3-19-2014

Continuance granted to May 28, 2014

Count 1: Building permits required for "walkway" fence and new wood decking. **Count 2:** Permits in historic district are required for "walkway" fence and new wood decking. **Count 3:** An approved electrical inspection is required for pool permit #04-3894 and an approved final pool inspection is required.

The Special Magistrate continued this case to May 28, 2014 at the request of Mr. Austin.

17

Case # 14-353

Paige Crump
Tyler Talmadge
Snapper Pier Unit 17
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Sec. 122-419 Prohibited uses General Commercial district (CG)
Officer Barbara Meizis
Certified Service:
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Repeat Violation from case # 10-874
New Case

Count 1: On December 27, 2013, February 18, 2014, March 5, 2014

and March 26, 2014 you advertised your houseboat for rent for \$240/nightly, \$1,680/weekly or \$7,200/monthly. **Count 2:** On December 27, 2013, February 18, 2014, March 5, 2014 and March 26, 2014 you held out/advertised your houseboat for rent for \$240/nightly, \$1,680/weekly or \$7,200/monthly. **Count 3:** Transient rentals are prohibited in the General Commercial district (CG).

The Special Magistrate continued this case to May 28, 2014 at the request of the attorney.

18**Case # 14-369**

Jeffrey C & Rosemary J Ware
1400 Olivia Street
Sec. 58-31 Container and receptacle requirements
Officer Barbara Meizis
Certified Service: 4-2-2014
Initial Hearing: 4-23-2014

In compliance April 3 2014, request dismissal

Count 1: On Friday, February 14, 2014 and Friday, March 28, 2014 the trash/recycle bins were on the right of way. Trash pick up is on Tuesdays.

This case was dismissed by the Special Magistrate at the request of the Officer Meizis. Compliance was met on April 3, 2014.

19**Case # 14-446**

Robert Steven Baker, Revocable Trust
1401 Petronia Street
Sec. 58-31 Container and receptacle requirements
Officer Barbara Meizis
Certified Service: 4-3-2014
Initial Hearing: 4-23-2014

In compliance April 10, 2014, request dismissal

Count 1: On Thursday, February 27, 2014 and Friday, March 28, 2014, bins were observed on the right of way. Trash pick up is on Tuesdays.

This case was dismissed by the Special Magistrate at the request of the Officer Meiszis. Compliance was met on April 4, 2014.

20**Case # 14-613**

Shawn M Cowles &
Adele Williams, T/C
1216 White Street
Sec. 18-601 License Required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Sec. 122-809 Prohibited uses in the Historic Neighborhood Commercial district (HNC-1)
Officer Barbara Meizis
Certified Service:
Initial Hearing: 4-23-2014

Settlement Agreement

Repeat violation from code case # 13-981

New Case

Count 1: A transient rental license is required to rent this property transiently. **Counts 2 through 8:** On June 10, 2014 through June 17, 2014 (total of seven nights), you held out the subject property for transient rental for \$110.00 per night. **Count 9:** Transient rentals are prohibited in the Historic Neighborhood Commercial (HNC-1) district.

The Special Magistrate was presented a Settlement Agreement which was approved. The Respondent stipulates to the imposition of the administrative fees of \$250 and a fine of \$1,500. The total costs and fines are \$1,750. If Respondent is found in violation of sections 18-601, 122-1371(d)(9) and 122-809 again in the future, Respondent understands that the violations will be considered as repeat punishable by up to \$500 per day, per count.

21

Case # 13-1524

Nancy Flynn
Mama's Rock and Sand Inc.
Michael Biskupick
1405 Petronia Street
Sec. 14-40 Permits in historic district
Sec. 14-37 Building permits; professional plans; display of permits
Officer Paul Nickle
Certified Service: 4-4-2014 - Mama's Rock and Sand
Initial Hearing: 4-23-2014

Continuance granted to July 2, 2014

Count 1: For exceeding the scope of the certificate of appropriateness by installing brick pavers on the city right of way.
Count 2: For exceeding the scope of the building permit by installing brick pavers on the city right of way.

The Special Magistrate continued this case to May 28, 2014 at the request of the attorney.

22

Case # 13-1640

Martha J Wilkerson Estate
c/o Allen & Karen Valdez
914 Emma Street
Sec. 26-126 Clearing of property debris and noxious material required
Officer Jim Young
Certified Service: 4-7-2014
Initial Hearing: 4-23-2014

New Case

Count 1: The lot is overgrown with weeds.

The Special Magistrate found Martha J Wilkerson Estate in violation. He asked the city to verify that Allen & Karen Valdez are in charge of the estate.

23

Case # 14-28

Paul Julio De Poo
2932 Staples Avenue
Sec. 58-31 Container and receptacle requirements
Officer Paul Nickle
Certified Service: 4-3-2014
Initial Hearing: 4-23-2014

In compliance April 9, 2014, request dismissal

Count 1: On Tuesday, January 6, 2014, on the morning of Wednesday, February 12, 2014 and on Friday, March 21, 2014, the trash/recycle bins were on the right of way. Trash pick up is on Thursdays.

This case was dismissed by the Special Magistrate at the request of the Officer Nickle. Compliance was met on April 9, 2014.

24

Case # 14-222

White Street Station
M & M Wilson Enterprises, Inc.
Truman & White Chevron Inc.
c/o Richard D Maun, R/A
1127 Truman Avenue
Sec. 108-91 Scope, major and minor developments
Sec. 14-40 Permits in historic district
Sec. 14-37 Building permits; professional plans; display of permits

Sec. 14-256 Required - electrical permit
Sec. 14-359 Permit display - plumbing and gas permits
Officer Leonardo Hernandez
Certified Service: 4-3-2014 - property owner
Initial Hearing: 4-23-2014

New Case

Count 1: For failure to obtain a development plan. **Count 2:** For failure to obtain HARC approval. **Count 3:** For failure to obtain building permits. **Count 4:** For failure to obtain electrical permit. **Count 5:** For failure to obtain plumbing and gas permits.

This case was dismissed by the Special Magistrate with prejudice.

25

Case # 14-333

Robert H Lyhne
2827 Staples Avenue
Sec. 58-31 Container and receptacle requirements
Officer Paul Nickle
Certified Service: 4-2-2014
Initial Hearing: 4-23-2014

In compliance April 9, 2014, request dismissal

Count 1: On the morning of Wednesday, February 21, 2014, Friday, February 21, 2014 and Friday, March 21, 2014, the trash/recycle bins were on the right of way. Trash pick up is on Thursdays.

This case was dismissed by the Special Magistrate at the request of the Officer Nickle. Compliance was met on April 9, 2014.

26

Case # 14-172

Brockwood LLC
James Berger, R/A
1216 Watson Street
Sec. 18-601 License required
Sec. 18-602 Rebuttable presumption of violation
Officer Mathew Willman
Certified Service:
Initial Hearing: 4-23-2014

New Case - Settlement Agreement

Count 1: A transient license is required to rent your property

transiently. **Count 2:** The property was held out for transient rental (VRBO listing #497773) for a minimum stay of 4-7 nights.

The Special Magistrate was presented a Settlement Agreement which was approved. The Respondent stipulates to the imposition of the administrative fees of \$250. If Respondent is found in violation of sections 18-601 and 18-602 again in the future, Respondent understands that the violations will be considered as repeat punishable by up to \$500 per day, per count.

27

Case # 14-163

Mark Connolly Trust Dated 1/30/1998
307 Truman Avenue
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Sec. 122-599 Prohibited uses in the Historic Medium Density Residential district (HMDR)
Officer Jim Young
Certified Service: 3-24-2014
Initial Hearing: 4-23-2014

Irreparable Violation**Continuance granted to May 28, 2014**

Counts 1 through 7: On March 1, 2014 through March 8, 2014 the subject property was rented without the benefit of the required transient rental license. **Counts 8 through 14:** On March 1, 2014 through March 8, 2014 the property owner entered into a long-term lease with the mutual intent to subvert the regulatory goals of this section. **Counts 15 through 21:** On March 1, 2014 through March 8, 2014 the subject property owner rented the subject property transiently which is a use in the Historic Medium Density Residential district (HMDR), not specifically or provisionally provided for and therefore is prohibited.

The Special Magistrate continued this case to May 28, 2014 at the request of the attorney.

28

Case # 14-506

Timothy Behan
1801 N Roosevelt Boulevard Marlin 18
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Officer Jim Young
Hand Served: 4-18-2014
Initial Hearing: 4-23-2014

New Case

Count 1: On March 4, 2014, the houseboat was advertised on an internet web site, Airbnb.com, advertising to rent for one week for a total of \$600.00 without the benefit of a transient rental license. **Count 2:** On March 4, 2014, the houseboat was advertised on an internet web site, Airbnb.com, advertising to rent for one week for a total of \$600.00.

The Special Magistrate dismissed this case at the request of the city.

29

Case # 14-641

Vladimir Prokhodnoy
2301 Linda Avenue
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9)
Sec. 122-237 Prohibited uses in the Single Family residential district (SF)
Officer Jim Young
Certified Service: 4-8-2014
Initial Hearing: 4-23-2014

New Case - Settlement Agreement

Count 1: On April 2, 2014 a complaint was received stating that the owner is renting the property on a transient basis without the required business tax receipt. **Count 2:** On April 2, 2014, an internet advertisement on Airbnb.com, offered a room for \$115 per night. **Count 3:** Transient rentals are prohibited in the Single Family residential district (SF).

The Special Magistrate was presented a Settlement Agreement which was approved. The Respondent stipulates to the imposition of the administrative fees of \$250. If Respondent is found in violation of sections 18-601, 122-1371(d) (9) and 122-237 again in the future, Respondent understands that the violations will be considered as repeat punishable by up to \$500 per day, per count.

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30

Case # 13-931

David Lassiter
708-A Elizabeth Street
Posted: 4-9-2014

In compliance April 15, 2014, request dismissal

This case was dismissed by the Special Magistrate at the request of the City. Compliance was met on April 15, 2014.

Adjournment