



EXECUTIVE SUMMARY

To: City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Brendon Cunningham, Senior Planner

Meeting Date: March 04, 2014

RE: Lien Mitigation for 2407 North Roosevelt Boulevard (RE# 0002280-000100, AK#8890613)

Attachments: Code Compliance Finding of Facts and Stop Work Order

ACTION STATEMENT:

Request: Mitigate lien amount from \$103,650 to \$10,000

Location: 2407 North Roosevelt Boulevard (RE# 00002280-000100; AK#8890613)



Background and Previous City Actions:

On May 16, 2011, Code Compliance was requested to respond to the subject property by the Chief Building Official and requested a stop work order be placed at the subject property for building floating structures, decks and railings and installing electric and plumbing without the benefit of any permits. An investigation was initiated which resulted in a Notice of Code Violation, (NOCV) being issued on May 23, 2011 to the subject property owner, Dr. Richard Walker. The NOCV was sent to the address listed in the tax collector's office for failure to obtain building permits, failure to obtain a business tax receipt for the jet- boat rental business and failure to obtain a Certificate of Occupancy for the new structures built at the docks.

Timeline

On June 3, 2011 a plumbing permit application was submitted. That permit was cancelled on September 8, 2011. On June 21, 2011 an electrical permit application was submitted. That permit is on hold.

On October 4, 2011 a Notice of Administrative Hearing (NOAH) was issued for the October 19, 2011 hearing date. A request to continue the hearing was received on October 13, 2011. It was granted to the November 16, 2011 hearing.

The hearing was held on November 16, 2011 and a Findings of Fact, Conclusions of Law and Order was issued by the Special Magistrate for failure to obtain a building, plumbing and electrical permit for the construction and or renovations of docks, railings and three buildings. Administrative Costs of Two Hundred and Fifty Dollars, \$250.00, were imposed; however, no fines were imposed at that time. A compliance date was set for December 13, 2011 with a compliance hearing to be held on December 14, 2011. A request to continue this case to January 25, 2012 was granted.

A compliance hearing was held on January 25, 2012 during which the Special Magistrate imposed a fine of Two Hundred Dollars, \$200.00 per day starting January 25, 2012.

On May 25, 2012, the City of Key West received a letter from Dr. Walker with copies of the Army Corps of Engineers letter dated May 17, 2012 that permits the two floating docks, the structures on them and four boat slips.

On February 13, 2013, a Notice of Lien Hearing was issued to the property owner for a hearing to be held on February 27, 2013. A request to continue the hearing to March 27, 2013 was granted. A request to continue the hearing to May 22, 2013 was granted. A request to continue this case to June 26, 2013 was granted. A request to continue this case to July 31, 2013 was granted.

On June 25, 2013, compliance was achieved: the structures were removed.

On August 12, 2013 a Notice of Mitigation Hearing was issued to the property owner to be held on August 28, 2013. At the mitigation hearing before Magistrate Overby, Dr. Walker's Attorney made an offer of \$10,000, which was summarily rejected by the Magistrate and the original amount of One Hundred and Three Thousand Six Hundred and Fifty Dollars, \$103,650.00 was upheld.

On October 8, 2013, a Notice of Lien Hearing was issued to the property owner for a hearing to be held on October 30, 2013 at which time the Special Magistrate approved the filing of the Lien.

Options/Advantages/Disadvantages:

This is not a typical scenario wherein a financial impact statement is made by the Planning Department. However, after conferring with the Code Compliance and Legal Departments, it should be noted that this is a considerable lien in comparison to the value

of the property. Further, it should be noted, as indicated by the time line, that the considerable delay and accruing fines are largely attributable to inaction on the part of Dr. Walker in pursuing the required permits with the relevant Agencies and therefore not attributable to the City.

Recommendation:

Given the circumstances of self-imposed delay in achieving compliance, Staff finds that a mitigation of 96% from \$103,650 to 10,000 is not warranted.

REQUEST FOR MITIGATION

To: City of Key West
Code Compliance Division
3139 Riviera Drive
Key West, FL 33040
Phone: 305-809-3740 - Fax: 305-809-3978

Case #: 10-1425

As owner, I, Dr. Richard Walker am requesting that the City Commission consider mitigating the accrued lien at 2407 North Roosevelt Boulevard, Key West, FL 33040. The amount of the lien is \$103,650.00. I am offering \$10,000.00 to settle the above lien.

- I will represent myself at the City Commission Meeting.
- My Attorney Donald E. Yates will represent me at the City Commission Meeting and is empowered to negotiate the above fine.
- My representative _____, with attached Power of Attorney, is empowered to negotiate the amount of the lien.

This document must be received at least 15 days prior to the City Commission Meeting.

I have requested to attend the City Commission Meeting scheduled for 19 February 2014.


Signature of Owner

1-15-14
Date



THE CITY OF KEY WEST

Code Compliance Division

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

(305) 809-3740 (305) 809-3739 FAX

**BEFORE THE CODE ENFORCEMENT SPECIAL MAGISTRATE
OF THE CITY OF KEY WEST, FLORIDA**

CITY OF KEY WEST

FILE NO. 10-1425

CERTIFIED MAIL # 7007 3020 0000 5346 1879

VS.

Dr. Richard Walker
2407 N Roosevelt Blvd
Key West, FL 33040

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This cause having come before the Special Magistrate on January 25, 2012, pursuant to the Florida Statutes Chapter 162 and Article VI et seq of the Key West Code, and the Special Magistrate having heard sworn testimony, having reviewed the evidence submitted, and being otherwise advised of the premises; The Special Magistrate finds that Dr. Richard Walker is violation of Key West Code of Ordinances, section(s) 14-37. In that the following condition(s) exists at 2407 N Roosevelt Blvd: For failure to obtain a building permit for the construction and or renovations of docks, railings, three buildings including plumbing and electrical.

Accordingly it is hereby
ORDERED:

1. The Administrative fee of \$250.00 was imposed at the hearing held on November 16, 2011. Also imposed is a fine of \$200.00 per day starting today, January 25, 2012.
2. The Respondent is further ordered to contact the City of Key West Code Inspector to verify compliance, which may include an inspection. Any continuing fine imposed shall continue to accrue until such time as the Code Inspector inspects the property and verifies compliance with this Order. This Order may be recorded in the official records of Monroe County for lien and judgment purposes. This case may serve as a predicate for a repeat violation should similar violations occur in the future as applicable.
3. If you request that the fine be reduced or mitigated you must be in compliance and you must request in writing to appear before the Special Magistrate two weeks prior to a hearing to show cause why said fine should be mitigated.

Done and Ordered this 27th day of Jan 2012.

The Code Enforcement Special Magistrate of the City of Key West, Florida


J. Jefferson Overby

Certificate of Order and Service

I hereby certify that this is a true and correct copy of the above Order and that a true and correct copy has been furnished to the Respondent(s) and/or Authorized Representative via certified mail to address of record with the Monroe Property Appraiser's Office on this 30th day of Jan, 2012.


Deborah Millett-Fowley, Recording Secretary

KEY WEST BUILDING DEPARTMENT
604 SIMONTON STREET
KEY WEST, FLORIDA 33040

NOTICE

ADDITIONS or CORRECTIONS
DO NOT REMOVE

PERMIT NO.	DATE
NONE	5-16-11

ADDRESS 2407 N. ROOSEVELT

STOP WORK

NOTES: ~~* BUILDING STRUCTURES,~~
~~DECKS & RAILINGS W/O PERMITS~~
~~* ELECTRIC & PLUMBING INSTALLED~~
~~W/O PERMITS~~

~~* HIRE UNLICENSED CONTRACTOR~~

FOR CORRECTIONS CALL (305) 809-3740
Monday through Friday

DOUG Austin
Code Enforcement Inspector