

RESOLUTION NO. 18-035

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF KEY WEST, FLORIDA, APPROVING A PARTIAL
RELEASE OF LIEN FOR THE PROPERTY LOCATED AT
252 MARS LANE, GEIGER KEY, FL; PROVIDING FOR
AN EFFECTIVE DATE**

Whereas, the City of Key West holds a lien in the amount of \$244,550.00 plus accrued interest and additional daily fines until certain violations are brought into compliance against a property located at 2804 Seidenberg Ave. in Key West, FL owned by Lissette Cuervo and Louis Cuervo T/C by virtue of a code enforcement order originating in code compliance case number 09-2109 and duly recorded with the Monroe County Clerk of Court; and

Whereas, Florida Statute 162.09(3) mandates that a certified copy of an order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator; and

Whereas, Lissette Cuervo has proposed to sell her property located at 252 Mars Lane on Geiger Key, which is also subject to said lien pursuant to F.S. 162.09(3), albeit not the location of the code violations; and

Whereas, to facilitate the sale of 252 Mars Lane, it is necessary for the City Commission to issue a partial release of lien only as it pertains to 252 Mars Lane;

Whereas, pursuant to written agreement, it is the intent of

the property owners to bring the code violations at 2804 Seidenberg Avenue into compliance forthwith upon the sale of 252 Mars Lane and the proceeds from said sale will be used in part to achieve compliance.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the City Manager, on behalf of the City Commission, is authorized to execute a partial release of lien, specifically to remove the encumbrance on the property located at 252 Mars Lane on Geiger Key, Florida.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held
this 17th day of January, 2018.

Authenticated by the Presiding Officer and Clerk of the
Commission on 18th day of January, 2018.

Filed with the Clerk on January 18, 2018.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>No</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

COMPLIANCE SETTLEMENT AGREEMENT

COMES NOW, Lissette Cuervo-Carey (CUERVO) and the City of Key West (CITY) who enter into this Compliance Settlement Agreement regarding property located at 2804 Seidenberg Ave. in Key West, FL (PROPERTY) as follows:

WHEREAS, CUERVO owns PROPERTY along with Louis Cuervo, as Tenants in Common, and;

WHEREAS, CUERVO was cited in code compliance case number 09-2109 with violations regarding an enclosure of a carport into habitable space at PROPERTY without building permits, and;

WHEREAS, after a duly noticed hearing, the Code Compliance Special Magistrate signed a Findings of Fact, Conclusions of Law and Order on February 28, 2011 ordering that \$250.00 in costs be paid, and a \$100.00 per day fine be assessed if the violations were not brought into compliance by March 29, 2011 (Exhibit A), and;

WHEREAS, to date, PROPERTY is not in compliance with code compliance case number 09-2109, and;

WHEREAS, an Order Imposing Penalty/Lien on 2804 Seidenberg Avenue and any other property owned by CUERVO was recorded with the Clerk of Court on October 27, 2011, pursuant to F.S. 162.09(3) (Exhibit B), and;

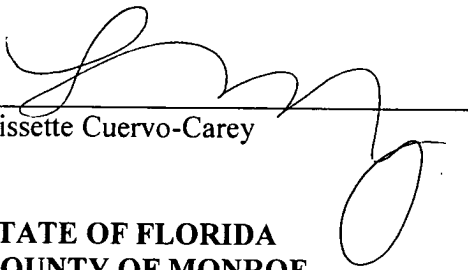
WHEREAS, CUERVO also owns a residential property located at 252 Mars Lane, on Geiger Key, Florida, located outside of the city limits of The City of Key West that is subject to said lien, and;

WHEREAS, in order to raise the funds to bring 2804 Seidenberg into compliance with code case number 09-2109, CUERVO now desires to sell her property located at 252 Mars Lane that is subject to said lien that runs in favor of the governing body for The City of Key West.

NOW, THEREFORE, the parties agree as follows:

1. If CITY approves Resolution 18-035, that proposes to grant a partial release of lien pertaining to 252 Mars Lane on Geiger Key, FL, CUERVO will use any and all necessary proceeds from the sale of 252 Mars Lane to bring PROPERTY into compliance with case number 09-2109 within 8 months of the sale of 252 Mars Lane.
2. CUERVO agrees to continue to have the lien recorded against all other real property that she owns until the violations are brought into compliance.

I HAVE READ THIS COMPLIANCE SETTLEMENT AGREEMENT AND HEREBY ACKNOWLEDGE AND ACCEPT ALL OF THE TERMS AND CONDITIONS HEREIN.

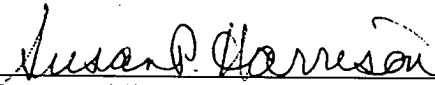


Lissette Cuervo-Carey

**STATE OF FLORIDA
COUNTY OF MONROE**

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Lissette Cuervo-Carey to me known to be the person(s) described in, and who executed the foregoing instrument and who acknowledged before me that she executed the same.

WITNESS my hand and seal in the County and State last aforesaid this 11th day of January 2018.



Notary Public

My Commission Expires: 4-8-19



(Print, Type or Stamp Commissioned Name
of Notary Public)



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. 09-2109

CERTIFIED MAIL # 7007 3020 0000 5345 9180

VS.

Lisette Cuervo
Louis Cuervo
2804 Seidenberg Avenue
Key West, FL 33040

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This cause having come before the Special Magistrate on February 23, 2011, 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 Lisette Cuervo and Louis Cuervo are in violation of Key West Code of Ordinances, section(s) 14-37. In that the following condition(s) exists at 2804 Seidenberg Avenue, Key West, FL: For failure to obtain a building permit to enclose the carport and build a bump-out.

Accordingly it is hereby
ORDERED:

1. That you pay a \$250.00 Administrative Fee. Also imposed is a fine of \$100.00 per day if not in compliance by March 29, 2011. A compliance hearing will be held on March 30, 2011 at Old City Hall, 510 Greene Street, Key West, FL at 1:30 pm. All fines and fees are payable within thirty (30) days from the date of this order to the City of Key West, Attn: Code Compliance Division, P. O. Box 1409, Key West, FL 33040.
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.

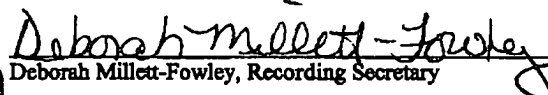
Done and Ordered this 28th day of Feb 2011.

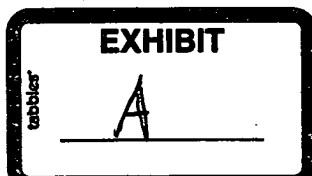
The Code Enforcement Special Magistrate of the City of Key West, Florida


J. Jefferson Oyerby

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 28th day of Feb, 2011.


Deborah Millett-Fowley, Recording Secretary



CODE ENFORCEMENT SPECIAL
MAGISTRATE IN AND FOR
THE CITY OF KEY WEST,
MONROE COUNTY, FLORIDA

CASE NO.: 09-2109-**RECEIVED**
NOV 18 2011
PSC

CITY OF KEY WEST, a
Florida municipal corporation

Key West, Florida 33040
Petitioner

vs.

Lisette Cuervo
Louis Cuervo T/C
2804 Seidenberg Avenue
Key West, FL 33040

Doc# 1856181 10/27/2011 8:59AM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

Doc# 1856181
Bk# 2539 Pg# 1732

Respondent(s)
_____ /

Subject Property Legal Description: 2804 Seidenberg Avenue , Lot 16, Block 7 Line Grove Subdivision No. 2 according to the plat thereof, as recorded in Plat Book 2, at page 26, of the Public Records of Monroe County, Florida.

ORDER IMPOSING PENALTY/LIEN

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate (herein referred to as "Special Magistrate") on February 23, 2011, after due notice to Respondent(s), at which time the Special Magistrate heard testimony under oath, received evidence, and issued its Findings of Fact and Conclusions of Law and thereupon issued its oral Order which was reduced to writing and furnished to Respondent(s). This Finding and Order was mailed on March 1, 2011.

Said Order required Respondent(s) to take certain action by a time certain, March 29, 2011, as specifically set forth in that Order. An Administrative Fee of \$250.00 was imposed along with a fine of \$100.00 per day with a compliance hearing to be held on March 30, 2011.

Accordingly, it having been brought to the Special Magistrate's attention that Respondent(s) did not come into compliance for the violation listed in the Findings and Order issued in these matters:

ORDERED that Respondent(s) pay to the City of Key West an amount of \$18,350.00 which continues to accrue on a daily basis and this amount shall be subject to the maximum statutory interest charges provided by law.

This Order can be recorded and shall then constitute a lien for all the accrued fines against the above described property, and any other real or personal property that the violator owns in Key West, Monroe County where recorded pursuant to Section 162.09 of the Florida Statutes.

