



City of Key West, FL

City Hall
1300 White Street
Key West FL 33040

Action Minutes - Final

Code Compliance Hearing

Thursday, August 27, 2020

1:30 PM

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 1-800-955-8771 or for voice 1-800-955-8770 or the ADA Coordinator at 305-809-3811 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

ALL VISUAL PRESENTATIONS FOR AGENDA ITEMS MUST BE RECEIVED (24) TWENTY-FOUR HOURS PRIOR TO THE MEETING.

Call Meeting to Order

Code Violations

1

Case # 20-866

Carleen A. Oropeza Revocable Trust
1711 Josephine Street
Sec. 58-31 Container and receptacle requirements
Officer Bonnita Badgett
Certified Mail: 8-5-2020
Initial Hearing: 8-27-2020

In compliance 20 August 2020; request dismissal

Count 1: Failure to bring in garbage and recycle bins from the city right of way.

This case came into compliance on 20 August 2020 and the city is requesting a dismissal. The special magistrate granted the dismissal.

2

Case # 20-506

Mark A Hunt
1020 Eaton Street
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Officer Sophia Doctoche
Certified Mail: 6-15-2020

Initial Hearing: 7-30-2020

Continuance previously granted to 17 December 2020

Counts 1-8: Unlawful to lease a residential property for a period of less than 30 days or one calendar month without having obtained a business tax receipt. - **Repeat**

Counts 9-11: Failure to obtain the required city, county or state license for holding out/advertising a short-term rental at this property. - **Repeat**

Counts 12-19: Unlawfully holding out this short-term rental for eight nights. - **Repeat**

The special magistrate previously granted a continuance to 17 December 2020

3

Case # 20-1032

Rakhmatov Timur

3406 Flagler Avenue

Sec. 18-601 License required

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations

Sec. 122-1371 Transient living accommodations in residential dwellings; regulations

Officer Sophia Doctoche

Certified Mail:

Initial Hearing: 8-27-2020

New Case

Counts 1-7: Failure to obtain a transient medallion and license to advertise and rent short-term.

Counts 8-10: Failure to obtain all required city, county and state licensing to advertise and rent short-term.

Counts 11-17: Property owner holding out for transient rental for 7 nights the dates of August 22nd - August 29th 2020 for a total of \$2,901.00 without obtaining the proper city, county and state licensing.

The code officer Sophia Doctoche requested a continuance to 17 December 2020 for good service.

4

Case # 18-1784

Lindholm Construction, Inc

Richard Lindholm - Registered Agent

Native Builders, Inc

Carl Denny - Registered Agent

Nicholas Obea LLC

Clint Gordon - Registered Agent
 Cristian J Swanson
 1610 Dennis Street
 Sec. 14-262 Request for inspection
 Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions
 Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions
 Sec. 18-117 Acts declared unlawful
 Sec. 18-150 Certificate of competency required
 Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business
 Officer Edward Keane
 Certified Mail: 5-30-2019 - Lindholm Construction, Inc.
 Certified Mail: 5-30-2019 - Native Builders, Inc.
 Certified Mail: 11-28-2019 - Lindhold Construction, Inc.
 Certified Mail: 11-27-2019 - Cristian J Swanson
 Certified Mail: 12-28-19 - Native Builders, Inc
 Posted: 7-19-2019 - Nicholas Obea LLC
 Initial Hearing: 6-27-2019

Settlement Agreement

Lindholm Construction Inc dismissed on all counts

Counts 1-3 - Cristian J Swanson only

Count 1: Electrical work was performed without the benefit of permit and inspection. **Count 2:** Interior structural work at the subject location without the benefit of a permit. **Count 3:** Interior plumbing work performed at the subject location without the benefit of a permit.

Count 4: Failure to obtain the appropriate license from the city of key west. - **All parties**

Count 5: Failure to obtain a certificate of competency. - **Cristian J Swanson only**

Count 6: Failure to obtain a business license from the city of key west. - **Cristian J Swanson only**

The code officer is Edward Keane. There was two settlement agreements for Nicholas Obea and Carl Denny. The Special Magistrate signed off on the settlement Agreements which were both in the amount of \$500.00. The Special Magistrate asked Edward Keane if the case was in compliance and Edward Keane stated that yes the case is in compliance. Director Jim Young then told the Special Magistrate that the case needs to be continued to 24 September 2020 due to Cristian Swanson entering into a settlement agreement as well. The Special Magistrate granted the continuance only for Cristian Swanson.

5

Case # 19-1715

Futerman Phenphak - Owner

3011 Riviera Drive
Sec.14-37 Building permits; professional plans; display of permits;
address; exceptions
Officer Edward Keane
Posted: 7-31-2020
Initial Hearing: 3-26-2020

New Case

Count 1: Failure to obtain all proper building permits.

The code officer is Edward Keane. Michael Halpurn spoke for the respondent and requested a 60 day continuance so that he can get this case into compliance with the city. The Special Magistrate granted the continuance to 22 October 2020.

6

Case # 20-1120
Kenneth Michels
1312 4th Street
Sec. 66-102 Dates due and delinquent; penalties
Officer Rachel Kobylas
Certified Mail:
Initial Hearing: 8-27-2020

New Case

Count 1: Failure to pay all past due fines and fees to the Licensing Department.

The code officer is Rachel Kobylas. Rachel requested a continuance for good service. The special magistrate granted a continuance to 24 September 2020.

7

Case # 20-1122
David Perlman
829 Baptist Lane
Sec. 66-102 Dates due and delinquent; penalties
Officer Rachel Kobylas
Certified Mail:
Initial Hearing: 8-27-2020

In compliance 19 August 2020; request finding and order no fees or fines

Count 1: Failure to pay all past due fees and fines to the Licensing Department.

The code officer is Rachel Kobylas. Rachel is requesting a finding and order

with no fees or fines. The respondent David Pearlman state that he was not sure why he was at the meeting. The Special Magistrate then explained to David that due to his business tax receipt being delinquent for 2 years in a row he has a finding and order without any fees or fines.

8

Case # 19-1081

Lazy Days of Key West, LLC

Nira Sela - Registered agent

715 Duval St. 1

Sec. 14-40 Permits in historic districts

Sec. 114-103 Prohibited signs

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

Officer Troy Montero

Hand Served: 1-9-2020

Initial Hearing: 3-26-2020

Continued to 27 August 2020 for compliance**Count 1:** Failure to obtain HARC certificate for awning (front).**Count 2:** Failure to remove prohibited signs (front).**Count 3:** Failure to obtain building permit.

The code officer is Troy Montero. Troy Montero stated that all the violations are in compliance except for the permit for the signs. They are waiting for the permits for the signs to be approved. Troy stated that count 1 and 2 are dismissed and that count 3 is the only one left. Troy Montero requested a finding and order of \$250.00 administrative fee and a \$250.00 per day per count unless in compliance by 22 September 2020. The Special Magistrate granted the finding and order. This case will be continued to 24 September 2020.

9

Case # 19-1592

Rosemie Thomas

1213 14th Street 54

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

Officer Troy Montero

Certified Mail: 11-25-2019

Initial Hearing: 1-30-2020

Continued to 27 August 2020 for compliance**Count 1:** Failure to obtain all proper building permits.

The code officer is Troy Montero. This case was previously continued to this hearing. The respondent did not attend even though they were provided the zoom link by Troy. Troy went on to explain to the Special Magistrate that he

spoke to a contractor who is going to put this trailer back to the way it was. Troy is requesting a finding and order of \$250.00 administrative fee and a \$250.00 fine per day per count if not into compliance by 22 September 2020. The case will be continued to 24 September 2020.

10

Case # 20-313

SH5 LTD

Robert A. Spottswood - registered agent

3841 N Roosevelt Blvd

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

Officer Troy Montero

Certified Mail: 6-15-2020

Initial Hearing: 7-30-2020

Continuance granted to 27 August 2020**Count 1:** Failure to apply for fence permits.

The code officer is Troy Montero. Assistant City Attorney Nathalia Mellies spoke for the case by stating she is working with the respondent for this case to get them into compliance and she requested a continuance to 24 September 2020. The Special Magistrate granted the continuance.

11

Case # 20-1090

Patagonia Ventures LLC

Robert E. Clark LLC

903 Duval Street

Sec. 26-192 Unreasonably excessive noise prohibited

Officer Troy Montero

Certified Mail: 8-10-2020

Initial Hearing: 8-27-2020

New Case**Count 1:** Failure to cease all excessive noise emanating from the subject address.

The code officer is Troy Montero. Troy went on to explain that he received this complaint through dispatch. Donald Whitehead at the Wicker House is the complainant who filled out a noise complaint form for the code officers who took a reading with the sound meter. The violator was found 10.4 dbc over the limit and the violator was given a notice of violation for this noise complaint. The Special Magistrate then proceeded to ask Troy Montero if all this was accurate and true which he responded with yes. Troy requested a \$250.00 administrative fee and a suspended \$250.00 fine. The Special Magistrate granted the finding of violation.

12

Case # 19-1159

Evelyne Cajuste

1300 15th court lot 45
Sec. 14-37 Building permits; professional plans; display of permits;
address; exceptions
Officer Paul Navarro
Certified Mail: 8-1-2020
Initial Hearing: 8-27-2020

In compliance 6 August 2020; Request dismissal

Count 1: Failure to obtain all permits for the structure built in the rear side of the mobile home.

This case came into compliance on 6 August 2020 and the city is requesting a dismissal. The Special Magistrate granted the dismissal.

13

Case # 20-652

Paul Gallagher
1717 Duncan Street
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business
Officer Paul Navarro
Certified mail: 8-14-2020
Initial hearing: 8-27-2020

New Case

Count 1: Failure to apply and obtain a non-transient license.

The code officer is Paul Navarro. The respondent did not attend even though they had good service. Paul Navarro went on to explain that the property owner sent him a lease for the tenants that are renting from this property without a property business tax receipt. The property owner has still refused to get a business tax receipt. Paul requested a \$250.00 administrative cost and a \$250.00 fine and the Special Magistrate granted the finding.

14

Case # 19-672

808 Southard Street LLC
C/O Brawn Peter Nelson
812 Southard Street
Sec. 26-192 Unreasonably excessive noise prohibited
Sec. 122-597 Permitted uses
Sec. 122-598 Conditional Uses
Officer Dorian Patton
Certified Mail: 1-11-20
Initial Hearing: 1-30-2020

Continuance granted to 27 August 2020

Count 1: Failure to cease from allowing the company "Tree Man" from operating their equipment and performing their business.

Count 2: Failure to remove all vehicles, utility trailers. and boat/jet ski trailers from all residential lots on the property.

Count 3: Failure to stop the company "Tree Man" from performing light industrial activity on the property.

The code officer is Dorian Patton. The Assistant City Attorney Ron Ramsingh spoke on behalf of the city. Ron Ramsingh read off all the witnesses from Carsten lane who will be testifying. They were Matt Willman, Terry Justice, Mike Mcgraff, Laurie Scott, Kevin Scott and Maureen Bramalage and Jim Young. The respondents lawyer Susan Cardenas then spoke on behalf of her client, Peter Braun. She has witnesses testifying also who are Peter Braun, Pete Bower, Sean Credan. All witnesses were sworn in. Ron Ramsingh went onto explain all 5 counts that are in violation. Susan Cardenas then questioned the counts and if they were properly noticed. Ron Ramsingh and Susan Cardenas and the Special Magistrate went on to figure out what was on the notice of code violation and what was on the notice of hearing. The Special Magistrate asked if there was proper service for the 5 counts. Ron Ramsingh pulled up his email with Susan Cardenas in regards to a continuance she requested previously and it showed that all the counts were discussed in this email. The Special Magistrate proceeded to go through the evidence packet to clear up all confusion. Ron Ramsingh went onto explain that Susan Cardenas did receive good service through emails, conversations with the code officer and through a notice of code violation and notice of hearing. The Special Magistrate then said they will go by count by count. Ron Ramsingh called Officer Dorian Patton to testify. He asked how he received the complaint and if he went to the site. Dorian Patton read off his timeline that explains how all the complaints we received and all the correspondance between Dorian, Susan Cardenas, Ron Ramsingh and the neighbors on Carsten lane. April 15, 2019 a written complaint was received by code from the people living on Carsten Lane. From April 15 through May 2020 code received numerous complaints from those living on Carsten Lane. Ron Ramsingh then asked Officer Dorian Patton what commercial activity went on, on the residential property. Dorian Patton explained that the Tree Man would bring debris to the property and chip it there and that he witnessed this as well. Ron Ramsingh then displayed his screen which reflected the municipal code section 122-596 which explains permitted uses in HDMR zoning. Susan Cardenas then asked Dorian Patton if he observed this activity happening in the residential area. Dorian Patton responded that he witnessed it on November 19, 2019, December 19, 2019, August 14, 2020, August 22, 2020. Ron Ramsingh then asked Dorian Patton if he or any other code officers ever issued a affidavit of compliance for this case which he responded with no. Susan Cardenas went onto question the testimony that Dorian Patton gave on the date he took the video of Tree Man chipping wood on the property. Susan Cardenas asked Dorian Patton what video evidence he wants to display. Dorian Patton explained he has videos from the witnesses showing the Tree Man chipping wood on the property and the video that Dorian Patton took of the same incident. Ron Ramsingh asked Dorian Patton if the video that he took is true and accurate to which Dorian responded with yes. The video that Dorian took was then played. Ron Ramsingh asked Dorian if this activity was done in the HDMR district to which

Dorian responded with yes. Ron Ramsingh called Maureen Bramalage as a witness. Maureen lives at 812 Carsten Lane. She went on to explain that she witnessed Treeman bring the debris and brush onto the residential property and throw them into a wood chipper. Maureen went onto testify that she would see the trucks labeled Tree Man LLC. Ron Ramsingh asked Maureen if Treeman continued the chipping activity after August 2019 which she responded with yes. Susan Cardenas then objected to Maureen Bramalage testifying in regards to the licensing that this property has. Ron Ramsingh then was asked by the Special Magistrate to rephrase his question for Maureen. Maureen stated that she printed out a license from 2018 that was for parking only and a general service license which she does not know what that is for. Susan Cardenas had redirect for Maureen Bramalage in regards to the dates that the tree chipping occurred. Susan Cardenas went onto ask Maureen if the debris that was brought to the property being from commercial activity. Maureen Bramalage testified that once the police were called, no more wood chipping was done on the property. Susan Cardenas went onto question how Maureen knew what areas of the property were zoned residential. Susan asked Maureen if she can testify to any other activity besides wood chipping and parking on the residential property to which she responded with yes. Susan Cardenas went on to ask Maureen various questions. Ron Ramsingh then called Amanda Brady who is the licensing official for the City of Key West to testify. Amanda went on to explain the 2 licenses that this property holds and what they are for. Amanda explained to Ron that if someone wants to do commercial work on a residential property they would need to go through the planning department first. Amanda also stated that the parking lot license is commercial and that the general service license is for property management. Susan Cardenas then questioned Amanda Brady on the general service license and the commercial parking lot license. Susan went on to ask Amanda if there is any restrictions noted on the parking lot license to which Amanda responded with no. Ron Ramsingh then asked Amanda what the property management license would encompass to which she responded with mowing the lawn and cleaning the property. Ron Ramsingh then called the next witness Kevin Scott to testify. Kevin Scott stated that he lives across from the Harris School and that he is on the Margaret street side. Kevin has lived there for 6 years and he stated that he has called in numerous complaints on Harris School. Kevin went on to testify that he witnessed Treeman wood chipping numerous times along with contractors who have utility trucks park along the property line and work out of them. Ron Ramsingh asked Kevin if he knew why this work was being done and he responded that this work would be done on the property and then hauled off to another location. Kevin then went on to explain all the various activities that took place on the property including all the debris and materials that were hauled onto the property by Treeman and other unmarked vehicles. Susan Cardenas then questioned Kevin Scott on the commercial activity that he witnessed happen on the property. Susan asked Kevin what dates he witnessed all this activity and he responded with January through May there was numerous times that this activity took place. Ron Ramsingh then called Laurie Scott to testify. Ron Ramsingh asked Laurie Scott if the videos that she took of the Harris School property are true and accurate to which she responded with yes. Susan Cardenas stated she did not have time to review these videos but did not object to them being played. The videos were then played. Dorian Patton then screen shared a video also. Laurie Scott explained the video that was being played. Susan Cardenas then began to ask Laurie Scott questions on the truck in the video. Ron Ramsingh called Michael Mcgraff to testify. Michael responded by explaining where he lives and what he

witnessed happen on the Harris School property. Michael then screen shared the events that he observed on the property. The date of the video was August 17th 2018. Susan Cardenas objected to the video due to her not reviewing it prior. The Special Magistrate wanted to review the video before he decides if its okay to use as evidence or not. The Special Magistrate ordered that all these evidence videos be given to Susan Cardenas so that she can review them prior to the next hearing on this case. Susan Cardenas then began to ask Michael Mcgraff questions on his original testimony on the wood chipping activity and the parking in the commercial lot. The Special magistrate called for a break in this case. This case will be continued to a later date. Susan Cardenas and Ron Ramsingh agreed to continuing this to another date.

Mitigations

15

Case # 18-2089

Duval and Caroline, LLC

Joseph Walsh

429 Caroline Street

~~Sec. 66-109 Schedule of taxes~~ - **Dismissed**

Sec. 14-40 Permits in historic districts

Officer Sophia Doctoche

Posted: 4-30-2019

Initial Hearing: 4-24-2019

Mitigation

~~Count 1: Failure to obtain seating authorization for the seats located at the subject property.~~ - **Dismissed.** **Count 2:** Failure to apply for and obtain an after the fact certificate of appropriateness for the subject property.

This case is for a mitigation. The code officer is Sophia Doctoche. The respondent is Joseph Walsh. Van Visher is representing the respondent. Van Fisher began to testify that he is requesting relief on the \$24,000.00 lien that is owed. Joseph Walsh is requesting to pay only 10% of that. Assistant City Attorney Nathalia Mellies spoke for the city and rejected the 90% reduction that Joseph Walsh is requesting. Van Fisher went onto argue the time that it took for the permits to be approved and that it was not his clients fault for the delay so he should not have to pay for that time. The Special Magistrate then tried to understand why there was a long time frame for the permits to be approved. Terry Justice the Chief Building Official then responded by stating that there is not notes on what held the permits up. Kathleen from HARC stated that she signed off on the Certificate of Appropriateness on November 5th 2019. Nathalia Mellies then requested a continuance to collect more evidence for this mitigation. This case is continued to 24 September 2020.

Adjournment