



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

December 28, 2012

**VIA CERTIFIED MAIL
& ELECTRONIC MAIL**
7007-3020-0000-5347-9379
psjanker@yahoo.com

Peter Janker
7688 Oak Field Ct
Springfield, VA 22153-3506

Re: Lawful Unit Determination
417 United Street - upstairs addition

Dear Mr. Janker,

This letter is in response to your request for a determination regarding whether two Building Permit Allocation System (BPAS) units are lawfully established on the property located at 417 United Street. The entire property is comprised of a single-family house with an attached unpermitted apartment upstairs. The property is located in the Historic High Density Residential (HHDR) zoning district.

The purpose of the BPAS is to limit residential development commensurate with the City's ability to maintain reasonable and safe hurricane evacuation clearance times as established by the Hurricane Evacuation Model prepared by Post, Buckley, Schuh and Jernigan in 1991 (see Policy 5-1.6.4 of the Comprehensive Plan). The basis for determining existing units shown in the model was the April 1, 1990 Census. Therefore, units in existence at the time the census was prepared are presumed not to be affected by BPAS as established by Objective 1-3.12 and implementing policies of the City of Key West Comprehensive Plan.

A site visit by City staff, which included the Building Official, was conducted on December 27, 2012. The site inspection verified that two units exist today at 417 United Street. Site photographs of the units are included¹. Documentation provided to, as well as information researched by the Planning Department, indicates that the property has one owner occupied unit (main house) and one non-transient unit (unpermitted apartment upstairs). Therefore, one of the two residential units existing today is in question. City records indicate that a permit was issued April 14, 1971 for an addition, which is also reflected in the 1974 property record card³. However, the structure was recognized as a single family home before, during, and after the period (1990-1993) when the state mandated residential Building Permit Allocation System (BPAS) was implemented in the City⁴. Additionally, interior access from the main house to the unpermitted apartment indicates that the original addition in 1971 was intended to be an additional bedroom/living area for the main residential unit, i.e. a "bedroom" addition. The entirety of the evidence presented by you, and that acquired by the Planning Department indicates that the additional unit was not lawfully established.

In conclusion, the Planning Department has reviewed available information and has determined there is not sufficient information to substantiate your request for the second unit. The following are the findings based on the review by the Planning Department relating to activities on the property to date:

- Site Photographs of interior access from the main house to the unpermitted apartment¹;
- 1991 Land Use Inventory which was created by the Planning Department based upon the 1990 US Census, recognized one residential unit⁴;

- Polk City Directories from 1981-82, 1987 and 1994 recognized one unit⁵; and
- Utility (Keys Energy) and sewer/garbage account records indicate one meter/one unit⁶.

Based on our determination, you will need to maintain access to the unpermitted apartment from the main house and remove the kitchen in its entirety (cabinets, sink, stove, etc.) within six months. However, beginning July 2013, Department of Economic Opportunity (DEO) will begin allocating 90 ROGO/BPAS residential units to Key West for the next 10 years. You may apply for an additional residential BPAS unit contingent upon your ability to demonstrate that the density requirements for the HHDR zoning district can be met.

Please do not hesitate to contact me at 809-3722 with any questions or comments that you may have.

Respectfully,

Carlene Smith
Development Review Administrator

Attachments: 1 Site Visit Photos (December 27, 2012)
 2 Building Official Memo
 3 Building Permit April 14, 1971 and 1974 Monroe County Property Record Card
 4 1991 Land Use Inventory
 5 Polk City Directories from 1981-82, 1987 and 1994
 6 Utility and Sewer/Garbage account information
 7 LUD Application

cc: Donald Leland Craig, AICP, Planning Director
 John Woodson, Building Official
 Larry Erskine, Chief Assistant City Attorney
 Ron Ramsingh, Assistant City Attorney
 Carolyn Walker, Licensing Official
 Jim Young, Code Compliance Manager
 Bonni Badgett, Code Officer
 Michael Turner, Utilities Collection Manager
 Dave Kraus, Monroe County Property Appraiser

Ms. Carlene Smith

26 January 2013

City of Key West

PO Box 1409

Key West, FL 33041-1409

Re: Lawful Unit Determination

417 United Street-Upstairs Addition



Dear Ms. Smith

I am replying to your letter dated 28 December 2012 in which you stated that "there is not sufficient information to substantiate your request for the second unit" and directed that the apartment's kitchen be removed within six months.

I disagree with your position that sufficient information does not exist to substantiate my request for the city's recognition of a lawful second unit. Specifically I submit the following:

- That Monroe county records showing 417 United had registered as two units prior to 1990 were not used despite their being part of official county records.
- That city code requires the use of a second entry/exit in the case where a spiral staircase is used as primary access. Hence the second entry is a city requirement that must be maintained.
- That the secondary entry into the apartment is via a closet/hallway which is clearly not part of the main residence although it provides the ability for both units to be used by an extended family.
- That while a second electrical meter does not exist, that the apartment has its own electrical box. The report by JW specifically indicates that these utilities predate the 1990 date established in the LDR.
- That the city's own report indicates that the plumbing and utilities predate the 1990 date and that it otherwise make no sense for two kitchens to be installed within a single building without the intent for them to be two individual units or the ability to be use as such.

Request that 417 United Street be determined as meeting density requirements for the HHDR zoning district and allocated a ROGO/BPAS unit in July and/or that your findings be modified to show two units.

V/r

A handwritten signature in black ink, appearing to read "Peter S. Janker".

Peter S. Janker



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

February 12, 2013

VIA CERTIFIED MAIL
& ELECTRONIC MAIL
7007-3020-0000-5347-9515
psjanker@yahoo.com

Peter Janker
7688 Oak Field Ct
Springfield, VA 22153-3506

Re: Lawful Unit Determination
417 United Street - upstairs addition

Dear Mr. Janker,

This letter is in response to your letter received February 11, 2013. As stated in our Lawful Unit Determination (LUD), 417 United Street was recognized as a single family home before, during, and after the period (1990-1993) when the state mandated residential Building Permit Allocation System (BPAS) was implemented in the City. The Planning Department reviewed available information and determined there was not sufficient information to substantiate your request for the second unit. Additionally, the minimum lot size in the Historic High Density Residential (HHDR) zoning district is 4,000 square feet. Since your lot is only 2,048 square feet, your property does not meet density requirements and will not qualify for a ROGO/BPAS unit allocation.

In conclusion you will need to maintain access to the unpermitted apartment from the main house and remove the kitchen in its entirety (cabinets, sink, stove, etc.) by June 2013. Please note that at the last Code Hearing on January 30, 2013, Special Magistrate Jefferson Overby, asked the Planning Department to re-examine the six month timeframe given on LUD denials. Therefore, please note that your six month timeframe to remove the kitchen in its entirety is currently under review. You will be notified in writing regarding the final determination.

Please do not hesitate to contact me at 809-3722 with any questions or comments that you may have.

Respectfully,

A handwritten signature in cursive script that reads "Carlene Smith".

Carlene Smith
Development Review Administrator

Attachment: 1 Applicant Response Letter received 2/11/13

cc: Donald Leland Craig, AICP, Planning Director
John Woodson, Building Official
Larry Erskine, Chief Assistant City Attorney
Ron Ramsingh, Assistant City Attorney
Carolyn Walker, Licensing Official



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

February 18, 2013

VIA CERTIFIED MAIL
& ELECTRONIC MAIL
7007-3020-0000-5347-9539
psjanker@yahoo.com

Peter Janker
7688 Oak Field Ct
Springfield, VA 22153-3506

Re: Lawful Unit Determination Update
417 United Street - upstairs addition

Dear Mr. Janker,

Please disregard our request for the current lease in the unpermitted apartment upstairs. After conferring with our Legal Department, a current lease in an illegal structure is not considered in mitigating compliance time. As previously stated in prior correspondence, during the Code Hearing on January 30, 2013, Special Magistrate Jefferson Overby, asked the Planning Department to re-examine the six month timeframe given on a prior LUD denial. Therefore, the Planning Department is re-evaluating all LUD denials and amending the timeframe to remove the kitchen in the unpermitted apartment upstairs in its entirety from six months to 30 days from the date of this letter. You will need to obtain a permit from the Building Department for the removal of the kitchen, as this will require electrical and plumbing work. All electrical and plumbing connections will need to be capped and sealed. City staff will conduct a site visit once the kitchen has been removed.

Additionally, since the Lawful Unit Determination (LUD) letter dated December 28, 2012, did not contain verbiage regarding your appeal rights, the date of this LUD update letter will serve as the final date of determination. Anyone who may wish to appeal an administrative decision may do so in accordance with Section 90-431 of the Land Development Regulations.

Please do not hesitate to contact me at 809-3722 with any questions or comments that you may have.

Respectfully,

A handwritten signature in blue ink, appearing to read "Carlene Smith", is written over a light blue horizontal line.

Carlene Smith
Development Review Administrator

cc: Donald Leland Craig, AICP, Planning Director
John Woodson, Building Official
Larry Erskine, Chief Assistant City Attorney
Ron Ramsingh, Assistant City Attorney
Carolyn Walker, Licensing Official
Jim Young, Code Compliance Manager
Bonnita Badgett, Code Officer