



**THE CITY OF KEY WEST**  
**Code Compliance Division**

P.O. BOX 1409  
KEY WEST, FL 33041  
**(305) 809-3740**

**NOTICE OF CODE VIOLATION AND  
ADMINISTRATIVE HEARING**

DATE: May 26, 2011  
RE: CASE NUMBER 11-00000697

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 0292

To:  
JAVIER ARELLANO  
20001 OVERSEAS HWY  
SUMMERLAND KEY FL 33042

Subject Address:  
100 Blk of Duval St  
Key West, FL 33040

**TAKE NOTICE** that the City of Key West Code Compliance Division has requested the City of Key West Special Magistrate to conduct an administrative hearing regarding code violation(s) reported to you by

**NOTICE OF CODE VIOLATION** concerning the above noted subject address.

You were noticed that your property is in violation of the City of Key West Code of Ordinances for the following reason(s):

**Violation Detail**

00010 PERMIT REGULATIONS Sec. 6-4 - License holder 159, (Street Artist) Javier Arellano was found in violation of the display size restrictions. The size of the display is 50"x52" and 76" in height which is in violation of Sec. 6-4(K).

In accordance with Florida Statutes § 162 and Code of Ordinances, City of Key West, § 2-631 through § 2-647, The City of Key West has scheduled a hearing to be held at **Old City Hall, 510 Greene Street, Key West, Florida at 1:30 P.M. on:**

**June 29, 2011**

The Chambers will be open at 1:00 PM. These proceedings may be televised.

The purpose of this hearing is to determine if a violation(s) exists, the appropriate action to be taken, if any is required, and if any fines or penalties are to be imposed. **YOU ARE REQUESTED TO APPEAR AT THIS HEARING** to present evidence and/or testimony to show cause, if any, why you should not comply with City Ordinances. **YOUR FAILURE TO APPEAR MAY RESULT IN A**

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**FINE OR PENALTY BEING IMPOSED AGAINST YOU AND A LIEN BEING IMPOSED UPON YOUR PROPERTY.**

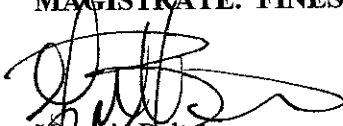
You have a right to have an attorney present at the hearing. If an attorney represents you, your attorney must file written notice with this office prior to the hearing date.

If you intend to request a continuance from the Hearing Date set out above you must submit a written request for a continuance addressed to the Special Magistrate and mailed to PO Box 1409, Key West, FL 33041 or delivered to the Special Magistrate's Legal Analyst at 3139 Riviera Drive, Key West, FL 33040. All requests must be received at least five (5) working days prior to the Hearing Date set out above. If the request is not received five (5) working days prior to the Hearing Date you or your attorney must appear on the Hearing Date to petition the Special Magistrate for a continuance. If any continuance is granted this will not stay discovery and all records previously requested must be supplied to the City or formally objected to.

**Be advised that, if you decide to appeal any decision of the Special Magistrate in this code enforcement hearing, you shall be responsible to ensure that a verbatim record of the proceedings of this code enforcement hearing is made, such that any evidence and testimony upon which an appeal may be based can be submitted to the appellate court.**

If you are found to be in violation of City of Key West Ordinances, administrative costs in the amount of **\$250.00** may be levied for administrative recovery for prosecution and investigation in addition to levied fines associated with the violation(s). **Failure to pay these costs will result in a lien against the property in violation.**

**PER FLORIDA STATUTES SECTION 162.09, YOUR FAILURE TO CORRECT THE VIOLATION (S) MAY RESULT IN THE IMPOSITION OF A FINE OF UP TO \$250.00/DAY, AND \$500.00/DAY FOR A REPEAT VIOLATION. IF THE VIOLATION (S) IS IRREPARABLE OR IRREVERSIBLE, A FINE OF UP TO \$5000.00 MAY BE IMPOSED BY THE SPECIAL MAGISTRATE. FINES MAY BE IMPOSED ON A PER DAY/ PER VIOLATION BASIS.**

  
Yesenia Beltranena  
Code Compliance Officer  
City of Key West  
(305) 809-3740

Hand Served this    day of \_\_\_\_\_, 2011

Received by: \_\_\_\_\_

Served By: \_\_\_\_\_

CASE NUMBER 11-00000697  
 PROPERTY ADDRESS STREET CITY

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 VIOLATION: PERMIT REGULATIONS QUANTITY: 1  
 DESCRIPTION: Sec. 6-4 DATE: 5/26/11  
 LOCATION: 100 BLK DUVAL

## NARRATIVE :

License holder 159, (Street Artist) Javier Arellano was found in violation of the display size restrictions. Officer Meizis and myself measured the display, The size of the display is 50"x52" and 76" in height which is in violation of Sec. 6-4(K).

## ORDINANCE DESCRIPTION :

Permit regulations; prohibitions.

- (a) Throughout the period of time the permit holder is located on public property and engaged in performance or vending art, he or she shall maintain the permitted area, within a radius of ten feet, free of trash and debris and deposit the trash and debris in proper receptacles.
- (b) A performer or art vendor shall not create noise that violates the Key West sound control ordinance set forth in chapter 26 of the Code of Ordinances.
- (c) A performer or art vendor shall not create an undue interference with the passage of the public through a public area. If a performer or vendor attracts a crowd sufficient to obstruct the public way, a police or code enforcement officer may disperse the crowd that is creating the obstruction. The officer may ask the performer or vendor temporarily to suspend a performance or vending activity or to leave the location when such action is necessary to protect the public safety or public order.
- (d) A performer may request donations of money or property at a performance. Art vendors holding a permit B shall present a valid State of Florida Sales Tax Receipt at the time of application. Art vendors may offer for sale their own original art (or a reproduction thereof so long as it is identified as a reproduction), provided that the display of the art is contained in an area within the immediate reach of the art vendor.
- (e) No performer or art vendor shall create a fire hazard or use fire or a weapon as defined in 6-1 in a performance or creation of art or crafts.
- (f) No performer or art vendor shall engage in the application of tattoos or body piercing.
- (g) No performer or art vendor shall include obscenity in a performance or vending activity.
- (h) No performer or art vendor shall engage in harassment or coercion of passersby.
- (i) Spray painting shall be permitted, so long as the artist provides ground cover, a wind screen, and confines the spray painting to an area not greater than five feet by five feet; and otherwise ensures that the spray paint shall not damage or implicate property not involved in the subject art.

CASE NUMBER 11-00000697  
PROPERTY ADDRESS STREET CITY

## ORDINANCE DESCRIPTION :

(j) No food or drink, whether made by a permit holder or otherwise, shall be permitted to be displayed or offered for sale.

(k) No tables, lounge chairs, push carts or mobile display racks, including all accoutrement, shall be placed on public property other than one display that is no larger than six feet high, four feet wide and four feet deep including all attachments for either permit A or permit B holders. One small chair or stool shall be allowed; a portrait artist may provide a folding chair for the customer which shall be stored when not in use. Permit holders shall not occupy an area larger than twenty-five square feet.

(l) No performer or art vendor shall block access to an entrance to a building, bicycle rack or to a trash receptacle.

(m) No performer or art vendor shall interfere with a motorist, either regarding the passage of a vehicle or the sight of its driver.

(n) A permit holder shall not engage in fraudulent practices or solicitations, including but not limited to misrepresentation about any sale or solicitation, misrepresentation about the nature and type of any organization with which the permit holder is associated, misrepresentation or concealment of any material fact in the application process, or misrepresentation regarding any art being vended.

(o) No performer or art vendor shall engage in off-premises canvassing as set forth in chapter 18 of the Code of Ordinances; provided, however that an art vendor may distribute a catalog of his or her work.

(p) No performer or art vendor shall connect to electric outlets or power sources owned by the city, or on private property, and must provide his or her own safe power sources, if any are required. Extension cords that traverse the city right of way are prohibited.

(q) Permit A holders are permitted to have one animal as part of their performance. Such animal is limited to a domesticated dog, domesticated cat, bird with a wingspan no larger than 36 inches or tortoise with a shell no larger than 36 inches.

(r) Persons operating under Permit "B" shall not engage in performances of any kind, except for the creation of an original work of art.

(s) The licensing division may promulgate administrative rules to effectuate this section.

(t) No permit holder may actually or constructively possess any alcoholic beverages, nor be under the influence of same while conducting their business or performance.

(u) Palm fronds used by a permit holder shall be limited in length to three feet.

(v) Any permit holder who is a minor as defined in section 42-12(a) of the Code of Ordinances for the City of Key West shall abide by the provisions of Section 42-12(b) and shall

VIOLATION DETAIL

PAGE 3

CASE NUMBER 11-00000697  
PROPERTY ADDRESS STREET CITY

ORDINANCE DESCRIPTION :

have a parent or legal guardian with them at all times while performing any activity under this chapter.

(w) Application in any form is prohibited.

CORRECTIVE ACTION REQUIRED. :