



City of Key West, FL

Old City Hall
510 Greene Street
Key West FL 33040

Action Minutes - Final

Code Compliance Hearing

Wednesday, September 28, 2016

1:30 PM

Old 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 305-809-3731 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

Call Meeting to Order

Code Violations

1

Case # 16-1082

Blue Gecko Key Lime Pie & Ice Cream Factory, Inc.

Jaiky Alwani - Business owner

Christian Zuelch - Registered agent

411 Greene Street

Sec. 58-34 Unlawful disposal

Officer Bonnita Badgett

Certified Service: 9-6-2016 - Business owner

Certified Service: 9-6-2016 - Registered agent

Initial Hearing: 9-28-2016

New Case

Count 1: Failure to maintain own proper watertight receptacle and disposing commercial garbage in the City receptacle.

Officer Badgett stated that Blue Gecko is in compliance but there was a previous case for the same thing and requested a finding of violation without fees or fines. The Magistrate granted her request.

2

Case # 15-1327

Far Niente, LLC

Jack Spottswood, Registered Agent

416 Elizabeth Street

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

Sec. 14-40 Permits in historic districts

Officer Peg Corbett

Certified Service: 2-18-2016

Initial Hearing: 3-30-2016

Continued from August 31, 2016 for compliance

Count 1: A fence in excess of 8' in height was built on the side and rear of the subject property without benefit of a building permit. **Count 2:** A fence in excess of 8' in height was built on the side and rear of the subject property without benefit of a certificate of appropriateness.

Richard McChesney represented Far Niente, LLC. Requested a continuance to September 28, 2016 which was granted by the Special Magistrate.

3

Case # 16-499

Marcel & Milan Kozak

1016 Howe Street

Sec. 66-102 Dates due and delinquent; penalties

Sec. 66-103 Transfer of license

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

Officer Peg Corbett

Certified Service: 8-13-2016

Initial Hearing: 9-28-2016

In compliance September 21, 2016, request dismissal

Count 1: Failure to renew medallion and transient license which expired 30 Sept 2015. **Count 2:** Failure to transfer transient license and medallion to the new owners. Property was purchased October 2015. **Count 3:** Expired transient medallion which was withheld at renewal due to no state licensing. Yearly fire inspection is required.

The Special Magistrate granted the request to dismiss this case.

4

Case # 16-522

Jack Agnew
208 8 Southard Street
Sec. 66-102 Dates due and delinquent; penalties
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Officer Peg Corbett
Certified Service: 8-29-2016
Initial Hearing: 9-28-2016

In compliance August 29, 2016, request dismissal

Count 1: Transient medallion expired on 30 Sept 2015. **Count 2:** Expired transient medallion which was withheld at renewal due to no state licensing. Yearly fire inspection is required.

The Special Magistrate granted the request to dismiss this case.

5

Case # 16-565

Thomas & Suzanne Schoenberger
518 Emma Street
Sec. 66-102 Dates due and delinquent; penalties
Sec. 33-103 Transfer of license
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Officer Peg Corbett
Certified Service: 8-16-2016
Initial Hearing: 9-28-2016

In compliance August 19, 2016, request dismissal

Count 1: Failure to renew medallion and transient license that expired 30 Sept 2015. **Count 2:** Failure to transfer transient license and medallion. The property was purchased 21 July 2015. **Count 3:** Failure to renew and transfer medallion and license to new owner after completion of requirements within the city ordinance.

The Special Magistrate granted the request to dismiss this case.

6

Case # 16-1281

Charles Hoffman

1420 Whalton Street

Sec. 18-601 License required - **Repeat Violation**

Sec. 122-1371 Transient living accommodations in residential dwelling; regulations - **Repeat Violation**

Sec. 122-1371 Transient living accommodations in residential dwelling; regulations - **Repeat Violation**

Officer Peg Corbett

Certified Service: 9-9-2016

Initial Hearing: 9-28-2016

Request dismissal

Count 1: For advertising for short-term rental on AIRBNB without a business tax receipt. This is a repeat violation. **Count 2:** For holding out/advertising for short term rentals without the requisite state and county licenses, fire inspection and medallion. This is a repeat violation. **Counts 3 - 7:** For being held out/advertised for short term rental for 5 nights without the benefit of a transient rental license. These are repeat violations.

The Special Magistrate granted the request to dismiss this case.

7

Case # 16-1285

Left Shore LLC

Carol Pallen - Registered Agent

3910 S. Roosevelt Boulevard S207

Sec. 18-601 License required - **Repeat Violation**Sec. 122-1371 Transient living accommodations in residential dwellings; regulations - **Repeat Violation**Sec. 122-1371 Transient living accommodations in residential dwellings; regulations - **Repeat Violation**

Officer Peg Corbett

Certified Service: 9-10-2016 - Registered Agent

Initial Hearing: 9-28-2016

Request dismissal

Count 1: For advertising for short term rental without a transient rental license. This respondent has been previously found in violation of this ordinance; cases 16-579, 16-800, 16-801, 16-782. **Count 2:** For holding out/advertising for short term rental without the requisite city, county and state licensing; fire inspection; and medallion. This respondent has been previously found in violation of this ordinance; cases 16-579, 16-800, 16-801, 16-782. **Count 3:** For being held out/advertising for short term rental for 20 nights beginning 2 Oct 2016 without transient rental license. This respondent has been previously found in violation of this ordinance; cases 16-579, 16-800, 16-801, 16-782.

The Special Magistrate granted the request to dismiss this case.

8

Case # 16-1303

Blanche Stapleton

Michael McMahon

28 Seaside South Court

Sec. 18-601 License Required - **Repeat Violation**Sec. 122-1371 Transient living accommodations in residential dwellings - **Count 2 - Repeat Violation**Sec. 122-1371 Transient living accommodations in residential dwellings - **Counts 3 - 9 - Repeat Violation**

Officer Peg Corbett

Certified Service:

Initial Hearing: 9-28-2016

New Case

Count 1: On 12 Sept 2016 the respondent advertised the property for short term rental on AIRBNB contrary to Sec. 18-602 (2), creating a rebuttable presumption of a violation of Sec. 18-601. On 31 Aug 2016 the Special Magistrate signed findings and order finding this property owner in violation, ase # 16-260. **Count 2:** The property owner is holding out/advertising for short term rental without the requisite city, county and state licensing nor does it have the required transient rental medallion or had a fire inspection. **Counts 3 - 9:** The subject property is being held out/advertising for short term rental for seven nights beginning 6 Oct 2016 for \$1353.00 without the benefit of a transient rental license.

The Special Magistrate granted the request to continue this case for service.

9

Case # 14-1488

Sunrise at Seaside Condo Association

3625 Seaside Drive

FBC. 1612 (ASCE 24-05) Floor Hazard Construction

Officer Scott Fraser

Certified Service: 9-15-2016

Initial Hearing: 10-21-2015

Continued from July 27, 2016 for compliance

Count 1: Unprotected enclosed structures below design flood elevation.

David Paul Horan gave testimony and requested a 4 month continuance which Officer Fraser agreed to because of the length of time it takes to obtain flood panels. The Special Magistrate approved the request. New hearing date is January 25, 2017.

10

Case # 16-860

Hossain Mohammed Billal

2305 Patterson Avenue Rear

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

Sec. 14-262 Request for inspection

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

Officer Scott Fraser

Certified Service: 9-12-2016

Initial Hearing: 9-28-2016

New Case

Count 1: Failure to obtain required building/electrical permits. **Count 2:** Failure to request required safety inspections. **Count 3:** After being advised to cease, work having been started without obtaining required building/electrical permits, prior to pending permits having been approved and issued.

Mr. Hossain Mohammed Billal and his son attended the hearing. Officer Lopez gave testimony as well as Officer Fraser. It was agreed between the City and the Respondents to for a violation. Costs of \$250 were imposed. Also imposed was a fine of \$250 for each count (3 counts). Counts 2 and 3 are suspended for 5 years.

11

Case # 16-774

Elsa M Diaz
Mortgage Contracting Services
1523 Seminary Street
Sec. 26-126 Clearing of property of debris and noxious material
required
Officer Leonardo Hernandez
Certified Service: 7-14-2016 - Mortgage Contracting
Certified Service: 8-12-2016 - Elsa M. Diaz
Posted: 7-18-2016 - Diaz
Initial Hearing: 8-31-2016

Continued from August 31, 2016 for compliance

Count 1: There is overgrowth, foul odors, yard waste and a discarded refrigerator/freezer on the front lawn.

Officer Hernandez stated that the property is not in compliance and requested fines of \$250 per day starting today. The Special Magistrate granted his request, but started running fines on September 29, 2016.

12

Case # 16-1037

Mr. Randolph Lathrop Jones
2330 Staples Avenue
Sec. 180-680 Recreational vehicles and boats
Sec. 66-87 Business tax receipt required for all holdings themselves
out to be engaged in business - **In compliance September 8, 2016**
Officer Leonardo Hernandez
Certified Service: 9-13-2016
Initial Hearing: 9-28-2016

Continuance granted to December 21, 2016

Count 1: Failure to cease utilizing an RV as habitable space on property. **Count 2:** Failure to obtain a business tax receipt for non-transient rental.

The Special Magistrate granted the request to continue this case To December 21, 2016.

13

Case # 16-158

Charles Sonny McCoy Rev Trust
88 Hilton Haven Drive
Sec. 26-126 Clearing of property of debris and noxious material
required
Officer Beau Langford
Certified Service: 8-10-2016
Initial Hearing: 8-31-2016

In compliance September 21, 2016, request dismissal

Count 1: For failure to remove/have removed the bee hive that is in the roof. The bees are swarming.

The Special Magistrate granted the request to dismiss this case.

14

Case # 16-524

Ruth Yarber
1616 Bahama Drive
Sec. 66-102 Dates due and delinquent; penalties
Officer Beau Langford
Certified Service:
Initial Hearing: 9-28-2016

In compliance September 9, 2016, request dismissal

Count 1: Failure to renew business license which expired 30 Sept 2015.

The Special Magistrate granted the request to dismiss this case.

15

Case # 16-870

Tawlaw, LLC
Christian Cruz - Registered Agent
1016 Duval Street
Sec. 58-31 Container and receptacle requirements
Officer Beau Langford
Certified Service: 7-20-2016
Initial Hearing: 8-31-2016

In compliance September 28, 2016, request dismissal

Count 1: For storing trash bins on the city right of way.

The Special Magistrate granted the request to dismiss this case.

16

Case # 16-1226

Peter & Dixie Janker

417 United Street

Sec. 14-40 Permits in historic districts

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

Sec. 14-40 Permits in historic districts - **Repeat Violation**

Officer Beau Langford

Certified Service: 9-3-2016

Initial Hearing: 9-28-2016

Continuance granted to October 19, 2016

Count 1: Failure to apply and obtain an after-the-fact HARC Certificate of Appropriateness for painting. **Count 2:** Failure to apply and obtain proper permit for spiral staircase. **Count 3:** Failure to apply and obtain a HARC Certificate of Appropriateness for the spiral staircase.

The Special Magistrate granted the request to continue this case to October 19, 2016.

17

Case # 16-311

Instituto Patriotico Y Docente San Carlos Inc.

Rafael Penalver - R/A

Asta Parking Inc.

Kash Patel - R/A

Schroeder Builders, Inc.

Joseph Schroeder - R/A

407 Appelrouth Lane

Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business

Sec. 14-40 Permits in historic districts

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

FBC Accessibility - 208.2 Minimum number of parking spaces at a ratio of one per twenty-five

Officer Jorge Lopez

Certified Service: 4-1-2016 - Patel and Schroeder

Certified Service: 4-4-2016 - Penalver

Initial Hearing: 4-27-2016

In compliance September 12, 2016, request dismissal

Count 1: A business tax receipt is required for the parking lot. **Count 2:** A certificate of appropriateness is required for the two signs and the pre-pay parking kiosk prior to installation. **Count 3:** A building permit is required for the two signs and the pre-pay parking kiosk prior to installation. **Count 4:** The parking lot does not have the requisite amount of accessible parking spaces.

The Special Magistrate granted the request to dismiss this case.

18

Case # 16-634

Peter N Brawn

B-B Registries, LLC - Registered Agent

525 Caroline Street

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

Sec. 14-40 Permits in historic districts

Sec. 14-262 Requests for inspection

Officer Jorge Lopez

Certified Service: 6-17-2016 - Registered Agent

Initial Hearing: 7-27-2016

Continuance granted to October 19, 2016

Count 1: For failure to obtain building permit for installation of bathtub and toilet. **Count 2:** For failure to obtain a certificate of appropriateness to do siding replacement, deck repairs and installation of exterior door. **Count 3:** Must request inspection for electrical work as soon as job is ready

The Special Magistrate granted the request to continue this case to October 19, 2016.

19

Case # 16-727

Whammy Key LLC

Alfred Phillips - Registered Agent

903 Duval Street

Sec. 26-192 Unreasonably excessive noise prohibited

Officer Jorge Lopez

Certified Service: 6-30-2016

Initial Hearing: 7-27-2016

Continued from August 31, 2016

Count 1: Was given warning with a DBC of 86.9 on 6/3/16. Received another complaint, conducted a second reading on 6/25/16 with a DBC of 81.1 and was found in violation.

Ms. Spottswood attended the hearing. She requested a continuance and gave some background history. Stated Viva Saloon built a stage outside with soundproofing but was done without a permit. Also stated that neighbors have said that since the stage was put up, the problem with sound has been better. Mr. Ramsingh stated that Mr. Whitehead is here and that he said that the music is still very loud. Ms. Spottswood would like 30 to 60 days, not sure how long the permit process takes. Mr. Ramsingh does not agree to the continuance that this is the third setting for this case. Stage issue and permit issue is not why we are here today. The Magistrate continued this case to October 19, 2016.

20

Case # 16-1012

C. W. Dement
227 Duval Street
Sec. 14-37 Building permits. professional plans. display of permits;
address; exception
Sec. 14-40 Permits in the historic districts
Officer Jorge Lopez
Certified Service: 9-2-2016
Initial Hearing: 9-28-2016

New Case

Count 1: Failure to obtain building permit or remove the unpermitted structure. **Count 2:** Failure to obtain the required Certificate of Appropriateness or remove the unpermitted structure.

The Respondent did not attend. Officer Lopez gave testimony along with Enid Torregrosa and Ron Wampler. Officer Lopez requested a violation with costs of \$250 and a fine of \$250 per count (2 counts) and compliance is 30 days.

21

Case # 16-1056

Play Time Apparel, Inc.
Joseph Cohen - Registered Agent
310 Front Street
Sec. 114-103 Prohibited signs
Officer Jorge Lopez
Certified Service: 8-25-2016 - Registered Agent
Initial Hearing: 9-28-2016

In compliance August 23, 2016, request dismissal

Count 1: Failure to remove prohibited signs from windows and doors.

The Special Magistrate granted the request to dismiss this case.

22

Case # 16-1250

Frog's Key West, LLC

Abigail Watts - Registered Agent

221 Duval Street

Sec. 26-192 Unreasonably excessive noise prohibited - Repeat Violation

Officer Jorge Lopez

Certified Service: 9-6-2016

Initial Hearing: 9-28-2016

New Case**Count 1:** Subject business had an excessive noise complaint with a 95.1 DBC reading.

Carlos Ramirez attended the hearing. He stated that they were in violation and that it is a repeat violation. Officer Lopez requested \$250 court costs plus a \$500 fine for the repeat violation which was approved by the Special Magistrate.

23

Case # 16-505

Oropeza & Parks, CPAS - Registered Agent

1222 2nd Street, Down

Sec. 66-102 Dates due and delinquent; penalties

Sec. 66-103 Transfer of license

Officer Kenneth JW Waite

Certified Service: 8-17-2016

Initial Hearing: 9-28-2016

In compliance August 26, 2016, request Finding of Violation without fees or fines

Count 1: Failure to renew non-transient business license which expired 30 Sept 2015. **Count 2:** Failure to transfer non-transient business license.

Officer Waite stated that this case was in compliance but asked for a Finding of Violation without fees or fines which was granted by the Special Magistrate.

24

Case # 16-914

Dominic Ip

1117 Fleming Street, 1

Sec. 18-117 (8) Acts declared unlawful

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

Sec. 90-363 Certificate of occupancy - required

Sec. 58-61 Determination and levy of charge

Officer Kenneth JW Waite

Certified Service: 8-17-2016

Initial Hearing: 9-28-2016

New Case

Count 1: Failure to use a licensed contractor. **Count 2:** Failure to obtain required building permits for one legal unit (unit 1). The one illegal unit (unit 4), no building permits obtained. **Count 3:** Failure to obtain Certificate of Occupancy for the unit 4. **Count 4:** Failure to obtain required utilities for unit 4 and legal unit determination.

Mr Ip attended the hearing. Officer Waite gave testimony and requested that counts 2, 3 and 4 be dismissed, which was granted by the Special Magistrate. Mr. Ip stated that he was in violation. Officer Waite requested a finding of violation with costs of \$250 along with a fine of \$250 which was granted by the Special Magistrate.

25

Case # 09-1501

Wells Fargo Bank, NA
c/o Select Portfolio Servicing
Choice Legal Group PA
908 Trinity Drive 4
Sec. 14-37 Building permits, professional plans, display of permits
Officer Jim Young
Certified Service: 7-29-2016 - Select Portfolio Servicing
Certified Service: 7-28-2016 - Choice Legal Group
Initial Hearing: 3-30-2016

In compliance September 20, 2016, pending fees

FYI: On May 10, 2011, Planning Department received a variance request for an after the fact accessory unit which was constructed without building permits or a Certificate of Occupancy. The variance request was for building coverage, impervious surface ratio, and side and rear yard setback requirements. The variance was denied at the Planning Board Hearing of July 21, 2011. The Planning Board Resolution 2011-036 went into effect on August 2, 2011. There was no appeal to the City Commission.

The construction of the accessory unit, if a permit was submitted, would not have been approved for the above reasons. This accessory unit must be demolished to bring this property into compliance.

Count 1: An exterior unit was built in the rear yard setback without benefit of a building permit and inspections. **Count 2:** An interior unit was built on the second floor using part of the rear open deck and a stairway was built to access this unit.

This case is in compliance, fees are pending.

26

Case # 13-1011

David & Marjorie A Rodriguez

1819 Venetia Street

Sec. 66-87 Business tax receipt required for all holdings themselves
out to be engaged in business

Sec. 90-363 Certificate of occupancy required

Officer Jim Young

Certified Service: 6-18-2016

Initial Hearing: 7-27-2016

In compliance September 28, 2016, request dismissal

Count 1: This property is being rented without the benefit of a non-transient business tax receipt. **Count 2:** This property has not been issued a certificate of occupancy.

The Special Magistrate granted the request to dismiss this case.

27

Case # 13-1012

David & Marjorie A. Rodriguez

1823 Venetia Street

Sec. 66-87 Business tax receipt required

Sec. 90-363 Certificate of occupancy required

Officer Jim Young

Certified Service: 6-18-2016

Initial Hearing: 7-27-2016

Continued from August 31, 2016

Count 1: This property is being rented without the benefit of a non-transient business tax receipt. **Count 2:** There is no certificate of occupancy for the subject property.

Officer Young requested a continuance stating that the Rodriguez's have been working very hard to come into compliance. The Special Magistrate granted the request to continue this case to October 19, 2016.

28

Case # 15-1237

Ann McFarland
Wardlow Building Group
1314 William Street
Sec. 14-37 Building Permits
Sec. 14-40 Permits in Historic District
Officer Jim Young
Certified Service: 6-15-2016 - Ann McFarland
Initial Hearing: 7-27-2016

In compliance September 9, 2016, request dismissal

Count 1: Failure to obtain building permits for removal/replacement of two windows. Notice of code violation was issued on Jan. 5, 2016.

Count 2: Failure to obtain HARC Certificate of Appropriateness for removal/replacement of two windows.. A notice of code violation was issued on Jan. 5, 2016.

The Special Magistrate granted the request to dismiss this case.

Liens

29

Case # 16-1033

Tina Marie Godfrey
Fogarty Avenue & 3rd Street
Sec. 42-1 (c) Offenses under state law
Hand Served: 9-1-2016

Continuance granted to October 19, 2016

The Special Magistrate granted the request to continue this case to October 19, 2016.

30

Case # 16-1220

Hannah Louise Hunt
3126 Flagler Avenue
Sec. 42-1 (c) Offenses under state law
Certified Service: 8-25-2016

In compliance August 23, 2016, request dismissal

The Special Magistrate granted the request to dismiss this case.

31 **Case # 16-1291**
Melissa Cerullo
1500 Block of Flagler
Sec. 42-1 (c) Offenses under state law
Certified Service:

In compliance September 7, 2016, request dismissal

The Special Magistrate granted the request to dismiss this case.

HARC Appeals

32 **SMA 15-02**
Far Niente, LLC
Eric Detwiler and Elizabeth Ford
Walter S. Szot and Dawn Szot
David M. Keller and Janine C. Keller
G.C.J., LLC
Land Trust #426KW dated 2/11/2010
Duck and Dolphin Antiques, LLC
Conch Republic Cycle, LLC
Bike Fit Key West, Inc.
616 Eaton Street

Wayne LaRue Smith for Far Niente, etc. Bart Smith for the Servinski's. 1st Circuit Court denied the appeal. Bart Smith stated that the stay remains in effect until after the mandate is over. Once it goes to the 3rd Circuit Court, this case is over. Wayne Smith stated that the stay is in place until all is over. Mr. Ramsingh stated that they would have to release the permits. Magistrate Yates stated stay will stay in place and there is nothing else that can be done.

Mitigations

33 **Case # 16-239**
Christopher Belland
Piper Smith
626 Grinnell Street

Mr. Belland stated that he would like to mitigate all of the fines. Magistrate Yates said that he could not do that, that he needs to go by the ordinance. He reduced the fine from \$6,750 to \$675. Payment is due within 30 days.

Adjournment