



City of Key West, FL

City Hall
1300 White Street
Key West FL 33040

Action Minutes - Final

Code Compliance Hearing

Thursday, August 26, 2021

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.

You may also attend these meetings virtually via Zoom by telephoning 312-626-6799, Meeting ID: 854 7151 2368 Passcode: 388139 or online at: <https://cityofkeywest-fl-gov.zoom.us/j/85471512368?pwd=bm53Zlp3ZmEzR0pOU0l3ZFV6SzBmUT09> Passcode: 388139

Call Meeting to Order

Code Violations

- 1** **Case # 21-1256**
Playtime Apparel INC- Owner
Joseph Cohan- Registered Agent
300 Front Street
Sec. 58-34 Unlawful disposal - **Amended**
Officer Laurie Skinner
Hand Served: 7-23-2021
Initial Hearing: 7-29-2021

Continued from 29 July 2021

Count 1: Failure to dispose of cardboard on the City's right of way. - **Amended**

Laurie Skinner was the code officer and was present via zoom. Brandi Peretz and David Nicholson was present representing the respondent. Assistant Attorney Ron Ramsingh was present on behalf of the City of Key West. Laurie read her timeline. The Special Magistrate asked the status of case 21-40 and 20-1165. Laurie answered that all the cases came into compliance. Brandi Peretz gave her testimony, and said that the boxes left on the city right-of-way

was not theirs. The Special Magistrate asked Laurie if she had any evidence. Photos were shown to the court. Brandi Peretz stated that Laurie told her what she needed to do to come into compliance, and that Laurie was harassing them by constantly circling their business. The Special Magistrate asked Brandi Peretz where the mentioned boxes came from, and Brandi did not know the question. The Special Magistrate implemented a violation with no fines or fees, and asked that it doesn't happen again.

2**Case # 21-1259**

Playtime Apparel INC - Owner
Joseph Cohen - Registered Agent
304 Front Street
Sec. 58-34 Unlawful disposal
Officer Laurie Skinner
Hand Served: 7-23-2021 - **Amended**
Initial Hearing: 7-29-2021

Continued from 29 July 2021**Count 1:** Failure to dispose of trash on the City's right of way.

Laurie Skinner was the code officer and was present via zoom. Brandi Peretz and David Nicholson was present representing the respondent. Assistant Attorney Ron Ramsingh was present on behalf of the City of Key West. The Special Magistrate asked Laurie what the difference was between the first case and this case. Laurie stated that the only difference was the address. The Special Magistrate gave the same ruling as the first case, that there is a violation but no fines or fees.

3**Case # 21-738**

National Car Rental
2516 North Roosevelt Blvd
Sec. 122-1406 Obstructions to visibility
Sec. 58-31 Container and receptacle requirements
Officer Laurie Skinner
Certified Mail: 7-19-2021 - **Amended**
Initial Hearing: 7-29-2021

Continued from 29 July 2021**Count 1:** Failure to remove cars parked in front of the fence of the subject property.**Count 2:** Failure to contain all trash inside of dumpster.

Laurie Skinner was the code officer and was present via zoom. Assistant Attorney Ron Ramsingh was present on behalf of the City of Key West. The

respondent did not attend the hearing. Laurie read her timeline. The Special Magistrate stated that the respondent either failed or neglected to attend the hearing. The Special Magistrate ruled that there was a violation, and asked the city what fines or fees they wanted to impose. Laurie stated a finding no fees no costs. The Special Magistrate imposed only a admin cost for the violation.

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Case # 21-246

Thomas L Fortin

1106 Grinnell Street

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

Sec. 14-40 Permits in historic districts

Sec. 122-600 Dimensional requirements

Officer Edward Keane

Certified Mail:

Initial Hearing: 8-26-2021

New Case

Count 1: Failure to apply and obtain the appropriate building permits with the City of Key West Building Department.

Count 2: Failure to apply and obtain the appropriate roofing permits for the HARC district.

Count 3: Failure to have the proper dimensional setback requirements for the HARC district.

Edward Keane was the code officer and present, along with the Assistant Attorney Nathalia Mellies representing the City of Key West. Van Fisher attended representing the respondent Thomas Fortin. The Special Magistrate stated that the continuance previously requested was denied due to fire safety and life threatening issues. Nathalia stated that Capitan Greg Barroso from the fire department is present to testify about the fire safety concerns. Capitan Barroso read his timeline. Capitan Barroso stated that the tarps the respondent was using was not fire retardant. Van Fisher commented on the tarps saying that Mr. Fortin was just trying to keep tools and supplies dry, and that he will take down the tarp to satisfy the fire safety concerns. The Special Magistrate asked Capitan Barroso if he contacted the owner or anyone who lives there. Capitan Barroso stated that he did not. Nathalia stated that the fire report stated that they tried to enter the property May 7th, and on May 21st there was still no response, so they left a complaint posted at the property. They also tried to enter the property again August 3rd with no luck. Additionally the city has repeatedly asked the respondent to remove the tarp, and he refuses to do so. She stated that she told Mr.Fisher if the respondent would take down the tarp then they would consider the continuance, but the tarp is still up. The Special Magistrate decided to deny the continuance requested by Mr.Fisher. Mr. Fisher stated that none of the fire safety issues were noted in the notice of violation. Nathalia stated that the fire safety concerns were only brought up when the continuance was asked and the city had to deny for that reason. Mr.Fisher stated that the respondent wanted to come into compliance, and he doesn't want to keep this case going. The Speical Magistrate asked Mr.Fisher if

his client admitted to the violations. Nathalia intervened and objected that Thomas Fortin the respondent was not present and Mr.Fisher is only speculating that the respondent admits violation. Mr.Fisher then stated that his client was not admitting to the violation. Edward called Dorian Patton to the podium. Dorian read his timeline from a case he previously had with the respondent. Mr.Fisher asked Dorian if that was the same case as this one. Dorian clarified that it was a different case about the same issues and the case never went to hearing. Edward started reading his timeline. A video of Mr.Fortin was shown to the court. Edward continued to read his timeline. Evidence was shown to the court. Edward called Bunny as a witness to the podium. Andrea Portner aka Bunny stated she had a video of the respondent doing unpermitted work on his roof. The video was shown to the court. The Special Magistrate referenced one of the tarps in the video and asked Capitan Barroso if that was one of the tarps that was in question when he visited the property. Capitan Barroso answered yes. Edward continued reading his timeline and called Andrea Portner back to the stand to show more evidence. Andreas photos were shown to the court. Edward called Ann Durot to the podium. Mr.Fisher stated that in one of the photos of the notice of hearing that there were three permits posted at the property. Mr.Fisher asked Andrea if she knew at the time of posting the notice of hearing if the respondent had a permit for the work that he was doing. Andrea stated that the three permits were for a fence, leaguer board, and a exploratory permit. Andrea also stated that the respondent applied for a roof variance, but was denied. Edward called Ann Durot to the podium. Ann explained her evidence photos. The Special Magistrate asked Ann from her personal knowledge if the building has been expanded. Ann answered yes. Ann stated that her photos shown were to show the court that the building has expanded. Mr.Fisher asked Ann if she went out and measured the building since she is claiming it has been expanded. Ann answered no, she obtained a current survey of the property. Mr.Fisher wanted clarification of what survey she obtained. Ann clarified the survey shows her property line and where the non compliant structure sits. Mr.Fisher asked what date the survey was done. Ann stated that it was done March 2020. Nathalia asked Ann if she knew when the tarps were put up at the subjects property. Ann answered with Christmas week of 2020. Nathalia also asked what made Ann suspect that there was work being done under the tarp. Ann answered she was hearing construction noises every day. Nathalia asked how long the construction noises occurred. Ann answered countless months. Nathalia called Raj Ramsingh to the podium. Nathalia asked Raj if he was familiar with the subjects property and if he received a complaint about the property. Raj answered yes to both questions. Nathalia asked what the complaint was for. Raj stated that the complaint was about unpermitted work at the property and if the roof was changed in height. Raj inspected the property with code officer Edward Keane from the neighbors property side. By using reference points Raj stated that he did conclude that the roof height was changed. Nathalia asked what kind of reference points Raj used. Raj answered that there are a couple of 4 by 4 posts on the property so he referenced the posts in the original photo to where the roof is now, and concluded that the roof had been elevated. Raj showed the court which two photos he used to make that assumption. Nathalia asked if Raj observed any work when he went to visit the neighbors property. Raj stated that there was no work being done at the time of his visit. Mr.Fisher asked Raj if he knew when some of the photos that were shown were taken. Raj answered that he did take those photos and that they were provided by the neighbor. Mr.Fisher asked if Raj did any actual measurements on the structure. Raj answered no he was not allowed into the respondents property. Nathalia

called Daniel Sobczak from Planning to the podium. Nathalia asked Daniel if he is familiar with the property and has he ever visited the property. Daniel answered yes to both questions. Daniel stated that he was at the property to talk to the owner with the former CBO Board member Terry Justice and a HARC planner Kathleen McDonald. Nathalia asked Daniel if the structure that we've been talking about today is a legal nonconforming structure. Daniel answered that the structure has been changed and used to be nonconforming now it an illegal nonconforming structure. The Special Magistrate asked Daniel how he gained that knowledge. Daniel explained that he previously saw photos of the structure before the respondent made changes. The Special Magistrate asked if the respondent had any permits for the changes he did. Daniel answered no. Mr.Fisher asked Daniel why the structure is a nonconforming structure. Daniel stated that by the photo evidence he was able to conclude that the work the respondent did made the structure an illegal nonconforming structure. Nathalia asked the court if Greg Barroso was done testifying so he could leave. Mr.Fisher had one more question for Capitan Barroso. Mr.Fisher asked what his client would have to do to the structure so that the fire safety was not a concern anymore. Capitan Barroso stated that the first responders relay heavy on the process of permitting to make sure they would have access to these structures. He also said that if he could forward with receipts of fire retardant tarps the fire safety concern would go away. Nathalia called Kathleen McDonald from HARC Planning to the podium. Nathalia asked if Kathleen McDonald is familiar with the property and has she ever visited the property before. Kathleen answered yes to both questions. Nathalia asked if any work to the structure in the back would acquire HARC's approval. Kathleen answered yes. Mr.Fisher asked Kathleen if the shed was a contributing historic structure. Kathleen answered no. Kathleen clarified that any buildings with in the Historical District whether the building is historic or not, will need HARC approval for any changes. Nathalia asked Kathleen if the subjects property at 1106 Grinnell is in the historic district. Kathleen answered yes. Nathalia made her closing statement. Mr.Fisher made his closing statement. The Special Magistrate imposed a \$250.00 admin fee and a \$250.00 fine per day, because of the fire safety concerns by September 3rd at noon the tarps have to be taken down. Special Magistrate continued with if the fire safety concern is taken care of by September 3rd, then the full compliance date will be pushed back to October 15th. Nathalia intervened and said that the respondent was charged with a violation that is irreparable and the city charges \$5,000 for irreparable violations. The Special Magistrate went back on his \$250.00 per day to the \$5,000 irreparable charge.

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Case # 20-1335

John Lindle

1617 White Street

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

Officer Jim Young

Certified Mail: 2-2-2021

Initial Hearing: 2-18-2021

Continued from 29 July 2021**Count 1:** Failure to apply and obtain after the fact permits for building,

electrical and plumbing.

Jim Young was the code officer. Jim gave a status update and asked for a continuance. The Special Magistrate granted the continuance to 21 October 2021.

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Case # 21-1304

Vacasa LLC of Florida

CT Corporation System- Registered Agent

608 Grinnell Street

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

Officer Sophia Doctoche

Certified Mail: 7-23-2021

Initial Hearing: 8-26-2021

Settlement Agreement

Count 1: Failure to apply and obtain a non-transient license with the City of Key West Licensing Department

This case has a settlement agreement of \$250.00 administrative cost and \$250.00 fine which will be suspended for a period of 60 months. If the respondent is found in the same violation then the charge goes to \$500.00. The Special Magistrate executed the agreement.

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Case # 20-524

Gregory G Farrelly- Registered Agent

828 Windsor Lane

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

Sec. 58-61 Determination and levy of charge

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

Officer Edward Keane

Certified Mail: 6-30-2021

Initial Hearing: 6-24-2021

Continuance granted to 21 October 2021

Count 1: Failure to submit as built certifications to the City of Key West.

Count 2: Failure to apply and obtain an LUD with the City of Key West Planning Department.

Count 3: Failure to apply and obtain a non-transient license from the City of Key West Licensing Department.

Edward Keane was the code officer. Edward asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

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Case # 19-1691

Alena Lembach

3226 Eagle Ave

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

Sec. 122-63 Review; enforcement

Officer Paul Navarro

Certified Mail: 11-17-2020

Initial Hearing: 12-17-2020

In compliance as of 20 August 2021; Request dismissal

Count 1: Failure to apply and obtain a demolition permit or reapply for a new building permit.

Count 2: Failure to apply and obtain a demolition permit or reapply for a new variance.

Paul Navarro stated that the case came into compliance on 20 August 2021 and the city would like to dismiss the case. The Special Magistrate granted the dismissal.

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Case # 21-391

Christian E Teves and Michael S Burau

533 Petronia Street

Sec. 62-2 Obstructions

Officer Paul Navarro

Certified Mail: 6-7-2021

Initial Hearing: 6-24-2021

Continued from 29 July 2021

Count 1: Failure to remove obstructing palm trees from the right-of-way.

Paul Navarro was the code officer. Paul asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

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Case # 21-1048

Dj's Clam Shack LLC

Jeff Gagnon- Registered Agent

629 Duval Street

Sec. 26-32 Nuisances illustrated

Officer Paul Navarro
Certified Mail: 8-16-2021
Initial Hearing: 8-26-2021

Continuance granted to 21 October 2021

Count 1: Failure to cease all slop, foul or dirty water, filth, refuse or offal, discharged in or upon any right-of-way.

Paul Navarro asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

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Case # 21-1430

Big Fish Restaurant Group LLC
Jane E Patterson- Registered Agent
633 Duval Street
Sec. 26-32 Nuisances illustrated
Officer Paul Navarro
Certified Mail: 8-16-2021
Initial Hearing: 8-26-2021

Continuance granted to 21 October 2021

Count 1: Failure to cease all slop, foul or dirty water, filth, refuse or offal, discharged in or upon any right-of-way.

Paul Navarro asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

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Case # 20-676

Futterman Phenphak
1704 Jamaica Drive
Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions
Sec. 14-262 Request for inspection
Officer Jim Young
Certified Mail: 4-10-2021
Initial Hearing: 4-29-2021

Continued from 29 July 2021

Count 1: Failure to apply and obtain the after the fact permits for all un-permitted work.

Count 2: Failure to schedule an inspection for all work that has been completed.

Jim Young asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

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Case # 20-1029

Leslie Rene Bird

311 Amelia Street

Sec. 14-37 Building permits; professional plans; display of permits;
address; exceptions~~Sec. 66-87 Business tax receipt required for all holding themselves out to
be engaged in business~~

Sec. 58-61 Determination and levy of charge

Sec. 90-363 Certificate of occupancy required

Officer Jim Young

Certified mail: 1-16-2021

Initial Hearing: 2-18-2021

Continued from 29 July 2021

Count 1: Failure to apply and obtain the appropriate after the fact permits through the Building Department.

~~Count 2: Failure to apply and obtain a non-transient business tax receipt through the Licensing Department.~~

Count 3: Failure to apply and obtain a legal unit determination for the additional residential units.

Count 4: Failure to apply and obtain a certificate of occupancy for the residential unit in the rear of the property.

Jim Young asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

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Case # 20-1493

Richard T Lewis

Susan Derosé

1102 Washington Street

Sec. 62-2 Obstructions

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

Sec. 14-40 Permits in historic districts

Sec. 62-2 Obstructions

Officer Jim Young

Hand Served: 3-25-2021

Initial Hearing: 2-18-2021

Continued from 29 July 2021

Count 1: Failure to contact the Engineering Department to obtain the proper permits for installation of plants, trees and shrubs on public easements.

Count 2: Failure to obtain permits to install plants, trees and shrubs on a public easement.

Count 3: Failure to contact the City of Key West Engineering Department to obtain the proper permits for installing plants, trees, scrubs on public easement.

Count 4: Failure to contact the City of Key West Engineering Department to obtain the proper permits for installing plants, trees, scrubs on public easement.

Count 5: Failure to contact the City of Key West Engineering Department to obtain the proper permits for installing plants, trees, scrubs on public easement.

Jim Young asked for a continuance to 21 October 2021. The Special Magistrate granted the continuance.

Adjournment