



THE CITY OF KEY WEST

Code Compliance Division

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

AMENDED NOTICE OF ADMINISTRATIVE HEARING

DATE: October 8, 2013
RE: CASE NUMBER 13-519

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5341 8576

To:
G. Phillip & Susan E. Morris
201 Scarlet Drive
Conshohocken, PA 19428

Subject Address:
909 United Street
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):

Count 1: Building permits are required for the installation of an unlawful unit currently being rented.

Sec. 14-325. Permits required.

(a) Permits will be issued only to master mechanics, limited master mechanics and homeowners-occupants who qualify.

(b) Permits will be required for air-cooled and water-cooled refrigeration and air conditioning equipment installed in commercial buildings, motels, hotels, stores, apartments and roominghouses, regardless of the horsepower rating of the units. If central plants are installed, installation must be according to the applicable sections of this Code.

To Wit: Permit #98-41 installed electric, mechanical and plumbing with final approved inspections for the electric and plumbing. The mechanical portion was disapproved on 20000808. However, the permit noted "This is 909 R United, Pool House only, not a separate unit." It is currently occupied by Danette Nelson leased from December 1, 2012 through December 1, 2013 for \$1,100.00 per month. The furnishings and appliances supplied by the landlord (property owner) Phil Morris include: refrigerator, washer/dryer, stove/microwave and a shared use of the pool according to the lease supplied by Keys Energy Services. It also has a separate electric meter.

Corrective Action: Obtain an after the fact mechanical permit with an approved mechanical inspection. Obtain a certificate of occupancy from the Chief Building Official. Obtain a Letter of Lawful Unit Determination from the Planning Department to recognize the unit.

Count 2: Building permits are required for the installation of an unlawful unit currently being rented.

Sec. 14-327. Inspection.

It shall be the duty of the building official to inspect all refrigeration and air conditioning apparatus, equipment and installations within the city.

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Corrective Action: Obtain an after the fact mechanical permit with an approved mechanical inspection. Obtain a certificate of occupancy from the Chief Building Official. Obtain a Letter of Lawful Unit Determination from the Planning Department to recognize the unit.

Count 4: A Certificate of Occupancy is required before a unit is occupied.

Sec. 90-363. Certificate of occupancy—Required.

No land or building or part thereof erected or altered in its use or structure after the effective date of the ordinance from which this section derives shall be used until the chief building official shall have issued a certificate of occupancy stating that such land, building, or part thereof and the proposed use thereof are found to be in conformity with the provisions of the land development regulations. Development permits shall also be required as provided in section 90-356. It shall be the duty of the chief building official to make a final inspection of the building or premises and to issue a certificate of occupancy if the land, building or part thereof and the proposed use thereof are found to conform with the land development regulations or, if such certificate is refused, to state such refusal in writing together with the cause. Failure to obtain a certificate of occupancy shall be deemed a violation of the land development regulations.

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Corrective Action: Contact the Chief Building Official and request an inspection to obtain a Certificate of Occupancy. Obtain an after the fact mechanical permit with an approved mechanical inspection. Obtain a Letter of Lawful Unit Determination from the Planning Department to recognize the unit.

Count 5: A Lawful Unit Determination Letter from the Planning Department is required for this unit.

Sec. 108-991. Development not affected by article

Development consistent with the following shall not be affected by the terms of this article, but such development shall comply with all applicable sections of the city's land development regulations:

- (1) Any use, development, project, structure, building, fence, sign or activity which does not result in a net addition to the number of equivalent single-family dwelling unit stock.
- (2) Redevelopment or rehabilitation which replaces but which does not increase the number of permanent or transient residential dwelling units above that existing on the site prior to redevelopment or rehabilitation.
- (3) Units in existence at the time the April 1, 1990 census was prepared are presumed not to be affected by BPAS. The administrative official shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 1990. Units existing in 1990 will be documented through a mandatory site visit by city staff and at least two of the following records:
 - a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 1990;
 - b. Building permits issued prior to April 1, 1990;
 - c. Copies of city directory entries on or about April 1, 1990;
 - d. Site visits which indicate that the age of the structure and associated improvements likely pre-date 1990;
 - e. Rental, occupancy or lease records from before and including April 1, 1990, indicating the number, type and term of the rental or occupancy;
 - f. Copies of state, county, and city licenses on and about April 1, 1990, indicating the number and types of rental units;
 - g. Documentation for Keys Energy Service and Florida Keys Aqueduct Authority indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 1990;
 - h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 1990 (Green Card); and
 - i. Similar documentation as listed above.

To Wit: Permit #98-41 installed electric, mechanical and plumbing with final approved inspections for the electric and plumbing. The mechanical portion was disapproved on 20000808. However, the permit noted "This is 909 R United, Pool House only, not a separate unit." It is currently occupied by Danette Nelson leased from December 1, 2012 through December 1, 2013 for \$1,100.00 per month. The furnishings and appliances supplied by the landlord (property owner) Phil Morris include: refrigerator, washer/dryer, stove/microwave and a shared use of the pool according to the lease supplied by Keys Energy Services. It also has a separate electric meter.

Corrective Action: Obtain a Letter of Lawful Unit Determination from the Planning Department to recognize the unit.

Count 6: You shall have a business tax receipt to rent or lease your property nontransiently or transiently.

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

No person shall engage in, manage, carry on or practice, wholly or in part, within the city limits, any business, profession or occupation without first procuring a city business tax receipt. For the purposes of this article, any person holding himself out to the public by sign, printed matter, telephone directory classified section, city directory or otherwise as being engaged in business or as offering services or property to the public for a consideration, regardless of whether such person actually transacts any business or practices a profession, shall be considered as engaging in business and shall be liable for a business tax receipt fee thereon.

To Wit: The current business tax receipt is for a nontransient rental unit. The nontransient rental unit is for one calendar month or 30 days. Due to the fact that the rear unit is unrecognized by the city, this license only pertains to the main house. Keys Energy Services indicates you have two meters with two separate units which the rear unit is currently being rented on a monthly basis till the end of the year. The rear unit shall be recognized by the city with a lawful unit determination; certificate of occupancy; building permits; and connection to the public sewer in order to continue to rent nontransiently.

Corrective Action: Once the rear unit has been recognized; you shall obtain a second nontransient rental unit for the main house to rent on a 30-day or one calendar month basis or obtain a transient unit business tax receipt to rent for less than 30 days or one calendar month or cease renting the main house and remove all advertisements for rental from all websites immediately.

Count 3: Connection to the public sewer.

Sec. 74-131. - Required where public sewer available.

The owner of any house, building or property used for human occupancy, employment, recreation, or other purposes situated within the city and abutting on any street, alley, or right-of-way in which there is located or may be located a city public sanitary or combined sewer is required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with this article, as provided in section 74-100(b).

To Wit: Permit #98-41 installed electric, mechanical and plumbing with final approved inspections for the electric and plumbing only. The mechanical portion was disapproved on 20000808. On August 15, 2000, there was an approved final building inspection with no mention of a Certificate of Occupancy issued by the Chief Building Official. There is no evidence that the connection to the city sewer system was made.

Corrective Action: Obtain an inspection from the Chief Building Official to connect the rear unit to the city sewer system.

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:**

November 20, 2013

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 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.


Barbara Meizis
Code Compliance Officer
City of Key West
bmeizis@keywestcity.com
(305) 809-3729
(305) 797-7089

CC: Maggie Gutierrez, Esq – 7012 2210 0000 6244 9734
Attorney of Record



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