



# THE CITY OF KEY WEST

## Code Compliance Division

P.O. BOX 1409  
KEY WEST, FL 33041  
(305) 809-3731

### NOTICE OF ADMINISTRATIVE HEARING

DATE: June 13, 2013  
RE: CASE NUMBER 12-1773

CERTIFIED MAIL RECEIPT#: 7012 2210 0000 6244 5347

To:  
Dwight Oglesbee  
1308 8th Street  
Key West, FL 33040

Subject Address:  
2434 Fogarty Avenue  
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: Sec. 14-37 Building permits; professional plans; display of permits**

(a) Building permit required; display. Building permits shall be procured from the building official before performance of any work or construction of any character, whether permanent or temporary. Within 48 hours after it is issued, the applicant must cause the permit to be posted and displayed at the work site so that it is readily visible from an adjacent public street throughout the term of the work. No work shall be performed unless a proper permit is so posted.

(b) Professional plans required. Professional plans shall be required as follows:

(1) Plans for work requiring a building permit shall be submitted in duplicate or in triplicate if required by the state to the building official and shall be prepared by, and bear the seal of, an architect or structural engineer duly registered in the state, except if the work is by the owner-occupant upon a one- or two-family residence, and the work is cosmetic, nonstructural repair, alteration or addition.

(2) Notwithstanding subsection (b)(1) of this section, plans for work which requires a building permit and which involves mechanical, plumbing or electrical repairs, alterations or additions shall be prepared by and shall bear the impress seal of an engineer duly registered in the state, as reasonably required in the interest of health and safety by the building official.

(c) Work done by owner-occupant. A building permit may be issued to the owner-occupant of real property to construct or cause to be constructed, while the owner-occupant is present on the site, a one- or two-family residential structure for his own use and not offered for sale or lease or to repair the structure without being required to be a qualified contractor himself in accordance with this article and without being required to employ a licensed contractor. The owner-occupant may not construct or repair or cause the construction or repair of more than one such structure during any one-year period.

**To wit:** I received a complaint from the Key West Police Depart. stating that a cottage exists in the backyard of the subject property. The cottage is occupied by Joseph Kitchen. There are no building permits on file for the cottage.

Corrective Actions: Contact the city of Key West Building Department 305-809-3955 to apply for and obtain all required after the fact building permits and inspections.

**Count 2: 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.

**To wit:** The subject cottage does not have the required certificate of occupancy.

Corrective Actions: Contact the city of Key West Building Department 305-809-3955 to apply for and obtain a certificate of occupancy.

**Count 3: 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 subject cottage is being rented to Joseph Kitchen without the benefit of a business tax receipt.

Corrective Actions: Contact the city of Key West Licensing Department 305-809-3955 to apply for and obtain a non-transient rental license.

**Count 4: Sec. 122-238 Dimensional requirements (SF)**

The dimensional requirements in the single-family residential district (SF) are as follows:

(6) Minimum setbacks:

a. Single-family:

1. Front: 30 feet or the average depth of front yards on developed lots within 100 feet each side, but not less than 20 feet.
2. Side: 5 feet.
3. Rear: 25 feet or 20 feet when abutting an alley.
4. Street side: 10 feet.

**To wit:** The subject cottage has been built in the setback without the benefit of an approved variance.

**Corrective Actions:** Contact the city of Key West Planning Department 305-809-3722 to apply for and obtain an after the fact variance.

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:**

**July 31, 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.

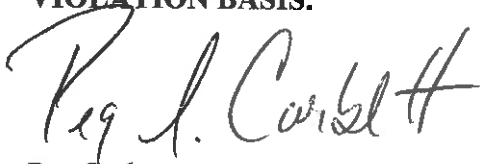
If you intend to request a continuance from the Hearing Date set out above you must submit a written request for a continuance addressed to the Special Magistrate and mailed to PO Box 1409, Key West, FL 33041 or delivered to the Special Magistrate's Legal Analyst at 3139 Riviera Drive, Key West, FL 33040. 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.**

A handwritten signature in black ink that reads "Peg J. Corbett". The signature is written in a cursive, flowing style.

Peg Corbett  
Code Compliance Officer  
City of Key West  
305 809-3731 Desk  
305 797-0665 Cell