



THE CITY OF KEY WEST
Code Compliance Division

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

THIRD AMENDED
NOTICE OF CODE VIOLATION AND
ADMINISTRATIVE HEARING

DATE: September 29, 2011
RE: CASE NUMBER 11-542

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5345 2129

To:
John Anding
C/O 906 Fleming Street
Key West, FL 33040

Subject Address:
906 Fleming 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: A transient license is required to rent your property transiently.

Sec. 18-601 TRANSIENT LICENSE

(a) The short-term rental of a residential property is a business activity that requires the property owner to hold a business tax receipt issued by the city. A state or county license without an accompanying city license is insufficient. Notwithstanding the existence of any other regulation of the city regulating the transient use of property, the short-term rental of a residential property without a business tax receipt violates the law.

(b) It shall be unlawful for a property owner to lease a residential property for a period of less than 30 days or one calendar month without having obtained a business tax receipt under this division.

To wit: The captioned property was held out and/or advertised as being available transiently on August 5, 2011 through August 19, 2011 without the benefit of a valid transient rental license. A Transient Unit is defined as a Transient Living Accommodation as Defined in 86-9. Section 86-9 of the Key West Code of Ordinances defines a Transient Living accommodation is any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings,

which is 1) rented for a period or periods of less than 30 days or one calendar month, whichever is less; or which is 2) advertised or held out to the public as a place rented to transients, regardless of the occurrence of an actual rental. Such a short-term rental use of or within a single-family dwelling, a two-family dwelling or a multifamily dwelling (each also known as a "residential dwelling") shall be deemed a transient living accommodation.

Count 2: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 5, 2011.

Count 3: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 6, 2011.

Count 4: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 7, 2011.

Count 5: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 8, 2011.

Count 6: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 9, 2011.

Count 7: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 10, 2011.

Count 8: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 11, 2011.

Count 9: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 12, 2011.

Count 10: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 13, 2011.

Count 11: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 14 2011.

Count 12: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 15, 2011.

Count 13: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 16, 2011.

Count 14: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 17, 2011.

Count 15: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 18, 2011.

Count 16: The respondent held out the property in question as being available for rent transiently contrary to 122-1371(d)(9) on August 19, 2011.

Sec. 122-1371 TRANSIENT LIVING ACCOMMODATIONS IN RESIDENTIAL DWELLINGS; REGULATIONS

(d) General regulations. The following regulations shall pertain to transient lodging use of or within a residential dwelling.

(9) It shall be unlawful for any owner, tenant, broker, realtor, agent or other representative of the owners to hold out or advertise a residential dwelling for transient rental if the property is not permitted, as provided hereunder. A broker or realtor who is found in violation of this regulation shall be subject to business tax receipt revocation.

To wit: A regulation regarding the prohibition of an owner, tenant, broker, realtor, agent or other representative of the owners to hold out or advertise a residential dwelling for transient rental if the property is not permitted, as provided hereunder.

Sec. 122-839 Prohibited uses in HNC-2

In the historic neighborhood commercial district (HNC-2), all uses not specifically or provisionally provided for in this subdivision are prohibited.

To wit: Transient rentals are prohibited in the HNC-2 zone.

For your info: The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Affordable housing shall mean housing as defined in section 122-1466 of the land development regulations (LDRs) and amendments thereto. Receiver site shall mean the property where the unit or license is desired to be transferred and relocated pursuant to this division. Residence or residential unit shall mean a single-family, multifamily, accessory, or affordable housing unit. Sender site shall mean the property where the transient unit or license is currently located and recorded prior to application for transfer. Transient unit shall mean a transient living accommodation as defined in section 86-9 of the LDRs. It shall be unlawful for any owner, tenant, broker, realtor, agent or other representative of the owners to hold out or advertise a residential dwelling for transient rental if the property is not permitted, as provided hereunder. A broker or realtor who is found in violation of this regulation shall be subject to business tax receipt revocation.

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:**

October 19, 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 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.



Ginny Haller
Code Compliance Officer
City of Key West
(305) 809-3740