



**THE CITY OF KEY WEST**  
**Code Compliance Division**

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

**NOTICE OF CODE VIOLATION AND  
ADMINISTRATIVE HEARING**

DATE: April 20, 2011  
RE: CASE NUMBER 11-412

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 3965

To:  
Compass Realty  
John Behmke  
200 Front Street  
Key West FL 33040

Subject Address:  
510 Emma 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):

Violation Detail

00020 Transient Acc Truman Annex Sec. 122-1372  
Date Est: April 19, 2011 Location: RENTAL HOME Qty: 001  
Unlicensed transient renting is prohibited.

Violation Detail

00030 TRANSIENT LICENSE Sec. 18-601  
Date Est: April 20, 2011 Location: Qty: 001  
A transient license is required to rent your property transiently.

Violation Detail

00040 Prohibited Uses - HPRD Sec. 122-989  
Date Est: April 20, 2011 Location: Qty: 001  
Unlicensed transient renting is prohibited in the HPRD zone

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:**

**May 25, 2011**

A handwritten signature or initials in the bottom right corner of the page.



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**NOTICE OF CODE VIOLATION AND  
ADMINISTRATIVE HEARING**

DATE: April 20, 2011  
RE: CASE NUMBER 11-412

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 3934

To:  
William C Ogle & Lisa D Van Gilder  
503 Noah Lane  
Key West FL 33040

Subject Address:  
510 Emma Street  
Key West, FL 33040

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Date Est: April 19, 2011 Location: RENTAL HOME Qty: 001

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Violation Detail

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Date Est: April 20, 2011 Location: Qty: 001

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Date Est: April 20, 2011 Location: Qty: 001

Unlicensed transient renting is prohibited in the HPRD zone



# THE CITY OF KEY WEST

## Code Compliance Division

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

## NOTICE OF CODE VIOLATION AND ADMINISTRATIVE HEARING

DATE: April 20, 2011  
RE: CASE NUMBER 11-412

CERTIFIED MAIL RECEIPT#: 7007 3030 0000 5346 3941

To:  
LVG Properties LLC  
C/O Lisa D Van Gilder, Mgr.  
510 Emma Street  
Key West FL 33040

Subject Address:  
510 Emma Street  
Key West, FL 33040

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### Violation Detail

00030 TRANSIENT LICENSE Sec. 18-601

Date Est: April 20, 2011 Location: Qty: 001

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### Violation Detail

00040 Prohibited Uses - HPRD Sec. 122-989

Date Est: April 20, 2011 Location: Qty: 001

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**Code Compliance Division**

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KEY WEST, FL 33041  
**(305) 809-3740**

**NOTICE OF CODE VIOLATION AND  
ADMINISTRATIVE HEARING**

DATE: April 20, 2011  
RE: CASE NUMBER 11-412

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 3958

To:  
F & L Corp, Charles Hedrick  
R/A For LVG Properties LLC  
One Independent Drive, Suite 1300  
Jacksonville FL 32202

Subject Address:  
510 Emma Street  
Key West, FL 33040

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You were noticed that your property is in violation of the City of Key West Code of Ordinances for the following reason(s):

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00020 Transient Acc Truman Annex Sec. 122-1372

Date Est: April 19, 2011 Location: RENTAL HOME Qty: 001

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Violation Detail

00030 TRANSIENT LICENSE Sec. 18-601

Date Est: April 20, 2011 Location: Qty: 001

A transient license is required to rent your property transiently.

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Date Est: April 20, 2011 Location: Qty: 001

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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.**

  
Dottie Austin  
Code Compliance Officer  
City of Key West  
(305) 809-3740

CASE NUMBER 11-00000412  
 PROPERTY ADDRESS 510 EMMA ST

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 VI OLATI ON: Transient Acc Truman Anx QUANTI TY: 1  
 DESCRI PTI ON: Sec. 122-1372 DATE: 4/19/11  
 LOCATI ON: RENTAL HOME

NARRATI VE :

Unlicensed transient renting is prohibited.

ORDI NANCE DESCRI PTI ON :

Sec. 122-1372. - Transient living accommodations in residential dwellings Truman Annex.

(a) Findings. In Rollison v. City of Key West, the Third District Court of Appeal ruled that a unit owner in the Truman Annex established a legal nonconforming use of Shipyards unit 271 as a transient rental, subject to the "50% Rule," because the property was put to a transient use before the city changed the law in 1998. In particular, the city of Key West enacted Ordinance No. 97-20, which was approved by the Florida Department of Community Affairs and became effective on December 26, 1997 (Because the Court identified 1998 in its Opinion, subsection (b) hereof sets a January 1, 1998 date for application eligibility).

Ordinance No. 97-20 established the current definition of "Transient Living Accommodation" and thereby terminated the ability of Truman Annex property owners to rely on the "50% Rule." This rule, a creation of the developers and marketers of the Truman Annex in the early 1990's, provided that a property owner in the Truman Annex could rent his or her unit for fewer than 26 weeks per year, maintaining its residential status and obviating the need for a city-issued transient rental license. The creators of the "50% Rule" based it on their reading of the definition of "transient housing" set forth in section 35.07(14)(b) of the former Key West zoning code, which applied to the Truman Annex development (the "planned redevelopment district").

The city commission finds that it is fair and reasonable to extend the Rollison ruling to other property owners in the Truman Annex. Accordingly, it hereby establishes an application process to determine similarly situated properties.

(b) Application. All owners of eligible residential units in the HPRD zoning district may apply to the city of Key West for a "Truman Annex residential transient rental permit." An application for eligibility of a unit hereunder shall be filed with the city of Key West only one time. The following regulations pertain to this application.

i.

An eligible residential unit is one whose owner used it as a transient rental between the date of its original sale and

CASE NUMBER 11-00000412  
PROPERTY ADDRESS 510 EMMA ST

## ORDINANCE DESCRIPTION :

January 1, 1998 (hereinafter the "Eligibility Period").

ii.

The current property owner shall file an application with the Key West city attorney's office. The application must include the following information; name of owner; address; owner's telephone number; date of purchase; purchase price; copy or copies of Monroe County transient rental business tax receipt(s) during the Eligibility Period; copy or copies of State of Florida Department of Business and Professional Regulation, Division of Hotel and Restaurant ("DBPR") lodging license(s) during the Eligibility Period; State of Florida sales tax records during the Eligibility Period; and a sworn affidavit of the current market short-term rental rate(s) for the unit. If a property owner intends to provide a blanket DBPR transient license roster for a real estate broker that includes the owner's address, then the owner shall supplement it with an agreement between the property owner (at the time) and the real estate broker for the year(s) of the blanket DBPR lodging license.

iii.

All applications shall be bound and paginated, and contain a table of contents.

iv.

The deadline for receipt by the city of a completed application is ninety (90) days from the effective date of this ordinance.

v.

Shipyards unit 271 was established as legally nonconforming by a court of law on April 14, 2004. On April 20, 2005, the city of Key West confirmed that the owner was entitled to rent the unit on a transient basis within the scope of the "50% Rule."

vi.

If an application is denied for any reason by the city, the property owner may appeal to the code enforcement special magistrate. The appeal must be filed with the code enforcement clerk within ten (10) days of receipt of the denial. The special magistrate shall conduct a public hearing, give notice and opportunity to be heard, receive evidence, and issue written findings and an order.

(c) Once a unit is determined to be legally nonconforming under the procedures set forth in this section 122-1372, the property owner shall be entitled to rent the unit on a transient basis cumulatively for less than a total of twenty-six (26) weeks per year. The city of Key West cedes to each Truman Annex homeowners' association management responsibility of the 26-week cap; provided, however, that

CASE NUMBER 11-00000412  
PROPERTY ADDRESS 510 EMMA ST

ORDINANCE DESCRIPTION :

the city of Key West shall retain enforcement responsibility.

(d) The property owner of each unit determined to be legally nonconforming hereunder shall be subject to the general regulations set forth in section 122-1371(d)(1) (7) and the fee schedule set forth in section 122-1371(e)(1). The medallion required in section 122-1371(d)(1) must be removed on any day that the unit is not within its lawful rental period.

(e) The cost of a "Truman Annex residential transient rental permit" shall be the equivalent of that of a business tax receipt per section 66-109(10)c., as amended.

(Ord. No. 05-11, § 2, 5-17-2005; Res. No. 06-292, § 1, 9-6-2006)

Secs. 122-1373 122-1405. - Reserved.

CORRECTIVE ACTION REQUIRED :

Obtain required licensing.

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VIOLATION:	TRANSIENT LICENSE	QUANTITY:	1
DESCRIPTION:	Sec. 18-601	DATE:	4/20/11
LOCATION:			

NARRATIVE :

A transient license is required to rent your property transiently.

ORDINANCE DESCRIPTION :

(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.

CORRECTIVE ACTION REQUIRED :

Cease activity.

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VIOLATION:	Prohibited Uses - HPRD	QUANTITY:	1
DESCRIPTION:	Sec. 122-989	DATE:	4/20/11
LOCATION:			



CASE NUMBER 11-00000412  
PROPERTY ADDRESS 510 EMMA ST

## ORDINANCE DESCRIPTION :

In the historic planned redevelopment and development district (HPRD), all uses not specifically or provisionally provided for in this division are prohibited.

## CORRECTIVE ACTION REQUIRED :