



THE CITY OF KEY WEST

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EXECUTIVE SUMMARY

To: The City Commission for the City of Key West
From: Ronald Ramsingh, Assistant City Attorney
Date: May 7, 2012
RE: Creation of 70-130 prohibiting lodging in vehicles.

Mr. Mayor and Commissioners:

Background:

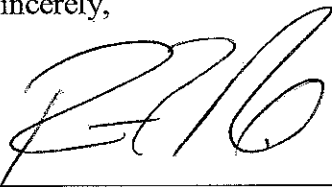
This proposal creates a new section of the Code of Ordinances titled Sec. 70-130 "No Lodging in Vehicles" to address a growing concern of the KWPD where cars, vans, trucks and RV's are being used to lodge or camp on the public rights of way. This issue was tested in the Hershey v. City of Clearwater case at the federal 11th Circuit Court of Appeals wherein a summary judgment in favor of the City of Clearwater was affirmed. In that case, Clearwater passed an ordinance banning lodging in any vehicle which is has the same design of the ordinance for your consideration here. I feel confident that what you have before you is a legally sound proposal given the rule of law in the federal 11th Circuit (which includes FL) concerning the lack of constitutional protections afforded to this type of activity. Exceptions are mentioned to the provisions contained in 70-464 and Sec. 108-683 which provide for RVs used for charitable events and the active loading and unloading of RVs, but still do not allow for lodging on city rights of way.

Options:

1. To pass the proposed ordinance revision, thereby making lodging in any vehicle while on city rights of way against city ordinances and making it much clearer for enforcement purposes;
2. To defeat the proposed revision and the existing inadequate ordinance will continue to be enforced.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Ron Ramsingh

Assistant City Attorney