



City of Key West, FL

City Hall
1300 White Street
Key West FL 33040

Action Minutes - Final

Code Compliance Hearing

Thursday, September 28, 2023

1:30 PM

City Hall

ADA Assistance: It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number 1-800-955-8771 or for voice 1-800-955-8770 or the ADA Coordinator at 305-809-3811 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

ALL VISUAL PRESENTATIONS FOR AGENDA ITEMS MUST BE RECEIVED (24) TWENTY-FOUR HOURS PRIOR TO THE MEETING.

Call Meeting to Order

Code Violations

- 1** **Case # 22-1327**
CP LTD Partnership
2104 Fogarty Ave
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business
Officer Sophia Doctoche
Hand Posted: 8-17-2023- **Amended Notice**
Initial Hearing: 12-15-2022

City request to vacate findings and order; Request dismissal

Count 1: Failure to apply and obtain a non-transient license with the City of Key West Licensing Department.

The City is requesting to dismiss the Findings and Order from 15 December 2022. The Special Magistrate granted the request to dismiss the Findings and Order at the City's request without objection.

- 2** **Case # 23-673**
Waterfront Brewery LLC
Joseph H. Walsh
201 William Street
Sec. 18-615 Revocation or suspension
Officer Sophia Doctoche

Hand Served: 7-21-2023
Initial Hearing: 7-27-2023

Continued from 27 July 2023

Count 1: Failure to contact the City of Key West Licensing and schedule an inspection for the conditional use permit.

The Code Officer was Sophia Doctoche. Assistant City Attorney Nicholas Trovato was present on behalf of the City. The Respondent Joseph Walsh was present. The Special Magistrate stated that the Respondent sent an email the morning of the hearing, and asked if the Respondent has been in contact with the City at all since the last hearing on 27 July 2023. The Respondent stated that the Fire Marshall did an inspection on August 30, 2023 to fulfill one of preliminary requirements for requesting to increase the number of seats. The Respondent also negotiated with the City to modify the lease adding the space that was approved at the CRA meeting on September 14, 2023. The Respondent stated that the Fire Marshall indicated that the additional seats should be approved. The Respondent also stated that Code and Licensing who are perusing the issue have not been updated since there were a couple of items to address first. Assistant City Attorney Nicholas Trovato stated that the Respondent has put out more seats than is allowed on the license and now after the fact he is trying to modify the number of seats at his business. Code Compliance inspected the business and the seat count is over the allotted amount. Assistant City Attorney Nicholas Trovato also stated that the email the Respondent sent the day of the hearing is irrelevant since the Respondent has not complied. The Special Magistrate decided to continue the case and suggested that the Respondent stay in contact with Code and Licensing to update the departments and call for an inspection if needed. The City did not object to a continuance. The Special Magistrate granted a continuance to 19 October 2023.

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Case # 23-582

Katharina Tiffany and Veritas Gassmann LLC

Palani Meador- **Registered Agent**

1104 Packer Street

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

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

~~Sec. 18-601 License required~~

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~~Sec. 122-1371 Transient living accommodations in residential dwellings; regulations D(9)~~

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Sec. 58-61 Determination and levy of charge

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Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions

Officer Ashton Gentry

Hand Posted: 5-3-2023 **Amended Notice**

Initial Hearing: 4-27-2023

City request to vacate findings and order; Request dismissal

~~Count 1-4: Failure to apply and obtain a non-transient license with the City of Key West Licensing Department.~~

~~Count 5-9: Failure to apply and obtain a transient medallion with the City of Key West Licensing Department.~~

~~Count 10-14: Failure to apply and obtain all required city, county, and state licensing to advertise and rent short term.~~

Count 15-18: Failure to apply and obtain a LUD with the City of Key West Planning Department.

Count 19: Failure to apply and obtain the appropriate building permits with the City of Key West Building Department.

The City is requesting to dismiss the Findings and Order from 27 July 2023. The Special Magistrate granted the request to dismiss the Findings and Order at the City's request without objection.

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Case # 22-1506

George T. Pallas

1008 White Street

Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions

Sec. 14-40 Permits in historic districts

Sec. 108-681 Camping vehicles and equipment

Officer Keenan Mellendorf

Hand Posted: 9-19-2023

Initial Hearing: 9-28-2023

Continuance granted to 19 October 2023

Count 1: Failure to apply and obtain the appropriate building permits with the City of Key West Building Department.

Count 2: Failure to apply and obtain a certificate of appropriateness with the City of Key West HARC Department.

Count 3: Failure to not allow residents to live in a parked RV outside of a campground.

This case was previously granted a continuance to 19 October 2023.

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Case # 22-1194

Kava Culture Key West Co.

Jacqueline L. Rusher- **Registered Agent**

901 Fleming Street

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

Officer Paul Navarro

Certified Mail: 12-16-2022

Initial Hearing: 1-26-2023

Continued from 31 August 2023

Count 1: Failure to apply and obtain a business tax receipt with the City of Key West Licensing Department.

The Code Officer was Paul Navarro. The Respondents did not attend. Officer Navarro stated that there was a finding last hearing with a compliance date of 1 September 2023 and the Respondents are not in compliance. The Special Magistrate granted for the fines to being running from the compliance date of 1 September 2023 \$250.00 administrative cost and \$250.00 per count per day until compliance is achieved.

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Case # 23-974

Jonathan Ring

1208 Virginia Street

Sec. 14-37 Building permits; professional plans; display of permits; address exceptions- Irreparable

Sec. 14-40 Permits in historic districts- Irreparable

Officer Paul Navarro

Hand Posted: 8-16-2023

Initial Hearing: 8-31-2023

Continuance granted to 19 October 2023

Count 1: Failure to apply and obtain the appropriate building permits from the City of Key West Building Department.

Count 2: Failure to apply and obtain a certificate of appropriateness with the City of Key West HARC Department.

This case was previously granted a continuance to 19 October 2023.

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Case # 23-1011

Gulf Southern Construction Company KW Inc.

David H. Steinmeyer Jr.- **Registered Agent**

1208 Virginia Street

Sec. 14-37 Building permits; professional plans; display of permits; address exceptions- **Irreparable**

Sec. 14-40 Permits in historic districts- **Irreparable**

Officer Paul Navarro

Hand Served: 8-8-2023

Initial Hearing: 8-31-2023

Continuance granted to 19 October 2023

Count 1: Failure to apply and obtain the appropriate building permits with the City of Key West Building Department.- **Irreparable**

Count 2: Failure to apply and obtain a certificate of appropriateness with the City of Key West HARC Department.- **Irreparable**

This case was previously granted a continuance to 19 October 2023.

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Case # 21-1537

Alan Walker

1011 Windsor Lane

Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions- **Repeat**

Sec. 14-40 Permits in historic districts- **Repeat**

Sec. 14-256 Permit required

Sec. 14-262 Request for inspection

Sec. 14-359 Permit display

Sec. 18-150 Certificate of competency required- **Repeat**

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

Officer Leo Slecton

Hand Posted- 10-15-2021

Initial Hearing: 10-21-2021

City request to vacate findings and order; Request dismissal

Count 1: Failure to apply and obtain building permits with the City of Key West Building Department.- **Repeat**

Count 2: Failure to apply and obtain a Certificate of Appropriateness with the City of Key West HARC Department.- **Repeat**

Count 3: Failure to apply and obtain electrical permits with the City of Key West Building Department.

Count 4: Failure to schedule a required inspection with the City of Key West Building Department.

Count 5: Failure to apply and obtain a plumbing permit with the City of Key West Building Department.

Count 6: Failure to apply and obtain a Business Tax Receipt with the City of Key West Licensing Department.- **Repeat**

Count 7: Failure to achieve Certificate of Competency.- **Repeat**

The City is requesting to dismiss the Findings and Order for Alan Walker from 27 January 2022. The Special Magistrate granted the request to dismiss the Findings and Order at the City's request without objection.

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Case # 23-315

La Grignote Key West LLC

Kathryn Ann Harwood- **Registered Agent**

1211 Duval Street

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

Officer Leo Slecton

Hand Served: 8-3-2023

Initial Hearing: 8-31-2023

Continued from 28 September 2023

Count 1: Failure to contact the City of Key West Licensing Department to update license for the excess seats.

The Code Officer was Leo Slecton. Assistant City Attorney Nicholas Trovato was present on behalf of the City. Attorney Michael Halpern was present on behalf of the Respondent. Officer Slecton read his timeline and evidence was shown. Attorney Halpern asked the Code Officer that in order to comply the Respondent would have to pay impact fees. Officer Slecton answered there is a \$592.20 impact fee per seat that the Respondent would have to pay for the extra seats. Attorney Halpern asked the Code Officer if the impact fees included sewer and traffic study. The Code Officer answered that he does not know what all is involved with impact fees. Attorney Halpern asked the Code Officer if he understands that there is a statute governing the impact fees.

Attorney Halpern referenced statute chapter 74.44 sewer impact fees which was provided by the City and he read the statute to the court. Officer Slecton understood the statute that was read by Attorney Halpern. Attorney Halpern stated that according to the statute the Respondent would not have to pay sewer impact fees unless he has applied for a building permit and the Respondent has not applied for a building permit for development. Attorney Halpern stated that the City has not done any research to determine if the Respondent has increased traffic or any development after purchasing the business. The Special Magistrate stopped Attorney Halpern and stated that he is asking a lot of legal questions and Officer Slecton is not an attorney only a witness to the violations and that he is only following the procedure that was directed to him by the City. Attorney Halpern stated that the statute is poorly written and has brought this up to City Legal council. Assistant City Attorney Nicholas Trovato stated that the City was working on amending the statute for impact fees. The Special Magistrate asked Assistant City Attorney Nicholas Trovato if he was prepared to make a legal agreement based on Attorney Halpern's testimony. Assistant City Attorney Nicholas Trovato asked for a continuance to be able to research the issue. Attorney Halpern did not object to the continuance. The Special Magistrate granted a continuance to 16 November 2023.

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Case # 23-740

Green Pineapple Holdings LLC

Edward Russo- **Manager**

1130 Duval Street

Sec. 18-615 Revocation or suspension

Sec. 58-31 Container and receptacle requirements

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

Sec. 102-282 Outdoor display of goods

Officer Leo Slecton

Hand Served: 8-24-2023- **Amended Notice**

Initial Hearing: 7-27-2023

Continued from 28 September 2023**Count 1:** Failure to meet all conditions of the Conditional use Permit.**Count 2:** Failure to remove trash bins from the right of way.**Count 3:** Failure to contact the City of Key West Licensing Department to update license for the excess seats.**Count 4:** Failure to remove outdoor display.

The Code Officer was Leo Slecton. Assistant City Attorney Nicholas Trovato was present on behalf of the City. Attorney Michael Halpern was present on behalf of the Respondent. Attorney Halpern stated that the Respondent and the City have come into an agreement. Officer Slecton agreed that there was an agreement between the Respondent and the City. Officer Slecton also stated that the Respondent would have to attend a planning board meeting to be in compliance and that meeting will be held on 19 October 2023. The Special

Magistrate granted a continuance to 16 November 2023.

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Case # 23-496

Gabriel Wright

Kim Fitzke

612 Mickens Lane

Sec. 58-31 Container and receptacle requirements

Sec. 2-939 Revocable licenses

Officer Jim Young

Certified Mail: 6-3-2023

Initial Hearing: 7-27-2023

Continued from 27 July 2023

Count 1: Failure to remove trash bins from the right of way.

Count 2: Failure to apply and obtain a revocable license with the City of Key West Licensing Department.

The Code Officer was Jim Young. Assistant City Attorney Nicholas Trovato was present on behalf of the City. Christopher Ian McDowell City Engineer was present on behalf of the City. The Respondents Kim Fitzke and Gabriel Wright were present as well. Officer Young read his timeline and evidence was shown. The City called upon City Engineer McDowell as a witness. Assistant City Attorney Trovato asked City Engineer McDowell to explain two surveys that were provided to him as evidence. City Engineer McDowell explained the surveys by stating where the bins were located and where the property line is for 612 Mickens Lane. City Engineer McDowell also explained how much of bins were on City right of way according to the surveys. The Respondents asked the City Engineer if he knew of any other surveys on Mickens Lane and the City Engineer stated that he was aware of one other survey of another property. The Respondents submitted their own evidence package and asked the City Engineer if he was familiar with a survey in the packet which he was. The Respondents asked the City Engineer questions about the surveys that were shown to the court and he answered the questions. The Assistant City Attorney cross examined the City Engineer. The Respondents stated that according to the property appraisers website and a land use map that the area of Mickens Lane in question is not a City right of way. The Respondents stated that another neighbor is finishing their survey and they believe the survey will show that the City right of way is not where it is estimated to be. The Respondents also stated that they need more time to obtain their own survey. The Special Magistrate asked the Respondents if they wanted a continuance to obtain their survey and they said yes. The City objected to a continuance due to this case going on for a while and that the Respondents have not tired to contact a surveyor 2 or 3 days before the hearing. Assistant City Attorney Trovato cross examined the Respondents. The Special Magistrate asked the Respondents who owns Mickens Lane. The Respondents answered the City. The Respondents wanted to know how much of their bins were on City property. The Special Magistrate stated that by their own diagram they are using the telephone pole as the property line which seems to be agreed by all parties. The Special Magistrate told the Respondents that since they will be

receiving new smaller bins they can ask for an inspection and the City will let them know if they are in compliance or not. The Special Magistrate thought that there was substantial evidence for a finding of the violation and imposed \$250.00 administrative cost and \$250.00 per count per day if not in compliance by 15 October 2023.

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Case # 23-970

Patagonia Ventures LLC
Robert E. Clark LLC- **Registered Agent**
Douglas Robert Fowler- **Musician**
903 Duval Street
Sec. 26-192 Unreasonable noise prohibited
Officer Keenan Mellendorf
Hand Served: 7-28-2023- **Patagonia Ventures LLC**
Certified Mail: 8-4-2023- **Musician**
Initial Hearing: 8-31-2023

Continued from 31 August 2023

Count 1: Failure to keep music at a legal level.

This case was moved to the end of the docket. The Code Officer was Keenan Mellendorf. Attorney Dale Coburn was present on behalf of the business Patagonia Ventures LLC. Respondent Douglas Fowler the musician was also present. Attorney Coburn stated that the musician and the City have come into an agreement and asked for the counts against the business be dismissed since the musician takes full responsibility of violating the sound ordinance. The musician Douglas Fowler stated that he would be willing to enter into a settlement agreement with the City and take full responsibility. The Special Magistrate granted a continuance for time to draft a settlement agreement. The continuance was granted to 19 October 2023.

Adjournment