

MEMORANDUM

DATE: July 17, 2014

RE: 532 Fleming Street-Tree Abuse, Royal Poinciana

FROM: Karen DeMaria, Urban Forestry Manager, City of Key West

An application dated May 10, 2014, was submitted to the Tree Commission to remove a Royal Poinciana tree in the front yard due to subterranean termites. Included with the application was a fumigation site report from the inspector, Mary Siminorsky-Truly Nolan, stating that the tree had termites.

On May 23, 2014, a site inspection revealed numerous circular holes had been drilled into the trunk of the tree near the base/buttress, completely around the tree. The amount of holes was excessive.

On May 29, 2014, the application was administratively withdrawn and the case submitted for an Administrative Hearing.

On June 9, 2014, several phone calls were made to various insect control companies. I was informed that it was not necessary to drill a lot of holes in the tree in order determine if termites or other insects were present.

On June 16, 2014, I spoke with Mary Siminorsky (Truly Nolan inspector). She said she did not drill any holes into the tree.

Background info: At the November 2012 Tree Commission meeting, an application to remove this Royal Poinciana tree was denied by the commission.

In March 2013, an emergency permit was issued for the removal of a Tamarind tree located near the Royal Poinciana tree. During trimming of the canopy of the tree it was found to be infested with wood borers and decay.

The canopy of the tree appears to be healthy as does the main trunk of the tree. It is not known what the depth of the drill hole damage is or to what extent the termites have infested the tree.

MEMORANDUM

DATE: June 17, 2014

RE: 532 Fleming St, Royal Poinciana Tree and Truly Nolan

FROM: Karen DeMaria, Urban Forestry Manager, City of Key West

On June 16, 2014, I spoke with Mary Siminorsky (Truly Nolan inspector, 305-304-4605). Mary's name was on the Truly Nolan inspection sheet that Shirley Ezmirly submitted with the Tree Removal application. I asked Mary about her inspection, specifically, how did she know that there were termites in the tree? She said she saw the exterior mud tubes that the termites leave against the trunk. I asked her if she ever drilled into the tree, she said she did not and she does not as part of her normal inspection.





STAFF REPORT

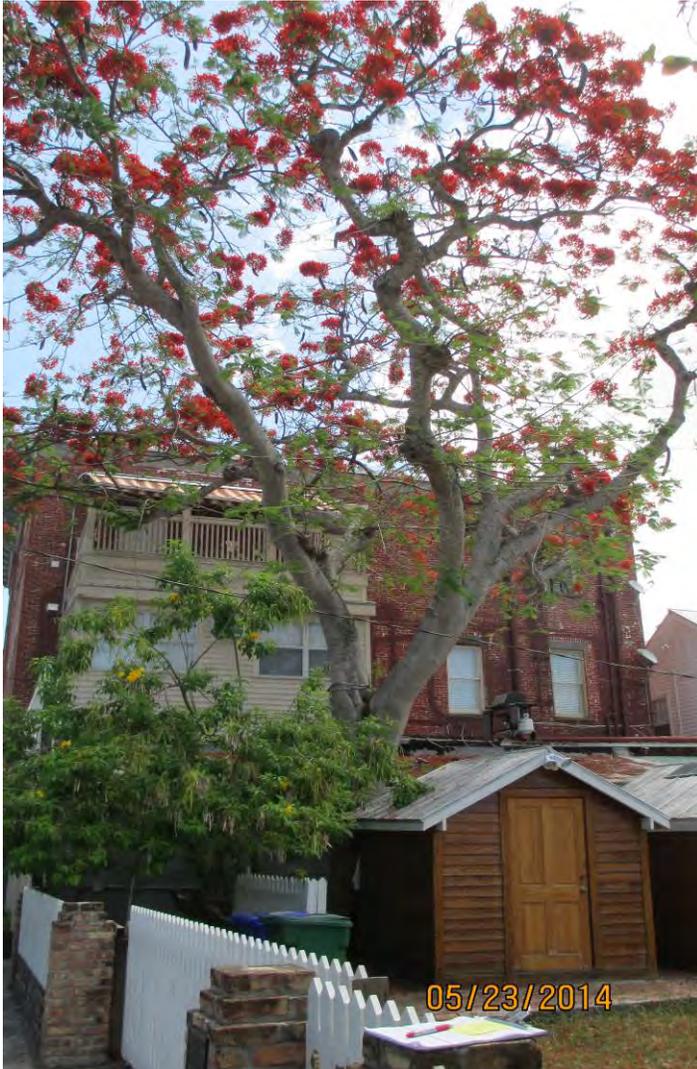
DATE: July 2, 2014

RE: 532 Fleming St (permit application #6897)

FROM: Karen DeMaria, Urban Forestry Manager,
City of Key West

An application was received May 10, 2014, for the removal of **(1) Royal Poinciana tree**. A site inspection was done on May 23, 2014 and documented the following:

Tree Species: Royal Poinciana (Delonix regia)









05/23/2014



















Diameter: 23.5"

The site inspection documented that numerous holes had been drilled into the tree, all around the base of the tree. The number of holes seemed excessive for insect control. After discussing the site inspection findings with the City Attorney (Ron Ramsing), it was decided that the application would be withdrawn and administrative enforcement would proceed.

Application



as per legal

6897

Withdrawn 5-29-14
Administrative Hearing
for July 8, 2014
meeting

Tree Permit Application

Date: May 10, 2014

Please Clearly Print All Information unless indicated otherwise.

Tree Address 532 Fleming St
Cross/Corner Street _____
List Tree Name(s) and Quantity Royal Poinciana
Species Type(s) check all that apply () Palm (x) Flowering () Fruit (x) Shade () Unsure
Reason(s) for Application:

(x) REMOVE (x) Tree Health () Safety () Other/Explain below
() TRANSPLANT () New Location () Same Property () Other/Explain below
() HEAVY MAINTENANCE () Branch Removal () Crown Cleaning/Thinning () Crown Reduction
Other/Explain root problem, suspected termite infestation
declining health (age of tree)
Reason for Request owner unable to manage tree

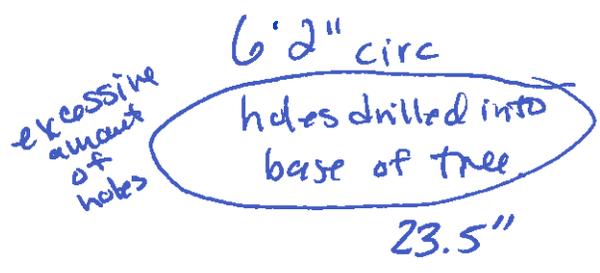
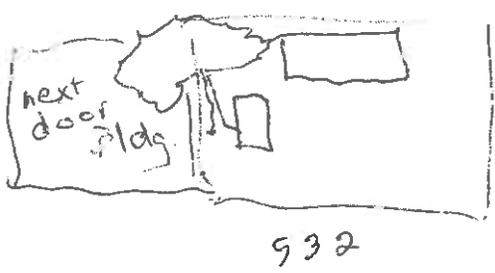
Property Owner Name Shirlee Ezmirly
Property Owner eMail Address 532 Fleming St
Property Owner Mailing Address Key West FL
Property Owner Mailing City _____ **State** FL **Zip** 33040
Property Owner Phone Number (305) 296-0242
Property Owner Signature Shirlee Ezmirly

Representative Name Tarzan Tree Care
Representative eMail Address janesjunglework@gmail.com
Representative Mailing Address 22906 Bluegill Lane
Representative Mailing City Cudjoe Key **State** FL **Zip** 33042
Representative Phone Number (305) 704-9303

NOTE: A Tree Representation Authorization form must accompany this application if someone other than the owner will be representing the owner at a Tree Commission meeting or picking up an issued Tree Permit.
Tree Representation Authorization form attached ()

<<<<< Sketch location of tree in this area including cross/corner Street >>>>>

Please identify tree(s) with colored tape 5-23-14



If this process requires blocking of a City right-of-way, a separate ROW Permit is required. Please contact 305-809-3740.



Tree Representation Authorization

Date: 21 April 2014

Attendance at the Tree Commission meeting on the date when your request will be discussed is necessary in order to expedite the resolution of your application. This Tree Representation Authorization form must accompany the application if the property owner is unable to attend or will have someone else pick up the Tree Permit once issued.

Please Clearly Print All Information unless indicated otherwise.

Tree Address 532 Fleming Street Key West, FL 33040

Property Owner Name D. Shirlee Ezmirly Revocable Inter Vivos Trust
Property Owner eMail Address none
Property Owner Mailing Address 532 Fleming Street
Property Owner Mailing City Key West State FL Zip 33040
Property Owner Phone Number (305) 296 - 0242
Property Owner Signature D. Shirlee Ezmirly

Representative Name Tarzan Tree Care
Representative eMail Address janesjunglework@gmail.com
Representative Mailing Address 22976 Bluegill Ln
Representative Mailing City Cudjoe Key State FL Zip 33042
Representative Phone Number (305) 304-9303

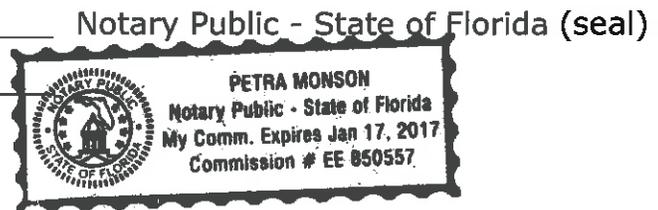
I Shirlee Ezmirly, hereby authorize the above listed agent(s) to represent me in the matter of obtaining a Tree Permit from the City of Key West for my property at the tree address above listed. You may contact me at the telephone listed above is there is any questions or need access to my property.

Property Owner Signature D. Shirlee Ezmirly

The forgoing instrument was acknowledged before me on this 23rd day of April 2014.

By (Print name of Affiant) D. Shirlee Ezmirly who is personally known to me or has produced N/A as identification and who did take an oath.

NOTARY PUBLIC
Sign Name: Monson
Print Name: Petra Monson
My Commission Expires: 01/17/2017



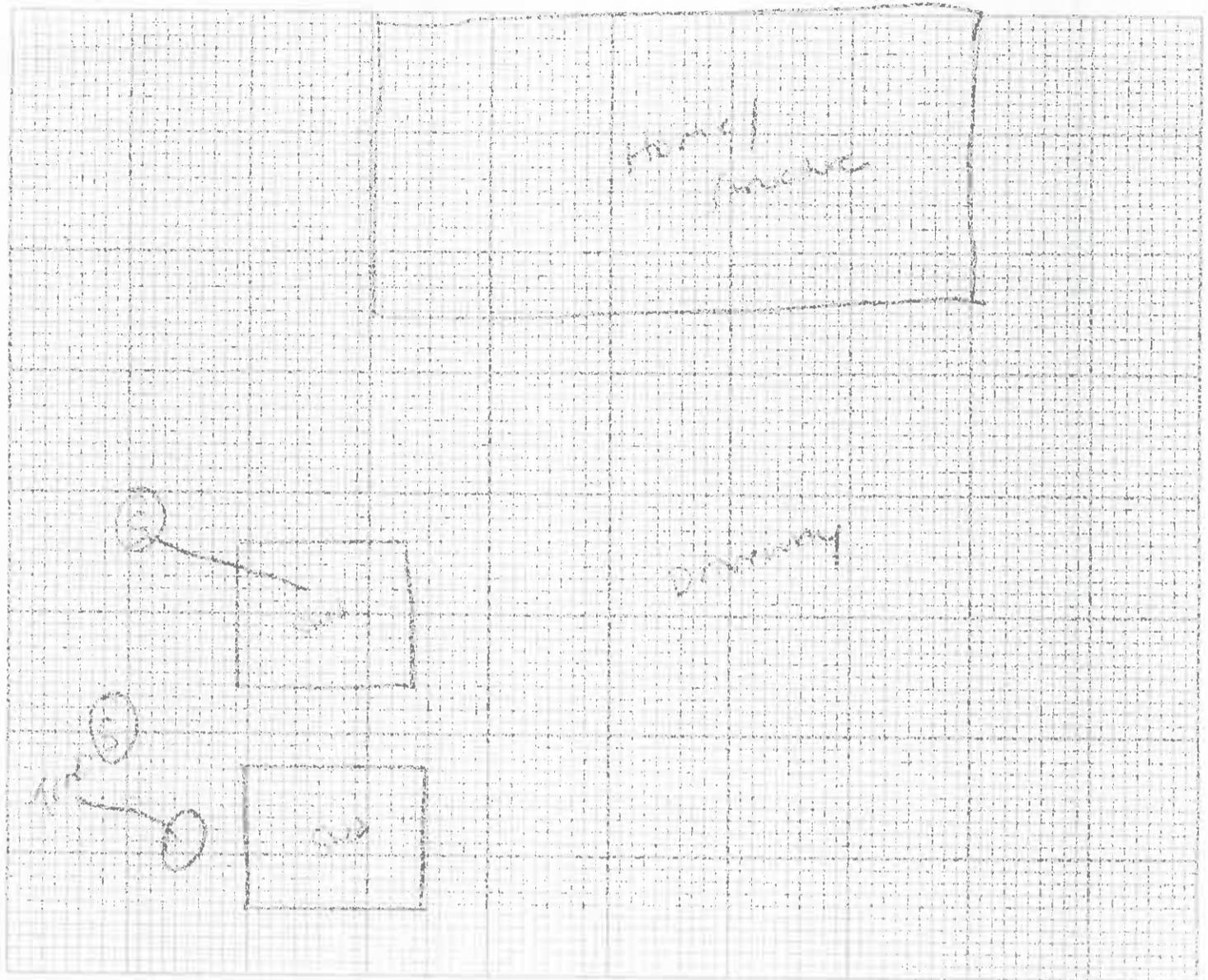


TERMITE GRAPH

SUBTERRANEAN TRUGUARD FUMIGATION TTP

DATE 4-10-14

OWNER'S NAME Shirley Lehigh
 TREATING ADDRESS 532 Fleming St CITY Kennett STATE Pa
 ZIP 17033 PHONE 301 296-0242
 INSPECTED BY Mary Ann Mosley



YES	CODE	SEE DIAGRAM BELOW	YES	CODE	SEE DIAGRAM BELOW	INFESTED AREA	TYPE	LOCATION
<input checked="" type="checkbox"/>	S	SUBTERRANEAN TERMITES		EC	EARTH-WOOD CONTACTS	<input type="checkbox"/> SILL		
	X	OR DWY-DRY WOOD TERMITES		FG	FAULTY GRADE LEVELS	<input type="checkbox"/> JOISTS		
	F	FUNGUS OF DRY ROT		EM	EXCESSIVE MOISTURE	<input type="checkbox"/> SUB FLOOR		
	Z	DAMPWOOD TERMITES		CD	CELLULOSE DEBRIS	<input type="checkbox"/> WALL, STUDS, PLATES		
	B	BEEETLES		SL	SHOWER LEAKS	<input type="checkbox"/> FINISHED FLOOR		
	O	OTHER WOOD PESTS TYPE _____		IA	INACCESSIBLE AREAS	<input type="checkbox"/> INTERIOR TRIM		
	Y	DAMAGE PRESENT		FI	FURTHER INSPECTION ROOM	<input type="checkbox"/> paneled wall		
						<input type="checkbox"/> DOOR WINDOW FRAME		
						<input type="checkbox"/> FURNITURE		
						<input type="checkbox"/> ATTIC		
						<input type="checkbox"/> POSSIBLE HIDDEN DAMAGE		

TYPE CONSTRUCTION: FLOATING SLAB SUPPORTED SLAB MONOLITHIC SLAB CRAWL STEEL POURED BLOCK

SUBTERRANEAN

HORIZONTALLY DRILL STEM WALLS

VERTICALLY DRILL FLOOR SLAB

VERTICALLY DRILL PORCH SLAB

CUT BATH/TUB TRAP ACCESS

TREAT BATH/TUB TRAP AREA

TREAT CRAWL SPACE AREA

CUT CRAWL SPACE ACCESS

REMOVE WOOD DEBRIS

ESTABLISH FOUNDATION BARRIER

PULL CARPETING W/V

CUT CARPETING O/C

ADDITIONAL _____

TTP

GREEN SUBTERRANEAN ZONE

TERMITE COLONY ENABLERS

TREE STUMPS

WOOD FENCES

LUMBER/FIREWOOD PILES

WOOD CHIPS

OTHER _____

TRUGUARD

REQUEST COMPLETE

1 LIQUID ATTIC AREA* _____

2 LIQUID TREAT CRAWL SPACE AREA* _____

3 LIQUID TREAT GARAGE TRUSS AREA* _____

4 TREAT DOOR FRAME

5 HIGH PRESSURE INJECT

6 INJECTION AREAS

7 INJECT WINDOW CASINGS

8 INJECT DOOR FRAMES

9 INJECT SIDING

10 INJECT EAVES

11 INJECT POSTS

12 INJECT TERMITE DAMAGE

13 OTHER _____

CUSTOMER NOTE: Please provide access to these areas by moving stored items. Since liquids may drip and drip please remove any item that could be damaged by water.

SPECIAL INSTRUCTION

Area marked with Subterranean

Termite - please refer to

the notes on the graph

area for a termite

infestation

(FUMIGATION ONLY)

CU. FT. DISTANCE TO CLOSEST BUILDING _____

Structure Residential Home Residential Apt/Condo Residential Mobile Home Commercial Other

X

If termites or termite damage exists, then it is possible that hidden damage could exist somewhere in the structure. Truly Nolen is NOT responsible for hidden damage.



TERMITE GRAPH

12012402

SUBTERRANEAN TRUGUARD FUMIGATION TTP

DATE 4-10-14

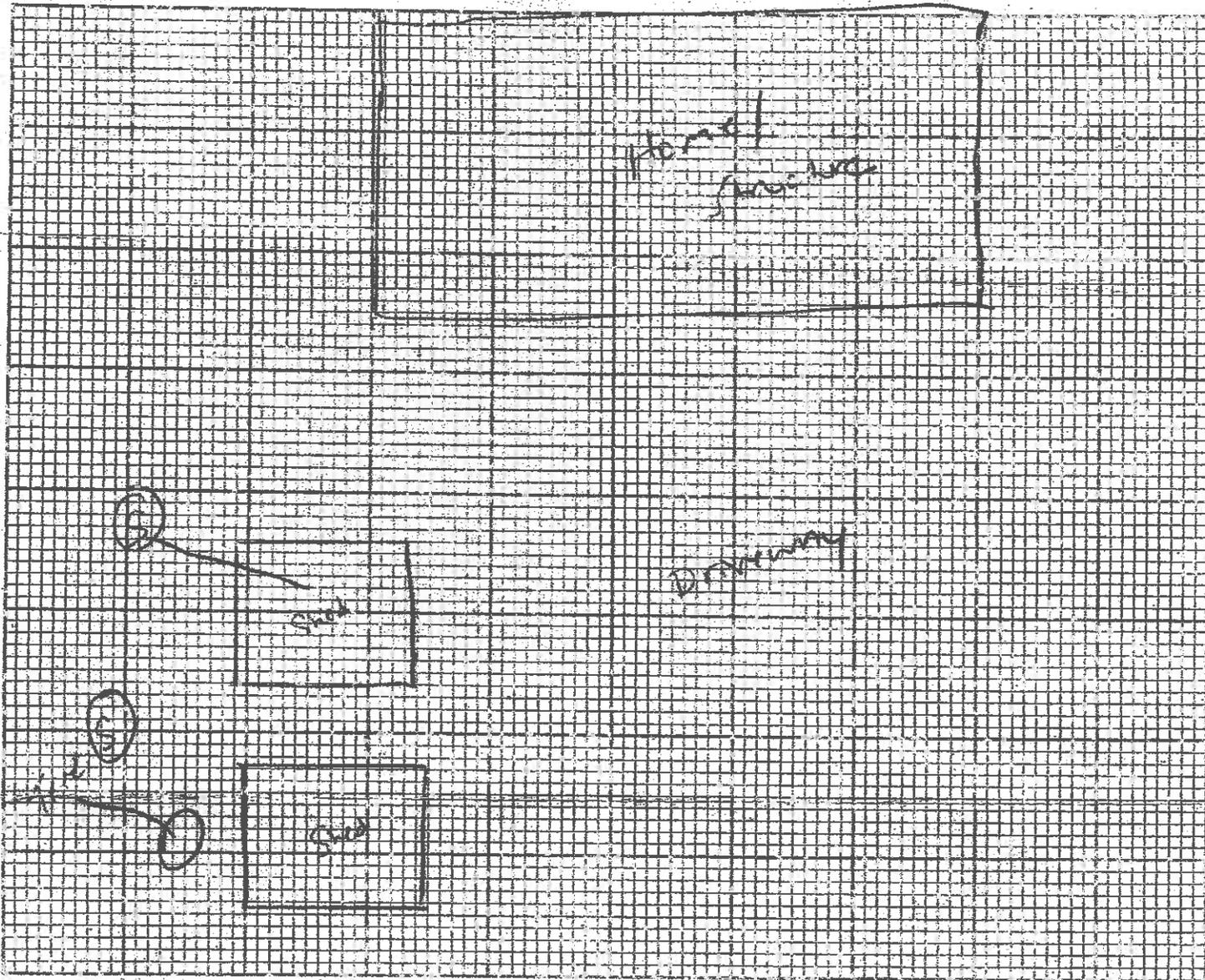
OWNER'S NAME Shirley Ezmirly

TREATING ADDRESS 532 Fleming St CITY Keywest STATE FL

ZIP 33040

PHONE 305 296-0242

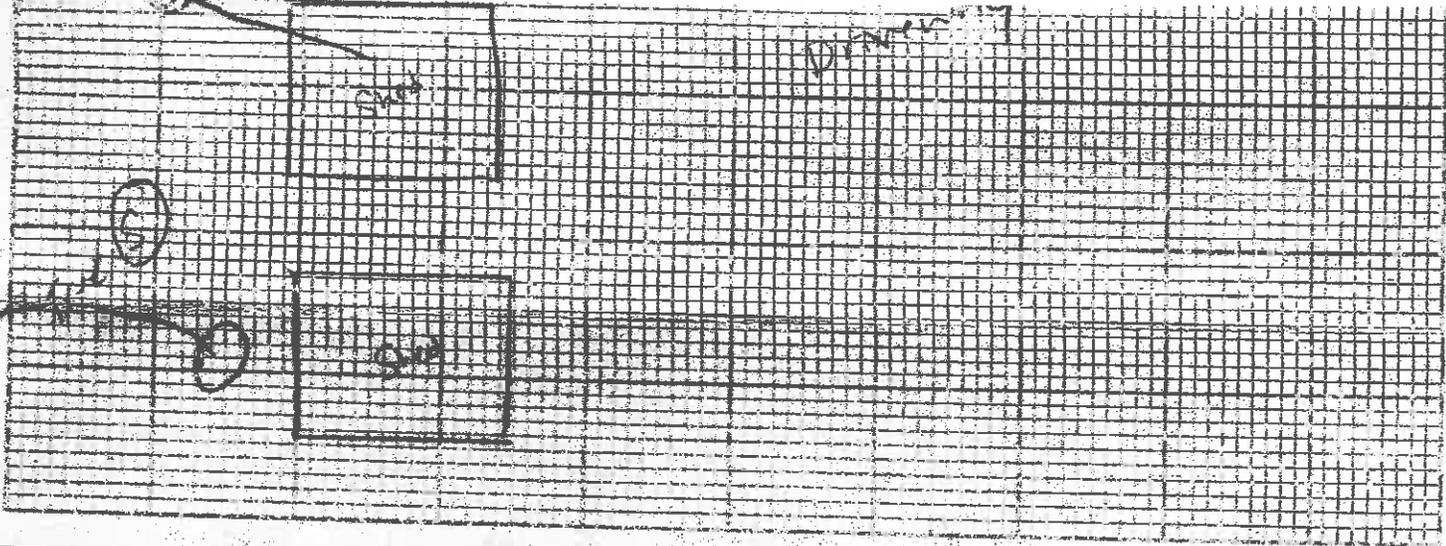
INSPECTED BY Miry S. Minovsky



YES	CODE	SEE DIAGRAM BELOW	YES	CODE	SEE DIAGRAM BELOW	INFESTED AREA	TYPE	LOCATION
<input checked="" type="checkbox"/>	S	SUBTERRANEAN TERMITES		EC	EARTH-WOOD CONTACTS	<input type="checkbox"/> GILD		
	K OR DWT	DRY WOOD TERMITES		FG	FAULTY GRADE LEVELS	<input type="checkbox"/> JOISTS		
	F	FUNGUS OR DRY ROT		EM	EXCESSIVE MOISTURE	<input type="checkbox"/> SUB FLOOR		
	Z	DAMP WOOD TERMITES		CD	CELLULOSE DEBRIS	<input type="checkbox"/> WALL, STUDS, PLATES		
	B	BEEETLES		CS	SHOWER LEAKS	<input type="checkbox"/> FINISHED FLOOR		
	O	OTHER WOOD PESTS TYPE _____		IA	INACCESSIBLE AREAS	<input type="checkbox"/> INTERIOR TRIM		
	X	DAMAGE PRESENT		FI	FURTHER INSPECTION RECOMM.	<input type="checkbox"/> PANELED WALL		
						<input type="checkbox"/> DOOR WINDOW FRAME		
						<input type="checkbox"/> FURNITURE		
						<input type="checkbox"/> ADIC		
						<input checked="" type="checkbox"/> POSSIBLE HIDDEN DAMAGE		

TYPE CONSTRUCTION FLOTTING SLAB SUPPORTED SLAB MONOLITHIC SLAB GRAVEL STEM POURED BLOCK

- SUBTERRANEAN**
- HORIZONTALLY DRILL STEM WALLS
 - VERTICALLY DRILL FLOOR SLAB
 - VERTICALLY DRILL PORCH SLAB
 - CUT BATHUB TRAP ACCESS
 - TREAT BATHUB TRAP AREA
 - TREAT CRAWL SPACE AREA
 - CUT CRAWL SPACE ACCESS
 - REMOVE WOOD DEBRIS
 - ESTABLISH FOUNDATION BARRIER
 - PULL CARPETING VVV
 - CUT CARPETING CCC
 - ADDITIONAL _____



YES	CODE	SEE DIAGRAM BELOW	YES	CODE	SEE DIAGRAM BELOW	INFESTED AREA	TYPE	LOCATION
<input checked="" type="checkbox"/>	S	SUBTERRANEAN TERMITES		EC	EMPT-WOOD CONTACTS	<input type="checkbox"/> SMLS		
	X	OR DRY-DRY WOOD TERMITES		FB	FAULTY GABLE LEVELS	<input type="checkbox"/> JOISTS		
	F	FUNGI OR DRY ROT		EM	EXCESSIVE MOISTURE	<input type="checkbox"/> SUB FLOOR		
	Z	DAMP WOOD TERMITES		CD	CELLULOSE DEBRIS	<input type="checkbox"/> WALL, STUDS, PLATES		
	B	B-EETLES		SL	SHOWER LEAKS	<input type="checkbox"/> FINISHED FLOOR		
	O	OTHER WOOD PESTS		IA	INACCESSIBLE AREAS	<input type="checkbox"/> INTERIOR TRIM		
	X	DAMAGE PRESENT		IF	FURTHER INSPECTION RECOMM.	<input type="checkbox"/> paneled wall		
						<input type="checkbox"/> DOOR WINDOW FRAME		
						<input type="checkbox"/> FURNITURE		
						<input type="checkbox"/> ADIC		
						<input checked="" type="checkbox"/> POSSIBLE HIDDEN DAMAGE		

TYPE CONSTRUCTION: FLOTTING SLAB SUPPORTED SLAB MONOLITHIC SLAB CONVL STEM POURED BLOCK

- ### SUBTERRANEAN
- HORIZONTALLY DRILL STEM WALLS
 - VERTICALLY DRILL FLOOR SLAB
 - VERTICALLY DRILL PORCH SLAB
 - CUT BATHTUB TRAP ACCESS
 - TREAT BATHTUB TRAP AREA
 - TREAT CRAWL SPACE AREA
 - CUT CRAWL SPACE ACCESS
 - REMOVE WOOD DEBRIS
 - ESTABLISH FOUNDATION BARRIER
 - PULL CARPETING YVV
 - CUT CARPETING CCC
 - ADDITIONAL _____

SPECIAL INSTRUCTION

TRAIL infested with SUBTERRANEAN termites - WOODER wants to REMOVE TRAIL & then treat the 2 sheds near that AREA

- ### TTP
- GREEN SUBTERRANEAN ZONE
- TERMITE COLONY ENABLERS
- TREE STUMPS
 - WOOD FENCES
 - LUMBER/FIREWOOD PILES
 - WOOD CHIPS
 - OTHER _____

- ### TRUGUARD
- REQUEST COMPLETE
- 1 LIQUID ATTIC AREA*
 - 2 LIQUID TREAT CRAWL SPACE AREA*
 - 3 LIQUID TREAT GARAGE TRUSS AREA*
 - 4 TREAT DOOR FRAME
 - 5 HIGH PRESSURE INJECT
 - 6 INJECTION AREAS
 - 7 INJECT WINDOW CASINGS
 - 8 INJECT DOOR FRAMES
 - 9 INJECT SIDING
 - 10 INJECT EAVES
 - 11 INJECT POSTS
 - 12 INJECT TERMITES DAMAGE
 - 13 OTHER _____
- *CUSTOMER NOTE: Please provide access to these areas by moving stored items. Since liquids may drip and drip, please remove any items that could be damaged by water.

(FUMIGATION ONLY)
CU. FT. DISTANCE TO CLOSEST BUILDING

Structure: Residential Home Residential Apt/Condo Residential Mobile Home Commercial Other

X (2) Sheds

If termites or termite damage exists, then it is possible that hidden damage could exist somewhere in the structure. Truly Nolen is NOT responsible for hidden damage.

Administrative Hearing Notice



**THE CITY OF KEY WEST
Tree Commission**

Post Office Box 1409 Key West, FL 33041-1409
Telephone: 305-809-3723

**NOTICE OF ADMINISTRATIVE HEARING
BEFORE THE TREE COMMISSION OF THE CITY OF KEY WEST**

July 10, 2014

Tree Commission
City of Key West
Petitioner,

Vs.

Shirlee Ezmirly
532 Fleming Street
Key West, FL 33040

An administrative hearing before the Tree Commission for the City of Key West will be held on **Tuesday, August 12, 2014**, at 5:00 p.m., at Old City Hall, 510 Green St. Key West, Florida.

This hearing will be conducted pursuant to sections 110-288 et. seq. of the Key West City Code. The purpose of this hearing will be to determine if a code violation has been committed by the above named Respondent. Your presence is required at this Tree Commission meeting.

Date of alleged violation: prior to May 23, 2014 at 532 Fleming Street

Alleged code violation:

Sec. 110-256. Tree abuse.

(b) Prohibited acts. A tree shall be considered abused if a person takes an action so that one of the following occurs:

- (1) Significant damage has been inflicted upon any part of a tree, including the root system, by machinery, storage of materials, soil compaction, excavation, vehicle accidents, chemical application or change to the natural grade.*
- (2) Damage inflicted to or cutting upon a tree which permits infection or pest infestation.*

(c) Additional prohibitions.

- (1) No private property owner or agent shall damage, cut, or carve any tree or tree root located on the owner's property; or allow any liquid, solid or biological substance that is harmful to trees to be placed within the dripline.*

Factual allegation: On May 23, 2014 an inspection of the tree documented that an excessive amount of circular holes have been drilled into the trunk of the tree.

If the Tree Commission for the City of Key West finds that there has been a violation of the above code section, it will elect to enter into a compliance settlement agreement pursuant to section 110-291 of the Key West City Code or recommend a fine and further hearing before the Special Master of The City of Key West pursuant to section 110-294 of the Key West City Code.

Attendees are hereby notified that a complete and accurate record of the proceeding is required under Florida Statute 286.0105 if an appeal is sought. Appellants are responsible for providing transcription services.

I hereby certify that the forgoing notice has been sent regular mail and certified U.S. Mail to the above named Respondent's listed address on this **10th day of July 2014.**

If you have any questions, please call the office at (305) 809-3768.



Karen DeMaria
Urban Forestry Manager
kkdemaria@keywestcity.com

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>X</i> <i>Shirlee Ezmirly</i></p> <p>B. Received by (Printed Name) <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>D.S. + MICA Ezmirly</i></p> <p>C. Date of Delivery <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>7/17/14</i></p> <p>D. Is delivery address different from item #? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">Shirlee Ezmirly 532 Fleming Street Key West, FL 33040</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7007 3020 0000 5347 9942</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ <i>6.48</i>

RECEIVED

JUL 14 2014

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or PO Box No.

City, State, ZIP+4

PS Form 3800, All

Shirlee Ezmirly
532 Fleming Street
Key West, FL 33040

2466 4855 0000 020E 2007