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

March 16, 2015

Tree Commission
City of Key West
Petitioner,

Vs.

Terry Muehler
Otter's Landscape & Garden Service
P.O. Box 5225
Key West, FL 33045

Shade Tree Services
P.O. Box 1341
Key West, FL 33041

An administrative hearing before the Tree Commission for the City of Key West will be held on **Tuesday, April 14, 2015,** 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 February 26, 2015 at 1017 Southard Street

Alleged code violation: ***Section 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:

(2) Damage inflicted to or cutting upon a tree which permits infection or pest infestation.

Section 110-321. Permit Required.

(a) Unless a tree removal permit approved by the tree commission and issued by the urban forestry manager has been obtained, no person, whether on publicly or privately owned land, shall cause tree abuse or other harm, or major maintenance to, hatracking, transplanting, topping or removal of the following:

(1) Any tree listed as "specially protected" in section 110-253;

Factual allegation: One (1) Royal Poinciana tree had been improperly trimmed and included a poor cut that was greater than 6" diameter. Trimming work would have required a permit.

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 e-mailed to the Respondent, and has been sent regular mail and certified U.S. Mail to the above named Respondent's listed address on this **18th day of March 2015.**

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

Karen DeMaria
Urban Forestry Manager
kdemaria@cityofkeywest-fl.gov

cc: Stephen Hendrickson
1017 Southard Street
Key West, FL 33040

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

Shade Tree Services
PO Box 1341
Key West, FL 33041

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7003 0500 0002 2662 7167

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SENDER: COMPLETE THIS SECTION

- 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.

1. Article Addressed to:

Terry Muehler
Otter's Landscape & Garden Service
PO Box 5225
Key West, FL 33040

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (Printed Name) | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
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☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7003 0500 0002 2662 7150

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Scott P. Russell, CFA
Property Appraiser
Monroe County, Florida

Key West (305) 292-3420
Marathon (305) 289-2550
Plantation Key (305) 852-7130

Property Record Card -
Maps are now launching the new map application version.

Alternate Key: 1007463 **Parcel ID:** 00007200-000000

Ownership Details

Mailing Address:
HENDRICKSON STEPHEN J
1017 SOUTHARD ST
KEY WEST, FL 33040-7144

Property Details

PC Code: 01 - SINGLE FAMILY
Millage Group: 10KW
Affordable Housing: No
Section-Township-Range: 06-68-25
Property Location: 1017 SOUTHARD ST KEY WEST
Legal Description: KW PT LOT 1 SQR 45 OR8-8-10 OR643-677/678 OR1082-903D/C OR1082-904D/C OR1082-905 OR1219-1727/29-CASE #92-10310-CP-13GUARIANSHIP OR1234-369/372PET OR1262-324/25 OR1310-404/05F/J OR1312-723/25F/J OR1316-1204 OR1573-2222/24 OR1793-1801/03 OR1828-2132/37(AGREE) OR2201-48/53 (AGREE) OR2201-54/55

Staff Report

STAFF REPORT

DATE: March 31, 2015

RE: 1017 Southard Street

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

On February 26, 2015 while driving down Southard Street on my way to a site visit, I noticed some recent cuts made on a large Royal Poinciana tree. A large, fresh cut was made to a large diameter branch and numerous smaller cuts were made along some large branches of the tree. The cuts were all done poorly and were not arborist quality.

Speaking to the homeowners they informed me that Terry, their landscaper, hired someone to trim the tree for them. I asked them to have Terry contact me.

On February 26, 2015, Terry with Otter's Landscape, came to my office and left information stating that he had hired Shade Tree to do the trimming. When asked whether he had a permit for the trimming work, Terry claimed that he had submitted an application. Review of Tree Commission files indicated no permit had been issued and no application was in the office.

Email correspondence with John Cole from Shade Tree indicated that he informed Terry of the need for a maintenance trimming permit. When the trimming work was done, John was out of town due to a death in the family and his foreman was in charge of the crews.

The Royal Poinciana tree was improperly trimmed without the benefit of a permit and without arborist supervision resulting in numerous poor cuts (tree abuse).

On March 6, 2015, an application was received to trim the Royal Poinciana tree.

Karen DeMaria

From: John Cole <shadetreeservices@yahoo.com>
Sent: Wednesday, March 04, 2015 10:49 AM
To: Karen DeMaria
Subject: RE: Trimming of Royal Poinciana tree at 1017 Southard St

His name is Dale Henckel. I was letting him use one of our company phones as he didn't have one that worked. He went back to Titusville when we terminated his employment. I don't have anyway to reach him now. Is there something I can answer for you.?

John.

Sent from Yahoo Mail for iPhone

At Mar 3, 2015, 8:16:27 AM, Karen DeMaria<'kdemaria@cityofkeywest-fl.gov'> wrote:
John:
What is the name and contact information for the foreman who was in charge of the work?
Sincerely,
Karen
From: John Cole [mailto:shadetreeservices@yahoo.com]
Sent: Friday, February 27, 2015 8:16 AM
To: Karen DeMaria
Subject: RE: Trimming of Royal Poinciana tree at 1017 Southard St
Good morning, I would like to explain the events that happened in this situation. I looked at the Poinciana over a month ago and advised Terry from Otter landscape that he would need to contact you in regards to a permit to remove lower lateral over sidewalk and correct the large lateral that had been removed previously and left as a stub. My mother had passed away during the time that Terry had re contacted me telling job was a go. I had instructed because of my absence that my foreman check with Terry about permit before he did anywork to Poinciana tree which he did not do. I returned tc see the improper pruning and correction cuts and terminated his employment. At this point i would like to get the permit needed to correct his work where I can.
I apologize that this happened. We have always work diligently to provided excellent service and the best arborist practices for all aspects of pruning, and tree care. Please let me know what I need to do to resolve this matter with you.
Thank you.
Sincerely.
John Cole

Sent from Yahoo Mail for iPhone

At Feb 26, 2015, 4:46:22 PM, Karen DeMaria<'kdemaria@cityofkeywest-fl.gov'> wrote:
John:
I was driving down Southard St and noticed some trimming work had been done to a Royal Poinciana tree at 1017 Southard St. I noticed it because I do not consider the trim work to have been done properly, the cuts are too close to the main trunk. Also, the large cut to the torn branch, besides being also a poor cut, required a permit from my office (the cutting of any branch that is greater than 6" diameter requires a permit-staff approval).
When I contacted the property owners they said their landscaper, Terry, at Otter's Landscape, hired someone to do the work. Terry came by the office and left me a message saying that he had Shade Tree do the work. I have attached a few photos. If your crew did indeed do this work, we need to talk.

Sincerely,
Karen
Karen DeMaria
Urban Forestry Manager/Tree Commission

On March 11, 2015, while inspecting a neighboring property, I noticed one of the large branches from the Royal Poinciana tree had a crack in it.

It is recommended that an after-the-fact permit be issued to properly recut the large existing cut to the tree. It is also recommended that a permit be issued to cut/trim the large branch that is over the sidewalk and is cracked. All of this work must be personally done by a certified arborist.

Karen DeMaria

From: John Cole <shadetreeservices@yahoo.com>
Sent: Tuesday, March 31, 2015 9:56 PM
To: Karen DeMaria
Subject: Re: 1017 Southard Street

Karen, I looked at lower lateral and in addition to the separation in the cambium tissue there are several cavities that are holding decay and water. I feel it would benefit the tree to remove lower lateral back to main stem.

John

Sent from my iPhone

On Mar 31, 2015, at 3:19 PM, Karen DeMaria <kdemaria@cityofkeywest-fl.gov> wrote:

> John and Terry:
>
> See attached photos of the crack in the large limb in the royal poinciana tree at 1017 Southard Street. This limb grows out over the sidewalk and road and has most of the obvious poor cuts. Please go look at that limb and talk to the owners about having it removed. I want to include this in with the ATF trimming permit and administrative hearing but I need John's input as the arborist for the tree. Terry is the representative for the property owner as peer the application.
>
> Sincerely,
>
> Karen
>
> Karen DeMaria
> Urban Forestry Manager/Tree Commission
> Certified Arborist
> 305-809-3768
>
> <crack in limb.docx>

Application

ATF

City of Key West Tree Commission

KEY WEST PLANNING DEPT. MONROE COUNTY MAR - 6 2015

Tree Permit Application

Date: 6 Feb 2015

Please Clearly Print All Information unless indicated otherwise.

Tree Address 1017 Southard ST
Cross/Corner Street Francis
List Tree Name(s) and Quantity Royal Poijancianna
Species Type(s) check all that apply ( ) Palm ( ) Flowering ( ) Fruit (X) Shade ( ) Unsure
Reason(s) for Application:
( ) REMOVE ( ) Tree Health ( ) Safety ( ) Other/Explain below
( ) TRANSPLANT ( ) New Location ( ) Same Property ( ) Other/Explain below
( ) HEAVY MAINTENANCE (X) Branch Removal (X) Crown Cleaning/Thinning ( ) Crown Reduction
Other/Explain

Reason for Request Remove Low branch TO reduce weight on Lateral over sidewalk. Remove Large Stub

Property Owner Name STEPHEN HENDRICKSON
Property Owner eMail Address STEPHEN7773@GMAIL.COM
Property Owner Mailing Address 1017 SOUTHARD
Property Owner Mailing City KEYWEST **State** FL **Zip** 33040
Property Owner Phone Number (978) 266-5901
Property Owner Signature

Representative Name Terry Muehler
Representative eMail Address Thisrotter@gmail.com
Representative Mailing Address PO Box 5225
Representative Mailing City Key West **State** FL **Zip** 33045
Representative Phone Number (305) 766-0598

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

Branch is tagged with green tape

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: 6 Feb 2015

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 1017 Southard ST

Property Owner Name STEPHEN HENDRICKSON
Property Owner eMail Address STEPHEN7773@GMAIL.COM
Property Owner Mailing Address 1017 SOUTHARD
Property Owner Mailing City KEY WEST **State** FL **Zip** 33040
Property Owner Phone Number (978) 766-5901
Property Owner Signature

Representative Name Terry Machler
Representative eMail Address thisrotter@yahoo.com
Representative Mailing Address PO Box 5225
Representative Mailing City Key West **State** FL **Zip** 33045
Representative Phone Number (305) 766-0596

I STEPHEN HENDRICKSON, hearby 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

The forgoing instrument was acknowledged before me on this 6th day February.

By (Print name of Affiant) Stephen Hendrickson who is personally known to me or has produced _____ as identification and who did take an oath.

NOTARY PUBLIC
Sign Name: _____ Notary Public - State of Florida (seal)
Print Name: Kyle R. Stewart
My Commission Expires: Oct. 4, 2015

KYLE R STEWART
MY COMMISSION # EE135768
EXPIRES October 04, 2015
(407) 398-0153 FloridaNotaryService.com

Updated: 02/22/2014