



THE CITY OF KEY WEST
Code Compliance Division
P.O. BOX 1409
KEY WEST, FL 33041
(305) 809-3740

NOTICE OF ADMINISTRATIVE HEARING

DATE: July 12, 2011
RE: CASE NUMBER 09-1412

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 0506

To:
Lee And Sherry Mattingly
2932 Harris Avenue
Key West, FL 33040

Subject Address:
2333 Fogarty Avenue
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

00010 DISCHARGES TO NATURAL OUTLETS Sec. 74-32

For allowing sewerage to flow into natural outlets.

Violation Detail

00020 INFILTRATION AND INFLOW Sec. 74-167

For allowing or to cause infiltration of storm water, etc. into the City's sewer system.

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:**

August 03, 2011

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.



Gary Addleman
Code Compliance Officer
City of Key West

CASE NUMBER 09-00001412
 PROPERTY ADDRESS 2333 FOGARTY AVE

VIOLATION: DISCHARGES TO NATURAL OUT QUANTITY: 1
 DESCRIPTION: Sec. 74-32 DATE: 7/06/11
 LOCATION:

NARRATIVE :

For allowing sewerage to flow into natural outlets.

ORDINANCE DESCRIPTION :

It shall be unlawful to discharge to any natural outlet within the city or in any area under the city's jurisdiction any sewage or other polluted waters, except where suitable treatment has been provided in accordance with this article.

VIOLATION: INFILTRATION AND INFLOW QUANTITY: 1
 DESCRIPTION: Sec. 74-167 DATE: 7/06/11
 LOCATION:

NARRATIVE :

For allowing or to cause infiltration of storm water, etc. into the City's sewer system.

ORDINANCE DESCRIPTION :

(a) It shall be unlawful for a person to allow or to cause infiltration and inflow to enter the city's sewer system from private property. If the director determines that infiltration and inflow is entering the sewer system from private property, he shall provide written notice to the property owner or his agent of such defect. The director may require that the owner make repairs to laterals or make other repairs as the director determines necessary within 30 days of the sending of such notice. If, in the judgment of the director, the defect presents an emergency, the director may require immediate repairs. Upon receipt of the notice, the property owner may request a hearing with the director at which the owner or his agent may present evidence to rebut the determination of the director or to negotiate terms of the repair. The director may deny such hearing in an emergency situation. If the property owner fails to correct the infiltration and inflow problem immediately in an emergency or otherwise on a timely basis, the director on behalf of the city may undertake either or both of the following actions:

(1) Institute penalty proceedings against the property owner as provided in section 1-15 or by referral to the code enforcement special master. To the extent that this subsection conflicts with section 74-28, this subsection shall prevail.

(2) Make a written finding of the emergency nature of the infiltration and inflow, after consultation with the city manager and city attorney. If the director determines an emergency, he may authorize city workers or agents of the

CASE NUMBER 09-00001412
PROPERTY ADDRESS 2333 FOGARTY AVE

ORDINANCE DESCRIPTION :

city to enter onto the private property for the limited purpose of effecting repairs. In such event, the city shall bill the property owner the cost of repairs, payable within 15 days of mailing. Failure of the property owner to pay the bill timely shall entitle the city to place a lien on the property by an appropriate filing in the circuit court. The city shall foreclose the lien in the manner provided by the laws of the state, and when applicable the lien shall have priority pursuant to F.S. § 159.17.

(b) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, pool water, roof runoff, surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. However, uncontaminated cooling water or unpolluted industrial process waters may be discharged into a storm sewer or natural outlet upon the prior written approval of the director in accordance with written standards for such discharge that are issued from time to time by the director.