

MEMORANDUM

DATE: July 8, 2014

RE: Improper Trimming of Tree at 616 Whitehead Street

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

On May 26, 2014, I received a complaint regarding the improper trimming of a tree at 618 Whitehead Street. An inspection revealed that two Spanish lime trees had been improperly trimmed. The trees are actually located on a neighboring property (616 Whitehead Street).





Owner of Tree (616 Whitehead St): Steven A. Eid, Rev Trust
20 Driftwood Drive
Key West, FL 33040-6233

Owner of Property that hired Tree Trimmer (618 Whitehead St):
Jack Sengupta
Platinum Estates USA, LLC
Buzon No 44
Pla Del Bou Sa Gunto, Valencia 46500
Spain

Building Contractor (618 Whitehead St): Castro Construction of the Florida Keys

Tree Trimmer: Jimmy Whitley

I spoke to John Castro (Castro Construction) and was informed that they hired Jimmy Whitley to do the trimming work. Jack Sengupta-owner of the property (618 Whitehead) sent an email from Spain explaining why the tree needed to be trimmed and stating a willingness to correct any problems.

Statement of facts: Two Spanish Lime tree were improperly trimmed (cuts are not clean cuts and not at proper points. Over 30% of the canopy of one tree was removed which required a permit.

Recommendation: The property owner at 618 Whitehead St should hire a certified arborist to properly trim both trees, including recutting the poor cut areas and reshaping the trees. They are the ones that hired the tree trimmer that did the improper trim job. The tree trimmer, Jimmy Whitley, should be fined.

Reinspection of the trees June 17, 2014:



Standing on Whitehead Street looking toward the backyard of 616 Whitehead at the canopy of the Spanish Lime trees.



Standing on Whitehead Street
looking down the property line
between 616 and 618.

Tree #1

Tree #2



Standing in the backyard of 618 looking toward the backyard of 616 at the trees.





Tree #1









Tree #2







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.

Jimmy Whitley
3322 Flagler Avenue
Key West, FL 33040

And

Jack Sengupta
Platinum Estates USA LLC
Buzon No 44
Pla Del Bou Sagunto, Valencia 46500
Spain

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 26, 2014 at 616 Whitehead Street

Alleged code violation:

Sec. 110-256. Tree abuse.

- (a) *Generally. Tree abuse is prohibited, and abused trees shall not be counted toward fulfilling landscape requirements. The city may require the abused trees to be replaced.*
- (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.*
 - (4) *Cutting upon a tree which destroys its natural shape.*
 - (7) *Tears and splitting of limb ends or peeling and stripping of bark.*

Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.

Sec. 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;*

Major maintenance means actions reducing the length of a tree or the breadth of its crown spread by one-third or more during any three hundred sixty-five (365)-day period and conforming to the American National Safety Standards A-300 (1995).

Factual allegation: Two Spanish Lime trees located at 616 Whitehead Street were improperly trimmed. Over 30% of the canopy of one of the Spanish Lime trees was removed during the trimming.

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 Respondents, and 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

cc: John Castro, Castro Construction of the Florida Keys

cc: Steven A. Eid Rev Trust
20 Driftwood Drive
Key West, FL 33040-6233

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JUL 10 2014

Sent To

Jimmy Whitley
3322 Flagler Avenue
Key West, FL 33040

PS Form 3800, April 2004

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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 checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) B. F. Bellard, Jr.</p> <p>C. Date of Delivery 7/10/14</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <div style="text-align: center; padding: 10px;"> <p>Jimmy Whitley 3322 Flagler Avenue Key West, FL 33040</p> </div>	<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <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 <small>(Transfer from service label)</small></p>	<p style="text-align: center; font-size: 1.2em;">7007 3020 0000 5347 9935</p>



Karen DeMaria <kdemaria@keywestcity.com>

Tree behind 618/616 Whitehead

Jack <senguptaj@aol.com>

Wed, Jun 11, 2014 at 5:22 AM

To: "kdemaria@keywestcity.com" <kdemaria@keywestcity.com>

Hi Karen

I sent this mail a few days ago, I am not sure if you received it.

Also, is there anything I need to do before I get back in August?

Thanks and regards

Jack

Sent from my iPhone

Begin forwarded message:

From: Jack Sengupta <senguptaj@aol.com>
Date: 30 May 2014 09:26:14 GMT-4
To: kdemaria@keywestcity.com
Subject: Tree behind 618/616 Whitehead

Hi Karen,

My name is Jack Sengupta, I am the owner of 618 Whitehead Street.

Firstly, I am really sorry for how this tree has come out, I just wanted to write to you and give some sort of explanation and ask for some advice.

Yes we used Jimmy (who I think you know), he had cut a tree for our contractor and he cut the tree at 1212 Georgia AND he is licensed so we assumed he would be ok for the job. We have actually talked to a couple of other tree contractors when we tried to deal with the trees at 1212 Georgia.

Yes we were suprised at how the tree looked after he had cut it (but I am not a tree surgeon). We have no intention of leaving it like this but we had no intention of using Jimmy to clean it up. As you know we are only in the country 4 weeks at a time so we were going to deal with it in August when we were back. I have already spoken to the tenant who lives next door. As it now needs to be cleaned up over the neighbors property we would need the owners permission.

There were several reasons why we wanted to prune the tree; firstly; there were several dead branches that have fallen while we have owned the house; secondly the tree was completely out of balance; it has been allowed to grow over our property (as there is only a six foot fence) but has not been allowed to grow over the other neighbor to 616 Whitehead. So the pruning and cleaning had to be done.

As you know we try and do everything correctly and according to the rules.

Moving forward (questions and requests for advice);

I believe you want us to use an arborist, and of course this is no problem. Can you recommend someone?

In the future what should we do; surely the tree should be regularly pruned and maintained by the owner to stop it becoming a threat to people and property. (I had to do the same at 1212 Georgia)?

Lastly; John said that this is going to the Tree Commission meeting; is there something that I should do? Do I need to organise an explanation, do I need a representative?

Again I apologise for how it looks now but it was never our intention to leave it like it is.

Thanks and regards

Jack Sengupta



Karen DeMaria <kdemaria@keywestcity.com>

Tree behind 618/616 Whitehead

Karen DeMaria <kdemaria@keywestcity.com>

Wed, Jul 9, 2014 at 3:38 PM

To: Jack <senguptaj@aol.com>

Jack:

Attached is your copy of the Administrative Hearing notice. I did speak to John Castro about this, I will be recommending to the Tree Commission that you be required to hire a certified arborist to retrim/repair/reshape the two trees. This will require authorization/permission from the property owner at 616 Whitehead St (Steve Eid) as he owns the trees. I will also recommend to the Tree Commission that Jimmy receive a fine.

Since you will not be there, I recommend the following:

1. Please send me an e-mail that says that you will accept the responsibility of making sure an arborist is hired to retrim/reshape the trees and that you will coordinate with the property owner at 616 Whitehead Street.
2. It would be a good idea to have John Castro there to speak on your behalf in case the Commissioners have any questions. In your e-mail state that he is authorized to represent you.

It is important as we move forward, for you to recognize that if you have a situation where you need to trim trees, that you know the following:

The City of Key West has strict tree trimming regulations. Minor trimming of trees does not require a permit as long as the cuts are properly made and the trimming work does not impact the structure or natural shape of the tree. Major maintenance trimming of a tree requires a permit from the Tree Commission (Staff Approval). Major maintenance is when 30% or more of the canopy of a tree is removed in one given year and if a large diameter branch is cut (6" in diameter or more). Major maintenance requires that a certified arborist do the work. Also, permit applications must be signed by the property owner, the person who owns the tree.

Jimmy is licensed in the City of Key West. I am not sure if his insurance certificate is up to date. He is NOT a certified arborist. You can go to the International Society of Arboriculture website to verify the credentials as to whether someone is or is not an arborist. An arborist knows how to properly trim a tree.

Sincerely,

Karen

[Quoted text hidden]



616 618 whitehead admin.pdf

75K



Karen DeMaria <kdemaria@keywestcity.com>

Tree behind 618/616 Whitehead

Jack <senguptaj@aol.com>

Sun, Jul 20, 2014 at 5:53 AM

To: Karen DeMaria <kdemaria@keywestcity.com>

Hi

Just a quick update,

I will use Larrie from leaping lizard.
Steve has agreed to let us trim the tree properly.
John will come to the hearing.

I hope this is all ok, let me know if there is anything else you would like me to do.

Thanks very much for all your help and advice.

Regards

Jack

Sent from my iPhone

[Quoted text hidden]

<TREE TRIMMERS and LANDSCAPERS Contact info May 2014.doc>