



City of Key West, FL

Old City Hall
510 Greene Street
Key West FL 33040

Action Minutes - Final Code Compliance Hearing

Wednesday, May 28, 2014

1:30 PM

Old 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 at 305-809-1000 or the ADA Coordinator at 305-809-3731 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

Call Meeting to Order

Call Meeting to Order

Call Meeting to Order

Code Violations

1

Case # 12-836

SHS Investment of South Florida Inc.

Si Stern

Robert M Weinberger, Registered Agent

820 White Street

Sec. 14-40 Permits in historic district

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

Sec. 90-363 Certificate of occupancy - required

Officer Bonnita Badgett

Certified Service: 8-31-2012 - Owner

9-13-2012 - Registered Agent

Initial Hearing: 9-26-2012

Continued from April 23, 2014

Count 1: Placed low voltage cameras outside without HARC approval.

In compliance. **Count 2:** A business tax receipt is required for all 32 rooms. Only licensed for 19 guestrooms and 1 transient rental. **Count**

3: A certificate of occupancy is required for the extra 12 rooms.

Adele Stones, attorney for respondent. They have met two of the four conditions set forth and requested a one month continuance. July 2, 2014.

2

Case # 13-1087

Javier & Sherry Castano - property owner
Jojo Mahamed Jimel III - tenant
1221 2nd Street
Sec. 58-2 Authority of franchisees o provide service
Officer Bonnita Badgett
Certified Service: 4-17-2014 - property owner
Certified Service: 4-14-2014 - tenant
Initial Hearing: 5-28-2014

In compliance May 21, 2014, request dismissal

Count 1: For operating a scrap metal business which he can not obtain a license for.

This case was dismissed by the Special Magistrate at the request of the code officer.

3

Case # 14-410

Timothy William Randall Dunn
Christopher Bautista R/S
906 Truman Avenue 1
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 14-40 Permits in historic district
Officer Bonnita Badgett
Certified Service:
Initial Hearing: 5-28-2014

Continuance granted to July 30, 2014

Count 1: For replacing rotten siding and wood around windows and doors without benefit of a building permit. **Count 2:** For replacing rotten siding and wood around windows and doors without benefit of a certificate of appropriateness.

This case was continued to July 30, 2014

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Case # 14-432

Gary R & Diane M Onderdonk
Scott & Jennifer Shaffer T/C
2408 Flagler Avenue
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business
Sec. 58-61 Determination and levy of charge
Sec. 90-363 Certificate of occupancy - required

Officer Bonnita Badgett
Certified Service: 5-1-2014
Initial Hearing: 5-28-2014

Continuance granted to July 30, 2014

Count 1: For building a fence and cinder block to to make a storage area for the mother-in-law unit without benefit of a building permit.

Count 2: For renting the mother-in-law unit and the house without benefit of a business tax receipt. **Count 3:** The city only recognizes one (1) single family residence. **Count 4:** A certificate of occupancy is required for the second unit.

This case was continued to July 30, 2014

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Case # 14-715

Lee R & Lynda J Hanke
906 Truman Avenue 2
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 14-40 Permits in historic district
Officer Bonnita Badgett
Certified Service: 5-9-2014
Initial Hearing: 5-28-2014

Continuance granted to July 30, 2014

Count 1: For replacing rotten siding and wood around windows and door without benefit of a building permit. **Count 2:** For replacing rotten siding, wood around windows and doors and painting without benefit of a certificate of appropriateness.

This case was continued to July 30, 2014

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Case # 14-717

Joseph A Jr & Amy Vanore
906 Truman Avenue 3
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 14-40 Permits in historic district
Officer Bonnita Badgett
Certified Service: 5-10-2014
Initial Hearing: 5-28-2014

Continuance granted to July 30, 2014

Count 1: For replacing rotten siding and wood around doors and

windows without benefit of a building permit.

Count 2: For replacing rotten siding, wood around doors and windows and painting without benefit of a certificate of appropriateness.

This case was continued to July 30, 2014

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Case # 12-972

Cecil Wilson Bain

Marcelyn R Cox

326 Truman Avenue

Sec. 90-363 Certificate of occupancy - required

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

Officer Peg Corbett

Certified Service: 10-18-2013

Initial Hearing: 10-30-2013

Continued from October 30, 2013

Count 1: A certificate of occupancy was not obtained for the stand-alone building on the Julia Street side which has two rental units. **Count 2:** A business tax receipt is required for the two rental units.

This case was continued to July 2, 2014

8

Case # 13-1417

Dasha Renee Ray

1215 Mac Millan Drive

Sec. 62.2 Obstructions - **Dismiss**

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

Sec. 14-261 Failure to obtain electrical permit

Sec. 90-363 Certificate of occupancy - Required - **Dismiss**

Sec. 58-61 Determination and levy of charge - **Dismiss**

Sec. 74-206 Owner's responsibility for payment

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

Officer Peg Corbett

Certified Service: 1-7-2014

Initial Hearing: 1-29-2014

Continued from April 23, 2014

Count 1: A scooter was blocking the city sidewalk. **Count 2:** The property owner was issued a permit to "enclose empty space at rear for laundry and infill of a carport under existing roof for storage only: in

October 2001. The area is currently occupied by a tenant. No permits for the renovation for the second kitchen or the second bathroom.

Count 3: The property owner did not apply for or obtain an electrical permit for the second kitchen. **Count 4:** The property owner has a second unit which is occupied without the benefit of a certificate of occupancy. **Count 5:** The property owner has not obtained the required utility accounts for the second unit. **Count 6:** The property owner has a delinquent utility account. **Count 7:** The subject property has two units individually rented without the benefit of the required business tax receipt.

Officer Corbett gave testimony. The respondent did not attend. The Special Magistrate found Ms. Ray in violation. No fines or fees were imposed. The court reserves the right to impose fines and fees if an acceptable payment plan for the delinquent utility account is not in place or a payment has been missed by July 2, 2014. A compliance hearing will be held on July 2, 2014.

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Case # 13-1512

Five Guys Burgers & Fries
Corporation Service Company, R/A
E. Miles Prentice, Mgr.
500 Truman Avenue 1
Sec. 114-103 Prohibited signs - **dismiss**
Sec. 114-104 Restriction on the number of signs permitted
Officer Peg Corbett
Certified Service: 1-16-2014
Certified Service: 2-7-2014 - revised notice
Initial Hearing: 1-29-2014

Continued from April 23, 2014

Count 1: The subject business has an interior illuminated sign and five paper signs/banners attached to the windows facing both Duval and Truman contrary to city ordinance. **Count 2:** The subject business has six signs

Peter Rysman appeared for the Respondent. Testimony was given on both sides. The Special Magistrate took the issue under advisement.

9 Case # 13-1512
Five Guys Burgers & Fries
Corporation Service Company, R/A
E. Miles Prentice, Mgr.
500 Truman Avenue 1
Sec. 114-103 Prohibited signs
Sec. 114-104 Restriction on the number of signs permitted
Officer Peg Corbett
Certified Service: 1-16-2014
Certified Service: 2-7-2014 - revised notice
Initial Hearing: 1-29-2014

Continuance granted to May 28, 2014

Count 1: The subject business has an interior illuminated sign and five paper signs/banners attached to the windows facing both Duval and Truman contrary to city ordinance . Count 2: The subject business has six signs

9 Case # 13-1512
Five Guys Burgers & Fries
Corporation Service Company, R/A
E. Miles Prentice, Mgr.
500 Truman Avenue 1
Sec. 114-103 Prohibited signs
Sec. 114-104 Restriction on the number of signs permitted
Officer Peg Corbett
Certified Service: 1-16-2014
Certified Service: 2-7-2014 - revised notice
Initial Hearing: 1-29-2014

Continuance granted to May 28, 2014

Count 1: The subject business has an interior illuminated sign and five paper signs/banners attached to the windows facing both Duval and Truman contrary to city ordinance. Count 2: The subject business has six signs

10 **Case # 14-309**
Norma Jean Peacock Sonzogni
Nancy Fay Peacock Ruiz T/C
825 Southard Street Rear
Sec. 14-40 Permits in historic district
Sec. 14-37 Building permits; professional plans; display of permits
Officer Peg Corbett
Certified Service: 3-10-2014
Initial Hearing: 4-23-2014

Continuance granted to July 2, 2014

Count 1: For failure to obtain a certificate of appropriateness for the deck and pavers. **Count 2:** For failure to obtain a building permit for the deck and pavers.

This case was continued to July 2, 2014

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Case # 14-388

Peter Legrady
Peppers of Key West
500 Truman Avenue 6
Sec. 114-103 Prohibited signs
Sec. 114-104 Restriction on number of signs permitted
Officer Peg Corbett
Certified Service: 3-15-2014
Initial Hearing: 4-23-2015

Continued from April 23, 2014

Count 1: On February 21, 2014, during a site visit, there were two neon signs and five paper signs hanging inside the window of the subject business. **Count 2:** On the same site visit, ten signs were counted, four directory, two awning, two logo signs and two separate sets of stenciling on the outside of the windows which were installed without benefit of a certificate of appropriateness.

Testimony was given on both sides. The Special Magistrate found Mr. Legrady in violation. Costs of \$250 were imposed. Also imposed is a fine of \$250 per day, per count (total of two counts) if compliance is not met by July 1, 2014. A compliance hearing will be held on July 2, 2014.

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Case # 14-682

Erasmus Baez Pacheco - tenant
Key West Housing Authority
114 Geraldine Street D
Sec. 58-31 Container and receptacle requirements
Officer Peg Corbett
Certified Service: 4-19-2014 - tenant
Certified Service: 4-14-2014 - property owner
Initial Hearing: 5-28-2014

In compliance May 14, 2014, request dismissal

Count 1: On Wednesday, 4-9-2014, trash receptacles were on the right of way. Trash pickup is on Tuesdays.

This case was dismissed by the Special Magistrate at the request of the code officer.

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Case # 14-687

William Edward Matthews - tenant
Key West Housing Authority - property owner
114 Geraldine Street B
Sec. 58-31 Container and receptacle requirements
Officer Peg Corbett
Certified Service: 4-15-2014 - tenant
Certified Service: 4-15-2014 - property owner
Initial Hearing: 5-28-2014

In compliance May 14, 2014, request dismissal

Count 1: On Wednesday, April 9, 2014, the trash receptacles were on the city right of way. Trash pickup is on Tuesdays.

This case was dismissed by the Special Magistrate at the request of the code officer.

14

Case # 14-688

JX Williams II - tenant
Key West Housing Authority - property owner
114 Geraldine Street C
Sec. 58-31 Container and receptacle requirements
Officer Peg Corbett
Certified Service: 4-15-2014 - tenant
Certified Service: 4-15-2014 - property owner
Initial Hearing: 5-28-2014

In compliance May 14, 2014, request dismissal

Count 1: On Wednesday, April 9, 2014, trash receptacles were on the city right of way. Trash pickup is on Tuesdays.

This case was dismissed by the Special Magistrate at the request of the code officer.

15

Case # 14-259

Yebo Island Grille, LLC
Joel Dos Santos
Paul Mills, SC P.A. Registered Agent
629 Duval Street
Sec. 108-91 Scope; major and minor developments
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez

Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

Continued from April 23, 2014

Count 1: The food trailer was opened without HARC approval, in violation of major and minor development plans within the historic district. **Count 2:** Portable signs are prohibited in the historic district.

The city requested a continuance because Mr. Craig because he is out of town and would like to attend the hearing. Special Magistrate Overby stated that Mr. Brookes came from out of town. This case is continued to July 2, 2014.

15 Case # 14-259
Yebo Island Grille, LLC
Joel Dos Santos
Paul Mills, SC P.A. Registered Agent
629 Duval Street
Sec. 108-91 Scope; major and minor developments
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez
Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Count 1: The food trailer was opened without HARC approval, in violation of major and minor development plans within the historic district. Count 2: Portable signs are prohibited in the historic district.

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629 Duval Street
Sec. 108-91 Scope; major and minor developments
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez
Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Count 1: The food trailer was opened without HARC approval, in violation of major and minor development plans within the historic district. Count 2: Portable signs are prohibited in the historic district.

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Yebo Island Grille, LLC
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629 Duval Street
Sec. 108-91 Scope; major and minor developments
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez
Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Count 1: The food trailer was opened without HARC approval, in violation of major and minor development plans within the historic district. Count 2: Portable signs are prohibited in the historic district.

15 Case # 14-259
Yebo Island Grille, LLC
Joel Dos Santos
Paul Mills, SC P.A. Registered Agent
629 Duval Street
Sec. 108-91 Scope; major and minor developments
Sec. 114-103 Prohibited signs
Officer Leonardo Hernandez
Certified Service: 3-29-2014
Initial Hearing: 4-23-2014

Continuance granted to May 28, 2014

Count 1: The food trailer was opened without HARC approval, in violation of major and minor development plans within the historic district. Count 2: Portable signs are prohibited in the historic district.

16 **Case # 14-260**
Linda Wheeler
1213 White Street
Sec. 108-452 Required sight distances for landscaping adjacent to public rights-of-way and point of access
Sec. 122-1406 Obstructions to visibility
Officer Leonardo Hernandez
Certified Service: 3-25-2014
Initial Hearing: 4-23-2014

Continued from April 23, 2014

Count 1: The hedges at the corner of White and Duncan exceed the height and length for clear visibility. **Count 2:** The hedges at the corner of White and Duncan obstructs traffic and traffic visibility.

Mr. Ramsingh stated that the city is not charging for the masonry wall. Officer Hernandez gave testimony. Transcript of the January 29th hearing was submitted to the Special Magistrate. Ms. Wheeler gave testimony. Stated that the mirror was installed for visibility for the pedestrians on the sidewalk because it ended at the end of her wall and not because of her hedges. Taken under advisement by the Special Magistrate.

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Case # 14-477

Bank of New York Mellon
c/o S HD Legal Group, P.A.
1429 Johnson Street
Sec. 26-126 Clearing of property of debris and noxious material required
Officer Leonardo Hernandez
Certified Service: 4-18-2014
Initial Hearing: 5-28-2014

New Case

Count 1: Property needs to be cleared of yard waste and debris which is causing a nuisance and a fire hazard.

This case was continued to July 2, 2014 for service.

18

Case # 14-659

Crystal Clear Pools
Charles & Melina Witch
3116 Riviera Drive
Sec. 18-150 Certificate of competency required
Officer Leonardo Hernandez
Certified Service: 4-12-2014
Initial Hearing: 5-28-2014

New Case

Count 1: Crystal Clear Pools does not have a license/certificate of competency to do pool work in the City of Key West. Crystal Clear Pools gave pool work estimates and billed Bobby Builders Construction for work done.

Testimony was heard from both sides. The Special Magistrate found Mr. Witch in violation. Costs of \$250 were imposed. Also imposed is a fine of \$250 if compliance is not met by July 1, 2014. A compliance hearing will be held on

July 2, 2014.

19

Case # 13-1524

Nancy Flynn
Mama's Rock and Sand Inc.
Michael Biskupick
1405 Petronia Street
Sec. 14-40 Permits in historic district
Sec. 14-37 Building permits; professional plans; display of permits
Officer Barbara Meizis
Certified Service: 4-4-2014 - Mama's Rock and Sand
Initial Hearing: 4-23-2014

Continuance granted to July 2, 2014

Count 1: For exceeding the scope of the certificate of appropriateness by installing brick pavers on the city right of way.

Count 2: For exceeding the scope of the building permit by installing brick pavers on the city right of way.

This case was continued to July 2, 2014

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Case # 14-193

David Austin
820 Ashe Street
Sec. 14-37 Building permits; professional plans; display of permits
Sec. 14-40 Permits in historic districts
Sec. 14-262 Request for inspection
Officer Barbara Meizis
POSTED: 3-14-2014
Initial Hearing: 3-19-2014

In compliance May 13, 2014, request dismissal

Count 1: Building permits required for "walkway" fence and new wood decking. **Count 2:** Permits in historic district are required for "walkway" fence and new wood decking. **Count 3:** An approved electrical inspection is required for pool permit #04-3894 and an approved final pool inspection is required.

This case was dismissed by the Special Magistrate at the request of the code officer.

21

Case # 14-353

Paige Crump
Tyler Talmadge
Snapper Pier Unit 17

Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Sec. 122-419 Prohibited uses General Commercial district (CG)
Officer Barbara Meizis
Certified Service:
Initial Hearing: 4-23-2014

Continuance granted to July 30, 2014

Repeat Violation from case # 10-874

New Case

Count 1: On December 27, 2013, February 18, 2014, March 5, 2014 and March 26, 2014 you advertised your houseboat for rent for \$240/nightly, \$1,680/weekly or \$7,200/monthly. **Count 2:** On December 27, 2013, February 18, 2014, March 5, 2014 and March 26, 2014 you held out/advertised your houseboat for rent for \$240/nightly, \$1,680/weekly or \$7,200/monthly. **Count 3:** Transient rentals are prohibited in the General Commercial district (CG).

This case was continued to July 30, 2014

22

Case # 14-785

Brookwood LLC
James E Berger
1216 Watson Street
Sec. 18-601 License required - Counts 1 - 5
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations (d)(9) - Counts 6 - 10
Sec. 122-599 Prohibited uses - Counts 11 - 15
Officer Matt Willman
Certified Service: 5-20-2014
Initial Hearing: 5-28-2014

Continuance granted to July 30, 2014

Repeat Violation

Irreparable Violation

Counts 1 thru 5: On April 30 thru May 4, 2014 the subject property was rented without the benefit of the required transient rental license.
Counts 6 thru 9: On April 30 thru May 4, 2014, the property owner or their representative entered into a short term rental agreement. Spoke with Bob Pelletier, renter, on May 3 and received a rental confirmation in email format confirming the stay from April 30 thru May 4, 2014.
Counts 10 thru 15: Transient rental in the Historic Medium Density Residential District (HMDR) are not specifically or provisionally provided for and therefore is prohibited.

This case was continued to July 30, 2014

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Case # 14-163

Mark Connolly Trust Dated 1/30/1998
307 Truman Avenue
Sec. 18-601 License required
Sec. 122-1371 Transient living accommodations in residential dwellings; regulations
Sec. 122-599 Prohibited uses in the Historic Medium Density Residential district (HMDR)
Officer Jim Young
Certified Service: 3-24-2014
Initial Hearing: 4-23-2014

Irreparable Violation

Continued from April 23, 2014 - Settlement Agreement

Counts 1 through 7: On March 1, 2014 through March 8, 2014 the subject property was rented without the benefit of the required transient rental license. **Counts 8 through 14:** On March 1, 2014 through March 8, 2014 the property owner entered into a long-term lease with the mutual intent to subvert the regulatory goals of this section. **Counts 15 through 21:** On March 1, 2014 through March 8, 2014 the subject property owner rented the subject property transiently which is a use in the Historic Medium Density Residential district (HMDR), not specifically or provisionally provided for and therefore is prohibited.

The Settlement Agreement was submitted to the Special Magistrate which was approved. Administrative and investigative costs in the amount of \$3,230.80 were imposed. Also imposed was a fine of \$1,500.00. The total amount due to the city is \$4,730.80. A suspended fine of \$4,500 was also imposed for 24 months.

HARC Appeals

24

SMA 14-01

Yebo Island Grille LLC
629 Duval Street
H13-01-823

The Special Magistrate heard testimony from both sides. He took this under advisement.

Mitigations

25 **Case # 13-1135**
Patricia Antich
704 Catherine Street

The Special Magistrate denied the mitigation amount of \$50 but reduced the fine from \$3550 to \$355.

Liens

26 **Case # 13-471**
Karen Boscamp
2705 Flagler Avenue
Certified Service: 2-13-2014

The Special Magistrate approved the filing of the lien.

Adjournment