



THE CITY OF KEY WEST
Code Compliance Division

P.O. BOX 1409
KEY WEST, FL 33041
(305) 809-3740

**NOTICE OF CODE VIOLATION AND
ADMINISTRATIVE HEARING**

DATE: February 28, 2012
RE: CASE NUMBER 12-340

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 2296

To:
Scott Marks
PO Box 6264
Key West, FL 33040

Subject Address:
Sidewalk in front of 500 Duval Street
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):

Count 1: Sec. 6-4. Permit regulations; prohibitions.

(d) A performer may request donations of money or property at a performance... Art vendors may offer for sale their own original art...provided that the display of the art is contained in an area within the immediate reach of the art vendor.

To Wit: On February 27, 2012, Mr Scott Marks, B Permit holder #11Art171 was positioned atop a 3' wide by 2' high x 2' deep blue and white cooler along with his dog which was dressed in sunglasses, a hat and a lei. There was a sign on the cooler reading "I GOT LEI'D - THE LEI MAN - IN KEY WEST". There was a sign on the ground at Mr. Marks' feet which read "TIPS FOR PHOTOS" along with a tip jar that had money in it.

Count 2: Sec. 6-4. Permit regulations; prohibitions.

(k) No tables, lounge chairs, push carts or mobile display racks, including all accoutrements, shall be placed on public property other than one display that is no larger than six feet high, four feet wide and four feet deep including all attachments for either Permit "A" or Permit "B"



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KEY WEST, FL 33041
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**NOTICE OF CODE VIOLATION AND
ADMINISTRATIVE HEARING**

DATE: February 28, 2012
RE: CASE NUMBER 12-340

CERTIFIED MAIL RECEIPT#: 7007 3020 0000 5346 2319

To:
Scott Bass Marks
508 SW 28TH Court
Wilton Manors, FL 33311

Subject Address:
Sidewalk in front of 500 Duval Street
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

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Count 2: Sec. 6-4. Permit regulations; prohibitions.

(k) No tables, lounge chairs, push carts or mobile display racks, including all accoutrements, shall be placed on public property other than one display that is no larger than six feet high, four feet wide and four feet deep including all attachments for either Permit "A" or Permit "B"

holders. One small chair or stool shall be allowed... Permit holders shall not occupy an area larger than 25 square feet.

To Wit: On February 27, 2012, I measured Mr. Marks' display including all accoutrement which was 8 1/2' wide by 6' high by approximately 4' deep concluding the display was much larger than 25 square feet.

Count 3: Sec. 6-4. Permit regulations; prohibitions.

(r) Persons operating under Permit "B" shall not engage in performances of any kind, except for the creation of an original work of art.

To Wit: On February 27, 2012, i observed Mr. Marks sitting on a cooler along with his dog which was in costume (a lei around the dog's neck, sunglasses on its face and a red hat) situated on City Right of Way requesting donations of money (tips) at a performance.

On February 21, 2012, I issued a "Good Neighbor Courtesy Notice" to Mr. Scott Marks, 11 Art-171 for "Sec. 6-4 (k) No display... including all accoutrements... no larger than 6' high 4' wide & 4' deep. Permit holders shall not occupy an area larger than 25 sq. ft. Sec. 6-4 (r) Permit B shall not engage in performances of any kind. Your display must be made smaller than 6' high x 4' wide x 4' deep."

For Your Information:

Art shall mean painting, sketching, photography, palm weaving, crafts and sculpture and other mediums that are established and recognized in the artistic community, including by professional institutions such as museums and art galleries.

Animal shall mean any living or nonliving warm or cold-blooded creature including, but not limited to: reptiles, amphibians, arachnids, birds, or mammals.

Street performance (or street performer) shall mean the following activities (or one who engages in them): acting, singing, playing a musical instrument, pantomime, juggling, magic, dancing, comedy, acrobatics, puppetry, joke telling, character impersonation and other similar types of public performance done for the purpose of public entertainment or amusement.

Vending of art (or art vendor) shall mean the following activities (or one who engages in it): the creation, display and/or sale of art that is created only by the permit holder.

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:**

March 28, 2012

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.


Barbara Meizis
Code Compliance Officer
City of Key West
(305) 809-3740

Hand Served this _____ *day of* _____, 2012

RECEIVED BY: _____

SERVED BY: _____