



# City of Key West, FL

City Hall  
1300 White Street  
Key West FL 33040

## Action Minutes - Final - Final

### Code Compliance Hearing

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Wednesday, August 30, 2017

1:30 PM

City Hall

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**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 1-800-955-8771 or for voice 1-800-955-8770 or the ADA Coordinator at 305-809-3811 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

**ALL VISUAL PRESENTATIONS FOR AGENDA ITEMS MUST BE RECEIVED (24) TWENTY-FOUR HOURS PRIOR TO THE MEETING.**

**Call Meeting to Order**

#### Code Violations

1

**Case # 15-837**

Fred V & Eileen A Redmond

3314 Northside Drive 16

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

Sec. 90-365 Violations and penalties

Officer Bonnita Badgett

Certified Service: 12-10-2015

Initial Hearing: 12-16-2015

**Continuance granted to December 20, 2017**

**Count 1:** Failure to obtain the required business tax receipt for the second unit. **Count 2:** Failure to legalize second unit as a residential unit.

**The Special Magistrate granted the request to continue this case to December 20, 2017.**

2

**Case # 17-488**

Messera Grace Estate C/O James Messera

~~Kenneth Fagen - Dismissed~~

1409 Flagler Avenue

Sec. 26-126 Clearing of property of debris and noxious material required

~~Sec. 108-677 Parking and storage of certain vehicles - In compliance~~**August 24, 2017; Dismissed**~~Sec. 26-31 Offensive and nuisance conditions prohibited - In~~**compliance May 11, 2017; Dismissed**~~Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business - Dismissed~~

Officer Sophia Doctoche

Certified Service: 8-2-2017 - James Messera

Initial Hearing: 6-28-2017

**In compliance August 28, 2017; request dismissal**

**Count 1:** Failure to maintain the property to prevent unsanitary conditions and a breeding place for snakes, rodents and vermin. **Count 2:** ~~Failure to have a valid license plate for a trailer on the property or to store the trailer in a completely enclosed building.~~ **Count 3:** ~~Failure to maintain all substances that may cause a foul odor in the neighborhood along with maintaining the growth of the lot.~~ **Count 4:** ~~Failure to have business tax receipts for the businesses Carpenter on Wheels and property manager.~~

The Special Magistrate granted the request to dismiss this case.

3

**Case # 17-934**

J.D. Hayden &amp; Sons, LLC

James Hayden

1300 White Street

Sec. 66-102 Dates due and delinquent; penalties

Officer Sophia Doctoche

Certified Service: 7-15-2017

Initial Hearing: 8-30-2017

**In compliance August 17, 2017; request dismissal**

**Count 1:** Failure to renew four business licenses that expired 30 September 2016.

The Special Magistrate granted the request to dismiss this case.

**4**

**Case # 17-956**

Arbortech Tree & Landscaping  
Spiegel & Utrera, P.A. - Registered Agent  
1300 White Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Sophia Doctoche  
Certified Service: 7-12-2017  
Initial Hearing: 8-30-2017

**In compliance August 24, 2017; request dismissal**

**Count 1:** Failure to renew business license which expired 30 September 2016.

**The Special Magistrate granted the request to dismiss this case.**

**5**

**Case # 17-959**

Tommy's Tile of Key West, LLC  
Thomas P. Lapp - Registered Agent  
1300 White Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Sophia Doctoche  
Certified Service: 7-14-2017  
Initial Hearing: 8-30-2017

**In compliance July 14, 2017; request dismissal**

**Count 1:** Failure to renew business license which expired 30 September 2016.

**The Special Magistrate granted the request to dismiss this case.**

6

**Case # 17-968**

Stump's Concrete Inc.  
Susan M. Corbin - Registered Agent  
1300 White Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Sophia Doctoche  
Certified Service: 7-13-2017  
Initial Hearing: 8-30-2017

**In compliance August 16, 2017; request dismissal**

**Count 1:** Failure to renew business license which expired 30 September 2016.

**The Special Magistrate granted the request to dismiss this case.**

7

**Case # 17-1007**

Southernmost Hotel/Hall  
Carrie Hall - Violator  
1300 White Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Sophia Doctoche  
Certified Service:  
Initial Hearing: 8-30-2017

**In compliance August 24, 2017; request dismissal**

**Count 1:** Failure to renew business license which expired 30 September 30, 2016.

**The Special Magistrate granted the request to dismiss this case.**

8

**Case # 17-1015**

Island Advertising & Printing  
James E. Thornbrugh - Registered Agent  
1107 Truman Avenue  
Sec. 66-102 Dates due and delinquent; penalties - **Repeat Violation**  
Officer Sophia Doctoche  
Certified Service:  
Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Failure to renew business license which expired 30 September 2017. Repeat code violation is based on the Finding and Order from case# 16-688.

**The City request a continuance to September 27, 2017 for good service. The Special Magistrate granted the request.**

9

**Case # 17-1056**

Laura D. Thornbrugh  
James E. Thornbrugh  
2014 Roosevelt Drive  
Sec. 66-102 Dates due and delinquent; penalties - **Repeat Violation**  
Officer Sophia Doctoche  
Certified Service:  
Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Failure to renew business license which was due 30 September 2016.

**The City request a continuance to September 27, 2017 for good service. The Special Magistrate granted the request.**

10

**Case # 17-1060**

Laura Thornbrugh  
James Thornbrugh  
2016 Roosevelt Drive  
66-102 Dates due and delinquent; penalties - **Repeat Violation**  
Officer Sophia Doctoche  
Certified Service:  
Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Failure to renew business license which expired 30 September 2016.

The City request a continuance to September 27, 2017 for good service. The Special Magistrate granted the request.

11

**Case# 17-1075**

Peter Kendrick  
1313 Petronia Street  
Sec. 74-131 Required where public sewer available  
Sec. 62-2 Obstructions  
Officer Sophia Doctoche  
Hand Served: 7-20-2017  
Initial Hearing: 7-26-2017

**In compliance August 4, 2017; request dismissal**

**Count 1:** Failure to have proper sewer connection. **Count 2:** Plants located on City property are an obstruction to the sidewalk.

The Special Magistrate granted the request to dismiss this case.

12

**Case # 16-1495**

Dennis P Saviano

Mikus Berzins

2822 North Roosevelt Boulevard

Sec. 90-356 Building Permits Required

FBC 1612.4 & ASCE 24-05 Unprotected Enclosed Below Design Flood  
Elevation

Sec. 90-356 Building Permits Required

Sec. 90-363 Certificate of Occupancy

Sec.14-261 - 363 Failure to Obtain Electrical Permit

Sec. 34-136 Manufactured Homes

Officer Scott Fraser

Certified Service: 8-15-2017 - Dennis P Saviano

Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Install a commercial modular office structure without having applied nor received a building permit. **Count 2:** Install, or allow to be installed, an inhabitable structure being utilized as an office within a FEMA designated AE-8 flood zone, below the minimum required elevation deemed necessary for flood damage prevention. **Count 3:** Placed two unpermitted advertising signs upon a building all in addition to other commercial signs already affixed to the building without having first obtain a building permit. **Count 4:** Occupy a commercial modular office structure without having obtained a Certificate of Occupancy. **Count 5:** Install, or allow to be installed, a buried electrical power cable from an as yet unidentified power source to a commercial modular office structure without having obtained required electrical work building permit. **Count 6:** Did install, or allow to be installed, an inhabitable structure being utilized as an office within a FEMA designated AE-8 flood zone, with an inadequate/unsafe foundation without required anchoring and installed by someone other than a licensed mobile home installer as required.

Richard McChesney attended for the respondent. Officer Scott Fraser attended on behalf of the city. The respondent did admit to the violations. Court costs will be ordered at \$250 with 60-day compliance. The court will reserve on fines until after compliance period. The Special Magistrate granted the request.

13

**Case # 16-1707**

Terence Schmida

Joanna M Schmida Rev Trust DTD

Walter G Schmida Rev Trust DTD

3301 Duck Avenue C

FBC 1612.4 Flood Hazard Construction

Sec. 90-356 Building Permit Required

Sec. 90-363 Certificate of Occupancy

Sec. 14-74 Nuisances

FBC 1612.4 Flood Hazard Construction

Officer Scott Fraser

Certified Service:

Initial Hearing: 8-30-2017

**Continuation granted to September 27, 2017**

**Count 1:** Within FEMA designated AE-7 flood zone, interior space at ground level has been enclosed and said areas are actively being used for purposes other than the permitted uses for storage, parking or access to higher building levels. **Count 2:** Construct or allow to be constructed without the required building permits enclosed ground-floor areas for habitation. **Count 3:** Allowed occupancy of enclosed areas below the established flood level- constituting an unauthorized change of use from parking and storage to habitation; said enclosed areas not having been issued a certificate of occupancy, as required. **Count 4:** Front of property exists a dilapidated wooden fence with concrete posts, both of which have deteriorated to the point where they present a danger from falling or collapse and injury to the occupants, neighbors and passers-by. **Count 5:** Construct or allow to be constructed an enclosed area below the established floor level without benefit of the required permits a patio area at the rear of this building.

The Special Magistrate granted the request to continue this case to September 27, 2017.



14

**Case # 17-961**

John Allan Strong

3704 Eagle Avenue

Flood Hazard Construction FBC 1612.4

Officer Scott Fraser

Certified Service: 7-11-2017

Initial Hearing: 7-26-2017

**No violation; request dismissal**

**Count 1:** Within a FEMA designated type AE-7 flood zone, did construct, allow to be constructed or occupy an area under the main residence, below the established flood level, contrary to law, safety of its occupants and floodplain management requirements.

**The Special Magistrate granted the request to dismiss this case.**

15

**Case # 17-226**

Robert Bowersox Trust 12/30/92

1212 Georgia Street

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

Sec. 14-40 Permits in historic districts

Officer Leonardo Hernandez

Certified Service: 3-31-2017

Initial Hearing: 4-26-2017

**Continued from May 31, 2017**

**Count 1:** For failure to obtain a building permit for the wooden deck prior to starting construction. **Count 2:** For failure to obtain a certificate of appropriateness for the wooden deck prior to starting construction.

Robert Bowersox attended this hearing. Officer Leonardo Hernandez gave testimony stating the desk was built without building permits and certificate of appropriateness prior to starting the work. Because of the scope of work, the respondent was required to get the HARC Commission for approval which was denied. Mr. Bowersox gave testimony admitting to building the deck without a permit. Once told he needed a permit, he applied and it is now stalled in HARC. The Special Magistrate asked if he wanted to uninstall it and he replied there would be damage to the home if he removed it. The City asked for compliance of demolition and we are willing to allow 30 days for the decision to be made. The City request a finding of the violation, \$250 court cost and reserve on the fine but if not in compliance by September 28 of \$250 per day per count. The Special Magistrate found there was an admission of the violation; granted the request for a finding of the violation with \$250 court cost and \$250 per day per count with compliance set for October 15, 2017.

16

**Case # 17-431**

Jean Dieuveze Azard

1300 15th Court #12

~~Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions--~~ - **Dismissed**

Sec. 14-262 Request for inspection

Officer Leonardo Hernandez

Certified Service: 6-30-2017

Initial Hearing: 7-26-2017

**Continued from July 26, 2017 for compliance**

~~**Count 1:** Failure to obtain after the fact plumbing permit and to get final inspections for all open after the fact permits for the construction of a laundry room and a concrete slab for a portable plastic shed. In Compliance July 7, 2017. - Dismissed~~ **Count 2:** After-the-fact plumbing permit has yet to be paid for in full and the need for final inspections for after-the-fact plumbing and electrical permits.

The respondent did not appear. Officer Leonardo Hernandez stated Mr. Azard is not in compliance. The City request a fine of \$250 per day starting August 30, 2017. The Special Magistrate granted the request.

17

**Case # 17-854**~~Ms. Maribel Perez - Property Owner - Dismissed~~~~Ms. Raquel Perez T/C - Property Co-Owner - Dismissed~~

Ernesto Balmaceda - Violator

2930 Flagler Avenue

Sec. 26-192 Unreasonably excessive noise prohibited.

Officer Leonardo Hernandez

Certified Service: 7-14-2017 - Raquel Perez

Certified Service: 7-13-2017 - Maribel Perez

Certified Service: 7-26-2017 - Ernesto Balmaceda

Initial Hearing: 7-26-2017

**Continued from July 26, 2017**

**Count 1:** The subject property has been visited on June 6, June 18, and the weekend of July 2 & 3, 2017 regarding disturbing noise. The complainant has been suffering disturbing noise for quite a long time and defendants have made zero efforts to cease activity.

Ernesto Balmaceda attended this hearing with his wife Barbara Balmaceda. Officer Leonardo Hernandez asked the Special Magistrate to ask the respondent if he wants to argue the case or admit to the violation. Mr. Balmaceda admitted to the violation. The City request a finding of the violation with \$250 court cost and \$250 fine. The Special Magistrate granted the request.

18

**Case # 16-773**

Mark R Delgado

2807 Seidenberg Avenue

Sec. 90-363 Certificate of occupancy - Required

Sec. 58-61 Determination and levy of charge

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

Officer Beau Langford

Posted: 7-8-2016

Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Failure to obtain a Certificate of Occupancy for residential unit in the rear of the property. **Count 2:** Failure to have Utilities associated with the residential unit in the rear of the property. **Count 3:** Failure to have a non-transient business tax receipt for the residential unit in the rear of the property.

The respondent did not appear. Officer Beau Langford gave testimony stating that Mr. Delgado has passed away. The Special Magistrate asked if the estate has been served and Officer Langford stated that it has not. The Special Magistrate request that the estate be served and this be continued to September 27, 2017. The City agreed.

19

**Case # 17-550**

Hainalka Raffai

1221 Royal Street

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

Sec. 14-40 permits in historic districts

Officer Gerald L Leggett

Certified Service: 6-24-2017

Initial Hearing: 7-26-2017

**In compliance July 28, 2017; request dismissal**

**Count 1:** Failure to obtain a building permit for a newly constructed "Cabana". **Count 2:** Failure to obtain a certificate of appropriateness for the structure recently constructed in the rear of the property.

The Special Magistrate granted the request to dismiss this case.

20

**Case # 17-869**

Janice Isherwood

523 Elizabeth Street

Sec. 26-126 Clearing property of debris and noxious material required -

**Repeat**

Sec. 26-31 Offensive and nuisance conditions prohibited

Sec. 26-32 Nuisances illustrated

Officer Gerald L. Leggett

Posted: 8-16-2017

Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Failure to clean property of debris which tend to promote breeding of insects and rodents (debris and food containers left outside).

**Count 2:** Failure to clean property of any substance which shall permit, cause or do any nuisance or contribute to the nuisance. **Count 3:**

Failure to remove all substances which emit or cause foul, obnoxious, unhealthful or disagreeable odor or effluvia as it was determined that the presence of the odor was from cats defecating and urinating.

Additionally, a large bee hive was observed on the side of the home.

Janice Isherwood attended this hearing. Officer Gerald Leggett gave testimony. Ms. Isherwood denied a lot of the counts and gave testimony. The Special Magistrate asked if she left food containers outside and Ms. Isherwood stated she cleans them out and puts them in recycle. The Special Magistrate asked if there is a lot of debris scattered around the property. Ms. Isherwood stated she does have a lot of stuff but she calls for regular pick up. The Special Magistrate asked how many cats she has and if there is a large bee hive. She stated there are 8 cats and there is a bee hive. The City requests \$250 court costs and fine of \$500 daily per count. Ms. Isherwood stated her yard is cleaned out. The Special Magistrate made a finding of violation by admission for Count 2 & 3 and no violation on Count 1 on the basis of the evidence presented with costs of \$250 court cost and \$250 per count per day if compliance is not met by September 26, 2017 for the next code compliance hearing of September 27, 2017.

21

**Case # 17-978**

Dominic Ip

1117 Fleming Street

Sec. 18-117 Acts declared unlawful. - **Repeat**Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business - **In compliance June 30, 2017; request****dismissal**Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions - **In compliance August 10, 2017; request****dismissal**Sec. 14-40 Permits in historic districts - **In compliance August 4, 2017;****request dismissal**

Officer Gerald L Leggett

Posted: 7-13-2017

Initial Hearing: 7-26-2017

**Continued from July 26, 2017**

**Count 1:** A licensed contractor is required to continue work within the scope observed performed as the subject property is being utilized as a rental property. **Count 2:** The subject property is being utilized as a rental property without an active business license. **Count 3:** A licensed contractor is required to apply for a building permit. **Count 4:** The subject property is in the historic district and will need a certificate of appropriateness.

**Dominic Ip attended this hearing. Officer Leggett gave testimony asking for dismissal of counts 2, 3 and 4. The Special Magistrate granted the request for dismissal. Officer Leggett gave testimony for count 1 which is a repeat violation. Mr. Ip gave testimony that the fixing of the roof was an emergency and he did apply for a roof permit in August. The City request a finding of violation with \$250 court cost and \$500 fine for repeat violation. The Special Magistrate found that there is a violation with court cost of \$250 with no fine.**

22

**Case # 17-1019**

Key West Restorations, LLC

David L. Firestine/Incorporator

Michael Herrera - Owner

1435 Flagler Avenue

Sec. 18-150 Certificate of competency - Required - **Michael Herrera****Count 1**Sec. 14-37 Building permits; professional plans; display of permits; address; exceptions - **David L. Firestine Count 2**Sec. 18-117 Acts declared unlawful - **David L. Firestine Count 3**Sec. 66-87 Business tax receipt required for all holding themselves out to be engaged in business - **David L. Firestine Count 4**

Officer Gerald L Leggett

Certified Service: 8-1-2017 - Michael Herrera

Certified Service: 8-7-2017 - David Firestine

Initial Hearing: 8-30-2017

**New Case**

**Count 1:** Failure to obtain the required contractor's license to perform the observed work being done at subject property. **Count 2:** Failure to obtain required permits for work being performed. **Count 3:** Failure to hire a licensed contractor. **Count 4:** Failure to obtain a business tax receipt for a rental property.

**Mr. Herrera attended this hearing. Officer Gerald Leggett gave testimony. Mr. Herrera admitted to the violations. The City request a finding of violations with \$250 court costs and reserve fines of \$250 per day per count pending compliance on September 28, 2017. The Special Magistrate granted the request.**



23

**Case # 16-335**

Eleanor J Miller-Laino

3735 Cindy Avenue

Sec. 90-363 Certificate of occupancy - Required

Sec. 58-61 Determination and levy of charge

Sec. 122-238 Dimensional requirements

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

Officer Jorge Lopez

Certified Service: 7-17-2017

Initial Hearing: 8-30-2017

**Continuation granted to December 20, 2017**

**Count 1:** Failure to obtain a certificate of occupancy. **Count 2:** Failure to pay impact fees related to utilities. **Count 3:** This unit/structure is located in the rear side of the subject property in the setback. **Count 4:** Renovations including plumbing and electrical work done without the benefit of building permits.

The Special Magistrate granted the request to continue this case to December 20, 2017.

24

**Case # 16-939**

R R Beason Jr Trust 12/18/2000

1603 Von Phister Street

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

Officer Jorge Lopez

Officer Scott Fraser

Certified Service: 10-5-2016

Initial Hearing: 10-19-2016

**Continuation granted to October 18, 2017**

**Count 1:** For failure to obtain building permits for the interior and exterior renovations.

The Special Magistrate granted the request to continue this case to October 18, 2017.

25

**Case # 17-256**

Meisel Holdings FL 1321 Simonton St, LLC.

Erica Hughes-Steerling - Registered Agent

1321 Simonton Street

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

Sec. 14-40 Permits in historic districts

Officer Jorge Lopez

Certified Service: 6-9-2017

Initial Hearing: 6-28-2017

**In compliance August 15, 2017; request dismissal**

**Count 1:** Chain link fence installed without required permits and inspections. **Count 2:** Failure to submit the corrections needed to process the HARC application.

**The Special Magistrate granted the request to dismiss this case.**

26

**Case # 17-720**

Land 10031, LLC

Frances Casey Lowe - RA

3700 North Roosevelt Boulevard

Sec. 26-192 Unreasonably excessive noise prohibited

Officer Jorge Lopez

Certified Service: 6-26-2017

Initial Hearing: 7-26-2017

**Continued from July 26, 2017**

**Count 1:** The car wash is operating 24 hours daily and the neighbor suffers disturbing noise within the boundaries of his property.

Nick Batty attended on behalf of the respondents. Mr. Batty requested a 60-day continuance to get to a position where the neighbors will be okay with what is going on. Officer Lopez attended for the City. Ron Ramsingh, Attorney for the City, gave testimony stating that the sound control ordinance is usually for issues like loud music, parties, etc. What we have here is a car wash that is at or within 5 ft. of the neighbor's property line which is residential and there is noise generated which impacts the neighbors. 26-195 in our code provides for mediation service and some remediation has been investigated and continues to be investigated. Mr. Batty stated they are investigating every process to engineering a solution to make everyone happy. Mr. Ramsingh stated on behalf of the neighbors, we do take issue with a 60-day continuance but we do recognize that this is a unique sound issue that rarely comes before the board. Mr. Ramsingh feels that the mediation services option might be beneficial for the neighbors to be able to voice their issues and come to a resolution where everyone is happy. The Special Magistrate agrees that this is a different situation. The Special Magistrate granted the request to continue the case to October 18, 2017 but if we are going to go forward there needs to be either remediation at that point or some type of mediation that gets this problem solved with the neighbors.

27

**Case # 17-811**

Far Beauty LLC

Aviv Shmuel - Registered Agent

218 Duval Street

Sec. 18-415 Restrictions in historic districts - **Repeat**

Officer Jorge Lopez

Hand Served: 6-23-2017

Hand Served: 7-14-2017 - Amended Notice of Administrative Hearing

Initial Hearing: 7-26-2017

**Continued from July 26, 2017**

**Count 1:** On June 7, 2017, Hovav Frank was observed actively off premise canvassing a passerby on the City right of way within the restricted area and was issued a civil citation. On May 27, 2017, Haim Kanelsky was observed actively off premise canvassing a passerby within the restricted area on the City right of way and was given a courtesy notice. On June 19, 2017, Hovav Frank was observed actively off premise canvassing in the restricted area on the City right of way.

**Aviv Schmucl attended this hearing. Officer Jorge Lopez gave testimony. Mr. Schmucl admitted to the violation. The City request \$250 court cost, \$500 fine for repeat violation and a suspended fine of \$1,000 from a previous case. A total of \$1,750 will be owed to the City. The Special Magistrate granted the request.**

28

**Case # 17-944**

Nationstar Mortgage LLC

Corporation Service Company - Registered Agent

905 Trinity Drive

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

Officer Jorge Lopez

Certified Service: 8-4-2017 - Corporation Service Company

Certified Service: 8-4-2017 - Dante Marrone

Initial Hearing: 8-30-2017

**In compliance August 23, 2017; request dismissal**

**Count 1:** Failure to obtain a business tax receipt for the subject property currently being rented.

**The Special Magistrate granted the request to dismiss this case.**

29

**Case # 17-938**

Omaira Urbay  
1300 White Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Demi R Vazquez  
Certified Service: 7-29-2017  
Initial Hearing: 8-30-2017

**In compliance August 8, 2017; request dismissal**

**Count 1:** Failure to renew business license which expired 30 September 2016.

The Special Magistrate granted the request to dismiss this case.

30

**Case # 17-1055**

Mike Mongo  
1300 White Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Demi R Vazquez  
Certified Service: 7-25-2017  
Initial Hearing: 8-30-2017

**In compliance August 15, 2017; request dismissal**

**Count 1:** Failure to renew business license which was due 30 September 2016.

The Special Magistrate granted the request to dismiss this case.

31

**Case # 17-1057**

Mashin Ahmed  
712 Caroline Street  
Sec. 66-102 Dates due and delinquent; penalties  
Officer Demi R Vazquez  
Certified Mail: 7-24-2017  
Initial Hearing: 8-30-2017

**In compliance August 25, 2017; request dismissal**

**Count 1:** Failure to renew business license which expired 30 September 2016.

**The Special Magistrate granted the request to dismiss this case.**

32

**Case # 17-1089**

Christian Zuelch  
411 Greene Street  
66-102 Dates due and delinquent; penalties - Counts 1 & 2  
Officer Demi R Vazquez  
Certified Service: 7-24-2017  
Initial Hearing: 8-30-2017

**In compliance August 25, 2017; request dismissal**

**Count 1:** Failure to renew business license number 23137 (revocable license) which expired 30 September 2016. **Count 2:** Failure to renew business license number 23138 (retail/mailorder/wholesale license) which expired 30 September 2016

**The Special Magistrate granted the request to dismiss this case.**

33

**Case # 17-767**

Wendell Wall

1610 South Street

Sec. 14-37 Building permits; professional plans; display of permits;  
address; exceptionsFBC 1612.4 Flood Hazard Construction & ASCE 24-05 Unprotected  
Enclosed Below Design Flood Elevation

Officer Jim Young

Posted: 6-7-2017

Initial Hearing: 6-28-2017

**Continued from July 26, 2017**

**Count 1:** Failure to obtain building permits for a structure being built in the rear of the property. **Count 2:** Subject property being within a FEMA designated AE-7 flood zone without benefit of required building permits has demolished the interior, windows electrical and plumbing contrary to flood damage prevention provisions of the Florida Building Code. Said area being below the established minimum safe flood elevation for purposes other than storage and parking, contrary to the state building code.

**Greg Oropeza attended for the respondent. Officer Scott Fraser attended on behalf of the city. The respondent did admit to the violations. Court costs will be ordered at \$250 with 60-day compliance period for demolition of all structures on the property. The compliance period to begin upon issuance of the demolition permit. The court will reserve on fines until after compliance period has run. The Special Magistrate granted the request.**

**HARC Appeals**

34

**SMA 17-02**

Tropical Soup Corporation  
Joseph H. Walsh  
Pike Architects, Inc.  
Van D. Fischer, Esquire  
Mallory Square  
H17-03-0008

**Continued from June 28, 2017**

Van Fischer attended on behalf of the respondent as well as Joe Walsh, the respondent. Ron Ramsingh attended on behalf of the HARC Commission. Mr. Fischer gave testimony stating the official stated reason for denial was that it did not comply with the Secretary of the Interior Standards for Rehabilitation #1 & #2. The HARC guidelines follow the standards for rehabilitation not restoration. The HARC Commissioners failed to evaluate the appellant's proposal under the required rehabilitation standards and instead applied a restoration standard. This was clearly an error and invalid under the HARC guidelines in the City codes and the Secretary of the Interior Standards for rehabilitation. The improperly applied standard for rehabilitation thereby resulted in the denial which was the basis of this appeal. Ron Ramsingh objects to any reference to anything outside of 94-31. The Special Magistrate stated his objection has been noted. Mr. Fischer gave testimony about the history of the structure and site. He then spoke about the comparison of the Secretary of the Interior Standards with the site. This project does comply with the standards of the Secretary of the Interior Standards. The issues being the limitation of time and HARC acting beyond the boundaries of their guidelines. The Commission did not agree with the use which was outside the scope of authority, applied a wrong standard restoration standard not a rehabilitation standards and the project was specifically designed in order to comply with the Secretary of the Interior Standards for Rehabilitation 1 and 2. The applicants believe that is the case and those are the primary reasons why the denial should be overturned. Ron Ramsingh gave testimony stating that the review is not a de novo review and that is important that the only record to be reviewed is the record concerning 81703-0008. Mr. Ramsingh gave testimony on each of the appellants' brief issues including demolishing of the pizza shop issue; not HARC staff to give approval but the commission; there is no HARC approval for the Dough Ball Restaurant; the appellants were afforded a 5-minute introduction and gives all applicants this time unless asked for additional time which was not asked for; inconsistent application of HARC guidelines; and HARC members were referring it to be a restaurant not the use of it. There is no evidence of a conflict that exists. The major reason why this application was denied doesn't hinge so much on the rehabilitation versus restoration of the cable hut but hinges on the fact that a new building was proposed to be built to a location that obscured a historic and contributing resource. After considering the argument and reading all the documents provided the Special Magistrate stated this was a major development plan for a particular location which is call the cable hut location at Mallory Square. This called for rehabilitation not restoration. It is unfortunate that there just wasn't a request for more time and on that part of the appeal, I am going to deny it. There should have been a lot more time for this appeal as this was a major



redevelopment of an area. For the inconsistent application of the HARC guidelines and the Special Magistrate stated the wrong standard was applied. It should have been a rehabilitation standard not a restoration standard. The appeal should be granted for number two. The denial of the appellants' project was based for the HARC. On appeal number three which is HARC has no authority to question for what land use which may or may not be appropriate. The question HARC needed to considered was the rehabilitation they doing was historically correct land use the direction of the land use was given by the City. The question HARC needed to consider was the rehabilitation historically and architecturally correct. The appeal is granted. Commission Bender has a conflict of interest with the appellant's project and should not have allowed to vote. This is very gray. There is an appearance of impropriety but he is not sure if it raises to the point of inference of the decisions made by the body. The appeal will be denied. The appellants' was unduly prejudiced because the mistaken adoption of the Bender report by the HARC staff as a controlling document which the staff was required to follow. I do not think that there is enough evidence to support that. The appeal was denied. The appellants' appeal is granted on the grounds that I have stated. This has to do with the wrong standard applied. Mr. Ramsingh asked for a written order given the likelihood of subsequent litigation on this issue or other collateral issues. The Special Magistrate asked for the brief in 45 days. The attorneys agreed.

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## Adjournment