



THE CITY OF KEY WEST
Code Compliance Division

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

**NOTICE OF REPEAT CODE VIOLATION AND
ADMINISTRATIVE HEARING**

DATE: September 6, 2012
RE: CASE NUMBER 12-1239

CERTIFIED MAIL RECEIPT#: 7003 3110 0003 4758 3047

To:
Alon Croitoru
Carol Croitoru
141 Duval Street
Key West, FL 33040

Subject Address:
Island Cigar & Tobacoria
501 Greene Street 503
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. 106-51. - Prohibited.

The outdoor display of merchandise in the historic zoning districts of the city is prohibited unless an exception is granted by the planning board, as provided in section 106-52. Merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Outdoor display shall mean the placement of merchandise on the exterior of a business structure, including a wall, roof, overhang, entranceway or window, or within a required setback area. For a cart, booth or arcade, outdoor display shall mean the placement of merchandise, either freestanding or by draping it, on the exterior or beyond the vertical plane of the cart, booth or arcade. In no event shall outdoor display be permitted in the public right-of-way. The prohibitions of this section shall not apply to automotive, bicycle and moped rentals and sales and to plant sales and shall not apply to art festivals or other special events duly permitted by the city commission.

To wit: On September 1, a "boat" filled with cigars; a 7' tall cigar "man" display and another display with cigars in it were located on the exterior of the building. The two doors which open out to Greene Street had a sign board on one with temporary henna tattoos and the other door had cigar boxes attached to it. This business does not currently have an exception to the outdoor display ordinance.

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Code Compliance Division

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

DATE: September 6, 2012
RE: CASE NUMBER 12-1239

CERTIFIED MAIL RECEIPT#: 7003 3110 0003 4758 8066

To:
Charles Ittah, R/A
135 Duval Company
423 Front St, 2nd Floor
Key West, FL 33040

Subject Address:
Island Cigar & Tobacoria
501 Greene Street 503
Key West, FL 33040

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ADMINISTRATIVE HEARING**

DATE: September 6, 2012
RE: CASE NUMBER 12-1239

CERTIFIED MAIL RECEIPT#: 7003 3110 0003 4758 3030

To:
135 Duval Company
C/O Peter Nelson Brawn
PO Box 1426
Key West, FL 33041

Subject Address:
Island Cigar & Tobacoria
501 Greene Street 503
Key West, FL 33040

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Count 2: Sec. 106-51. - Prohibited.

The outdoor display of merchandise in the historic zoning districts of the city is prohibited unless an exception is granted by the planning board, as provided in section 106-52. Merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Outdoor display shall mean the placement of merchandise on the exterior of a business structure, including a wall, roof, overhang, entranceway or window, or within a required setback area. For a cart, booth or arcade, outdoor display shall mean the placement of merchandise, either freestanding or by draping it, on the exterior or beyond the vertical plane of the cart, booth or arcade. In no event shall outdoor display be permitted in the public right-of-way. The prohibitions of this section shall not apply to automotive, bicycle and moped rentals and sales and to plant sales and shall not apply to art festivals or other special events duly permitted by the city commission.

To wit: On September 2, it was observed by this Code Officer, a "boat" filled with cigars; a 7' tall cigar "man" display and another display with cigars in it were located on the exterior of the building. The two doors which open out to Greene Street had a sign board on one with temporary henna tattoos and the other door had cigar boxes attached to it. This business does not currently have an exception to the outdoor display ordinance.

Count 3: Sec. 106-51. - Prohibited.

The outdoor display of merchandise in the historic zoning districts of the city is prohibited unless an exception is granted by the planning board, as provided in section 106-52. Merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Outdoor display shall mean the placement of merchandise on the exterior of a business structure, including a wall, roof, overhang, entranceway or window, or within a required setback area. For a cart, booth or arcade, outdoor display shall mean the placement of merchandise, either freestanding or by draping it, on the exterior or beyond the vertical plane of the cart, booth or arcade. In no event shall outdoor display be permitted in the public right-of-way. The prohibitions of this section shall not apply to automotive, bicycle and moped rentals and sales and to plant sales and shall not apply to art festivals or other special events duly permitted by the city commission.

To wit: On September 5, it was observed by this Code Officer, a "boat" filled with cigars; a 7' tall cigar "man" display and another display with cigars in it were located on the exterior of the building. The two doors which open out to Greene Street had a sign board on one with temporary henna tattoos and the other door had cigar boxes attached to it. This business does not currently have an exception to the outdoor display ordinance.

Corrective action: Cease activity until an exception is issued for exterior display

For your information: A previous code case #12-176 went before the special magistrate and was found in violation on February 29, 2012 for two counts of \$500 per count and the administrative fee of \$250 for a total of \$1,250. Another code Case #11-1072 went before the special magistrate and was found in violation on October 19, 2011 and a fine of \$500 and administrative costs of \$250 were imposed for a total of \$750.

Count 4: Sec. 42-6. - Tattoo establishments; temporary tattoos.

(a) It shall be unlawful for any person to operate a tattoo establishment in the practice of tattooing within the city.

(b) A person licensed to apply a temporary tattoo on a customer's skin in the City of Key West shall not adulterate the henna or other type of pigment or dye with paraphenylenediamine ("PPD") or other coal-tar product. All persons licensed to apply a temporary tattoo shall provide a written warning notice of potential detrimental health effects, as provided in subsection (c). For the purposes of this section, a "temporary tattoo" means a mark or design made by a process of ingrainin an impermanent pigment or dye on the skin.

(c) A person licensed to apply a temporary tattoo on a customer's skin in the City of Key West shall post in plain view, at the location of the application of the temporary tattoo, on cardboard or other similar material, with dimensions of at least two feet by two feet and with at least half-inch block style letters, a sign which shall read as follows:

1. HENNA OR ANY OTHER TYPE OF PIGMENT OR DYE USED AT THIS LOCATION DOES NOT CONTAIN PARAPHENYLENEDIAMINE (PPD) OR OTHER COAL-TAR PRODUCT.

2. PPD MAY CAUSE SKIN IRRITATION, BLISTERING, INFECTION OR OTHER HARMFUL SKIN REACTIONS.

3. IN THE EVENT THAT YOU SUFFER AN ADVERSE SKIN REACTION FROM A TEMPORARY TATTOO, CONSULT YOUR PHYSICIAN IMMEDIATELY.

(d) A violation of this section shall be punishable in accordance with section 1-15 of the Code of Ordinances. In addition thereto, a person who applies or is found to have applied a temporary tattoo adulterated with PPD or other coal-tar product, shall be subject to business tax receipt suspension, as provided in section 66-105(a)(1) of the Code of Ordinances.

To wit: On September 1, 2, and 5, the above signage was not posted in plain view.

Corrective action: You shall post a written warning sign in plain view at least two feet by two feet and with at least half-inch block style letters.

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:**

September 26, 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: