



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3722

April 30, 2020

VIA ELECTRONIC DELIVERY

210 Duval Street, LLC
210-216 Duval Street
Key West, FL 33040

Lawful Unit Determination

Dear Mr. Smith,

We have reviewed the submitted Lawful Unit Determination application for the real property located at 210-216 Duval Street, Key West FL, bearing Monroe County Real Estate No. 00001420-000000. The applicant has applied for a total increase of two (2) non-transient units, this would bring the total units on the property to four (4) non-transient residential units. The applicant has provided supporting documents in the form of photographs, surveys, building permits, court documents, and documentation from Keys Energy. This application has been reviewed in accordance with the Key West Code of Ordinances Section 108-991.

Specifically, 108-991 (3) states:

Units determined to have been in existence at the time the April 1, 2010, census was prepared are presumed not to be affected by BPAS. The city planner shall review available documents to determine if a body of evidence exists to support the existence of units on or about April 1, 2010. Units existing in 2010 will be documented through a mandatory site visit by city staff and at least two of the following records:

- a. Aerial photographs and original dated photographs showing that the structure existed on or about April 1, 2010;
- b. Building permits issued prior to April 1, 2010;
- c. Copies of city directory entries on or about April 1, 2010;
- d. Site visits which indicate that the age of the structure and associated improvements likely pre-date 2010;
- e. Rental, occupancy or lease records from before and including April 1, 2010, indicating the number, type and term of the rental or occupancy;
- f. Copies of state, county, and city licenses on and about April 1, 2010, indicating the number and types of rental units;
- g. Documentation for Keys Energy Service, Florida Keys Aqueduct Authority and other available utilities indicating the type of service (residential or commercial) provided and the number of meters on or about April 1, 2010;
- h. Documentation for the Monroe County Property Appraiser's Office for the time on or about April 1, 2010, (Green Card); and
- i. Similar documentation as listed above.

Provision of affidavits to support the existence of a unit is allowed but cannot be the sole record upon which a decision is based. Provision of documents is the responsibility of the applicant. The city planner's decision shall be rendered to the department of economic opportunity for a determination of consistency with the principals for guiding development.

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



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Units which are determined not to be affected by the building permit allocation system per this subsection, but which have not been previously acknowledged by the city planner are presumed to be lawfully established per chapter 122, article II, nonconformities, if the additional following requirements are met:

- a. The applicant satisfies the building department that the unit meets the Florida Building Code, through as-built certifications or other means acceptable to the building official; and
- b. Fees: All back-fee payments shall be paid current and in full, from the date determined to be the established date of the unit. All impact fees shall be paid in full for units determined to have been established after the implementation of the Impact Fee Ordinance (January 1, 1985).
- c. Occupational license with the city is updated, and street addresses are assigned commensurate with the updated unit count.

Transient units which meet the criteria in this subsection will be licensed by the city.

*All code language above reflects the code as it was when Applicant applied in 2014.

Summary:

The applicant has applied for a total of two (2) non-transient units at 210-216 Duval Street. The parcel consists of two (2) buildings, a historic two-story mixed-use structure on Duval Street as well as an additional two-story mixed-use structure formally addressed as 8 Charles Street. The Duval Street structure currently houses commercial units on the ground floor, with entrances addressed 210, 212, 214, and 216. The second story of the structure is vacant and uninhabitable in its current state. The Charles Street building is currently vacant on both the ground floor and the second floor. Submitted documentation supports the findings below:

- The Duval Building has a total of one (1) non-transient, residential unit on the second floor of the building. All other potential units in the building are non-conforming to the definition of a *unit* per City Code. The applicant has applied for an additional two (2) dwelling units on the second floor of this building, the Planning Department cannot establish that a body of evidence exists to support the existence of units on or about April 1, 2010.
- The Charles Building has a total of one (1) non-transient, residential unit on the second floor of the building. All other potential units in the building are non-conforming to the definition of a *unit* per City Code. The Planning Department cannot establish that a body of evidence exists to support the existence of units on or about April 1, 2010.

After careful review of this application considering the criteria laid out in Section 108-991 of the City Code of Key West, along with all available materials submitted by the applicant and research done by staff, as well as a site visit by staff on 2/7/2020, it is the determination of the Planning Department that there are an established two (2) non-transient, residential units that existed on the property in April of 2010. The applicant has not provided sufficient evidence to support an increase of two additional non-transient units.



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A detailed analysis of all evidence submitted by the applicant in support of this request for additional non-transient units at 210-216 Duval follows in the section entitled, "Addendum to Lawful Unit Determination: Staff Analysis of 210-216 Duval Street."

Sincerely,



Katie P. Halloran
Planning Director

Dated: 5/1/2020

Attachments:

Addendum to Lawful Unit Determination

Application

FKAA Water Meter Email

Keyes Energy Confirmation Email of Commercial Meters

Keys Energy Electric Meter Readout for 210-216 Duval

Keys Energy Electric Meter Readout for 8 Charles Street

Monroe County Tax Collector Invoice



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ADDENDUM TO LAWFUL UNIT DETERMINATION: STAFF ANALYSIS OF 210-216 DUVAL STREET

Background:

Data from Monroe County Property Appraiser lists the parcel is 7,480 square-feet with an assigned RE# 00001420-000000. The parcel houses two separate structures, one two-story stone building built in 1918 totaling 7,447 gross square feet and 7,323 finished square feet. The second building on the property totals 2,869 square feet built in 1928. According to a HARC Staff Report dated 12/17/2019, the building served commercial purposes on the primary floor and the second floor was likely utilized for residential space.

The City of Key West defines a dwelling unit in Section 86-9 of the Land Development Regulations as follows, "*Dwelling unit and living unit* means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

Staff researched all documents submitted by the applicant, as well as property records, building permits, City of Key West Land Development Regulations, and a site visit conducted by staff to make a determination regarding the existence of lawful units.

The Monroe County Tax Collector shows a total charge of \$633.92 for Non-Ad Valorem assessments (attached), which is one (1) residential solid waste assessment of \$310.52 and 3 stormwater ESSU assessments of \$323.40. The Florida Keys Aqueduct Authority (email attached) reveals four (4) active accounts for the property dating back to 1943. They are addressed as 210 Duval, 214 Duval, 216 Duval, and 8 Charles Street Up. This corroborates the City's findings of two (2) commercial units and one (1) residential unit housed in the Duval building and one (1) residential unit located in the Charles Building. The provided pictures of both buildings detail each room, and the two kitchens that are currently on site. The applicant submitted documentation from Keys Energy showing four (4) electric meters for 210-216 Duval Street and two (2) for 8 Charles Street. The letter from Keys Energy states that it is residential, however documentation from the Keys Energy database obtained by the City show that all meters on the property are currently categorized and billed as *small commercial accounts*, not residential accounts. Additionally, the City reached out to Keys Energy to confirm that all meters were categorized and billed as commercial meters, this was confirmed by the Human Resources/Records Coordinator. Both meters for the Charles Building were disconnected, and only reconnected in 2019.

Records from the City of Key West show four (4) active commercial licenses, two (2) for regulatory licenses and two (2) for commercial establishments, there are currently no active licenses for residential units, either transient or non-transient. Building records reveal several permits and licenses issued for the sub-sites of 210-216 Duval St. dating back to 1996. Records for 210 Duval St. reveal twenty-six (26) building permits, mostly for commercial renovations, an inactive license for a non-transient rental and an active license for a retail establishment, and ten (10) closed code cases. Records for 212 Duval St. show four (4) closed code cases and an inactive license for a retail establishment. 214 Duval St. has no records of any code cases, permits, or licenses. 216 Duval St. records show twenty-eight (28) closed code cases, two (2) active licenses for Regulatory Licenses and a retail establishment, and ten (10) building permits mostly for commercial renovation.



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Planning staff performed a site visit on February 7th, 2020 (photos attached). The site visit proved in part that no part of the upstairs of the main structure nor the accessory structure to be dwelling units as defined in Section 86-9 of the Code of the City of Key West, or to provide additional evidence as per Section 108-991. Staff saw that there was one kitchen unit in the upstairs of the Duval Building and one kitchen unit in the Charles Building. The existence of these two units in April 2010 is corroborated with materials submitted that show a civil case conducted in 2011, in which two apartment units were rented long term, one (1) in the Charles Building and one (1) on the second floor of the Duval Building. This court document notes that the apartments comprised 2,755 square feet. Floor plans submitted by the applicant total around 2,974 square feet including a stairwell and any interior closets; and further document the likelihood of a total of no more than 2 dwelling units at these addresses.

Staff observed that there were no kitchen cabinets, nor sink or plumbing, nor stove, nor any other appliance or furniture anywhere else on the property except for the two kitchen units aforementioned. Pictures sent by the applicant corroborate the lack of kitchen materials and any other kitchen related furniture in any part of either building besides the two aforementioned.