



City of Key West, FL

City Hall
1300 White Street
Key West FL 33040

Action Minutes - Final

Code Compliance Hearing

Wednesday, February 28, 2018

1:30 PM

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 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 # 17-1273

St. James Missionary Baptist Church - Trustee
Derrick Anderson Church Trustee
2007 Staples Avenue
Sec. 108-677 Parking and storage of certain vehicles
Officer Bonnita Badgett
Certified Service: 12-18-2017
Initial Hearing: 1-31-2018

In compliance 27 Feb 2018, fees pending

Count 2: All vehicles require current tags. There are two vehicles with expired tags. **Count 1 was dismissed**

Compliance was obtained 27 Feb 2018. The case cannot be closed until the Administrative Fees are paid.

2

Case # 17-1369

RCJB Properties, Inc.
3401 Flagler Avenue
Sec. 26-126 Clearing of property of debris and noxious material required
Officer Bonnita Badgett
Certified Service: 12-29-2017
Certified Service: 1-4-2018 - Amended Notice
Initial Hearing: 1-31-2018

In compliance 20 Feb 2018, request dismissal

Count 3: For failure to remove tree debris and trash from the property.

The request to dismiss this case was granted by the Special Magistrate.
Compliance was obtained 20 Feb 2018.

3

Case # 17-1649

Kevin Talbott
1703 Johnson Street A
Sec. 58-35 Requirements for bulk and excess yard waste pickup
Officer Bonnita Badgett
Certified Service: 2-5-2018
Initial Hearing: 2-28-2018

In compliance 13 Feb 2018, request dismissal

Count 1: For failure to remove the yard debris and furniture from the City right of way.

The request to dismiss this case was granted by the Special Magistrate.
Compliance was obtained 13 Feb 2018.

4

Case # 18-59

Pirate's Paradise
David Mizrachi - Business owner
Nir Sela - Registered Agent
105 Whitehead Street
Sec. 18-195 Requirements of permit holder
Officer Wherden Charles
Certified Service: 2-26-2018
Initial Hearing: 2-28-2018

Settlement Agreement

Count 1: For failure to furnish a written statement showing final cost of custom work prior to the commencement of custom work.

A Settlement Agreement was presented to the Special Magistrate which he approved. The Respondents stipulate to the imposition of the Administrative fees in the amount of \$250 and a suspended fine of \$250.

5

Case # 17-1028

Poinciana Park Partners, LLP - property owner
Jean Prophete Senat - mobile home owner
1300 15th Court Lot 1
Sec. 14-37 Building permits; professional plans; display of permit;
address; exceptions
Officer Sophia Doctoche
Certified Service: 8-28-2017 - property owner
Certified Service: 8-21-2017 - mobile home owner
Initial Hearing: 10-18-2017

Continued from 31 Jan 2018 for compliance

Count 1: For failure to a building permits to replace wallboard in the enclosure on the porch.

Jean Prophete Senat attended the hearing with an interpreter. Officer Doctoche stated that the Chief Builldiing Official approved the request to allow Mr. Senat to remove the wall board from the porch and asked for a compliance date of 14 Mar 2018. The Special Magistrate granted this request for compliance and continued the case to 28 Mar 2018.

6

Case # 17-1293

Marie Delus

Poinciana Park Partners, LLP

1300 15th Court Lot 11

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

Officer Sophia Doctoche

Certified Service: 10-16-2017 - Marie Delus

Initial Hearing: 11-15-2017

Continued from 31 Jan 2018 for compliance**Count 1:** Construction of an addition to the subject property without benefit of required permits.

Marie Delus attended the hearing with an interpreter. Officer Doctoche stated that she had received a letter from One Call Construction yesterday stating that they have added Marie Delus to the waiting list for an estimate. She requested a \$250 per day fine be imposed. The Special Magistrate granted her request and stated that the fines would start on 1 Mar 2018 and continue this case for compliance to 28 Mar 2018.

7

Case # 17-1499

1018 Truman LLC

844 Olivia Street

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

Sec. 14-40 Permits in historic districts

Sec. 14-262 Request for inspection

Officer Sophia Doctoche

Certified Service:

Initial Hearing: 2-28-2018

Request continuance to 28 Mar 2018 for service

Count 1: For failure to obtain an electrical permit for installation of the security cameras. **Count 2:** For failure to obtain a certificate of appropriateness for installation of the security cameras. **Count 3:** For failure to obtain inspections for the electrical work.

The request to continue this case to 28 Mar 2018 for service was granted by the Special Magistrate.

8

Case # 17-1594

Gone Fishin'

Shannon J Gaytan

1102 Duval Street C

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

Officer Sophia Doctoche

Certified Service:

Initial Hearing: 2-28-2018

In compliance 23 Jan 2018, request dismissal

Count 1: For failure to obtain a business tax receipt for the business Gone Fishin'.

The request to dismiss this case was granted by the Special Magistrate. Compliance was obtained 23 Jan 2018.

9

Case # 17-1684

Charter Resort Transport

United States Corporation Agents, Inc.

3675 Seaside Drive

Sec. 78-126 - Required

Sec. 78-127 Display of decal; standby vehicles

Officer Sophia Doctoche

Certified Service: 2-2-2018

Initial Hearing: 2-28-2018

New Case

Count 1: All passenger vehicles for hire shall have a license issued by the city. **Count 2:** All passenger vehicles for hire shall have a decal that is affixed to the left side of the rear bumper.

Officer Doctoche stated that there is a business, Charter Resort Transport, that is working out of 3675 Seaside Drive. She said that on two occasions, she was able to book a ride from Key West to the Marathon airport. She received pricing via text and email. She requested costs of \$250 and a fine of \$250 for a total of \$500 which was granted by the Special Magistrate.

10

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
FBC 1612.4 Flood Hazard Construction
Officer Scott Fraser
Certified Service: 8-17-2017 - W. Schmida
Initial Hearing: 8-30-2017

Continued from 31 Jan 2018 for compliance

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 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. **Count 4 was dismissed.**

Wayne LaRue Smith attended the hearing. Ron Ramsingh stated that compliance has not been achieved. Mr. Smith stated that he would like to address two things today. Bret Smith has been handling this since November. There has not been an order issued on the Motion to Stay. There was a statement from the bench that you would not grant the stay. I would like to talk about what has happened subsequent to the hearing. With regard to count 5, it is now in compliance. Since November, the property owner hired a licensed contractor who wasn't sure what would bring them into compliance. They engaged Jim Reynolds, an engineer. Both state that they have inquired what would bring the property into compliance and they have not received an answer. Mr. Smith stated that in 1988, a permit was issued allowing a portion of the downstairs to be enclosed. I have asked if that would be allowed today or if restoring the downstairs to what was permitted in 1988 and have not received an answer. An order was announced in November compliance by January 16th and I received that order on January 16th. An appeal, Writ of Cert, was filed. Subsequently, Brett Smith and Ron Ramsingh have concluded that it should be an appeal. The petition was to brief so it is already briefed. It is likely to be resolved in a matter of months. The outcome of the appeal is anyone's guess. The owner is working with the contractor and engineer on

what needs to be done and the scope of it. The scope of that may depend on the outcome of the appeal. From the property owner's perspective, this is all about economics. This has been a huge economic burden and will be in any event. It could be six months for the outcome of the appeal and in six months, the accrued fines could be in the six-figure range. If the owner faces the prospect of that, it is not economically feasible to pursue the appeal. Subsequent to the January hearing, there was a complete inspection by the city including Mr. Fraser, Mr. Wampler and Mr. Ramsingh of the downstairs space. There was a misunderstanding, it was Mr. Brett Smith's understanding that if there was no one was habitating the downstairs and there were no hideous dangerous conditions, that the city would stipulate a stay with regard to the accruing fines pending the outcome of the appeal. After the inspection, it turns out that isn't what the city's understanding was. Mr. Brett Smith and Mr. Ron Ramsingh could not come to an agreement in regard to the stay. If this tribunal will grant the stay so the owners can complete the appeal, that you are authorized by under the applicable rules to apply appropriate conditions. Mr. Ramsingh stated that the city wouldn't consider any stay unless they got in there to see what was involved. We proved the case and the options were either bring it into compliance or take an appeal. They took an appeal. Appears that they want it both ways, they want the fines to stop as though they came into compliance, tolled, and take an appeal. We enacted an ordinance in 2009 to address this issue. It's the mitigation ordinance which would recognize an appeal as a mitigating factor. The inspection yesterday revealed extensive electric, 220, a box and what appears to be that at least one party is still living downstairs. The city objects to the stay. Mr. Wayne LaRue Smith stated that mitigation is somewhat of a gamble because there is no guarantee of it. There is a person who still has his stuff there and is looking for a place to put his stuff but is not living there. Magistrate Yates stated that the deadline for the appeal is the 24th of April. I'm going to stay the fines for right now. But this is only going to start when the city can go back in and inspect the property. You'll have to let the city know. It cannot be energized, there can't be anybody down there, the water has to be shut off down there. I don't want there to be anybody living down there during this time period because to do so, makes it dangerous just by somebody being there. I am not going to impose a higher fine. Again, the fines will not be stayed until once the city has come in to inspect. Mr. Ramsingh stated that they are in compliance with count 5. If that is the direction Your Honor is going, we don't agree, however, the concerns that we have are there is an electrical box below flood, the sewer that needs to be capped so all plumbing fixtures that result in a drain need to be removed and capped and covered with concrete. The problem with the sewer is that you have backflow issues, so the sewer would have to be capped off also. Magistrate Yates stated that he is going to stay the fines but only when the water is completely shut down, the electrical is shut down, and to stop whatever the sewage flow is. Must have an inspection by the city, it's when the inspection occurs and they agree you took the appropriate measures. The appeal has to be done by the 24th because the fines will start accumulating on the 25th of April.

11

Case # 17-1277

Michael & Sophak Ngov
3713 Donald Avenue
Sec. 14-37 Building permits; professional plans; display of permits;
address; exceptions
Officer Leonardo Hernandez
Certified Service: 2-6-2018
Initial Hearing: 2-28-2018

New Case

Count 1: For failure to obtain a building permit for the roof and shed. Permits have been in the Planning Department since 16 Oct 2017 waiting several requirements from the owner, i.e. setbacks, site plan, impervious surface calculations, elevation drawings and the need of a survey.

Michael Ngov attended the hearing. Officer Hernandez stated that permits had been submitted in October but have been waiting for Mr. Ngov to submit setback measurements, survey of the property, site data for open space, building coverage, impervious surface and elevation drawing of the shed since October. Mr. Ngov said that he was going to pick the blueprint from the architect and bring it to the building department tomorrow. The Special Magistrate stated that by the respondent's admission of the violation, there will be a \$250 cost and a \$250 per day fine if compliance is not obtained by 25 Mar 2018. A compliance hearing will be held on 28 Mar 2018.

12

Case # 18-121

Incorporated Service LTD - Registered Agent
Soap Stories Tampa Bay (COS)
404 Duval Street
Sec. 18-705 Requirements of permit holder
Officer Leonardo Hernandez
Certified Service: 2-3-2018 - Soap Stories
Certified Service: 2-20-2018 - Incorporated Service
Initial Hearing: 2-28-2018

Settlement Agreement

Count 1: The city received a complaint from Margaret (Peggy) Yoste that she did not receive a pre-written statement prior to the purchase, nor were there any prices listed on the products.

The Special Magistrate was presented with a Settlement Agreement which he approved. The Respondents stipulate to the imposition of the Administrative Fees in the amount of \$250 and a suspended fine of \$500.

13

Case # 16-773

Mark R Delgado Estate

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: 8-10-2017

Initial Hearing: 8-30-2017

Continuance granted to 25 Apr 2018

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 request to continue this case to 25 Apr 2018 was previously granted by the Special Magistrate.

14

Case # 17-850

Lauren Myers

1409 Truman Avenue

Sec. 66-102 Dates due and delinquent; penalties

Officer Beau Langford

Certified Service: 2-12-2018

Initial Hearing: 2-28-2018

In compliance 21 Feb 2018, request dismissal

Count 1: The business tax receipt (26035) to rent this property non-transiently, has been delinquent since 30 Sept 2017.

The request to dismiss this case was granted by the Special Magistrate. Compliance was obtained 21 Feb 2018.

15

Case # 17-1076

Soiree Key West, LLC - Registered Agent
Mobile Service
Sec. 66-102 Dates due and delinquent; penalties
Officer Beau Langford
Certified Service: 2-6-2018
Initial Hearing: 2-28-2018

In compliance 7 Feb 2018, request dismissal

Count 1: The business tax receipt (20542) for the wedding planning business has been delinquent since 30 Sept 2017.

The request to dismiss this case was granted by the Special Magistrate. Compliance was obtained 7 Feb 2018.

16

Case # 18-17

Linda Rae Phillips
16 Starfish Pier
Sec. 122-130 - Prohibited uses - **Repeat violation**
Officer Beau Langford
Certified Service: 2-7-2018
Initial Hearing: 2-28-2018

Continuance granted to 28 Mar 2018

Count 1 through 7: For transiently renting the boat out on AIRBNB.com which is prohibited in the Conservation Zoning area. Was able to rent this property for 7 nights for a total of \$1,463. This is a repeat violation, case 16-197 was found in violation. Other cases cited were 15-992, 15-991 and 15-990.

The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.

17

Case # 18-19

Linda Rae Phillips

11 Starfish Pier

Sec. 122-130 Prohibited uses - **Repeat violation**

Officer Beau Langford

Certified Service: 2-7-2018

Initial Hearing: 2-28-2018

Continuance granted to 28 Mar 2018

Count 1 through 7: For transiently renting the boat out on AIRBNB.com which is prohibited in the Conservation Zoning area. Was able to rent this property for 7 nights for a total of \$1,446. This is a repeat violation, case 16-197 was found in violation. Other cases cited were 15-992, 15-991 and 15-990.

The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.

18

Case # 18-117

Mclvor Holdings LLC

Michael Mclvor - Registered Agent

1010 Kennedy Drive Suite 400

Sec. 66-102 Dates due and delinquent; penalties

Officer Beau Langford

Certified Service: 2-5-2018

Initial Hearing: 2-28-2018

In compliance 20 Feb 2018, request dismissal

Count 1: The business tax receipt (21037) for Keys Heart Center has been delinquent since 30 Sept 2017.

The request to dismiss this case was granted by the Special Magistrate. Compliance was obtained 20 Feb 2018.

19

Case # 17-1019

Key West Restorations, LLC - Property Owner

David L. Firestine/Incorporator

Michael Herrera

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**

Officer Gerald L Leggett

Certified Service: 8-1-2017 - Michael Herrera

Certified Service: 8-7-2017 - David Firestine

Initial Hearing: 8-30-2017

In compliance 28 Feb 2018, request dismissal

Count 1: Failure to obtain the required contractor's license to remove concrete from the house. **Count 2:** Failure to obtain required permits for the removal of concrete from the house. **Count 3:** Failure to hire a licensed contractor.

The request to dismiss this case was granted by the Special Magistrate. Compliance was obtained 28 Feb 2018.

20

Case # 17-982

Sheila McFarland

1625 Flagler Avenue

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

Officer Jorge Lopez

Certified Service: 8-29-2017

Initial Hearing: 10-18-2017

Continuance granted to 28 Mar 2018

Count 1: For exceeding the scope of the paving permit by installing pavers on the City right-of-way.

The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.

21

Case # 17-1213

Erwin Mayer & Didier R Moritz - property owner

1300 15th Court Lot 77

Sec. 90-363 Certificate of Occupancy - required

Sec. 58-61 Determination and levy of charge

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

Officer Jorge Lopez

Certified Service: 11-16-2017 - property owner

Initial Hearing: 12-20-2017

Continuance granted to 28 Mar 2018**Count 1:** For failure to obtain a certificate of occupancy for the addition that was built. **Count 2:** For failure to pay impact fees related to utilities.**Count 3:** For failure to obtain building permits for the addition to the trailer and for the installed plumbing.**The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.**

22

Case # 17-1304

Ray Rolston

1420 Petronia Street 1

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

Officer Jorge Lopez

Certified Service:

Initial Hearing: 2-28-2018

In compliance 1 Feb 2018, request dismissal**Count 1:** For failure to obtain a business tax receipt for selling paintings and frames on website www.rolston.com .**The request to dismiss this case was granted by the Special Magistrate. Compliance was obtained 1 Feb 2018.**

23

Case # 17-1396

Marcia Rock
1331 Duncan Street
Sec. 26-192 Unreasonably excessive noise prohibited
Officer Jorge Lopez
Certified Service: 1-4-2018
Initial Hearing: 1-31-2018

Request dismissal - A civil citation was issued to the violator, Brent Gordon.

Count 1: The city received a complaint of disturbing noise. Officer could hear the loud music inside the complainant's house. **Count 2, 3 and 4 were dismissed**

The request to dismiss this case was granted by the Special Magistrate. A civil citation was issued to the violator, Brent Gordon.

24

Case # 18-113

Richard Dostal
210 Truman Avenue
Sec. 26-126 Clearing of property of debris and noxious material required
Sec. 62-2 Obstructions
Officer Jorge Lopez
Certified Service: 2-9-2018
Initial Hearing: 2-28-2018

Continuance granted to 28 Mar 2018

Count 1: For failure to maintain the property. The yard is overgrown and there is bulk waste in the rear side of the property. **Count 2:** The fence that was blown down is obstructing the sidewalk and the safe passage of pedestrians.

The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.

25

Case # 18-124

Richard & Kelly S Dostal, Estate
208 Truman Avenue
Sec. 26-126 Clearing of property of debris and noxious material required
Officer Jorge Lopez
Certified Service: 2-9-2018
Initial Hearing: 2-28-2018

Continuance granted to 28 Mar 2018

Count 1: For failure to maintain the property. It is overgrown and there are piles of yard debris and bulk waste. This property has previously been cited for the same conditions (Cases 15-918 and 16-1410).

The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.

26

Case # 17-710

AIRBNB, Inc.
Lawyers Incorporating Services 2710
3333 Duck Avenue J204
Sec. 122-1371 D (9) Transient living accommodations in residential dwellings; regulations - Counts 1 thru 7
Officer Kenneth JW Waite
Certified Service: 5-16-2017
Initial Hearing: 7-26-2017

Continued from 31 Jan 2018

Counts 1 - 7: During a routine investigation of the online website www.airbnb.com, the subject property was held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 1 June 2017 through 8 June 2017.

Bart Smith attended the hearing. He stated they had a discussion about a case before the 3rd DCA and the city and myself are requesting a two month continuance to see what happens with that case. The request to continue this case to 25 Apr 2018 was granted by the Special Magistrate.

27

Case # 17-724

AIRBNB, Inc.

Lawyers Incorporating Services 2710

620 Thomas Street 165

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations. D (9) - Counts 1 thru 7

Officer Kenneth JW Waite

Certified Service: 5-16-2017

Initial Hearing: 7-26-2017

Continued from 31 Jan 2018

Counts 1 - 7: During routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 11 June 2017 through 18 June 2017.

See case 17-710.

28

Case # 17-745

AIRBNB, Inc.

Lawyers Incorporating Services 2710

714 Thomas Street

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations. D (9) - Counts 1 thru 7

Officer Kenneth JW Waite

Certified Service: 5-22-2017

Initial Hearing: 7-26-2017

Continued from 31 Jan 2018

Counts 1-7: During a routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 1 July 2017 through 8 July 2017 for a total of \$1,638.00.

See case 17-710.

29

Case # 17-746

AIRBNB, Inc. - Registered Agent

Brian Chesky - CP

Lawyers Incorporating Services 2710

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations (d) (9) - Counts 1 thru 4Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations (d) (9) - Count 5

1207 Florida Street

Officer Kenneth JW Waite

Certified Service: 5-22-2017

Certified Service: 1-5-2018 - Amended Notice of Hearing

Initial Hearing: 7-26-2017

Continued from 31 Jan 2018

AIRBNB, Inc.: Counts 1-4: During a routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 4 nights for the dates of 1 July 2017 through 5 July 2017 for a total of \$551.00. **Count 5:** For unlawful holding out or advertising of a transient rental by an owner, tenant, broker, realtor, agent or other representative of the owner if the property is not permitted.

See case 17-710.

30

Case # 17-751

AIRBNB, Inc.

Lawyers Incorporating Services 2710

3312 Northside Drive 106

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations. D (9) - Counts 1 thru 7

Officer Kenneth JW Waite

Certified Service: 5-22-2017

Initial Hearing: 7-26-2017

Continued from 31 Jan 2018

Counts 1-7: During a routine investigation of the online website www.airbnb.com, the subject property held out for short term rental without the benefit of a transient rental license. The subject property was advertised for 7 nights for the dates of 1 June 2017 through 8 June 2017 for a total of \$808.00.

See case 17-710.

31

Case # 17-866

AIRBNB, Inc

Lawyers Inc Service - Registered Agent

721 Georgia Street A

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations. D (9)

Officer Kenneth JW Waite

Certified Service: 11-15-2017 Amended Notice

Initial Hearing: 7-26-2017

Continued from 31 Jan 2018

Counts 1-7: The subject property was held out/advertised by the respondent for transient rental for 7 nights the dates of 19 June 2017 through 26 June 2017 for a total of \$834.00

See case 17-710.

32

Case # 18-006

Brian Sharples - Director - **Counts 3 through 20**
Corporation Service Company - Registered Agent
D/B/A CSC - Lawyers Inc. - **Counts 3 through 20**

Michael J McMahon - **Counts 1 through 20**

107 Front Street Unit 217

Sec. 18-601 License required - **Irreparable**

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations

Sec. 122-1371 Transient living accommodations in residential dwellings;
regulations (d) (9)

Certified Service: 1-12-2018 - Brian Sharples

Certified Service: 1-17-2018 - Corporate Service Company

Certified Service:

Initial Hearing: 2-28-2018

Continuance granted to 28 Mar 2018

Count 1: During a routine inspection, found a black Cadillac parked in the subjects parking space. Made contact with Frances and Valerie Sirotzki inside the unit. Mrs. Sirotzki forwarded the rental agreement along with all correspondence between the couple, HomeAway and Michael J McMahon. Rental agreement was for 18 nights, dates of 19 Dec 2017 through 6 Jan 2018 for a total of \$21,787.66. **Count 2:** The subject property has not had the requisite fire inspection. Owner has not provided the requisite TDC tax account with Monroe County Tax Collector or DBPR licensing information. There is no medallion for this property. **Counts 3 through 20:** The subject property owner is holding out for transient rental for 18 nights, the date of 19 Dec 2017 through 6 Jan 2018 for a total of \$21,787.66.

The request to continue this case to 28 Mar 2018 was previously granted by the Special Magistrate.

HARC Appeals

33

SMA 17-02

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

Continued from 31 Jan 2018

Van Fischer attended the hearing along with Joe Walsh. Mr. Fischer submitted a Memorandum in Support to the Special Magistrate. The position of Tropical Soup has not changed since the hearing on Jan 31st. We believe that the ruling on the order was unambiguous, that it reversed the decision of HARC which had the effect of changing it to an approval. If there is an approval by HARC it necessarily follows that a certificate of appropriateness is issued. There was no discussion about remand. At the August 30th appeal hearing the appellant specifically requested that the denial be reversed. You (Special Magistrate) went through the five items on the brief and indicated as regard to item 2 which was talking about the inconsistent application of HARC guidelines. Ruled that the appeal should be granted for at least number 2 because the wrong standard was applied. Should have been rehabilitation, not restoration. Regarding item 3, HARC made the decision beyond its' scope of authority, ruled the appeal is granted on that ground as well. The other 3 items were denied as well. I interpreted that as the appeal was reversed and the motion of remand was never raised. Mr. Ramsingh stated that we are here for a very specific issue. My motion for clarification is very simple. You issued an order was issued on October 18th indicating that for the reasons stated, the appellants appeal is hereby granted, HARC denial is hereby reversed. Are you saying City, I'm issuing a mandate for you to issue a certificate of appropriateness or are you saying City, I'm remanding this back to HARC for hearing for the appropriate standard. That is what is not contained in this order. That is what I am seeking clarification on. I will redirect Your Honor back to the email that you drafted on 15 Nov 2017 that was attached to my Motion for Reconsideration where you indicated that it was your desire or intent to send it back to HARC. The Special Magistrate stated that despite what was said in his email and what I wanted to have done, the problem is, as I see it, the order is clear. I didn't say remand or mandate, the parties agreed on the order. I listened to see that the order was compliant with the announced findings and it was. There is nothing left for me to do except to allow one party or the other to take it up on appeal to the Circuit Court if they don't agree with it. When I listened to the tape, I didn't hear a request to remand it back to HARC. In effect, there is a mandate that a certificate of appropriateness be issued.

Adjournment