CITY OF KEY COLONY BEACH, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE

CITY OF KEY COLONY BEACH, FLORIDA,

Petitioner,

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Filed and Recorded in Official Records of
MONROE COUNTY KEVIN MADOK, CPA

v.

1981 10th, LLC and Kobosko Land, LLC
1401 Palm Circle, Lake Clarke Shores FL 33406,

Respondents.

COMPLIANCE ORDER

IN RE: 241 12th Street, Key Colony Beach, Florida 33051
MAILING ADDRESS: 1401 Palm Circle, Lake Clarke Shores FL 33406
PARCEL ID: 00079871-000400
VIOLATION: Unlawful Construction Activities Without the Issuance of a Valid Building Permits under Section 6-6, Code of Ordinances of the City of Key Colony Beach, Florida

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The Code Enforcement Special Magistrate for Key Colony Beach, Florida, having before it the above-referenced Code Violation, Construction Activities Without the Issuance of a Valid Building Permit, (*Building Permit, Chapter 6-6*), the Special Magistrate now issues the following **COMPLIANCE ORDER**.

FINDINGS OF FACT

1. Respondents are the title owners of real property located at 241 12th Street, Key Colony Beach, Florida 33051 (the "Property").

2. On October 10, 2023, the above premises was subject to a major electrical fire, which necessitated emergency response by the fire and police departments. This fire rendered the premises uninhabitable.

3. On October 11, 2023, the Key Colony Beach Building Official was part of an investigation into the origin and causes of this fire. The Key Colony Beach Building Official noted multiple examples of new work performed on the interior of the structure including, but not limited to, new drywall and drop ceiling with water damage from fire suppression, a vanity still in the delivery box, light fixture boxes with installation instructions, an insulation machine, and tools and materials associated with interior remodel of the structure.

4. The Key Colony Beach Building Official also noted severe smoke damage to the upstairs living area including burn scars around light fixtures. Soot from smoke/fire covered interior sections of the structure. There was also severe water damage to upstairs living area associated with attempts at fire suppression, including saturated drywall hanging in pieces and on the floor, insulation hanging and in pieces on the floor, carpets saturated, and water evident on the tile flooring. Portions of the wiring, plumbing, and ductwork in and around the affected areas were destroyed either by fire or by efforts to suppress the fire.

5. The Key Colony Beach Building Official directed the Key Colony Beach Code Enforcement Department to commence code enforcement proceedings against Respondents, which resulted in a public code enforcement violation hearing held on November 8, 2023, alleging the code violation of Construction Activities without a Permit as required by Key Colony Beach Code section 6-6 (1)(b)(d), which work included, but was not limited to, interior remodel, drywall installation, electrical installation, plumbing, framing, and spray insulation installation,

6. Sufficient, competent evidence was produced at hearing of November 8, 2023, to prove by a preponderance of the evidence that the performance of construction work including, but not limited to, interior remodel, electrical work, plumbing, drywall, bathroom repair/remodel, and insulation removal/installation, requires the need for a lawfully issued Building Permit(s) pursuant to Ordinance 6-6 (1)(b) and(d), and is prohibited without said permit(s).

4. Sufficient, competent evidence was also produced at the code violation hearing of November 8, 2023, to prove by a preponderance of the evidence that Respondents did engage in construction activities in the nature of interior remodel, drywall installation, electrical installation, plumbing, framing, and spray insulation installation, without the required, lawfully issued building permit(s) from the City of Key Colony Beach pursuant to Key Colony Beach Code section 6-6 (1)(b)(d), and said construction activities caused a structure fire at this residence, leading to substantial damage to the structure and rendering it uninhabitable.

5. The Code Violation Construction Activities without a Permit as required by Key Colony Beach Code section 6-6 (1)(b)(d) typically carries with it a fine of $250.00 per day. However, because the fire has destroyed much of the residence each instance of unpermitted work could also be deemed "irreparable" under FL. Stat. 162.01-.13, as well as the Key Colony Beach Code, with a maximum penalty for each instance of up to $5,000.00.

CONCLUSION OF LAW

6. The findings of fact above result in a violation of Section 6-6, Code of Ordinances of the City of Key Colony Beach, Florida, described as Construction Activities without the Issuance of a Valid Building Permit.

7. Pursuant to Section 162.09(2)(a), *Florida Statutes*, and Section 1-10, Code of Ordinances of the City of City of Key Colony Beach, a violation of Section 6-6 for Construction Activities Without the Issuance of a Valid Building Permit shall result in the imposition of a fine of $5,000.00 because the fire has destroyed the unit, making the violations "irreparable" under FL. Stat. 162.01-.13, as well as the Key Colony Beach Code.

ORDER FOR COMPLIANCE

1. Based on the foregoing Findings of Fact and Conclusions of Law, the Special Magistrate now finds that Respondent has violated Section 6-6, Construction Activities Without the Issuance of a Valid Building Permit, Code of Ordinances of the City of Key Colony Beach, Florida.

2. The violation of Section 6-6, Construction Activities Without the Issuance of a Valid Building Permit, is deemed to be "irreparable" as fire has destroyed much of the unit, rendering it unhabitable and necessitating demolition and rebuilding. A fine of $5,000.00 is therefore assessed pursuant to 162.09(2)(a), *Florida Statutes*, Section 1-10, Code of Ordinances of the City of City of Key Colony Beach.

3. The City shall waive costs of prosecution.

4. Moving forward, to effectuate a habitable rebuild of the property and bring the property into compliance with Key Colony beach Code provisions, Respondents are hereby ordered to comply with directives of the Key Colony Beach Building Department as follows:

a. Provide the Key Colony Beach Building Department with a detailed description and accounting of ALL work performed on the structure prior to the fire. This will be required to include the fair-market cost of all material, labor, demolition, and disposal associated with the remodel work performed. One Key Colony Beach Substantial Improvement / Substantial Damage worksheet will be required to detail this work and the costs associated with it.

b. Provide the Key Colony Beach Building Department with engineered plans (signed and sealed) drawn by a Florida-licensed design professional for the scope of ALL work required to bring the structure back to habitable status. This includes the roof repair, a floor plan of both floors of the structure, detailed descriptions of work, and Mechanical/Electrical/Plumbing (MEP) plans showing the replacement systems.

c. Provide the Key Colony Beach Building Department with a detailed Key Colony Beach SI/SD worksheet that is required to be completed with ALL work required to return the structure to habitable status. This document and its accompanying information is required to be approved before the permit can be issued. This document is required to have ALL necessary information on it, including the costs of the work prior to the fire, the cost of the remediation permit (including demolition and disposal costs), and the cost of all permits pulled within the last 3 years as part of the Cumulative Substantial Improvement regulations in effect per KCB LDR Section 101-8 and KCB Code of Ordinances Article 1, Section 6-26.

5. If Respondents fail to bring the Property back into compliance by applying for said Permit(s) with City of Key Colony Beach, Florida, within 120 days of the date of this Order, the City shall be authorized to undertake efforts to repair, remediate, and/or clean up the Property such that it may become compliant. The City shall be further authorized to seek reimbursement for its cost to repair, remediation and/or clean up Respondents' Property. Such cost of repair, remediation, and/or clean up may result in a lien being placed against the Property in accordance with Chapter 162, *Florida Statutes*. The City may also otherwise condemn the property pursuant to Key Colony Beach Code, section 6-38 et seq. and proceed as authorized.

6. A certified copy of this Order may be recorded in the Public Records of Monroe County, Florida, and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the Respondents and, if the violation concerns real property, any subsequent purchasers, successors in interest or assigns. A certified copy of an Order Imposing Fine may be recorded in the Public Records of Monroe County, Florida, and once recorded shall constitute a lien against the property upon which the violation exists and upon any other real or personal property

owned by the Respondents. Any such recording and subsequent lien will be satisfied by the subsequent filing of a Compliance Order.

PURSUANT TO SECTION 162.011, *FLORIDA STATUTES*, AN APPEAL OF THIS FINAL ORDER MAY BE FILED IN THE CIRCUIT COURT IN MONROE COUNTY, FLORIDA, WITHIN THIRTY DAYS OF ITS EXECUTION.

DONE and ORDERED this 8th day of November, 2023.

John G. Van Laningham, Special Magistrate

ATTEST:

Silvia Gransee
City Clerk,
City of Key Colony Beach

STATE OF FLORIDA)
) ss.
COUNTY OF)

I hereby certify that on this day, before me an officer duly qualified to take acknowledgements, personally appeared Silvia, Gransee, of the City of Key Colony Beach, to me known to be the person described in and. who executed the foregoing instrument and acknowledged before me that she executed the same. Witness my hand and official seal in the County and State as aforesaid this date 11/8/2023.

Cheryl Baker
Notary Public, State of Florida

CHERYL BAKER
MY COMMISSION # HH 144320
EXPIRES: September 25, 2025
Bonded Thru Notary Public Underwriters

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