

# DOAH MINUTES

CITY OF KEY COLONY BEACH - CODE COMPLIANCE HEARING

Wednesday, December 13, 2023 - 9:30 a.m.

Key Colony Inn Banquet Room, 700 W. Ocean Drive, Key Colony Beach  
& via Zoom Webinar

**A. Call to Order:** The City of Key Colony Beach Code Compliance Hearing was called to order by Judge Van Laningham at 9:30 am followed by the reading of Florida Statutes pertaining to the Hearing. **Present:** Judge Van Laningham, Building Official Lenny Leggett, Code Officer Barry Goldman, Assistant City Attorney Michelle Kane, Administrative Assistant Tammie Anderson, City Clerk Silvia Gransee.

**B. Pursuant to Florida Statutes Section 286.0105,** be advised that, if a person decides to appeal any decision made by the Special Magistrate with respect to any matter considered at today's hearing, that person will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**C. Pursuant to Florida Statute Section 162.07,** if the City of Key Colony Beach prevails in prosecuting a case before the Special Magistrate, the City of Key Colony Beach shall be entitled to recover all costs incurred in prosecuting the case before the Special Magistrate and such costs may be included in the lien authorized under Section 162.06(3), Florida Statutes.

**D. Approval of Minutes**

- i. October 11<sup>th</sup>, 2023, Hearing Minutes
- ii. November 8<sup>th</sup>, 2023, Hearing Minutes

Judge Van Laningham approved the minutes without objection.

**E. Swearing in of Witnesses to Testify:** Judge Van Laningham administered the Oath of Witness to all planning on testifying.

**F. Mitigation Orders Issued/Summary:** None

Judge Van Laningham asked whether any preliminary matters needed to be addressed before the first case began.

Assistant City Attorney Kane asked Judge Van Laningham whether he had received her correspondence regarding the morning's case law.

Code Officer Goldman informed the Court that agenda item 4 had been removed from the agenda.

Assistant City Attorney Kane offered to defer review of the case law until a later time.

Judge Van Laningham shared his thoughts on the case and asked for the City's position. Assistant City Attorney Kane presented her legal argument and confirmed that she preferred to submit it in writing.

Code Officer Goldman confirmed that the parties were present.

Judge Van Laningham asked about the respondent's legal position.

Attorney Hutchinson gave his legal opinion on ownership, provided background on the granted easements, and discussed the obligations and definitions of ownership.

Judge Van Laningham confirmed that there were no objections, and the case proceeded against the other two individuals.

Judge Van Laningham agreed to hear the case first and set a 20-day timeframe for Assistant City Attorney Kane to submit her memorandum.

## **G. CASES FOR TODAY'S HEARING**

1. **Property Address:** 908/918/928 W. Ocean Drive, Key Colony Beach

**Owner(s):** Jody F. Cox (908 W. Ocean)

Kari Ann Tremblay (918 W. Ocean)

Christopher Corso (928 W. Ocean)

Violation: General Construction and Maintenance, Chapter 5, Sections 5-62

The respondents took their seats and introduced themselves to the Judge.

Mr. Campbell spoke on behalf of Kari Ann Tremblay and spoke on his understanding of ownership of the property and easement, communication with the parties on resolving the issue, and the respondent agreeing with the city's position and the duty to maintain the structure.

Judge Van Laningham asked Christopher Corso on his view on the matter.

Christopher Corso gave his understanding of the definition of an easement and stated that it was not his responsibility to repair the property. Christopher Corso further stated to see no reason to repair the sidewalk and had no responsibility in the matter.

Assistant City Attorney Kane stated the city's position that all three property owners have equal access and easements under the deed, and provided more information in the memo.

Judge Van Laningham indicated a better understanding of the issue and Code Officer Goldman to proceed.

Code Officer Goldman presented the case to the judge and explained property features, history of the structure and prior repairs, and informed that the properties 908 and 901 used to be tenants in common property. Code Officer Goldman explained the separation of the properties and gave further details on features and plot lines.

Code Officer Goldman continued explaining property features and attempts by him to resolve the matter between the parties. Code Officer Goldman explained that the respondent Jody Cox was unwilling to resolve the matter and asked for the matter to be filed with the Special Magistrate. Code Officer Goldman talked on locations of boat docks, walkways, easements, and definitions of ownership and corresponding responsibilities.

Code Officer Goldman further stated his understanding of the respondents ownership and the city's perspective on the matter.

Judge Van Laningham asked for clarification of the properties on the map.

Code Officer Goldman explained the locations of the canal, finger docks, plotlines, the respondent's properties, and the city's positions on all owners being equally responsible.

Mr. Campbell had no questions for Mr. Goldman.

Mr. Corso had no questions for Mr. Goldman.

Assistant City Attorney Kane confirmed on no additional comment.

Attorney Hutchinson had no questions and asked to move the evidence into public records. Judge Van Laningham agreed.

The parties had no additional evidence.

Judge Van Laningham agreed to the respondents request to have 10 days to respond once the city has issued its memo.

Christopher Corso gave further thoughts on the use of the property.

Assistant City Attorney Kane asked for permission to submit all property deeds with the memo.

Judge Van Laningham agreed and confirmed agreement for January 5<sup>th</sup> as a deadline to file the memo on behalf of the city and a deadline of January 16<sup>th</sup> for respondent replies.

Judge Van Laningham asked for any additional testimony. Mr. Campbell asked for the submittal of a additional evidence with the response to the City's memo. There were no objections.

There was nothing further and Judge Van Laningham adjourned the case.

2. **Property Address:** 511 3<sup>rd</sup> Street, Key Colony Beach

**Owner:** Peter F. & Blanche Hines

**Violation:** Construction Activities without a Permit, Section 6-6 (1)(b)

Code Officer Goldman asked to proceed with the case against 511 3<sup>rd</sup> Street and stated for the respondents not to be present in person or via Zoom.

Judge Van Laningham a

Code Officer Goldman presented the case to Judge Van Laningham and recalled timelines and the discovery of work without a permit. Code Officer Goldman talked on conversations with the respondents and having explained necessary actions to address the non-compliance to remediation for an after-the-fact building permit. Code Officer Goldman gave further details on conversations, correspondence, meetings, and the main purpose of the reason for non-compliance.

Code Officer Goldman asked for the respondents to provide proper engineering plans, building permits, and a time frame of 90 days to achieve compliance.

Judge Van Laningham gave his understanding that the respondents were more victim than violator and asked for a compliance order to be send to him.

Code Officer Goldman stated for the respondent to have indicated to wanting resolve the issue but for the city to must ask for compliance at this point.

Judge Van Laningham expressed hope for the contractor to be able to make necessary actions for the respondents to come into compliance

Code Officer Goldman confirmed to sent this compliance order over today.

There was no further testimony.

3. **Property Address:** 300 3<sup>rd</sup> Street, Key Colony Beach

**Owner:** Michael D. & Rita E. Smith

**Violation:** Buildings and Property Maintenance, Code Section 6-56, 6-34

Judge Van Laningham asked for introduction to the respondent and asked Mr. Smith for a response. Mr. Smith stated to not dispute the allegations but asked to give a timeline and explanation of events.

Judge Van Laningham asked Code Officer Goldman to proceed.

Code Officer Goldman presented the case to the Judge and asked for compliance for compliance per the first Code Hearing Order of July. Code Officer Goldman stated to have personally observed spalling on the property at question and having asked the owner to bring the property into compliance. Code Officer Goldman testified to have given the respondent lengthy time to bring the property into compliance and explained conversations with the respondent on delay of compliance and the property falling into disrepair.

Code Officer Goldman continued to give timelines of non-compliance and asked for fines and fees to be imposed for non-compliance. Code Officer Goldman further expressed no expectations that a building permit will be asked for.

Judge Van Laningham stated for the matter to be subject of a violation order in July and for the Compliance deadline having expired some time ago. Judge Van Laningham talked about the city's request for retroactive fines in addition to the cost of prosecution.

Code Officer Goldman had nothing further and stated for the Building Department to be available for questions.

The respondent had no questions and expressed for Code Officer Goldman to have been very patient.

Judge Van Laningham asked the respondent for his statement.

Mr. Smith testified on problems with the engineer, the house being vacant, and stated to understand the need for spalling work. The respondent explained family and health emergencies and apologized for non-communication. Mr. Smith asked Judge Van Laningham to waive the engineers report requirements for a building permit. Mr. Smith gave further details on difficulties in communication with the engineer.

The City had no questions.

Building Official Leggett testified for the permit having been approved and to be able to be issued immediately and picked up.

Mr. Smith stated for this not having been communicated to him and asked for what is requested in the report.

Judge Van Laningham informed on the prior orders requirements but for his understanding for the Building Official not holding up the permit based on the issue.

Code Officer Goldman explained the city's position on the property being vacant, examining significant spalling, and explained the purpose for the request of a report to inform of other issues.

Mr. Smith stated to have no problems with fines and commented on ongoing repairs at the neighbor's property.

Judge Van Laningham explained to respondent the importance of picking up the permit to bring the property back into compliance and stop the accumulation of fines. Judge Van Laningham asked the City to submit the proposed Order. Code Officer Goldman agreed.

Mr. Smith asked to submit a summary of emails and correspondence to Judge Van Laningham.

Judge Van Laningham asked for the summary to be provided to the city to be included in the record.

Judge Van Laningham clarified the cost of prosecution and assessment of a daily fine of \$250.00 per day since July.

There was no further testimony.

Judge Van Laningham called for a 10-minutes recess.

The meeting reconvened at 11:50 am.

4. **Property Address:** 210 15<sup>th</sup> Circle, Key Colony Beach  
**Owner:** Monroy Investment, LLC

**Violation:** Construction Activities without a Permit, Section 6-6 (1)(b)(d)

Code Officer Goldman informed no respondents being in attendance in person or via zoom.

Assistant City Attorney Kane called Building Official Leggett to testify.

Building Official Leggett summarized the matter to the judge and gave his observations on the property, building materials, and subsequent discovery of no permit on file.

Assistant City Attorney Kane called Code Officer Goldman to testify.

Code Officer Goldman gave testimony on the submitted evidence and informed of attempted communications with the respondent. Code Officer Goldman continued testimony on posting stop work orders and communication with unidentified individuals on the property regarding work being done. Code Officer Goldman explained the city's request for the property to come into compliance within a timeframe of 30 days instead of 90 days.

Judge Van Laningham agreed with Code Officer Goldman's request and stated to issue the violation order.

5. ~~**Property Address:** 321-331 10<sup>th</sup> Street, Key Colony Beach  
**Owner:** Felipa Carret & Armando Rodriguez~~

~~**Violation:** Vacation Rental without a License, Chapter 9, Sections 9-22, 9-28 **\*\*CANCELLED\*\***~~

Assistant City Attorney Kane informed of now other items on the agenda for the day.

Judge Van Laningham talked on a new motion for a new hearing by Mr. Tobin on behalf of Mr. Harper and asked if the city wants time to respond or to go ahead and make a ruling.

Code Officer Goldman stated to oppose the motion and asked Judge Van Laningham to rule on it.

Judge Van Laningham stated to take up the case for a response.

There was nothing further.

Judge Van Laningham adjourned the hearing at 11:15 am.

Respectfully submitted,

*Silvia Gransee*

City Clerk