

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED STIPULATION FOR SETTLEMENT AND ADDENDUM I AND ADDENDUM II TO STIPULATION FOR SETTLEMENT IN ASSOCIATION FOR DISABLED AMERICANS, INC., ET AL. V. CITY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

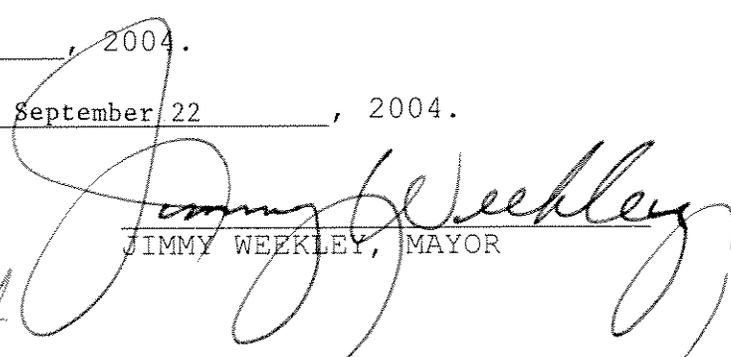
Section 1: That the attached Stipulation for Settlement, Addendum I to Stipulation for Settlement, and Addendum II to Stipulation for Settlement are hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 21 day of September, 2004.

Authenticated by the presiding officer and Clerk of the Commission on September 22, 2004.

Filed with the Clerk September 22, 2004.


JIMMY WEEKLEY, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 03-10005-CIV-KING/O'SULLIVAN

ASSOCIATION FOR DISABLED AMERICANS, INC.,
DANIEL RUIZ, P. MICHELLE WISNIEWSKI,
KATIA DICH, LINDA MURPHY, EUGENE MURPHY,
BELA ZEKY, ANNA COSTELLO and DONNA DEVLIN,

Plaintiffs,

vs.

CITY OF KEY WEST, FLORIDA,

Defendant.

STIPULATION FOR SETTLEMENT

IT IS HEREBY stipulated and agreed by and between Plaintiffs, ASSOCIATION FOR DISABLED AMERICANS, INC., DANIEL RUIZ, P. MICHELLE WISNIEWSKI, KATIA DICH, LINDA MURPHY, EUGENE MURPHY, BELA ZEKY, ANNA COSTELLO and DONNA DEVLIN (jointly referred to herein as "Plaintiffs") and Defendant, the CITY OF KEY WEST, FLORIDA (hereinafter referred to as "Defendant"), as follows:

WHEREAS, Plaintiffs filed this action against Defendant for its alleged violations of Title II of the Americans With Disabilities Act, 42 U.S.C. §12131, *et seq.* ("ADA"), pursuant to which Plaintiffs sought a permanent injunction, attorneys' fees, litigation expenses and costs;

WHEREAS, the aforementioned parties desire to avoid further expense, time, effort and uncertainty in regard to this action;

WHEREAS, Defendant denies that it has violated the ADA;

WHEREAS, subject to the terms set forth herein, Plaintiffs and Defendant have agreed to finally resolve any and all claims and disputes by and between them; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants and undertakings contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto agree to the following terms and conditions as full and complete settlement of this action:

I. Defendant shall cause the following actions to be taken, and the following alterations and improvements to be made to the defendant's properties, facilities, programs, activities, services and accommodations which are the subject of this action:

A. ADA COORDINATOR

I) The defendant shall designate and shall at all times have at least one individual who shall have the responsibility of general ADA coordinator ("ADA Coordinator"). As of the execution of this Stipulation, the acting ADA Coordinator shall be James Malcolm. Mr. Malcolm can be reached at (305) 293-6495 or by mail at Post Office Box 1409, Key West, Florida 33040-1409.

ii) The ADA Coordinator shall be responsible for coordinating the defendant's ADA compliance and shall:

a) Compile, organize, file, and have available to defendant's employees and representatives all necessary and pertinent information and documentation regarding the ADA and the defendant's obligations thereunder.

b) Coordinate the City's efforts to comply with and carry out its responsibilities under the ADA and coordinate the implementation thereof into all policies, procedures and practices that govern the availability and administration of the defendant's programs, activities and services.

d) Continue to conduct, prepare and supplement existing internal ADA surveys, with outside expertise if necessary, regarding implementation of ADA requirements on the City of Key West's facilities, buildings programs and services not specifically addressed herein or subsequently purchased or added by the defendant, and prioritizing the implementation thereof to ensure the quickest benefit to individuals with disabilities by:

- 1) Identifying physical obstacles in the public entities' facilities which are open to the public that limit the accessibility of its programs and activities to individuals with disabilities;
 - 2) Recommend to the City Manager the appropriate personnel to provide, in detail, the methods to be used to make the facilities accessible;
 - 3) Developing the schedule for taking the steps necessary to achieve compliance with this section and, if the time period for the transition is longer than one year, identifying steps that will be taken each year of the transition period;
 - 4) Describing budget appropriations for the then-current fiscal year for the implementation of barrier removal; and
 - 5) All inquiries regarding evacuation procedures shall be referred to the Monroe County Transportation Director at (305)292-4425.
- f) The defendant currently provides and shall continue to provide a certified sign language interpreter for City of Key West meetings, programs, activities and services upon 5 business days notice, except for counsel meetings which shall only require 3 calendar days notice.
- g) The Defendant currently provides and shall continue to provide, to the extent defendant provides to individuals without disabilities, transportation to or from City of Key West meetings, programs, activities or services, to individuals who use wheelchairs and with other mobility impairments.
- h) Continue to work with the Monroe County Supervisor of Elections so that voting locations chosen by the Supervisor of Elections within the City of Key West provide equal physical access for individuals with disabilities.
- iii) Within ninety days after the execution of the Stipulation for Settlement, the defendant's ADA Coordinator, in conjunction with the City Clerk shall implement a program to oversee compliance with the ADA and equal access to individuals with disabilities. The program shall include, without limitation:
- a) A review of City of Key West public meeting procedures and grievance procedures to ensure ADA compliance and that the procedures are available to individuals with disabilities.

1) The grievance procedure will detail the procedures for providing prompt and equitable resolution of complaints alleging any action that would constitute a violation of the requirements of Title II of the ADA pertaining to the programs, activities and services offered by the defendant to the public.

b) Publish at least one time in *KeysNews.com* and the Key West Citizen, notice of the availability of Defendant's ADA grievance procedure. The Defendant's ADA grievance procedure shall also be permanently posted on each employee bulletin board and on at least one City owned community bulletin board in each City community program area, including at the ADA Coordinator's office; the Lobby of City Hall; the City Hall Annex; and on the City's website.

iv) The defendant shall have at least one telephone which shall comply 4.31.9 of Appendix A to 28 CFR part 36 (the "ADAAG") for employee use to communicate with individuals using text telephones. The defendant shall establish a written policy and procedure requiring that each of defendant's operator employees who shall have telephone contact in the ordinary course of their employment duties with persons inquiring as to general information or accessible programs or services offered by defendant shall be required to know how to use the text telephones in order to communicate with individuals using same. The defendant's text telephone number shall be set forth in all brochures, programs and pamphlets distributed by the defendant to the public, and such brochures, programs and pamphlets shall also provide notice that the information is available in alternative formats.

B. RECREATION / PARKS

i) Commencing no later than one hundred and twenty days after the execution of the Stipulation for Settlement, and two times per year thereafter, once before each year's summer programs begin and a second time before the school term programs begin, the Parks and Recreation Director and all Administrative Assistants in the Parks and Recreation Department shall receive information from the ADA Coordinator regarding all services and programs provided by the Parks and Recreation Department to individuals with disabilities. Each such employee shall be directed by the ADA Coordinator to inform any inquiring individual as to the availability of these services and programs.

ii) Pursuant to the City's policy, all employees assigned contact with program recipients of the Parks and Recreation Department shall receive ADA sensitivity training one time per year.

iii) Commencing no later than one hundred and twenty days after the execution of the Stipulation for Settlement, the Parks and Recreation Department shall develop and maintain a directory of accessible programs and services offered by the Parks and Recreation Department. The directory and each update thereof shall be made available to the public and shall be provided to each of defendant's employees who shall have telephone or personal contact with persons inquiring as to accessible parks, programs or services. The Parks and Recreation Department's accessible programs and services shall be listed on the City's website.

iv) The defendant shall establish a written policy and procedure requiring that each of defendant's employees, in no case less than two employees, who have telephone contact in the ordinary course of his/her employment duties with persons inquiring as to general information or accessible programs or services offered by the Parks and Recreation Department shall be required to know how to use the text telephones in order to communicate with individuals using same. The defendant's text telephone number shall be published in all brochures, programs and pamphlets distributed to the public by the Parks and Recreation Department which provide a telephone number for the City.

v) Commencing thirty days after the execution of the Stipulation for Settlement, all subsequently printed materials disseminated by the Parks and Recreation Department for distribution to the general public regarding defendant's programs, activities and services shall contain an access statement. The access statement shall at least include the telephone number and the TDD number or shall state that "to request materials in accessible format, sign language interpreter (5 days advance notice required), or information on access available to individuals with disabilities."

vi) On all permit applications for facilities operated by the Parks and Recreation Department, one copy of the permit application and plans shall be received by the ADA coordinator for review and input to the City's Building Department plan reviewer prior to the permitting.

vii) The City shall continue to provide any electronic information, such as Web sites, in an accessible format which shall include a text only format.

viii) Commencing no later than thirty days after the execution of the Stipulation for Settlement, all special events sponsored by the City of Key West held at facilities or which are temporary in nature, shall have been assessed to assure defendant will provide information for such events in alternate format. Further, when separate parking is made available for special events, the required number of accessible parking spaces will be made available in compliance with 4.1.2(5)(a) and with 4.6 of the ADAAG. All advertising for the event shall comply with 4.27 of the ADAAG. The additional accessibility issues of special event locations shall be addressed

pursuant to the City's transition plan. The City shall establish ADA compliance requirements for all vendors at special events sponsored by the City and shall provide a list of those requirements to all vendors prior to the event. A copy of the list is attached hereto at Exhibit A.

C. BUILDING AND PROGRAM ACCESS

- i) CITY HALL** - The City of Key West City Hall shall be modified to comply with those items identified in the City Hall - Requirements for ADA Compliance, attached hereto as Exhibit B, on or before the date of completion set forth for each item enumerated.
- ii) CITY HALL ANNEX** - The City Hall Annex shall be modified to comply with those items identified in the City Hall Annex - Requirements for ADA Compliance, attached hereto as Exhibit C, on or before the date of completion set forth for each item enumerated.
- iii) POLICE DEPARTMENT** - The Police Department shall be modified to comply with those items identified in the Police Department - Requirements for ADA Compliance, attached hereto as Exhibit D, on or before the date of completion set forth for each item enumerated.
- vii) FIRE STATIONS** - Each of defendant's fire stations located in the City of Key West shall be modified to comply with those items identified in the Fire Stations - Requirements for ADA Compliance, attached hereto as Exhibit E, on or before the date of completion set forth for each item enumerated.
- iv) CITY ATTORNEY & PLANNING DEPARTMENT** - The City Attorney & Planning Department shall be modified to comply with those items identified in the City Attorney & Planning Department - Requirements for ADA Compliance, attached hereto as Exhibit F, on or before the date of completion set forth for each item enumerated.
- v) PORT OPERATIONS, LOCAL REDEVELOPMENT AGENCY & POLICE MARINE DIVISION** - The Port Operations, Local Redevelopment Agency & Police Marine Division facility shall be modified to comply with those items identified in the Port Operations, Local Redevelopment Agency & Police Marine Division - Requirements for ADA Compliance, attached hereto as Exhibit G, on or before the date of completion set forth for each item enumerated.
- vi) INDIGENOUS PARK** - Indigenous Park shall be modified to comply with those items identified in the Indigenous Park - Requirements for ADA Compliance, attached hereto as Exhibit H, on or before the date of completion set forth for each item enumerated.
- vii) CLAYTON STERLING BASEBALL COMPLEX** - The Clayton Sterling Baseball Complex shall be modified to comply with those items identified in the Clayton Sterling

Baseball Complex - Requirements for ADA Compliance, attached hereto as Exhibit I, on or before the date of completion set forth for each item enumerated.

- viii) **BAYVIEW PARK** – Bayview Park shall be modified to comply with those items identified in the Bayview Park - Requirements for ADA Compliance, attached hereto as Exhibit J, on or before the date of completion set forth for each item enumerated.
- ix) **BILL BUTLER PARK** - Bill Butler Park shall be modified to comply with those items identified in the Bill Butler Park - Requirements for ADA Compliance, attached hereto as Exhibit K, on or before the date of completion set forth for each item enumerated.
- x) **DOUGLAS COMMUNITY CENTER** – Douglas Community Center shall be modified to comply with those items identified in the Douglas Community Center - Requirements for ADA Compliance, attached hereto as Exhibit L, on or before the date of completion set forth for each item enumerated.
- xi) **HAMACA PARK** – Hamaca Park shall be modified to comply with those items identified in the Hamaca Park - Requirements for ADA Compliance, attached hereto as Exhibit N, on or before the date of completion set forth for each item enumerated.
- xii) **WICKERS PARK** – Wickers Park shall be modified to comply with those items identified in the Wickers Park - Requirements for ADA Compliance, attached hereto as Exhibit O, on or before the date of completion set forth for each item enumerated.
- xiii) **C.B. HARVEY SMITH REST BEACH** – C.B. Harvey Smith Rest Beach shall be modified to comply with those items identified in the C.B. Harvey Smith Rest Beach - Requirements for ADA Compliance, attached hereto as Exhibit P, on or before the date of completion set forth for each item enumerated.
- xiv) **THE KEY WEST BOTANICAL GARDEN** – The Key West Botanical Garden shall be modified to comply with those items identified in the Key West Botanical Garden - Requirements for ADA Compliance, attached hereto as Exhibit Q, on or before the date of completion set forth for each item enumerated.
- xv) **CITY MARINA AT GARRISON BIGHT PALM AVE.** – City Marina at Garrison Bight Palm Ave. shall be modified to comply with those items identified in the City Marina at Garrison Bight Palm Ave. - Requirements for ADA Compliance, attached hereto as Exhibit R, on or before the date of completion set forth for each item enumerated.
- xvi) **KEY WEST BIGHT** – Key West Bight shall be modified to comply with those items identified in the Key West Bight - Requirements for ADA Compliance, attached hereto as Exhibit S, on or before the date of completion set forth for each item enumerated.

- xvii) **CITY MARINA AT WEST BIGHT** – City Marina at West Bight shall be modified to comply with those items identified in the City Marina at West Bight - Requirements for ADA Compliance, attached hereto as Exhibit T, on or before the date of completion set forth for each item enumerated.
- xviii) **SMATHERS BEACH** – Smathers Beach shall be modified to comply with those items identified in the Smathers Beach - Requirements for ADA Compliance, attached hereto as Exhibit U, on or before the date of completion set forth for each item enumerated.
- xix) **MARTIN LUTHER KING COMMUNITY POOL** – The Martin Luther King Community Pool shall be modified to comply with those items identified in Martin Luther King Community Pool - Requirements for ADA Compliance, attached hereto as Exhibit V, on or before the date of completion set forth for each item enumerated.
- xx) **KEY WEST DOT BUILDING** – The Key West DOT Building shall be modified to comply with those items identified in Key West DOT Building - Requirements for ADA Compliance, attached hereto as Exhibit W, on or before the date of completion set forth for each item enumerated.
- xxi) **VOTING FACILITIES** - Defendant shall send a notice to the Supervisor of Elections requesting accommodations for individuals with mobility or dexterity difficulties including the provision of an accessible voting station at an accessible location at each building or space where voting is presently held within a reasonable proximity, compliant with 4.32 of the ADAAG, which shall provide the same degree of privacy as afforded to all other voters.

D. POLICE DEPARTMENT TRAINING

I) ADA training of the defendant's Police Department officers shall continue and shall have been received by all police officers within the City by July of 2005. The training referenced herein shall also be mandatory for all new officers hired by the Police Department. In accordance herewith,

- a) Each officer shall receive ADA sensitivity training;
- b) The training will include stressing the importance of enforcing those Florida statutes that protect the civil rights of individuals with disabilities and the enforcement of disabled parking requirements; and
- c) The training will include the requirements for the transportation of detainees with disabilities who use wheelchairs, service animals, or other mobility or communication aids.

- ii) Defendant's police department central communications employees who are in contact with the public in the event of an emergency or in the course of his/her normal duties shall continue to be trained on the use of the text telephone (TDD) which is located in the Police Department as required by Exhibit "D" hereto.

E. BUS DRIVER TRAINING

I) The defendant's Transportation Department shall prepare and implement ADA sensitivity training of all of defendant's bus drivers, and provide those individuals with information as to their responsibilities to ensure ADA compliance. The training shall include specific training on the safe operation of the lift equipment and announcing stops per 49 C.F.R. 37.167. The training of all bus drivers shall commence within 30 days after the execution of this Stipulation for Settlement and shall be concluded by December 31, 2004. The ADA sensitivity training shall also be mandatory for all new employees, directors and supervisors. The training shall include ADA sensitivity training, and shall inform such employees of their responsibilities to ensure ADA compliance, and training requiring the employees to obey and be governed by the ADA and all statutory requirements thereunder.

F. DEPARTMENT DIRECTOR, SUPERVISOR AND NEW EMPLOYEE TRAINING

I) The defendant's Personnel Department shall prepare and implement ADA sensitivity training of all of defendant's department directors, supervisors and new employees, and provide those individuals with information as to their responsibilities to ensure ADA compliance. The training of all directors and supervisors shall commence within 30 days after the execution of this Stipulation for Settlement and shall be concluded by December 31, 2004. The ADA sensitivity training shall also be mandatory for all new employees, directors and supervisors who have contact with the public as part of in-service training. The training shall include ADA sensitivity training, and shall inform such employees of their responsibilities to ensure ADA compliance, and training requiring the employees to obey and be governed by the ADA and all statutory requirements thereunder.

ii) The defendant's ADA Coordinator, in conjunction with the Personnel Department, shall implement a program to ensure compliance with the ADA and equal access to individuals with disabilities. The program shall be implemented by December 31, 2004. The program shall include, without limitation:

- a) A review of each City of Key West job description and job program to ensure the description and job availability is not discriminatory against individuals with disabilities. Any non-complying job description or job availability shall be modified to be nondiscriminatory and in compliance with the ADA.

b) A review of all City of Key West employment and promotional criteria and examinations to ensure the description and job availability or promotions are not discriminatory against individuals with disabilities. Any non-complying criteria and examinations shall be modified to be nondiscriminatory and in compliance with the ADA.

G. BUILDING DEPARTMENT - CODE COMPLIANCE

I) The City of Key West shall establish and implement policies and procedures providing for a review for ADA compliance by the Building Department during the plan review stage, prior to the issuance of a building permit, and prior to the issuance of a certificate of occupancy. In performing the plans review and building review, the City examiner/ reviewer shall complete and sign an ADA checklist to assure that accessibility issues were taken into consideration and examined. The Defendant shall provide Plaintiffs with a proposed ADA checklist within sixty (60) days of the execution of this Stipulation for Settlement. Plaintiffs will provide any comments that they may have to the proposed checklist within thirty (30) days. Defendant will take Plaintiffs' input into consideration and incorporate same into the ADA checklist as appropriate.

ii) The defendant's plan reviewer and all inspectors responsible for enforcing the provisions hereof shall receive training no later than December 31, 2004 regarding the ADA matters they are to be implementing. Such training shall also be provided to each new hire or transferee responsible for inspecting ADA and accessibility compliance. The training required hereunder shall be organized and implemented by the Defendant.

H. PROPERTY MANAGEMENT - COMPLIANCE

I) With the exception of the requirements for the buildings and facilities owned, operated or leased by the City of Key West which are specifically addressed in the exhibits hereto, all new buildings and facilities owned, operated or leased by the City of Key West which are open to members of the general public, shall comply in all respects with the ADA and Chapter 553 (§§ 553.501-513) of the Florida Statutes. The City of Key West shall implement any and all necessary policies and procedures to assure the compliance required hereby.

I. ADA GRIEVANCE PROCEDURE

I) The defendant shall enforce the City of Key West Grievance Procedure attached hereto as Exhibit X.

ii) The Grievance Procedure shall be permanently posted on each employee bulletin board and on at least one City owned community bulletin board in each City community program area, including at the ADA Coordinator's office; the Lobby of City Hall; the City Hall Annex.

iii) The Grievance Procedure shall also be published at least one time in *KeysNews.com* and the *Key West Citizen*.

iv) The Grievance Procedure shall be posted on the City's website.

J. ADA NOTICES - CITY CLERK'S OFFICE

I) Commencing no later than thirty days after the execution of the Stipulation for Settlement, all subsequently printed brochures, pamphlets, notices and all other materials disseminated by the defendant and any and all departments and divisions thereof for distribution to the general public regarding defendant's programs, activities and services shall be reviewed by the City of Key West ADA Coordinator or a designee in his/her absence to ensure that all such printed materials properly notify individuals with disabilities about defendant's programs, grievance procedures, policies, accommodations, transportation (to the extent such services are provided to persons without disabilities) and services available to individuals with disabilities.

ii) The City of Key West's ADA Coordinator or a designee in his/her absence shall also ensure that all printed brochures, pamphlets, notices and all other materials disseminated to the public shall contain an access statement. The access statement shall include the telephone number and TDD number and shall state that: "to request materials in accessible format, a sign language interpreter (5 days advance notice required), or information on access available to individuals with disabilities."

K. CITY STREETS, SIDEWALKS AND CURB CUTS

I) Curb Cut Plan – The City shall provide new curb cuts and/or modify existing curb cuts at the locations identified on the City's ADA Transition List. The City shall request that, within ninety (90) days of the date of this Stipulation, the Pedestrian Action Committee provide a suggested priority list of ramps to the Plaintiffs. Within this one hundred and twenty (120) days after the execution of this Stipulation for Settlement, the Plaintiffs shall supply the defendant a list of desired prioritized ramps. The Parties agree that the first areas addressed should be busy commercial districts, such as Mallory Square, Duval Street, Front Street, Green Street and Whitehead Street. If there are any disagreements between the Parties as to the order in which the curb cuts will be provided or modified, they will work together in good

faith to reach an agreement on such issues. The Curb Cut Plan shall be completed on or before August 15, 2007.

- a. All curb ramps constructed and/or modified shall comply with the Federal Highway Administration recommending 24" tactile warning.
- b. Slopes of the curb ramps should be no more than 1:12.
- c. The minimum width of a curb ramps should be 36 inches.
- d. The surfaces of the curb ramps shall comply with ADAAG 4.5.
- e. If the sides of the curb ramps are flared , it will have a slope of no greater than 1:10.
- g. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides.

ii) Accessible Route Plan To and From Government Facilities – The City shall provide at least one accessible route to and from each Government facility. The accessible route shall extend at least eight hundred (800) feet out from the facilities and lead to an accessible parking area in the vicinity. Within one hundred and eighty (180) days after the execution of this Stipulation for Settlement, Defendant shall provide Plaintiffs with a prioritized list of Government facilities at which they will provide accessible routes. Plaintiffs will provide any comments that they may have regarding the prioritized list within sixty (60) days thereafter. Defendant, in good faith, will take Plaintiffs' input into consideration and incorporate same into the priority list as appropriate. Regardless of the time frames set forth in the City's Transition Plan, attached hereto as Exhibit Y, the City agrees that accessible routes to and from the City Hall, City Hall Annex and the Police Station will be completed by August 15, 2007.

- a. The accessible route shall be at least 36" wide.
- b. The accessible route shall have cross-slopes not exceeding 1:50 (2%).
- c. Where the accessible route has a change in level of greater than ¼", but less than ½", Defendant shall bevel the change in level. Where there is a change in level of greater than ½", Defendant shall provide a curb ramp or ramp, as appropriate, which meets the requirements of ADAAG 4.7 and/or 4.8. All ramps and/or curb ramps on the accessible route shall comply with ADAAG 4.7 and/or 4.8, as applicable.

- d. There shall be no obstructions or protruding objects along the accessible route.
- e. The route shall not require persons to go behind parked vehicles, nor into the path of vehicular traffic, except at mark crossings. Such marked crossings shall run as perpendicular as possible to the route being crossed.
- v) Obstructions on City Sidewalks – The City shall enhance its enforcement of codes prohibiting the obstruction of City sidewalks and curb cuts. As an initial measure, the City shall refer all such code violators to a Special Master and assess and pursue fines against violators to the maximum extent feasible. Additionally, the City shall continue to issue public service announcements directed at specific practices which violate the City code, such as tying bikes to poles or trees and blocking passage, and leaving garbage cans, newspaper machines, etc., on City sidewalks and blocking passage.
- vi) State/ County Roads – The City Manager shall provide notice to the State and/or County, as applicable, of the instant ADA litigation and of the requirement that curb cuts be modified when streets are resurfaced. The State and/or County shall also be notified of the requirement for a curb removal/ modification plan including prioritization, time frames and budgetary allocations on roads which have not been resurfaced, but which are still inaccessible due to the lack of accessible curb ramps. The City Manager’s letter should provide adequate information that the failure to comply with the requirements of Title III could expose such entity to litigation.
- vii) Obstruction Of Line-Of-Sight During City Parades - The City shall enhance its enforcement of codes prohibiting the obstruction of the line-of-sight of individuals with disabilities during parades held in the City at which a special viewing area is designated for use by individuals with disabilities.

L. MISCELLANEOUS

1. The alterations and modifications required herein shall be completed timely in all respects as set forth in this Stipulation and the time tables contained in the Exhibits thereto, with the provision that the time lines set forth in the City’s Transition Plan have been calculated depending on a \$500,000.00 dollar annual budget. In the event of unforeseeable construction costs or problems, the time tables are subject to alteration.
2. Any reference within this Stipulation or in the attached Exhibits to the specific requirements of Title II of the ADA, ADAAG, or the Florida Building Code shall be considered amended in the event that the actual code specifications are amended prior to the completion of the work referenced

herein. In the event that the legal requirements change, the City shall comply with new requirements when completing any work designated herein that had not been previously completed.

3. The parties agree to continue to discuss the placement of signage indicating that C.B. Harvey Rest Beach Park provides the most accessible water entrance for individuals with disabilities at other similar inaccessible locations in the City.

4. In the event that the modifications, alterations and other actions required by this Stipulation for Settlement and the Exhibits thereto are not completed or fulfilled timely as set forth herein, Plaintiffs shall give defendant written notice of any provisions of this Stipulation for Settlement which plaintiffs deem not to be in compliance with the terms hereof. Within 30 days after receiving such notice, the Defendant shall respond in writing as to its position on each alleged non-compliance. Within thirty (30) days after receipt of the Plaintiff(s)' notice, representatives for the parties, or counsel for the parties, at the parties' mutual request, will confer via telephone or in person and attempt to resolve the dispute. If the conference process described above does not occur timely or does not resolve the dispute, the matter may be referred by either party to mediation before the United States Magistrate Judge or a neutral third party to whom the parties agree. If mediation does not occur or does not resolve the dispute, the matter may be submitted by any party to the United States Magistrate Judge assigned to this matter for enforcement of the terms hereof. The parties, counsel for the parties, and or the parties' experts may seek recovery of their reasonable fees, expenses and costs in accordance with applicable law.

5. Defendant acknowledges that the Plaintiffs are entitled to recover some fees and costs in relation to this matter, but to date the parties have been unable to agree upon the amount properly allowable. In the event the parties are unable to agree, Defendant acknowledges that the matter may be submitted to the court for determination based on motion and affidavit.

6. This Stipulation for Settlement is contingent upon the approval of the Defendant, City of Key West's, City Commission. If the Stipulation is not approved by the City Commission, it is null and void.

7. Subject to the approval of the City Commission mentioned in the above paragraph, each person executing this Stipulation for Settlement has been authorized to sign on behalf of the respective parties and has authority to bind the party whom he represents to the terms of the Stipulation for Settlement.

8. This Stipulation for Settlement represents a compromise of disputed and uncertain claims and does not constitute an admission of liability on the part of the Defendant. Neither the fact of, nor any action taken hereunder, shall constitute or be construed as an admission with respect to any claim or facts alleged by the Plaintiffs.

9. All demands, notices, requests or other communications required by this Stipulation for Settlement shall be in writing and shall be deemed to have been served when hand delivered or mailed to the applicable address below.

IF TO PLAINTIFFS TO: Todd W. Shulby, P.A.
Todd W. Shulby, Esq.
12555 Orange Drive, Suite 270
Davie, Florida 33330-4304
Telephone No.: (954) 862-1770
Facsimile No.: (954) 862-1769

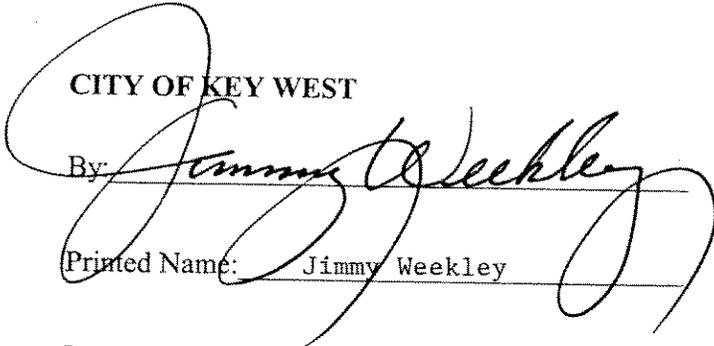
With a copy to: Michael Brennan
Brennan Consulting, Inc.
7955 Biscayne Point Circle
Miami Beach, Florida 33141
Telephone No.: (305) 864-7070
Facsimile No.: (305) 864-4140

IF TO DEFENDANT TO: City of Key West
Mayor
[ADDRESS]
Key West, Florida [ZIP CODE]
Telephone No.: (305)
Facsimile No.: (305)

With a copy to: City of Key West
ADA Coordinator
PO Box 1409
Key West, Florida 33041
Telephone No.:
Facsimile No.:

And with a copy to: Michael T. Burke, Esquire
Johnson, Anselmo, et al
2455 East Sunrise Blvd., #1000
Fort Lauderdale, Florida 33304
Telephone No.: (954) 463-0100
Facsimile No.: (954) 463-2444

CITY OF KEY WEST

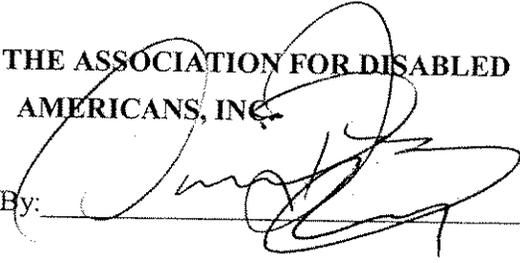
By: 

Printed Name: Jimmy Weekley

Its: Mayor

Dated: September 27, 2004

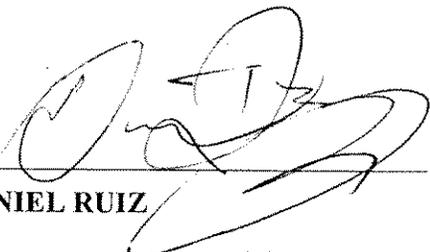
THE ASSOCIATION FOR DISABLED
AMERICANS, INC.

By: 

Printed Name: Daniel Ruiz

Its: President

Dated: 08-18-04



DANIEL RUIZ

Dated: 08-18-04

P. MICHELLE WISNIEWSKI

Dated: _____

KATIA DICH

Dated: _____

LINDA MURPHY

Dated: _____

EUGENE MURPHY

Dated: _____

BELA ZEKY

Dated: _____

ANNA COSTELLO

Dated: _____

DONNA DEVLIN

Dated: _____

DANIEL RUIZ

Dated: _____



P. MICHELLE WISNIEWSKI

Dated: _____

KATIA DICH

Dated: 8/18/04

LINDA MURPHY

Dated: _____

EUGENE MURPHY

Dated: _____

BELA ZEKY

Dated: _____

ANNA COSTELLO

Dated: _____

DONNA DEVLIN

Dated: _____

DANIEL RUIZ

Dated: _____

P. Michelle Wisniewski

P. MICHELLE WISNIEWSKI

Dated: 8/18/04

KATIA DICH

Dated: _____

LINDA MURPHY

Dated: _____

EUGENE MURPHY

Dated: _____

BELA ZEKY

Dated: _____

Anna Costello

ANNA COSTELLO

Dated: 8-19-04

DONNA DEVLIN

Dated: _____

DANIEL RUIZ

Dated: _____

P. MICHELLE WISNIEWSKI

Dated: _____

KATIA DICH

Dated: _____

LINDA MURPHY

Dated: _____

EUGENE MURPHY

Dated: _____

Bela Zeky
BELA ZEKY

Dated: 8/18/04

ANNA COSTELLO

Dated: _____

DONNA DEVLIN

Dated: _____

DANIEL RUIZ

Dated: _____

P. MICHELLE WISNIEWSKI

Dated: _____

KATIA DICH

Dated: _____

LINDA MURPHY

Dated: _____

EUGENE MURPHY

Dated: _____

BELA ZEKY

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ANNA COSTELLO

Dated: _____

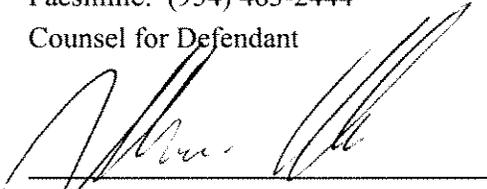


DONNA DEVLIN

Dated: 8-17-04

JOHNSON, ANSELMO, ET AL.

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Telephone: (954) 463-0100
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Counsel for Defendant



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Florida Bar No.: 338771

Dated: 9-30-04

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Counsel for Plaintiffs



TODD W. SHULBY, ESQ.

Florida Bar No.: 068365

Dated: 8/23/04

EXHIBIT A

Special Events Disability Access Punch List

1. Ensure curb cuts and cross walks are kept free and clear for usage, with a continuous accessible route of 44 inches in width.
2. Ensure that any nearby accessible on- or off-street parking (“handicapped parking”) located outside of the event area is not obstructed by vehicles loading/unloading equipment, etc. If such obstructions occur, the city personnel must see that such obstructions are removed immediately.
3. To the maximum extent possible, any and all accessible routes created and/or installed for the special event must have no abrupt change in level in excess of ¼ inch. Where such changes in level are present, properly bevel the change in level at a 1:2 ratio or provide a ramp with a slope not to exceed a 1:12 ratio. Any ramps provided must be in compliance with ADAAG.
4. To the maximum extent possible, a smooth transition between temporary pathways and any ramps, sidewalks, streets, or parking lots should be provided. Any change in level exceeding ¼ inch requires beveling at a 1:2 ratio or the installation of a ramp with a slope not to exceed a 1:12 ratio. Any ramps provided must be in compliance with ADAAG.
5. All cashier counters (counters where money transactions occur) must be no higher than 36 inches maximum above finish floor, for a minimum length of 36 inches.
6. To the maximum extent possible, maintain an accessible route for access to merchandise that is within a vendor space.
7. If merchandise is displayed higher than 48 inches, merchant must provide assistance to disabled customers.
8. To the maximum extent possible, all vendor spaces shall be located on an accessible route that is a minimum of 44 inches wide.

9. If tables and seating are provided for the consumption of food, all aisles adjacent to accessible fixed seating shall provide 30 inch by 48 inch clear floor space for wheelchairs. Where there are open positions along both sides of such aisles, the aisles shall be not less than 52 inches wide.
10. For wheelchair seating spaces provided at tables or counters, knee spaces at least 27 inches high, 30 inches wide, and 19 inches deep shall be provided. The tops of accessible tables and counters shall be from 28 inches to 34 inches above the finish floor or ground.
11. Where food or drink is served at counters exceeding 34 inches in height for consumption by customers seated on stools or standing at the counter, a portion of the main counter which is 60 inches in length minimum shall be provided in compliance with the requirements of Items #9 and #10 above, or service shall be available at accessible tables within the same area.
12. Where portable toilets are provided, an accessible route shall be provided to the toilets. Five percent of the total number of toilets must be accessible. If clusters of portable toilets are distributed throughout the site, then each cluster must have accessible units.
13. If general assembly seating or standing space is provided for audience members attending a public performance at a special event, reserved wheelchair seating must be provided. Such seating must be provided in a location that allows wheelchair users an unobstructed line of sight to the stage. If seating capacity accommodates greater than 300 persons, then accessible seating shall be dispersed throughout the venue.

EXHIBIT B

(City Hall - Requirements for ADA Compliance)

CITY HALL - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit B)

1. Disabled parking has signage mounted too low and can be obscured by a parked vehicle pursuant to ADAAG 4.6.4 and FACBC 11-4.6. (Picture 1)

Correction: Install signage which meets with the requirements of ADAAG 4.6.4 and FACBC 11-4.6. The signage should be relocated/ raised to 84" measured to the bottom of the sign, meet the color and design approved by the Department of Transportation and contain the caption "PARKING BY DISABLED PERMIT ONLY", in accordance with 11.4.6.4 of the Florida Accessibility Code for Building Construction, 2001 Edition (the "FACBC"). Additionally, each accessible parking space should also be signed and marked in accordance with 553.5041 of the Florida Statutes (2001), indicating that violators will be towed ("Tow Away Zone") and subject to the monetary fine applicable in the county and/or municipality which the property is located, and shall otherwise comply with 11.4.6.4 of the FACBC.

2. The path of access leading from the disabled parking to the sidewalk has a slope exceeding 5% therefore requiring handrails pursuant to ADAAG 4.8. (Picture 2)

Correction: Install handrails at those areas exceeding 5% slope for over six feet per ADAAG 4.8 or provide otherwise compliant and accessible disabled parking in accordance with the requirements of Title II of the ADA and ADAAG 4.8;

3. A picnic table is present near the corner of City Hall that is not on an accessible path of access nor does it have an extension at one end for a wheelchair to pull beneath pursuant to ADAAG 4.3 & 4.32. (Picture 3)

Correction: Install a sign at the location identifying the table as "Fire Dept. Personnel Only."

4. The entrance into City Hall from the parking garage lacks requisite signage to the accessible entrance pursuant to ADAAG 4.1.6(1)(h). (Picture 4)

Correction: Provide permanent and prominently displayed signage with the ISA (International Symbol of Accessibility) complying with ADAAG 4.1.6(1)(h), indicating this is not an accessible route and providing the location of the accessible route to the nearest accessible entrance.

5. The entrance into City Hall from the parking garage has stairs without handrails pursuant to ADAAG 4.9. (Picture 4)

Correction: Install handrails on the stairs which meet the requirements of ADAAG 4.9.

6. The unisex restroom facility within the lobby of City Hall has a 24" handrail at the side of the water closet rather than the requisite 42" pursuant to ADAAG 4.16. (Picture 5)

Correction: Install a 42" grab bar at the side of the water closet per ADAAG 4.16.

7. The Human Resources Department is not on an accessible route and has stairs without requisite handrail extensions, two doors without adequate clearance through a single leaf and a suite number without Braille pursuant to ADAAG 4.9, 4.13 & 4.30. (Picture 6)

Correction: As the department is not accessible to an individual in a wheelchair, provide signage at the door indicating a procedure to provide services to individuals with mobility impairments who cannot enter the department per ADAAG 4.1.3(16)(b).

8. City Hall as it is currently functioning effectively precludes an individual with a mobility impairment who uses a wheelchair or other mobility device from becoming an employee should their offices be on the second floor. Segregating such an individual at an accessible worksite is not consistent with integrated settings pursuant to 28 CFR Section 36.203.

Correction: Modify the existing facility to the maximum extent feasible within the existing footprint on the second level recognizing an inability to meet requirements for changes in levels where a step currently exists, inability to modify maneuvering clearances at doors without considerable if not prohibitive structural changes within the existing footprint, but nothing less than adding compliant signage for individuals who are able to access the second level. Members of the public, at their discretion, may request to be served at a fully accessible location. Additionally, serious consideration will be given to correcting any restroom facilities and door hardware for individuals who are able to ambulate but who have poor manual dexterity or limitations to come to

a standing position after use of restroom facilities. This would include commode seats and or pedestals, lowering dispensers, installing accessible faucet controls and reducing door resistance and increasing door delays. The City will continue to implement the most effective, reasonable and appropriate means of providing accessible services to employees within the City Hall.

9. **Old City Hall:** The Key West City Commission meets in Council Chambers on the second floor of the Old City Hall, 510 Green St., Key West, Florida 33040. (See picture labeled Old City Hall) In order to provide program access, issues within the building would need to be addressed either by the City or by demand letter from the City Attorney. Issues requiring modification include but are not limited to the following:

- I. Disabled parking has signage mounted so as to be obscured by parked cars pursuant to FACBC 11-4.6.

Correction: Install signage which meets with the requirements of ADAAG 4.6.4 and FACBC 11-4.6. The signage should be relocated/ raised to 84" measured to the bottom of the sign, meet the color and design approved by the Department of Transportation and contain the caption "PARKING BY DISABLED PERMIT ONLY", in accordance with 11.4.6.4 of the Florida Accessibility Code for Building Construction, 2001 Edition (the "FACBC"). Additionally, each accessible parking space should also be signed and marked in accordance with 553.5041 of the Florida Statutes (2001), indicating that violators will be towed ("Tow Away Zone") and subject to the monetary fine applicable in the county and/or municipality which the property is located, and shall otherwise comply with 11.4.6.4 of the FACBC.

- ii. The disabled parking is improperly configured with poorly delineated striping pursuant to ADAAG 4.6.

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the following:

- A. The parking spaces shall be located closest to the accessible entrance of the facility it serves, and shall be on the shortest accessible route to the entrance of the facility, per ADAAG 4.6.2. If there are multiple entrances to the facilities/ areas on the site then the accessible parking spaces shall be dispersed among the various facilities/ areas.
- B. Each accessible parking space provided by Defendant shall be 12 feet wide

and have an adjacent 5 foot wide access aisle.

- C. Each accessible parking space shall be on a firm surface, as level as possible, striped in white and prominently outlined in blue paint, with the international wheelchair symbol.
 - D. Ramps shall not protrude into the access aisles.
 - E. Each accessible parking space shall be posted with a permanent above-grade sign bearing a pictogram of the international symbol of accessibility, illustrated in Figure 43(a) of the ADAAG, in accordance with 4.30.7 and Figures 43(a) and (b) of the ADAAG, and shall meet the color and design approved by the Department of Transportation, and shall contain the caption "PARKING BY DISABLED PERMIT ONLY", in accordance with 4.6.4 of the Florida Accessibility Code for Building Construction, October, 1997 Edition (the Code). Additionally, each accessible parking space shall also be signed and marked in accordance with §§553.5041(6) and 316.1957(6) of the Florida Statutes (2001), shall indicate that violators will be towed and subject to a \$250.00 fine, and shall otherwise comply with 4.6.4 of the Code.
 - F. In the event a vehicle is found to be parked in an accessible parking space in violation of Florida Statute §316.1955, Defendant or its agent shall take immediate steps to have the owner of the vehicle remove same or have the vehicle removed or moved from the accessible space.
 - G. The accessible parking space(s) shall be located on an accessible route to the facility it serves which complies with ADAAG 4.3.
- iii. Inaccessible routes lack signage indicating the location of the accessible entrances pursuant to ADAAG 4.1.6(1)(h).

Correction: Provide permanent and prominently displayed signage per ADAAG 4.1.6(1)(h) with the ISA (International Symbol of Accessibility) indicating this is not an accessible route and providing the location of the nearest accessible route.

- iv. No accessible restroom facility is available during evening Council meetings pursuant to ADAAG 2.2 & 4.1.6 (3). Other meetings such as Code Enforcement Board, Special Master Hearings/HARC Appeals, Port Advisory Board, Key West

Planning Board Meeting, Civil Service Board routinely hold meetings at this facility.

Correction: Defendant shall provide fully accessible restrooms at the Facility. The first floor restroom shall be unlocked during any meeting within the location and shall be compliant with ADAAG Section 4.22 and Figure 30(a) or 30(a-1) in all respects.

- v. Elevators lack accessible car controls, auditory indicators and Braille pursuant to ADAAG 4.10.

Correction: Demand, via letter, that the State upgrade the elevator to have lowered car controls, lowered call button, an emergency communication system that does not require voice communication, audible indicators, and Braille to the control panel, in conformance with the requirements of ADAAG 4.10. Until such time, the City will provide personnel to operate the elevator during all City Commission meetings.

- vi. The designated seating available for an individual who uses a wheelchair is not sufficient and currently, some wheelchair attendees are compelled to remain within egress aisles, a fire code violation. Additionally, no assistive listening system or signage are present pursuant to ADAAG 4.33.

Correction: Reconfigure existing seating to accommodate individuals who use wheelchairs per ADAAG 4.33. This may include shortening an existing row of seats or eliminating one entirely. Install an assistive listening system and requisite signage notifying of its availability per ADAAG 4.33.

- vii. Currently, no means is available for an individual to approach the podium to address the Commission at either an accessible location or with a hand-held microphone.

Correction: The City will maintain the existing accessible route to the podium and will supply an accessible table adjacent to the microphone per ADAAG 4.32 or install a lower fold down podium per ADAAG 7.2 and make available a microphone within the appropriate reach range per ADAAG 4.2.5.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before April 1, 2005.

EXHIBIT C

(City Hall Annex - Requirements for ADA Compliance)

CITY HALL ANNEX - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit C)

- 1.. The mirror & paper towel dispenser within the unisex restroom facility are both mounted at 61", exceeding the minimum requirement pursuant to ADAAG 4.15 & 4.2. (Pictures 6 & 7)

Correction: Lower towel dispensers to no higher than 48" to the highest operating mechanism. Also, add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower existing mirror to no higher than 40" to the bottom reflective surface per ADAAG 4.19 (any one of the above would fulfill the requirement for mirrors).

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects by December 31, 2004.

EXHIBIT D

(Police and Fire Department - Requirements for ADA Compliance)

POLICE AND FIRE DEPARTMENT REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit D)

1. Recognizing the importance of a training program for police personnel that emphasizes the implications of current statutes upon individuals with disabilities, the City shall continue to train all police officers and police aides on statutes directly impacting individuals with a disability within the municipality and assure their application and enforcement. Requirements for the training should include the following:
 - A. The City shall train or re-train the City's Police Department officers and all new officers hired by the Police Department with respect to the following:
 - I. the importance and responsibility of enforcing those Florida statutes that protect the civil rights of individuals with disabilities and the enforcement of disabled parking requirements;
 - ii. the importance and responsibility of enforcing the requirements of Section 316.1977 of the Florida Statutes (the removal of any vehicle not displaying the required handicapped permit);
 - iii. inform all trainees that pursuant to Florida Statute §320.080, if a vehicle bearing or containing a disabled parking permit which is not being driven or otherwise occupied by the individual with a disability to whom the permit is validly issued, the handicapped decal shall be confiscated and an appropriate ticket issued;
 - iv. the importance and responsibility of enforcing the requirements of Section 316.1977 of the Florida Statutes, the removal of any vehicle not displaying the required handicapped permit.
 - B. The training should include any other applicable ordinances or statutes specifically but not limited to:

- I. Sec. 70-122. Violation of handicapped parking spaces.
- ii. 775.082 or s. 775.083. Traffic regulations to assist blind persons.—(White Cane Law)
- iii. Sec. 70-661. Personal assistive mobility devices prohibited.
- iv. Sec. 70-116. Prohibited parking.

C. Defendant's Police Department shall continue to train police officers and other personnel in order to assure the proper transportation of any individual with a disability who is being detained or in custody who requires the use of a wheelchair, scooter or other mobility aid. The training shall continue to include the requirements for the transportation of detainees with disabilities who use service animals, or other mobility or communication aids; and,

D. The City's Police Department central communications employees who are in contact with the public in the event of an emergency or in the course of his/her normal duties shall continue to be trained on the use of the text telephone (TDD) to be placed in the Police Department.

- 2. Waste receptacles located within the Police Station restrooms are fixed to the wall and encroach upon the maneuvering clearances at the entrance door precluded by ADAAG 4.13. (Picture 32)

Correction: Defendant shall provide and maintain maneuvering clearances at all doors per ADAAG 4.13. The waste receptacle can be mounted on the sidewall outside of the door's maneuvering clearances, maintaining toe clearance beneath the waste receptacle of at least 12".

- 3. Exterior doors at the restrooms have excessive resistance pursuant to ADAAG 4.13.

Correction: Defendant shall adjust and maintain the resistance on the restroom doors so that the maximum opening force for pushing or pulling open a door is 5 lbs. ADAAG 4.13.11. The door closers shall also be adjusted and maintained so that from an open position of 70 degrees, the door will take at least 3 seconds to move to a point 3 inches from the latch, measured to the leading edge of the door. ADAAG 4.13.10.

COMPLETION - The alterations and modifications required in Sections 2 and 3 of this Exhibit shall be completed in all respects by December 31, 2004. The requirements of Section 1 shall be evaluated on or before February 15, 2005.

EXHIBIT E

(Fire Departments - Requirements for ADA Compliance)
FIRE DEPARTMENTS - REQUIREMENTS FOR ADA COMPLIANCE
(Exhibit E)

Central Station - 1600 North Roosevelt
Station 2 - 525 Angela Street
Station 3 - 1525 Kennedy Dr

1. No designated disabled parking is present at the Fire Stations pursuant to ADAAG 4.6. (Pictures 34 & 37)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

2. Neither of the restroom facilities within the fire station have compliant grab bars at the commode pursuant to ADAAG 4.16. (Pictures 35 & 40)

Correction: Install compliant grab bars complying with ADAAG 4.16 at the commodes. The side approach restroom meets the need of individuals who use a wheelchair and could be the designated restroom for the facility. If so designated, the other restrooms would not require any changes. The other restrooms should have the same requirements for signage, dispensers and lavatory as described below.

3. No compliant restroom signage is present at either of the restrooms within the fire station pursuant to ADAAG 4.30. (Pictures 36 & 38)

Correction: Provide signage complying with ADAAG 4.30 with the requisite wheelchair pictogram and with Braille.

4. Restroom facilities have the inaccessible door hardware pursuant to ADAAG 4.13.9. (Pictures 36 & 38)

Correction: Install compliant door hardware meeting the requirements of ADAAG 4.13.9.

5. The lavatory lacks clearance beneath as legs are present and block the clearance. The lavatory lacks insulated pipes and the mirror is mounted above the requisite 40" pursuant to ADAAG 4.19. (Picture 39)

Correction: Remove the legs from beneath lavatory to provide knee clearance and insulate pipes pursuant to ADAAG 4.19. Also, add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower existing mirror to 40" to the bottom of the reflective surface pursuant to ADAAG 4.19 (any one of the above would fulfill the requirement for mirrors).

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before July 15, 2005.

EXHIBIT F

(City Attorney and Planning Department - Requirements for ADA Compliance)
**CITY ATTORNEY AND PLANNING DEPARTMENT - REQUIREMENTS FOR ADA
COMPLIANCE**
(Exhibit F)

1. The City Attorneys Office is a tenant in a facility. The entrance lacks properly located Braille signage as to the Street number, doors into the facility have inadequate width, inaccessible door hardware, no level 5 X 5 landing and excessive slope at the entrance pursuant to ADAAG 4.13 & 4.3. (Pictures 9 & 10)

Correction: Install Braille plugs at 60" on the wall on the latch side of the door. Additionally, provide notification not only at the entry regarding any policy of accommodation for alternate locations, but additionally on the City website.

2. No accessible elements are present within the downstairs restroom facility, including no grab bars at the commode, inadequate maneuvering clearances, inaccessible door hardware, mirrors and dispensers outside of reach parameters, no Braille signage, and pipes beneath lavatory pursuant to ADAAG 4.22. (Pictures 8 -12)

Correction: Remove barriers to the maximum extent feasible within the existing footprint by installing compliant faucet controls, insulation to lavatory pipes, a lowered mirror, add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower the existing mirror so that the bottom reflective surface is no higher than 40" pursuant to ADAAG 4.19 (any one of the above options for the mirrors would fulfill the requirement for mirrors), lower dispensers, and modify grab bars to provide a 36" grab bar at the back and 42" grab bar at the side, and raised seat or pedestal for the commode, compliant hardware for individuals with mobility or dexterity limitations and persons of short stature who are able ambulate and be seen at the premises, all pursuant to ADAAG 4.22.

3. Handrails at the stairs leading to the attorney's office lack requisite handrail extensions pursuant to ADAAG 4.9. (Picture 13)

Correction: Install accessible handrails with extensions which are at least 18" complying with ADAAG 4.9, so long as the installation of the handrails does not violate egress codes.

4. The Planning Department is a tenant space within an inaccessible facility with double leaf doors not having a single leaf of 32", inaccessible restroom facilities lacking a raised commode, requisite grab bars, an accessible lavatory, mirrors & controls pursuant to ADAAG 4.22. (Pictures 14-17)

Correction: Establish a policy of accommodation/assistance for individuals who use a wheelchair to enter the inaccessible entryway and inadequate double leaf doors. Members of the public, at their discretion, may request to be served at a fully accessible location. Issue the landlord/owner a demand letter requiring inaccessible facilities be made accessible to the maximum extent feasible within the existing footprint; specifically, installing compliant faucet controls, insulation to lavatory pipes, a lowered mirror, add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower the existing mirror to 40" to the bottom reflective surface per ADAAG 4.19 (any one of the above would fulfill the requirement for mirrors), lower dispensers, and modify grab bars to provide a 36" grabbar at the back and 42" grabbar at the side, and raised seat or pedestal for the commode, and compliant hardware for individuals with mobility or dexterity limitations and persons of short stature who are able ambulate and be seen at the premises, all in compliance with ADAAG 4.22.

COMPLETION - The alterations and modifications required by this Exhibit shall be incorporated within the Transition Plan and completed on or before April 15, 2007.

EXHIBIT G

(Port Operations, Local Redevelopment Agency, and Police Marine Division - Requirements for ADA Compliance)

PORT OPERATIONS, LOCAL REDEVELOPMENT AGENCY, AND POLICE MARINE DIVISION - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit G)

1. No disabled parking spaces are located within the parking lot pursuant to ADAAG 4.6. (Picture 18)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

2. Handrails at the ramp lack requisite handrail extensions pursuant to ADAAG 4.8. (Picture 19)

Correction: Install handrails complying with ADAAG 4.8.

3. Within Port Operations the maneuvering clearances at the restroom entrances are encroached upon by the kitchen appliances precluded by ADAAG 4.13. (Picture 22)

Correction: Provide maneuvering clearances at the restroom doors which complies with ADAAG 4.13 and Figure 25. Remove/relocate refrigerator.

4. Clear floor space beneath the lavatory is blocked by stored items and pipes are not insulated pursuant to ADAAG 4.19. (Picture 23)

Correction: Remove/relocate stored items to provide the requisite knee clearance and insulate the pipes per ADAAG 4.19.

5. The paper towel dispenser is mounted beyond reach parameters pursuant to ADAAG 4.2. (Picture 24)

Correction: Lower the paper towel dispenser to meet the requirements of ADAAG 4.2.

6. Faucet controls are inaccessible pursuant to ADAAG 4.21. (Picture 25)

Correction: Provide accessible faucet controls per ADAAG 4.21.

7. Clear floor space is blocked with a storage cabinet as precluded by ADAAG 4.22. (Picture 26)

Correction: Remove/relocate cabinet to allow knee clearance beneath the lavatory per ADAAG 4.22 and Figure 31. Insulate the pipes beneath the lavatory if necessary per ADAAG 4.19.

8. Signage for restrooms in both the Local Redevelopment Agency & Police Marine Division is not present pursuant to ADAAG 4.30. (Picture 27)

Correction: Provide signage with the requisite wheelchair pictogram and with Braille which otherwise complies with ADAAG 4.30 with regard to its appearance and location.

9. Clear floor space beneath the lavatory is blocked by items stored beneath the lavatory as precluded by ADAAG 4.19. (Picture 28)

Correction: Remove or relocate the stored items to provide the requisite clear floor space beneath the lavatory and maintain the space free of obstructions, per ADAAG 4.19.

10. Clear floor space and maneuvering clearances are encroached by cabinets within the restroom, as precluded by ADAAG 4.22. (Picture 29)

Correction: Remove or relocate the cabinet and maintain the clear floor space and maneuvering clearance free of obstructions, per ADAAG 4.22.

11. The exterior tented area with picnic tables lacks an accessible picnic table with an extended top per ADAAG 4.32. (Picture 31)

Correction: Install an accessible route meeting the requirements of ADAAG 4.3 to the picnic table area with maneuvering space and a seating position of at least 30" X 48" at the table on a firm surface which meets the requirements of ADAAG 4.5. Modify the picnic table to comply with ADAAG 4.32. Among other things, the table(s) provided shall have a table top at a height of no more than 34", knee clearance of at least 27" and 19" depth.

COMPLETION- The alterations and modifications required by this Exhibit shall be completed in all respects no later than December 31, 2004.

EXHIBIT H

(Indigenous Park - Requirements for ADA Compliance)

INDIGENOUS PARK - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit H)

1. Handrail extensions lack the requisite length as they are less than 6" when 18" is required pursuant to ADAAG 4.8. (Picture 106)

Correction: Install handrail in compliance with ADAAG 4.8 and in accordance with the Florida Building Code.

2. While a unisex facility has been newly installed, the flush of the commode is not on the wide side pursuant to ADAAG 4.16. (Picture 107)

Correction: Relocate the flush to the opposite side (i.e. the wide side) of the commode, per ADAAG 4.16, or replace the commode with one that is compliant per ADAAG 4.16.

3. Paper towels are located beyond reach parameters pursuant to ADAAG 4.2 & 4.27. (Picture 108)

Correction: Lower the paper towels or add an additional dispenser at a height not exceeding 48 inches, in accordance with 4.2.5, Figure 5(a) and 4.27 of the ADAAG.

4. Existing ramps remain without requisite handrails and their extensions pursuant to ADAAG 4.8. (Picture 109)

Correction: Install handrail in compliance with ADAAG 4.8 and in accordance with the Florida Building Code.

5. Newly installed or recently modified ramps lack requisite handrails and their extensions pursuant to 4.8. (Picture 110)

Correction: Install handrail in compliance with ADAAG 4.8 and in accordance with the Florida Building Code.

6. Door hardware for the ADA Coordinator and the Indigenous Park Office lacks accessibility as it requires grasping and twisting pursuant to ADAAG 4.13. (Picture 111)

Correction: Install compliant door hardware which meets with the requirements of ADAAG 4.13.

7. Inadequate maneuvering clearance is present at the door in order to provide room to swing around the door and into the opening pursuant to ADAAG 4.13. (Picture 111)

Correction: Modify door or reverse door swing, so that maneuvering clearance meets the requirements of ADAAG 4.13. If necessary, Defendant shall provide an automatic or power-assisted door which meets with the requirements of ADAAG 4.13.12.

8. All ramps have inaccessible routes at the foot of the ramps as mulch or chips preclude access for individuals who use a wheelchair. (Pictures 112 & 113)

Correction: Install boardwalk, brick pavers, asphalt pathway, composite or other accessible surface/ route to the ramps which is at least 36" in width and otherwise complies with ADAAG 4.3 and 4.5. At the ramp leading toward the bird house, the City will install signage as follows "No Public Access," with a sign directing individuals to an accessible route.

9. Inaccessible routes lack signage indicating the location of the accessible entrances pursuant to ADAAG 4.1.6(1)(h). (Picture 114)

Correction: Provide permanent and prominently displayed signage with the ISA (International Symbol of Accessibility) indicating this is not an accessible route and providing the location of the nearest accessible route per ADAAG 4.1.6(1)(h).

10. The Wildlife Rescue lacks an accessible path of access pursuant to ADAAG 4.3. (Picture 115)

Correction: Install boardwalk, brick pavers, asphalt pathway, composite or other accessible surface and accessible route per ADAAG 4.3 to the area with maneuvering space for a wheelchair user of no less than 30" X 48" per ADAAG 4.2.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before April 15, 2005.

EXHIBIT I

(Clayton Sterling Baseball Complex - Requirements for ADA Compliance)

CLAYTON STERLING BASEBALL COMPLEX - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit I)

1. Disabled parking lacks requisite signage and existing signage is not mounted at 84" above the finish floor nor is the disabled parking nearest the accessible entrance pursuant to ADAAG 4.6.4 and FACBC 11-4.6. (Picture 5))

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

2. Gates into the field as well as to the players' dugout lack adequate width for a person who uses a wheelchair pursuant to ADAAG 4.3. (Pictures 6, 8 and 9)

Correction: Ensure that a minimum 32 inch access to the field and an accessible route to the dug-out is provided. clearance to the field. Provide an accessible route to the dugouts, per ADAAG 4.3.

3. Ramps serving the bleachers lack both handrails and their extensions pursuant to ADAAG 4.8.

Correction: Install 18" handrail extensions which otherwise meet the requirements of ADAAG 4.8 or replace the existing handrails with handrails which have 18" extensions and otherwise meet the requirements of ADAAG 4.8.

4. The concession window does not provide lowered section and height no higher than 36" pursuant to ADAAG 7.2. (Picture 12)

Correction: Defendant shall provide accessible counters at the concession facility in compliance with ADAAG 7.2. The counter shall be located on an accessible route pursuant to ADAAG 4.3.

1. Defendant shall either lower the entire counter or provide a lowered section of the counter, which is at a maximum height of 36 inches above the finished floor, at least 36 inches in length, and at least 12 inches in depth. ADAAG Sections 7.2 and 4.2.4.

2. As an alternative to lowering the existing counter, Defendant may provide a fold-down shelf for use by patrons with disabilities that is at maximum height of 36 inches above the finished floor, at least 36 inches in length, and at least 12 inches in depth. ADAAG Sections 7.2, 4.2.4 and 4.32; 28 C.F.R. §36.305. If a fold-down shelf is provided, then signage notifying the patrons of the accommodation shall be permanently affixed at the counter with the international symbol of accessibility, together with wording advising that assistance is available on request. ADAAG 4.30.

5. Signage for the restrooms are improperly mounted as they are not on the wall next to the door. (Picture 13)

Correction: Install signage at 60" on latch side of door which otherwise complies with ADAAG 4.30.

6. Lavatories lack pipes with insulation pursuant to ADAAG 4.19. (Picture 14)

Correction: Insulate or otherwise protect pipes in compliance with ADAAG 4.19.

7. Picnic tables that provide adequate depth for an individual a wheelchair to pull 19" beneath the tabletop are not on an accessible route pursuant to ADAAG 4.3. (Picture 15)

Correction: Picnic table(s) shall be relocated to an accessible location meeting the requirements of ADAAG 4.3 with maneuvering space and a seating position of at least 30: X 48" at the table on a firm surface which meets the requirements of ADAAG 4.5. Modify the picnic table to comply with ADAAG 4.32. Among other things, the table(s) provided shall have a table top at a height of no more than 34", knee clearance of at least 27" and 19" depth.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before July 15, 2005.

EXHIBIT J

(Bayview Park - Requirements for ADA Compliance)

BAYVIEW PARK - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit J)

1. No path of access is present to the bleachers pursuant to ADAAG 4.3. (Picture 52)

Correction: Provide an accessible route to the bleachers and accessible seating areas/ wheelchair locations which meets the requirements of ADAAG 4.3 and 4.5 and provide seating areas/ wheelchair locations for persons using wheelchairs per ADAAG 4.33. Each set of bleachers shall have the number of accessible seating areas/ wheelchair locations as required by and in accordance with 4.33.1 and 4.1.3(19) of the ADAAG, in proportion to the total number of seats in each respective set of bleachers. Each accessible seating area/ wheelchair location shall provide a minimum clear ground or floor space of not less than 66 inches wide and 48 inches deep (where a forward or rear approach is available) or 66 inches wide and 60 inches deep (where a side approach is available), in accordance with 4.33.2 and Figure 46 of the ADAAG. The accessible seating areas/ wheelchair location(s) shall provide a line of sight comparable to that offered to the general public per ADAAG 4.33 and 2.2. At least one companion fixed seat shall be provided next to each accessible seating area/ wheelchair location, in compliance with 4.33.3 of the ADAAG.

2. At Bayview Park picnic tables are present that have no path of access for an individual who uses a wheelchair or seating at the picnic tables for wheelchair user as fixed benches are present without adequate 19-inch depth at the ends of the tables per ADAAG 4.32. (Picture 53 & 55)

Correction: Picnic table(s) shall be relocated to an accessible location. Modify the picnic table to comply with ADAAG 4.32. Among other things, the table(s) provided shall have a table top at a height of no more than 34", knee clearance of at least 27" and 19" depth.

3. No path of access is present to the basketball court per ADAAG 4.3. (Picture 56)

Correction: Provide an accessible path of access which is at least 36" wide and otherwise complies with ADAAG 4.3 to the basketball courts.

4. At Bayview Park, neither of the pavilions has stairs with handrails and requisite handrail extensions pursuant to ADAAG 4.9. (Picture 58)

Correction: Modify handrails at the stairs in compliance with ADAAG 4.9 and to become level at the top and bottom landings for 18" per ADAAG 4.9.

5. At Bayview Park, no access is present for an individual who uses a wheelchair to either of the pavilions as precluded by ADAAG 4.3. (Picture 58)

Correction: Provide an accessible route which meets the requirements of ADAAG 4.3 to at least one of the two pavilions, including an accessible ramp (ADAAG 4.8) or platform lift (ADAAG 4.13.12) on an accessible route (ADAAG 4.3) to the pavilions.

6. At Bayview Park, restrooms lack tactile signage with pictograms in Braille pursuant to ADAAG 4.30. (Picture 59)

Correction: Install proper signage per ADAAG 4.30.

7. At Bayview Park, no lowered mirror is present within the restrooms pursuant to ADAAG 4.19. (Picture 60 & 61)

Correction: Add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower existing mirror to 40" to the bottom reflective surface (any one of the above would fulfill the requirement) per ADAAG 4.19.

8. At Bayview Park, pipes are not insulated beneath lavatories pursuant to ADAAG 4.19. (Picture 61)

Correction: Insulate or otherwise protect pipes beneath the sinks per ADAAG 4.19.

9. At Bayview Park, the soap dispenser is beyond reach parameters precluded by ADAAG 4.2 & 4.27. (Picture 61)

Correction: Lower the soap dispensers per ADAAG 4.2 and 4.27.

10. At Bayview Park, the toilet paper dispensers are not mounted at 19 inches and block the requisite clearance above the grab bar as precluded by ADAAG 4.16. (Picture 62)

Correction: Lower toilet paper dispenser to 19" above the finish floor and 36" from the back wall per ADAAG 4.16. Remove the dispenser from above the grab bar.

11. At Bayview Park, stall doors within the restroom are not self-closing pursuant to ADAAG 4.17. (Picture 63)

Correction: Adjust door assuring it is self-closing per ADAAG 4.17 and the Florida

Accessibility Code. Alternatively, install a door closer.

12. At Bayview Park, no path of access or compliant surface is present to the playground equipment or elements thereof pursuant to ADAAG 4.3. (Picture 64)

Correction: Install an accessible route on an accessible surface meeting the requirements of ADAAG 4.3 and 4.5 to at least one accessible element per component of the play facilities per ADAAG 4.3 and 28 CFR Section 32.202.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before July 15, 2005.

EXHIBIT K

(Bill Butler Park - Requirements for ADA Compliance)

BILL BUTLER PARK - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit K)

1. No path of access is present to the playground facilities pursuant to ADAAG 4.3.
(Picture 65)

Correction: Install an accessible route on an accessible surface meeting the requirements of ADAAG 4.3 and 4.5 to at least one accessible element per component of the play facilities per ADAAG 4.3 and 28 CFR Section 32.202.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before August 15, 2005.

EXHIBIT L

(Frederick Douglas Community Center - Requirements for ADA Compliance)

FREDERICK DOUGLAS COMMUNITY CENTER -

REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit L)

1. The entrance into Commissioner Turner's office has inaccessible door hardware, has a change in level in excess of 2" and lacks Braille pursuant to ADAAG 4.13.9, 4.3 & 4.30. (Picture 67)

Correction: Signage shall be provided giving directions to an accessible entrance per ADAAG 4.30.

2. Showers in the restroom lack any fixed bench to the wall, grab bars and handheld showerhead per ADAAG 4.21. (Pictures 69 & 70)

Correction: Install a fixed seat, a handheld showerhead and grab bars within the shower in compliance with ADAAG 4.21.

3. The baby changing station is mounted above reach parameters, lacks accessible hardware and is such that an individual of short stature or uses a wheelchair would be unable to use it pursuant to ADAAG 4.2 & 4.27. (Picture 71)

Correction: Lower the changing station to no higher than 34" and install compliant hardware per ADAAG 4.2, 4.27 and 4.13.9.

4. The lavatory in the men's restroom lacks adequate clearance beneath as there are two support legs and pipes that are not insulated pursuant to ADAAG 4.19. (Picture 72)

Correction: Remove the support legs from beneath lavatory or replace the lavatory and insulate the pipes beneath the lavatory per ADAAG 4.19 and Figure 31.

5. Coat hooks are mounted above reach parameters pursuant to ADAAG 4.2. (Picture 73)

Correction: Lower the coat hook or add an additional coat hook at a height not exceeding 48 inches, in accordance with 4.2.5 and Figure 5(a) of the ADAAG.

6. A stage is present in the gymnasium that is inaccessible individuals with mobility impairments or use a wheelchair pursuant to ADAAG 4.33. (Picture 74)

Correction: Install ramp or platform lift or otherwise provide an accessible route to the stage

per ADAAG 4.3 and 4.33.

7. The drinking fountain has stairs in front that preclude use by an individual using a wheelchair pursuant to ADAAG 4.15. (Picture 75)

Correction: Install a paper cup dispenser that is within the reach ranges of ADAAG 4.2 and 4.27 with cups that do not come to cone or point but rather a round bottom or otherwise make the drinking fountain accessible per ADAAG 4.15.

8. The men's restroom door lacks compliant hardware and has no signage properly mounted with the pictogram and Braille pursuant to ADAAG 4.13 & 4.30. (Picture 76)

Correction: Install compliant hardware and signage per ADAAG 4.13 and 4.30, respectively.

9. The women's restroom has a lavatory that lacks adequate clearance beneath with two legs and without insulated pipes pursuant to ADAAG 4.19. (Picture 77)

Correction: Remove the support legs from beneath lavatory and insulate the pipes per ADAAG 4.19 and Figure 31.

10. All other elements within the women's restroom are identical to the men's restroom.

Correction: Make the same corrections as required for the men's restroom. See above.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before April 15, 2005.

EXHIBIT M
(Intentionally Omitted)

EXHIBIT N

(Hamaca Park - Requirements for ADA Compliance)

Hamaca PARK - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit N)

1. No path of access is available to the picnic tables for individual uses a wheelchair pursuant to ADAAG 4.2. (Pictures 82 & 83)

Correction: Install an accessible route meeting the requirements of ADAAG 4.3 to the picnic table area with maneuvering space and a seating position of at least 30" X 48" at the table on a firm surface which meets the requirements of ADAAG 4.5. Modify the picnic table to comply with ADAAG 4.32. Among other things, the table(s) provided shall have a table top at a height of no more than 34", knee clearance of at least 27" and 19" depth.

2. Parking is present without any designated for disabled parking pursuant to ADAAG 4.6. Where disabled parking is provided, it would require a stable and firm surface, such as a pad of asphalt pursuant to ADAAG 4.6 & 4.5. (Picture 84)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

3. Trails are present but do not provide an accessible route for individuals using a wheelchair pursuant to ADAAG 4.5 & 4.3. (Picture 85)

Correction: Install boardwalk, brick pavers, asphalt pathway, composite path or other accessible surface/ route pursuant to ADAAG 4.5 and 4.3 which is at least 36" in width, to the boardwalk and install a 5' turn around at the end of the boardwalk.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before August 15, 2006.

EXHIBIT O

(Wickers Field - Requirements for ADA Compliance)

WICKERS FIELD - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit O)

1. No path of access is present to the bleachers at the baseball field pursuant to ADAAG 4.3. (Picture 42)

Correction: Provide an accessible route to the bleachers and accessible seating areas/ wheelchair locations which meets the requirements of ADAAG 4.3 and 4.5 and provide seating areas/ wheelchair locations for persons using wheelchairs per ADAAG 4.33. Each set of bleachers shall have the number of accessible seating areas/ wheelchair locations as required by and in accordance with 4.33.1 and 4.1.3(19) of the ADAAG, in proportion to the total number of seats in each respective set of bleachers. Each accessible seating area/ wheelchair location shall provide a minimum clear ground or floor space of not less than 66 inches wide and 48 inches deep (where a forward or rear approach is available) or 66 inches wide and 60 inches deep (where a side approach is available), in accordance with 4.33.2 and Figure 46 of the ADAAG. The accessible seating areas/ wheelchair location(s) shall provide a line of sight comparable to that offered to the general public per ADAAG 4.33 and 2.2. At least one companion fixed seat shall be provided next to each accessible seating area/ wheelchair location, in compliance with 4.33.3 of the ADAAG.

2. The ramp to the restrooms lack handrails pursuant to ADAAG 4.8. (Picture 43)

Correction: Provide an accessible route for the accessible parking spaces to the restrooms which meets the requirements of ADAAG 4.3.

3. Restrooms lack compliant signage at proper mounting locations pursuant to ADAAG 4.30. (Picture 44)

Correction: Install Braille plugs at 60" on the wall on the latch side of the door per ADAAG 4.30.

4. Wicker's park restrooms lack raised commodes and grab bars pursuant to ADAAG 4.16. (Picture 45)

Correction: Install seat riser or commode pedestal to raised the seat to the level required by ADAAG 4.16 and accessible grab bars per ADAAG 4.16.

5. The lavatory lacks insulated pipes pursuant to ADAAG 4.19. (Pictures 46 & 47)

Correction: Insulate or otherwise protect pipes per ADAAG 4.19.

6. Dispensers are mounted beyond reach parameters pursuant to ADAAG 4.2. (Pictures 46 & 47)

Correction: Lower towel dispensers and soap dispenser per ADAAG 4.2 and 4.27.

7. No lowered urinal is available pursuant to ADAAG 4.18. (Picture 48)

Correction: Remount the urinal at or below 17" per ADAAG 4.18.

8. No disabled parking is present pursuant to ADAAG 4.6. (Pictures 49 & 50)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

9. Gates lack adequate width or a path of access to them pursuant to ADAAG 4.13. (Picture 51)

Correction: Widen the gate to provide a minimum 32 inch clearance per ADAAG 4.13 and provide an accessible route pursuant to ADAAG 4.3.

10. No path of access is present to the bleachers as a curb and grass are present, nor is there a location for an individual who uses a wheelchair next to the bleachers or companion seating pursuant to ADAAG 4.3 & 4.1.3(19). (Picture 52)

Correction: Provide an accessible route to the bleachers and accessible seating areas/ wheelchair locations which meets the requirements of ADAAG 4.3 and 4.5 and provide seating areas/ wheelchair locations for persons using wheelchairs per ADAAG 4.33. Each set of bleachers shall have the number of accessible seating areas/ wheelchair locations as required by and in accordance with 4.33.1 and 4.1.3(19) of the ADAAG, in proportion to the total number of seats in each respective set of bleachers. Each accessible seating area/ wheelchair location shall provide a minimum clear ground or floor space of not less than 66 inches wide and 48 inches deep (where a forward or rear approach is available) or 66 inches wide and 60 inches deep (where a side approach is available), in accordance with 4.33.2 and Figure 46 of the ADAAG. The accessible seating areas/ wheelchair location(s) shall provide a line of sight comparable to that offered to the general public per ADAAG 4.33 and 2.2. At least one companion fixed seat shall be provided next to each accessible seating area/ wheelchair location, in compliance with 4.33.3 of the ADAAG.

11. The ramp on the opposite side of the restrooms also lacks handrails pursuant to ADAAG 4.8. (Picture 49)

Proposed Correction: Install handrails which meet the requirements of ADAAG 4.8.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before May 15, 2005.

EXHIBIT P

(C.B. Harvey Rest Beach - Requirements for ADA Compliance)

C.B. HARVEY REST BEACH - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit P)

1. Ramps for parking spaces extend into the access aisle as precluded by ADAAG 4.6.
(Picture 67)

Correction: Remove the protruding ramp from the access aisle and install a new fully accessible curb cut which meets the requirements of ADAAG 4.7 and has a slope of no greater than 1:12 and a detectable warning per ADAAG 4.29 or otherwise relocate the parking spaces to an accessible and compliant location, on an accessible route of travel per ADAAG 4.3 and 4.6.

2. Ramps leading to the beach area lack compliant handrails pursuant to ADAAG 4.8.
(Pictures 70 & 71)

Correction: Install compliant handrails on the ramps per ADAAG 4.8 or otherwise relocate the parking spaces to an accessible and compliant location, on an accessible route of travel per ADAAG 4.3 and 4.6.

3. Ramps on the AIDS Walk lack compliant handrails pursuant to ADAAG 4.8. (Picture 72)

Correction: Install handrails at those areas exceeding 5% slope for over six feet per ADAAG 4.8 or otherwise make the ramp compliant.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before August 15, 2006.

EXHIBIT Q

(The Key West Botanical Garden - Requirements for ADA Compliance)

THE KEY WEST BOTANICAL GARDEN - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit Q)

1. The path of access at the Botanical Garden lacks a stable and firm surface pursuant to ADAAG 4.3 and 4.5.

Correction: Defendant shall immediately notify the tenant that they are required to install a boardwalk or other accessible surface and route in the Botanical Garden pursuant to ADAAG 4.3 and 4.5.

2. Restrooms were not assessed as this park was an oversight by the ADA coordinator at the time of the inspections. Therefore, only general allegations can be made regarding restroom facilities and parking at this location. Most restrooms throughout the City have issues with noncompliant signage pursuant to ADAAG 4.30, stall configuration pursuant to ADAAG 4.17, reach parameter dispensers pursuant to ADAAG 4.2, and possibly issues as with insulated pipes, faucet controls or configurations for the entry doors.

Correction: Defendant shall immediately notify the tenant that they are required to provide fully accessible restrooms at the facility per ADAAG Section 4.22.

COMPLETION - The above-referenced notice shall be completed in all respects no later than December 31, 2004.

EXHIBIT R

(City Marina at Garrison Bight Palm Avenue - Requirements for ADA Compliance)

CITY MARINA AT GARRISON BIGHT PALM AVENUE - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit R)

1. No access is present to the raised sidewalk in front of the parking spaces within Charter Row pursuant to ADAAG 4.3. (Picture 42)

Correction: Provide an accessible route from the parking spaces designated as accessible to the sidewalk and accessible areas of the site per ADAAG 4.3, including installation of a new curb cut at newly created disabled parking spaces with detectable warning per ADAAG 4.7 and 4.29.

2. Inadequate numbers of disabled parking spaces are present at Charter Row pursuant to ADAAG 4.6. (Picture 43)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before July 15, 2005.

EXHIBIT S

(Key West Bight - Requirements for ADA Compliance)

KEY WEST BIGHT - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit S)

1. Disabled parking spaces at the Marina lack appropriate signage as only one sign is present for two spaces pursuant to ADAAG 4.6. The existing signage lacks required state "Tow Away Zone" wording pursuant to FACBC 11-4.6. (Picture 86)

Correction: Install signage at each accessible parking space which meets with the requirements of ADAAG 4.6.4 and FACBC 11-4.6. The signage should be relocated/ raised to 84" measured to the bottom of the sign, meet the color and design approved by the Department of Transportation and contain the caption "PARKING BY DISABLED PERMIT ONLY", in accordance with 11.4.6.4 of the Florida Accessibility Code for Building Construction, 2001 Edition (the "FACBC"). Additionally, each accessible parking space should also be signed and marked in accordance with 553.5041 of the Florida Statutes (2001), indicating that violators will be towed ("Tow Away Zone") and subject to the monetary fine applicable in the county and/or municipality which the property is located, and shall otherwise comply with 11.4.6.4 of the FACBC.

2. Three cars are parked in two accessible spaces. An additional car is illegally parking in the access aisle. (Picture 86)

Correction: Each accessible parking space should be signed and marked in accordance with 553.5041 of the Florida Statutes (2001), indicating that violators will be towed ("Tow Away Zone") and subject to the monetary fine applicable in the county and/or municipality in which the property is located, and shall otherwise comply with 11.4.6.4 of the FACBC whereby enforcement can be compelled regarding improperly parked vehicles.

3. The ramp leading to the public restrooms lacks compliant handrails as they are not continuous for the full-length of the ramp nor did they have required handrail extensions pursuant to ADAAG 4.8. (Picture 87)

Correction: Install handrails in compliance with ADAAG 4.8 and the Florida Building Code.

4. Signage for the existing restroom facilities are either nonexistent or improperly located pursuant to ADAAG 4.30.

Correction: Install signage to the accessible restroom entrances per ADAAG 4.30.

5. The “accessible unisex” facility does not have a raised commode pursuant to ADAAG 4.16. (Pictures 88 & 89)

Correction: Install seat riser or commode pedestal per ADAAG 4.16.

6. The unisex facility has a mirror mounted above the requisite 40” and lacks insulated lavatory pipes pursuant to ADAAG 4.19. (Pictures 89-91)

Correction: Add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower existing mirror to 40”, measured to the bottom of the sign, per ADAAG 4.19.

7. Where bricks/pavers are present on the accessible routes, changes in level exceeding ½” are present without required beveling pursuant to ADAAG 4.2. (Picture 92)

Correction: Provide accessible routes which meet the requirements of ADAAG 4.3 and 4.5. The changes in level may be modified by grinding down or otherwise modifying the change in level to be no greater than ¼” with a bevel of 1:2 and for changes in level exceeding ¼”, a ramp per ADAAG 4.5 and 4.8.

8. Disabled parking space signage within the garage is not mounted at proper height and can be obscured by parked cars pursuant to ADAAG 4.6. Additionally, they lack requisite wording regarding the state requirement of “Tow Away Zone” and the amount of the fine pursuant to county requirements pursuant to FACBC 11-4.6. (Pictures 97 & 98)

Correction: Install signage at each accessible parking space which meets with the requirements of ADAAG 4.6.4 and FACBC 11-4.6. The signage should be relocated/ raised to 84” measured to the bottom of the sign, meet the color and design approved by the Department of Transportation and contain the caption "PARKING BY DISABLED PERMIT ONLY", in accordance with 11.4.6.4 of the Florida Accessibility Code for Building Construction, 2001 Edition (the “FACBC”). Additionally, each accessible parking space should also be signed and marked in accordance with 553.5041 of the Florida Statutes (2001), indicating that violators will be towed (“Tow Away Zone”) and subject to the monetary fine applicable in the county and/or municipality which the property is located, and shall otherwise comply with 11.4.6.4 of the FACBC.

9. Door hardware within the elevator for the emergency notification system is not accessible to an individual with manual dexterity limitations pursuant to ADAAG 4.13. (Picture 99)

Correction: Install compliant door hardware per ADAAG 4.13.

10. The accessible restroom lacks grab bars at the side and back of the commode pursuant to ADAAG 4.16. (Pictures 100 & 101)

Correction: Install accessible grab bars at the commode per ADAAG 4.16.

Ferry Terminal

11. The toilet seat dispenser is behind the commode and beyond reach parameters to an individual using a wheelchair pursuant to ADAAG 4.2. (Picture 101)

Correction: Relocate the dispenser to be no higher than 48" and otherwise within reach parameters, per ADAAG 4.2- or, if toilet seat dispensers are no longer used by the City, remove the same.

12. The accessible restroom lacks required strobe notification system pursuant to ADAAG 4.28. (Picture 101)

Correction: Install strobe notification system in the restrooms per ADAAG 4.28.

13. An assembly area is present that has an amplification system integrated into the assembly area without signage regarding the availability of an assistive listening system nor is there any indication that one is present should be needed pursuant to ADAAG 4.33. (Picture 102)

Correction: Presently, the City does not use the amplification system. In the event that the City ever does utilize the system in the future, it will install an assistive listening system and requisite signage notifying of its availability per ADAAG 4.33.

14. Key West Bight lacks a path of access from the driveway level to the piers pursuant to ADAAG 4.3. (Picture 75)

Correction: Provide an accessible route to the piers pursuant to ADAAG 4.3, including a new curb cut meeting the requirements of ADAAG 4.7.

15. Key West Bight lacks disabled parking spaces despite the presence of a sign pursuant to ADAAG 4.1.2. (Picture 74)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

16. The Dock Master's office by the fuel dock at Key West Bight has 12" gap to water without a means of accessing the office or a means of notifying the Dock Master of one's presence as precluded by ADAAG 4.3.

Correction: Either provide an accessible route per ADAAG 4.3, with a 36" path of access, edge treatment and railing to the Dock Master's office or alternatively, establish a means of notifying the Dock Master that assistance is required. If the alternative is that means of providing program access, then the notification system would require an international symbol of accessibility (ISA) and should otherwise comply with ADAAG 4.1.3(16).

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before July 15, 2005.

EXHIBIT T

(Key West City Marina at Garrison Bight - Requirements for ADA Compliance)

KEY WEST CITY MARINA AT GARRISON BIGHT - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit T)

1. The gangway at the only floating dock has a step down to the pier where the top of the gangway approaches and a step up at the gangway without a transom as precluded by ADAAG 2.2, 36.202, 36.203 and 15.2.2 of the Proposed Guidelines. (Picture 45)

Correction: Install new 15' gangway with transoms which meets the requirements of ADAAG 2.2, and 15.2.2 of the Proposed Guidelines.

2. The ramp leading to the women's restroom has an excessive slope as precluded by ADAAG 4.8. (Picture 46)

Correction: Provide accessible facility to the maximum extent possible within the existing footprint as best as possible until the scheduled demolition of the facility. In the event that the facility is not demolished by August 15, 2005, the City will provide a compliant ramp per ADAAG 4.8.

3. Restroom signage is not properly mounted pursuant to ADAAG 4.30. (Picture 47)

Correction: Provide signage which complies with ADAAG 4.30 and is mounted at 60" above finish floor on latch side of the door together with requisite wheelchair pictogram and with Braille.

4. The stall in both the men's & women's restroom have inadequate depth to allow the door to close behind a wheelchair, does not provide for a side approach by wheelchair users to transfer to the water closet, has a grab bar with undersized diameter and mounted too far from the wall so as to allow the hand and wrists to slip behind, has a stall door that is not self-closing and a coat hook mounted beyond reach parameters pursuant to ADAAG 4.17 & 4.2. (Pictures 48, 49, 52 & 53)

Correction: It is anticipated that this building will be demolished in the near future and that a new building, with fully accessible facilities, will be constructed. In the event that this building is not demolished by August 15, 2006, the City will provide an accessible facility to the maximum extent possible within the existing footprint until the demolition of the facility. Fully accessible facilities are available across the street.

5. The ramp leading from the parking lot to the men's restroom has excessive slope as precluded by ADAAG 4.8. (Picture 51)

Correction: Provide an accessible route to the restrooms from the accessible parking spaces per ADAAG 4.3 and a ramp which meets the requirements of ADAAG 4.8, including a slope of no greater than 8.33%.

6. The only ramp leading to the piers lacks adequate width, has excessive slope and is temporary and made out of wood rather than asphalt or cement as precluded by ADAAG 4.8. (Picture 54)

Correction: Install a ramp to the pier which meets with the requirements of ADAAG 4.8. The City will provide compliant and appropriate parking and access spaced throughout the facility.

7. City Marina at Garrison Bight lacks adequate numbers and dispersed disabled parking pursuant to ADAAG 4.1.2. (Picture 66)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

8. City Marina at Garrison Bight lacks tactile signage at both restrooms in shower facilities pursuant to ADAAG 4.30. (Pictures 68)

Correction: Provide signage with requisite wheelchair pictogram and with Braille per ADAAG 4.30.

9. City Marina at Garrison Bight has showers lacking requisite handheld showerheads and pull down bench pursuant to ADAAG 4.21. (Picture 69 & 70)

Correction: Install compliant bench and handheld showerhead within the shower per ADAAG 4.21.

10. City Marina at Garrison Bight has showers without lowered mirrors or insulated pipes pursuant to ADAAG 4.19. (Picture 71)

Correction: Lower mirror and insulate pipes per ADAAG 4.19.

11. City Marina at Garrison Bight has a privacy latch on the inside of the shower door mounted beyond reach parameters pursuant to ADAAG 4.2 (Picture 72)

Correction: Lower or add additional privacy latch per ADAAG 4.2.

12. City Marina at Garrison Bight has a ramp with excessive slope and non-compliant handrails, or handrail extensions and a clear ramp (potted plants at top landing) pursuant to ADAAG 4.8. (Picture 73)

Correction: Install a second railing on the ramp and handrail extensions on the existing railing or otherwise provide accessible railings per ADAAG 4.8. Remove potted plants.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before July 15, 2005.

EXHIBIT U

(Smathers Beach - Requirements for ADA Compliance)

SMATHERS BEACH - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit U)

1. Sidewalks have slopes exceeding 5% without requisite handrails pursuant to ADAAG 4.8. (Pictures 1, 8 & 10)

Correction: This project is on the Florida Department of Transportation Plan for replacement in FY 2005.

- 2 Picnic tables are present without a path of access, clear floor space for a wheelchair, or clearance beneath the table of a minimum 19" pursuant to ADAAG 4.32. (Pictures 2 & 5)

Correction: Install an accessible route meeting the requirements of ADAAG 4.3 to the picnic table area with maneuvering space and a seating position of at least 30" X 48" at the table on a firm surface which meets the requirements of ADAAG 4.5. Modify the picnic table to comply with ADAAG 4.32. Among other things, the table(s) provided shall have a table top at a height of no more than 34", knee clearance of at least 27" and 19" depth.

3. No lowered counter is available at the Tropical Water Sports vendor shack pursuant to ADAAG 7.2. (Picture 4)

Correction:

1. Defendant shall provide notice to the operator to either lower the entire counter or provide a lowered section of the counter, which is at a maximum height of 36 inches above the finished floor, at least 36 inches in length, and at least 12 inches in depth. ADAAG Sections 7.2 and 4.2.4.
2. As an alternative to lowering the existing counter, Defendant will notify the operator that he may provide a fold-down shelf for use by patrons with disabilities that is at maximum height of 36 inches above the finished floor, at least 36 inches in length, and at least 12 inches in depth. ADAAG Sections 7.2, 4.2.4 and 4.32; 28 C.F.R. §36.305. If a fold-down shelf is provided, then signage notifying the patrons of the accommodation shall be permanently affixed at the counter with the international symbol of accessibility, together with wording advising that assistance is available on request. ADAAG 4.30. In the event that the operator does not make the above changes, the City will do so.

4. The ramp leading to the restroom facility lacks requisite handrails pursuant to ADAAG 4.8. (Picture 6)

Correction: Install compliant handrails on the ramp per ADAAG 4.8.

5. The clear floor space beneath the drinking fountain is not maintained to the extent that vegetation is well-established as precluded by ADAAG 4.15. (Picture 9)

Correction: Remove sand and plants to provide a clear floor space at the drinking fountain per ADAAG 4.15.

6. No path of access is present to the information and rental booth pursuant to ADAAG 4.3. (Picture 10)

Proposed Correction: Notify the tenant to comply with Title III of the ADA by adhering to the current bell system and policy of accommodation. Additionally, the City shall notify the tenant to fix the bell system so that it functions effectively or find an alternative means for providing access. The City shall notify the tenant that the system must be maintained pursuant to ADAAG 36.24. At the end of the current tenant's lease, the City will attempt to negotiate a relocation of the booth.

7. No lowered counter is present at the rental booth pursuant to ADAAG 7.2. (Picture 11)

Correction:

1. Defendant shall notify the tenant to either lower the entire counter or provide a lowered section of the counter, which is at a maximum height of 36 inches above the finished floor, at least 36 inches in length, and at least 12 inches in depth. ADAAG Sections 7.2 and 4.2.4.
2. As an alternative to lowering the existing counter, Defendant will notify the tenant to provide a fold-down shelf for use by patrons with disabilities that is at maximum height of 36 inches above the finished floor, at least 36 inches in length, and at least 12 inches in depth. ADAAG Sections 7.2, 4.2.4 and 4.32; 28 C.F.R. §36.305. If a fold-down shelf is provided, then signage notifying the patrons of the accommodation shall be permanently affixed at the counter with the international symbol of accessibility, together with wording advising that assistance is available on request. ADAAG 4.30. In the event that the operator does not make the above changes, the City will do so.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects no later than December 31, 2004.

EXHIBIT V

(Martin Luther King Community Pool - Requirements for ADA Compliance)

MARTIN LUTHER KING COMMUNITY POOL - REQUIREMENTS FOR ADA COMPLIANCE

(Exhibit V)

1. Picnic tables and shelters are present without a path of access, clear floor space for a wheelchair or adequate clearance beneath table pursuant to ADAAG 4.32. (Pictures 24 & 25)

Correction: Install an accessible route meeting the requirements of ADAAG 4.3 to the picnic table area with maneuvering space and a seating position of at least 30" X 48" at the table on a firm surface which meets the requirements of ADAAG 4.5. Modify the picnic table to comply with ADAAG 4.32. Among other things, the table(s) provided shall have a table top at a height of no more than 34", knee clearance of at least 27" and 19" depth.

2. The men's restroom locker room for the pool lacks compliant signage pursuant to ADAAG 4.30. (Picture 26)

Correction: Provide signage with requisite wheelchair pictogram and with Braille per ADAAG 4.30.

3. The changing bench within the men's locker room lacks adequate clear floor space, lowered coat hooks and requisite dimensions for the bench pursuant to ADAAG 4.35. (Picture 27)

Correction: Provide a fixed bench in the locker room which is at least 24" X 48" per ADAAG 4.35, and a lowered coat hook and mirror per ADAAG 4.35.

4. The shower lacks the requisite bench and handheld showerhead pursuant to ADAAG 4.21. (Picture 28)

Correction: Install compliant bench, handheld showerhead and grab bars within the shower pursuant to ADAAG 4.21.

5. Grating within the locker room has widths of 1" as precluded by ADAAG 4.5. (Pictures 29 & 30)

Correction: Replace the existing grating with grating that has gaps less than 1/2" running perpendicular to the path of travel pursuant to ADAAG 4.5.

6. The stall for the commode lacks adequate depth, a side approach, compliant grab bars and the commode is not raised pursuant to ADAAG 4.17. (Picture 31)

Correction: Defendant shall provide fully accessible restrooms at the facility by August 15, 2005, in compliance with ADAAG Section 4.22 and Figure 30(a) or 30(a-1) in all respects.-

7. Signage for the Resource Center lacks required Braille pursuant to ADAAG 4.30. (Picture 32)

Correction: Install Braille plugs at 60" on the wall on the latch side of the door per ADAAG 4.30.

8. Door hardware for the Resource Center lacks accessibility pursuant to ADAAG 4.13.9. (Picture 32)

Proposed Correction: Provide compliant door hardware per ADAAG 4.13.9.

9. The telephone is beyond reach parameters and lacks hearing aid compatibility and volume control pursuant to ADAAG 4.2 & 4.31. (Picture 33)

Proposed Correction: Provide compliant phone with hearing aid compatibility, volume control and pictogram per ADAAG 4.2 and 4.31. In the alternative, defendant may designate the telephone for use by the security guard only, and place signage on the phone with text to the effect that the telephone is for use by security only. The sign shall comply with ADAAG 4.1.3(16).

10. Stairs leading to the pool from the locker room lack signage indicating the accessible route by way of the exterior platform lift pursuant to ADAAG 4.1.6(1)(h). (Picture 34)

Correction: Install signage at the foot of the stairs complying with ADAAG 4.1.6(1)(h) indicating the location of the platform lift.

11. The entrance into the men's locker room lacks adequate width where the partition wall blocks a line of sight pursuant to ADAAG 4.3. (Picture 35)

Correction: Provide door which meets the requirements of ADAAG 4.13 and provides at least 32" of clearance.

12. The playground equipment lacks an accessible route to one of each element pursuant to ADAAG 15.6. (Picture 38)

Correction: Install boardwalk, brick pavers, asphalt pathway, composite path, or other accessible route and surface to the playground pursuant to ADAAG 4.3 and 4.5. There shall be a stable and

firm playground surface to one of each element at the playground per ADAAG 4.5.

13. No path of access is available to the bleachers at the basketball court pursuant to ADAAG 4.3. (Picture 42)

Correction: Provide an accessible route to the bleachers and accessible seating areas/ wheelchair locations which meets the requirements of ADAAG 4.3 and 4.5 and provide seating areas/ wheelchair locations for persons using wheelchairs per ADAAG 4.33. Each set of bleachers shall have the number of accessible seating areas/ wheelchair locations as required by and in accordance with 4.33.1 and 4.1.3(19) of the ADAAG, in proportion to the total number of seats in each respective set of bleachers. Each accessible seating area/ wheelchair location shall provide a minimum clear ground or floor space of not less than 66 inches wide and 48 inches deep (where a forward or rear approach is available) or 66 inches wide and 60 inches deep (where a side approach is available), in accordance with 4.33.2 and Figure 46 of the ADAAG. The accessible seating areas/ wheelchair location(s) shall provide a line of sight comparable to that offered to the general public per ADAAG 4.33 and 2.2. At least one companion fixed seat shall be provided next to each accessible seating area/ wheelchair location, in compliance with 4.33.3 of the ADAAG.

14. Signage at the disabled parking spaces lacks requisite wording pursuant to ADAAG 4.6. (Picture 39)

Correction: Install signage at each accessible parking space which meets with the requirements of ADAAG 4.6.4 and FACBC 11-4.6. The signage should be relocated/ raised to 84" measured to the bottom of the sign, meet the color and design approved by the Department of Transportation and contain the caption "PARKING BY DISABLED PERMIT ONLY", in accordance with 11.4.6.4 of the Florida Accessibility Code for Building Construction, 2001 Edition (the "FACBC"). Additionally, each accessible parking space should also be signed and marked in accordance with 553.5041 of the Florida Statutes (2001), indicating that violators will be towed ("Tow Away Zone") and subject to the monetary fine applicable in the county and/or municipality which the property is located, and shall otherwise comply with 11.4.6.4 of the FACBC.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before February 15, 2007.

EXHIBIT W

(Key West DOT Building - Requirements for ADA Compliance)

KEY WEST DOT BUILDING - REQUIREMENTS FOR ADA COMPLIANCE (Exhibit W)

1. The disabled parking has excessive cross slopes exceeding 5% precluded by ADAAG 4.6. (Picture 56)

Correction: Defendant shall designate and maintain the number of fully accessible parking spaces for individuals with a disability as set forth in ADAAG Section 4.1.2(5)(a-e). The accessible parking spaces shall comply with the criteria set forth above in Exhibit B, Section 10 (A) through (G).

2. The threshold has an excessive vertical change of level exceeding $\frac{3}{4}$ " precluded by ADAAG 4.13. (Picture 58)

Correction: Modify the threshold with a bevel of no greater than 1:2 per ADAAG 4.13.

3. Signage for both the upstairs and downstairs restrooms lack Braille, proper mounting location and tactile pictograms required by ADAAG 4.30. (Picture 59)

Correction: Provide properly mounted signage complying with ADAAG 4.30 with requisite wheelchair pictogram and with Braille designating and directing users to the upstairs restroom.

4. Door hardware for the downstairs restroom lacks accessibility pursuant to ADAAG 4.13.9. (Picture 60)

Correction: As this facility is not accessible to the public, proper signage directing users to the upstairs bathroom will be provided.

5. The mirror in the upstairs restroom is mounted above 40" precluded by ADAAG 4.19. (Picture 61)

Correction: Add an additional full-length mirror, tilt the existing mirror, add an additional mirror below the existing mirror or lower existing mirror so that the bottom reflective surface of the mirrors is not higher than 40" (any one of the above would fulfill the requirement) per ADAAG 4.19.

6. The maneuvering clearances in the upstairs restroom from the inside at the door is blocked by a storage cabinet precluded by ADAAG 4.13 and Fig. 25. (Pictures 61 & 62)

Correction: Relocate storage cabinet and items outside of restroom in order to provide the required maneuvering clearances, per ADAAG 4.13 and Figure 25.

COMPLETION - The alterations and modifications required by this Exhibit shall be completed in all respects on or before May 15, 2005.

EXHIBIT X
The City of Key West
ADA Grievance Procedure

This grievance procedure is established to meet the requirements of the American Disabilities Act. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of a disability in employment practices and policies or the provision of services, activities, programs, or benefits by the City of Key West.

The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. Alternative means of filling complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

The complaint should be submitted by the grievant and/or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

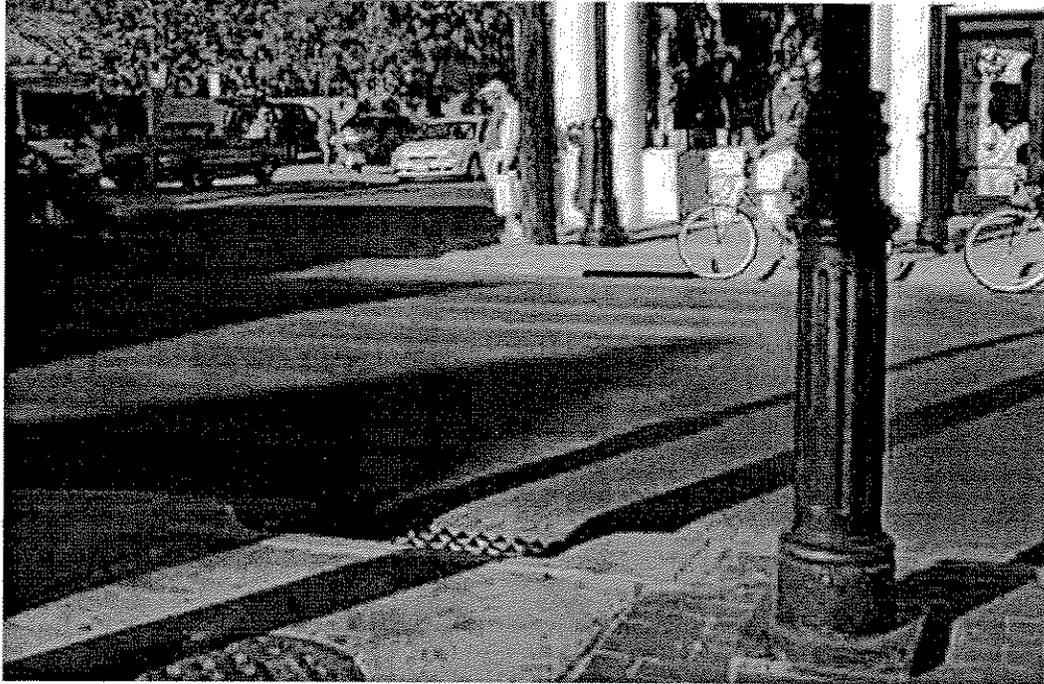
Jim Malcolm
ADA Coordinator
Phone # (305) 293-6495
Fax # (305) 293-8320
PO Box 1409
Key West, Florida 33041

Within 15 calendar days after receipt of the complaint, Jim Malcolm will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting, Jim Malcolm will respond in writing, and, where appropriate, in a format accessible to the complainant, such as large print, Braille, or videotape. The response will explain the position of the City of Key West and offer options for substantive resolution of the complaint.

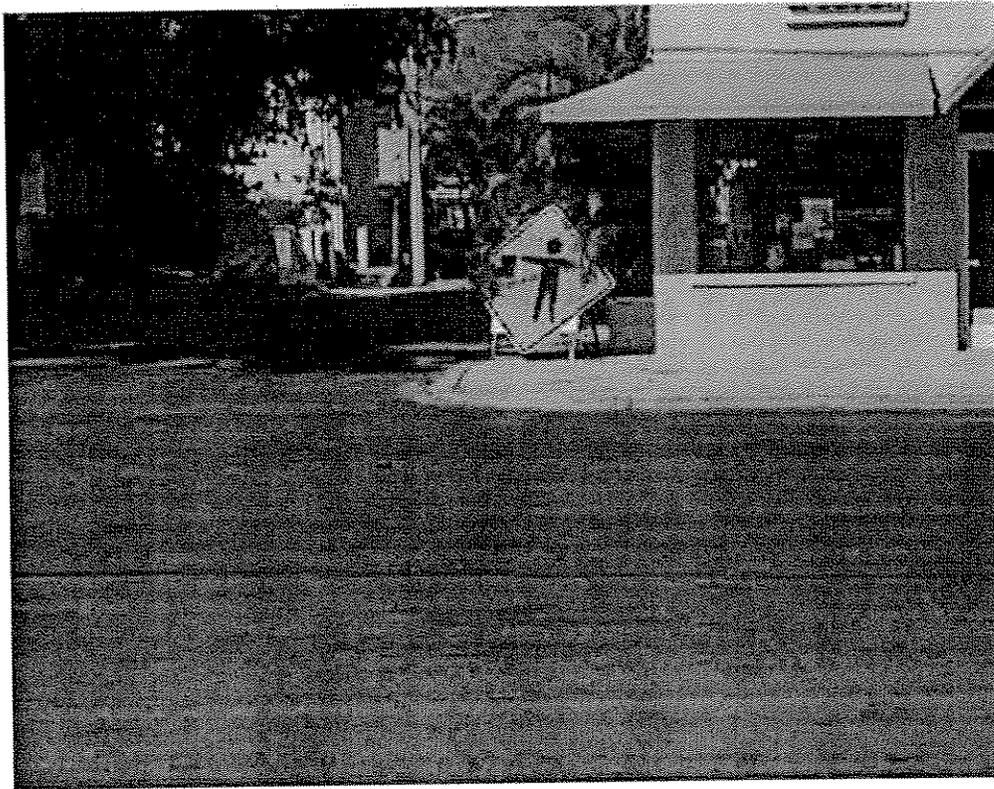
If the response by Jim Malcolm does not satisfactorily resolve the issue, the complainant and/or his/her designee may appeal the decision of the ADA coordinator within 15 calendar days after receipt of the response to the City Manager or his designee.

Within 15 calendar days after receipt of the appeal, the City Manager or his designee will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after the meeting the City Manager or designee will respond in writing, and, where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

All written complaints received by Jim Malcolm, appeals to the City Manager or his designee, and responses from the ADA coordinator and the City Manager or his designee will be kept by the City of Key West for at least three years.



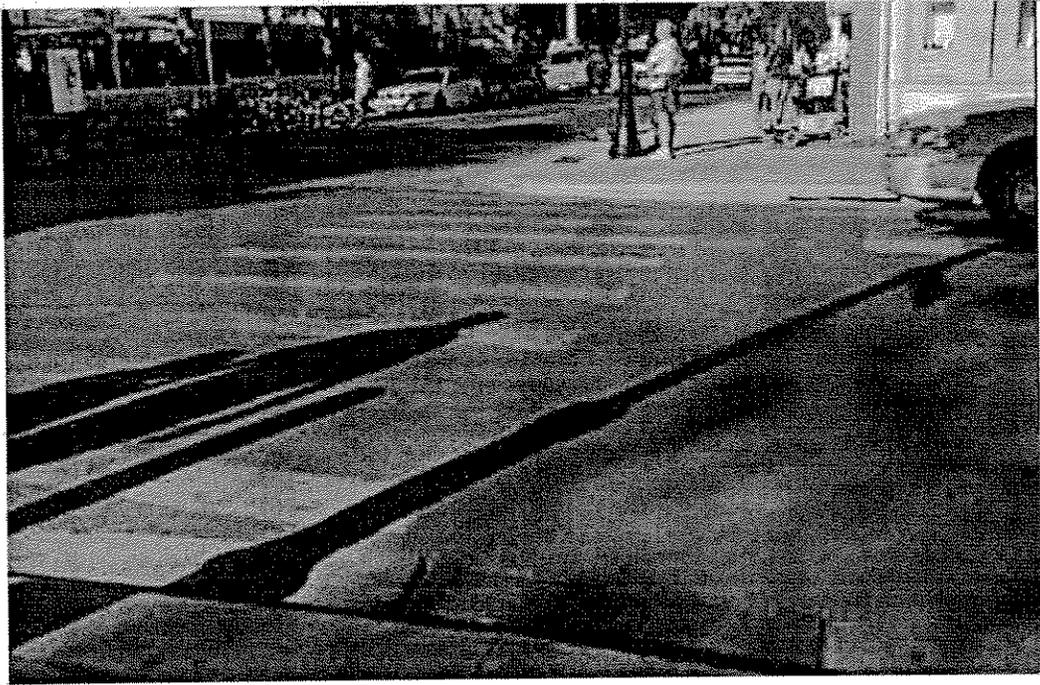
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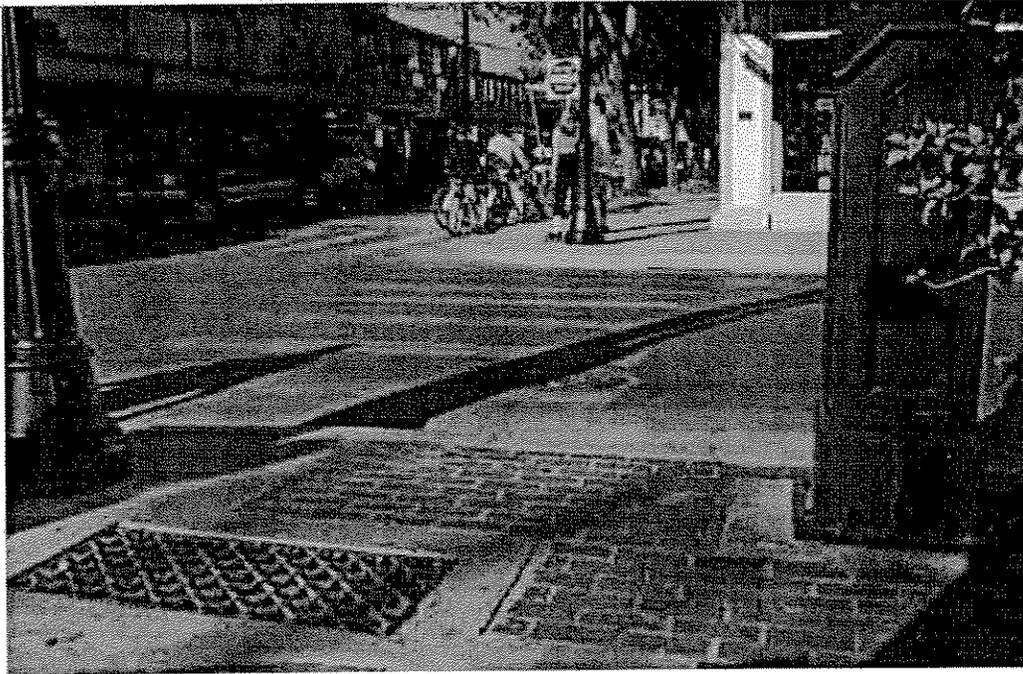
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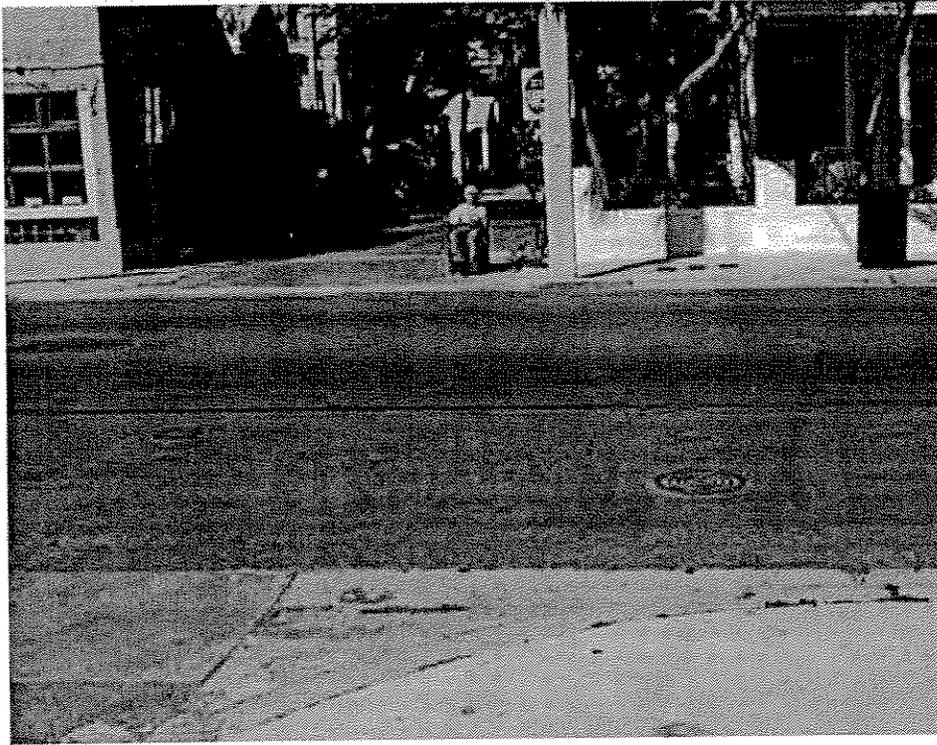
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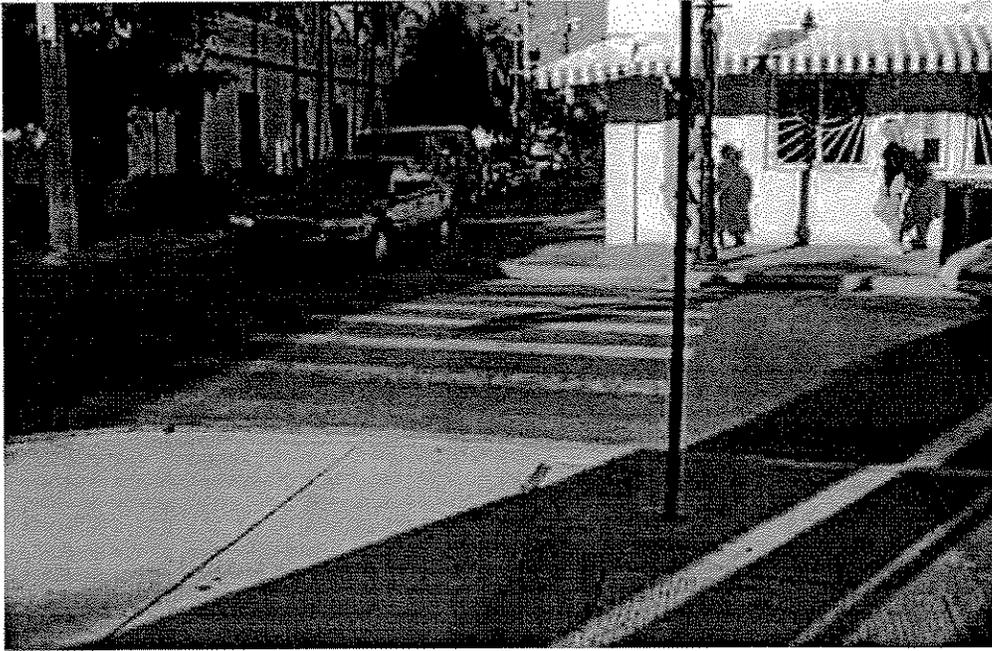
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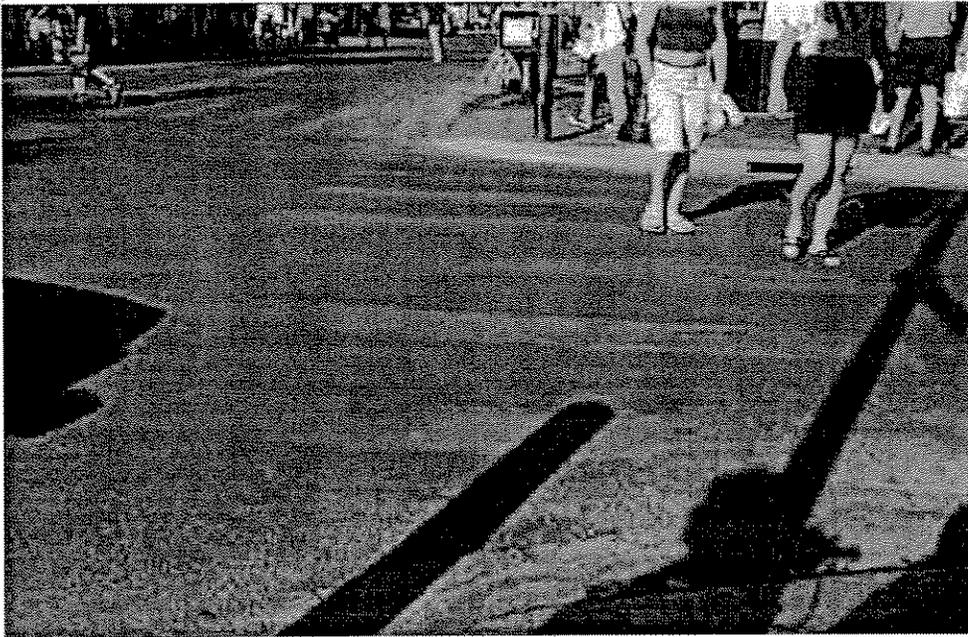
Fleming and Duval



Louisa and Duval



Petronia and Duval



Green and Duval

Brennan Consulting Inc.

Michael Brennan M.A., L.M.H.C.

ADA Consultant, Mental Health Counselor

7955 Biscayne Point Circle

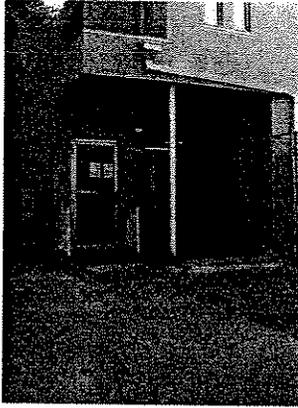
Miami Beach, Florida 33141

Phone (305) 864-7070 Fax (305) 864-4140

Michael@BrennanConsulting.net

<http://www.mindspring.com/~michael.brennan>

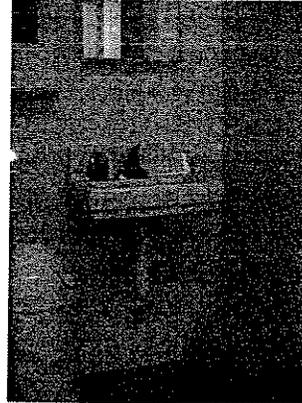
Key West- 1/10/01



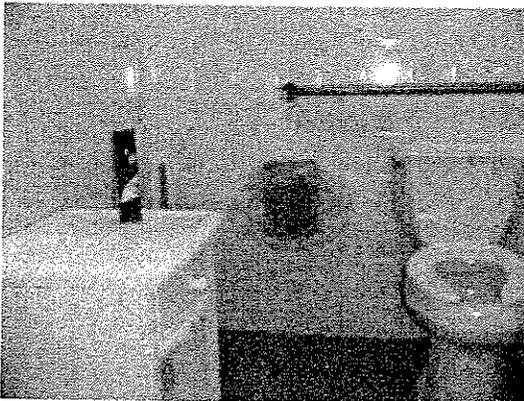
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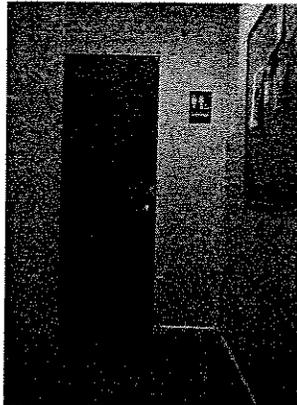
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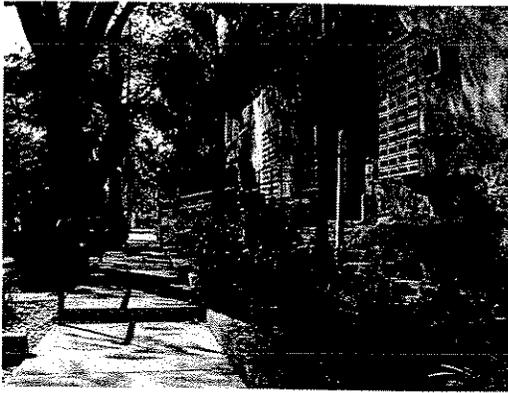
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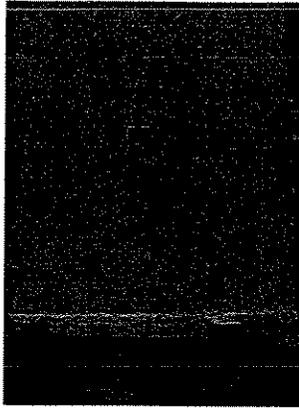
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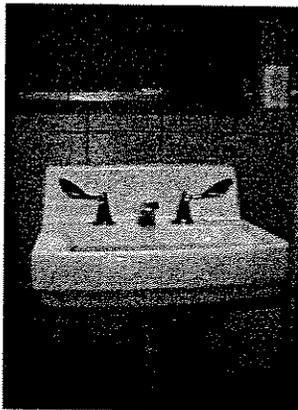
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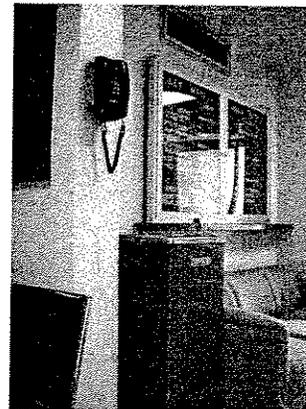
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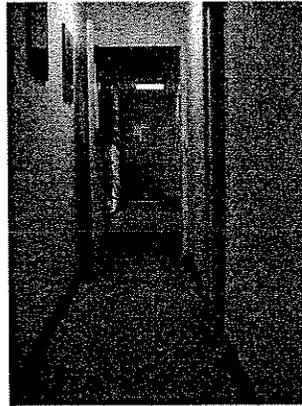
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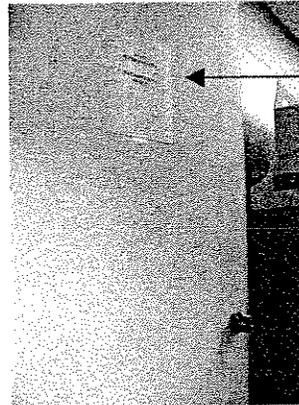
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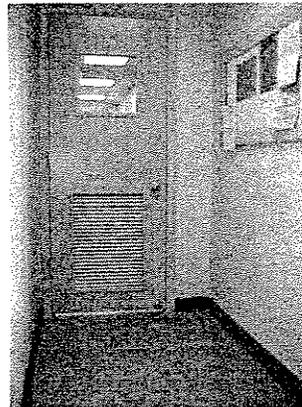


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<p>State Representative</p> <p>K. Sorenson Office</p>



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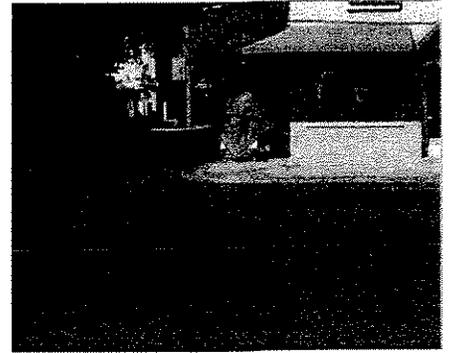
Key West 4-17-02 Curb Cuts



Angela and Duval



Caroline and Duval



Catherine and Duval



Eaton and Duval



Fleming and Duval



Green and Duval



Key West enforcement

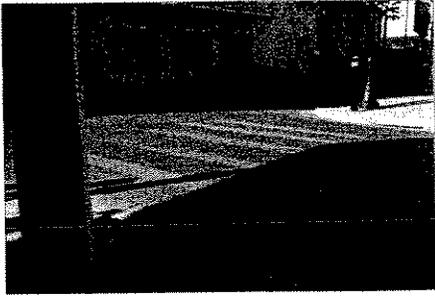


Louisa and Duval



Petronia and Duval

Key West 4-17-02 Curb Cuts

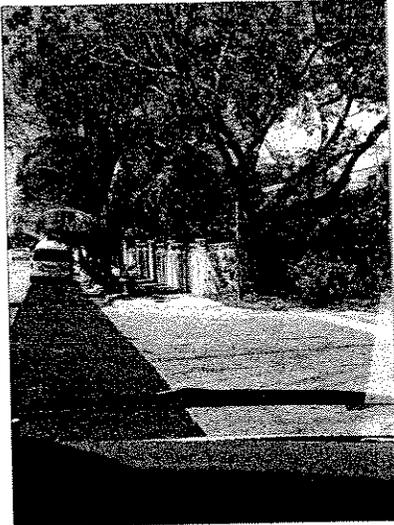


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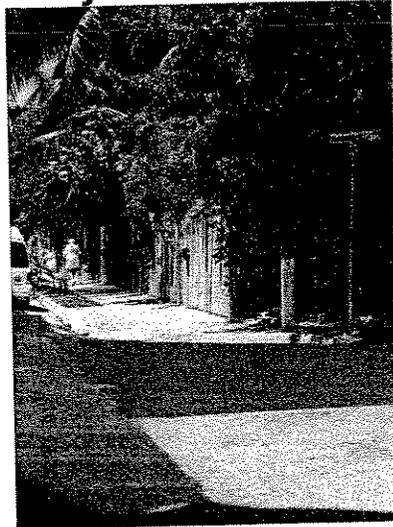


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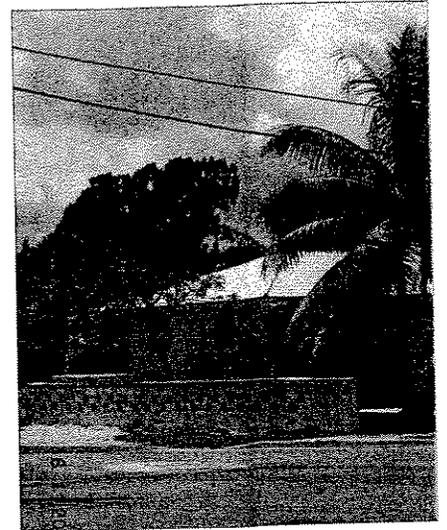
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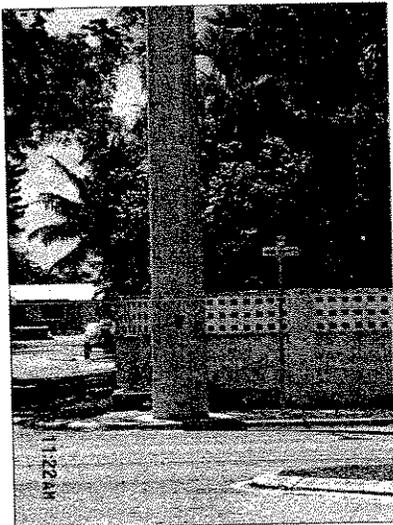
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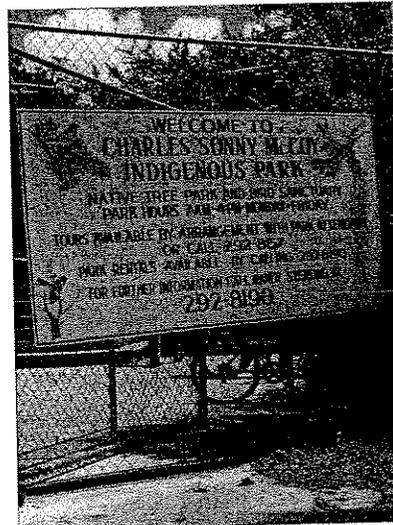
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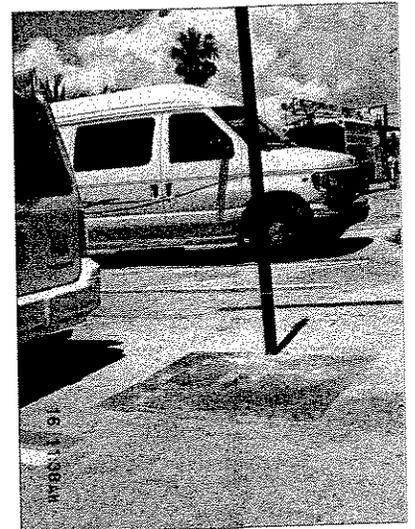
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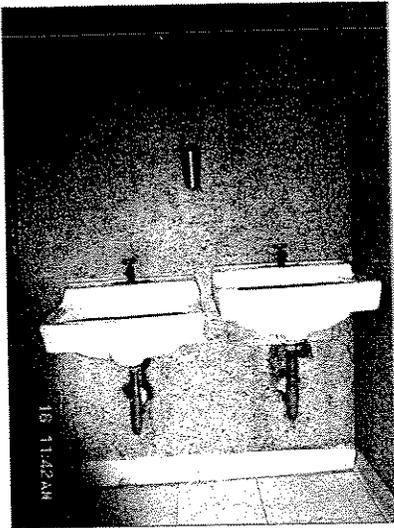


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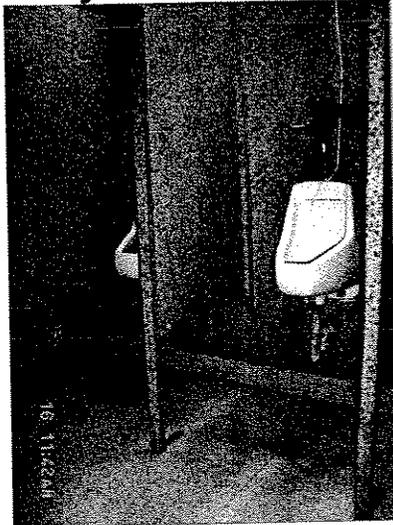


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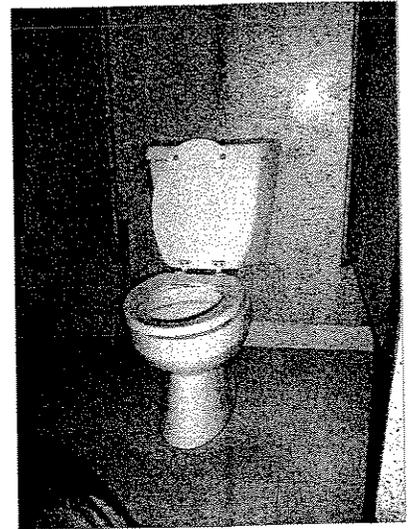
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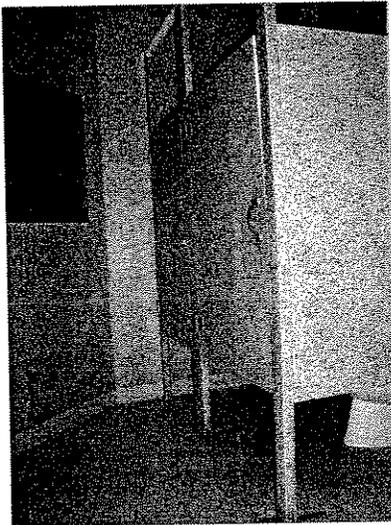
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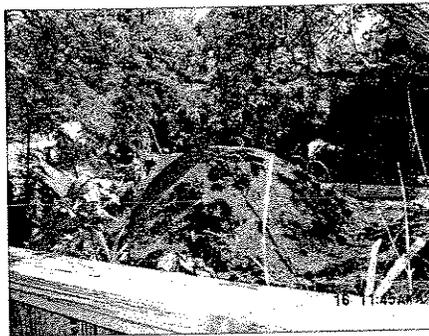
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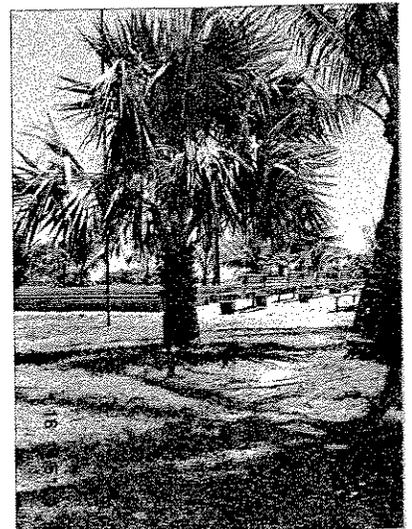
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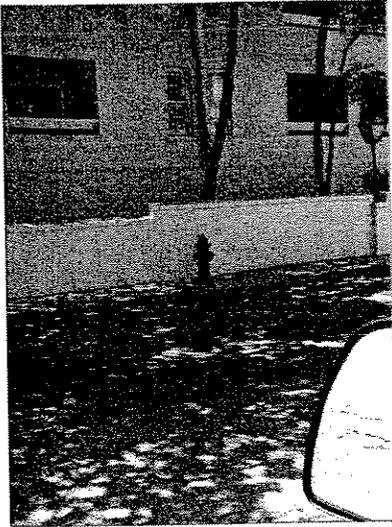


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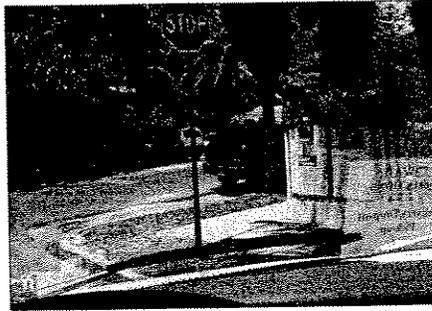


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Key West 4-17-02



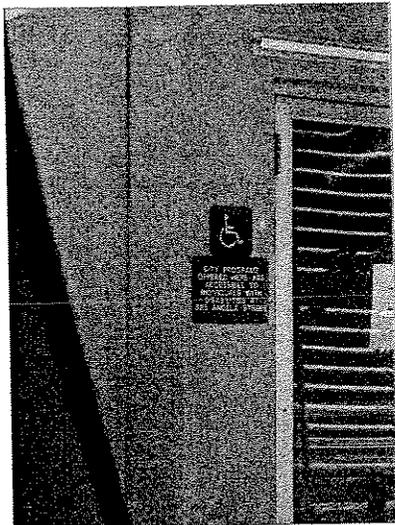
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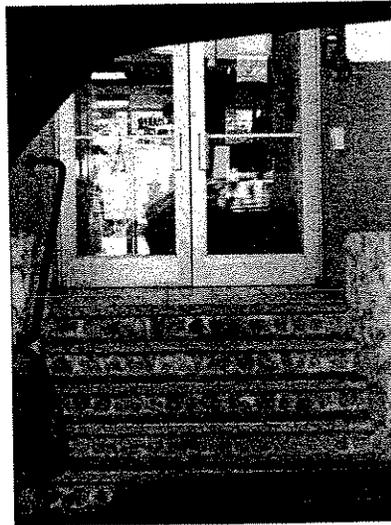
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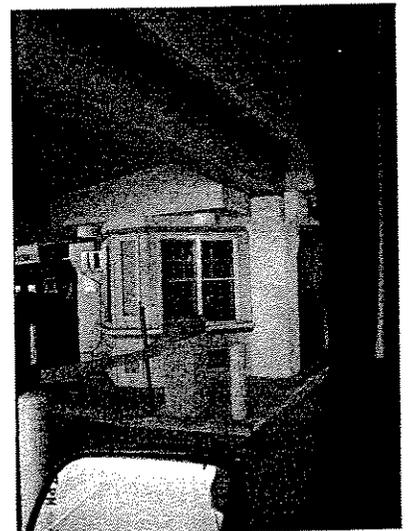
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DSC00046

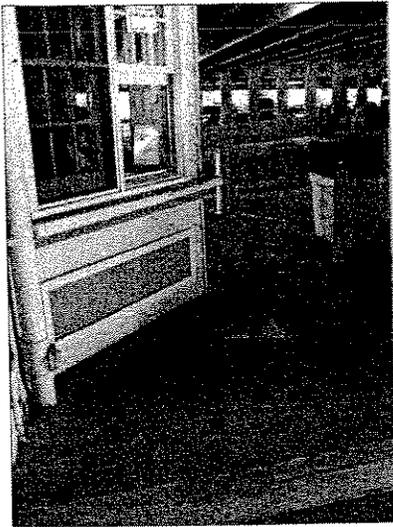


DSC00047



DSC00048

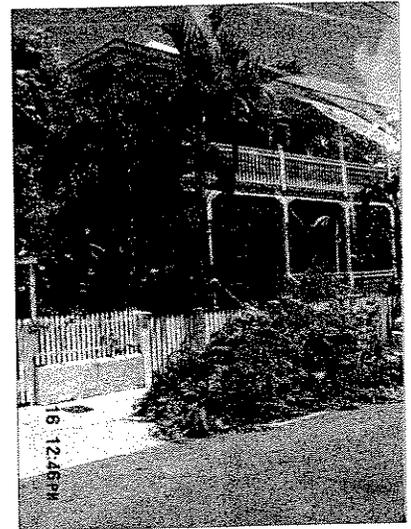
Key West 4-17-02



DSC00049



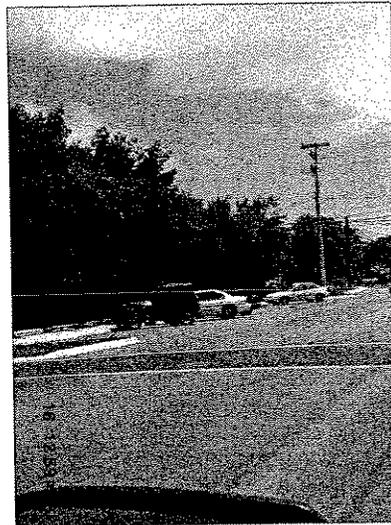
DSC00051



DSC00052



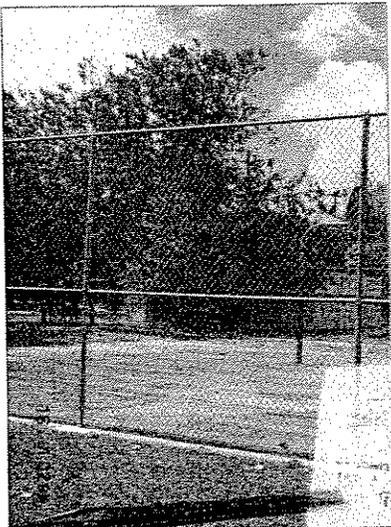
DSC00053



DSC00054



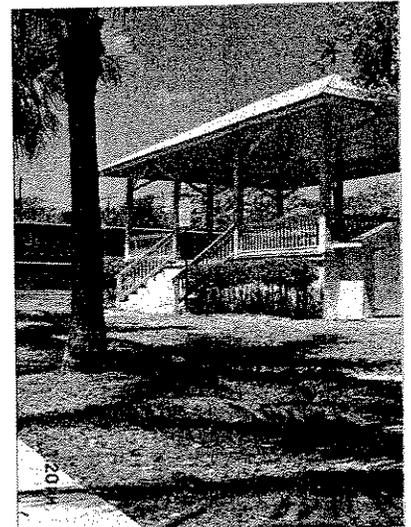
DSC00055



DSC00056

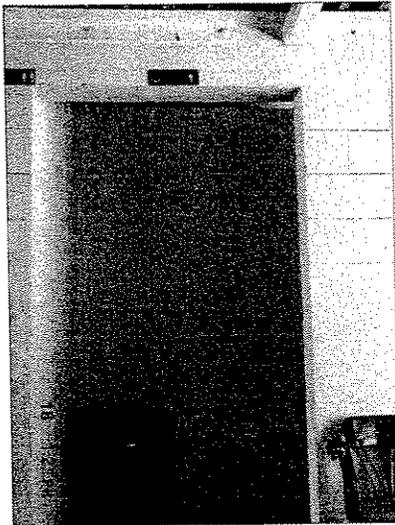


DSC00057

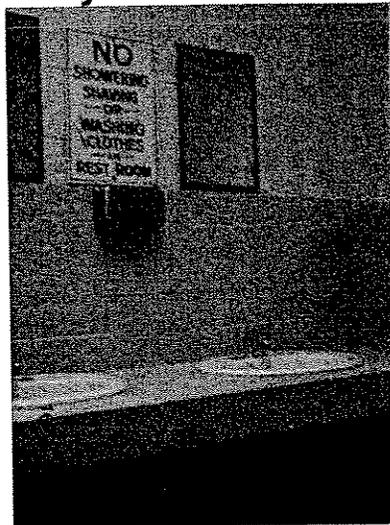


DSC00058

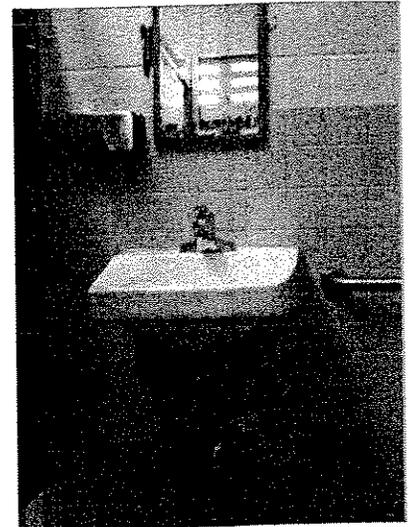
Key West 4-17-02



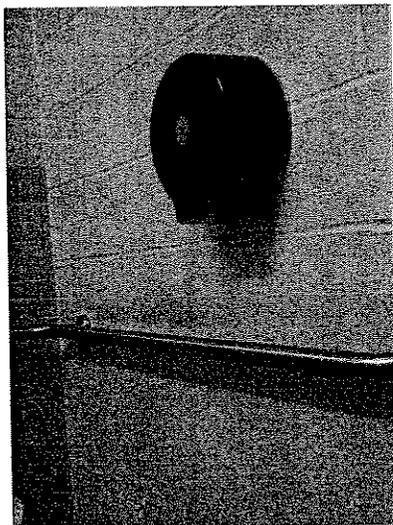
DSC00059



DSC00060



DSC00061



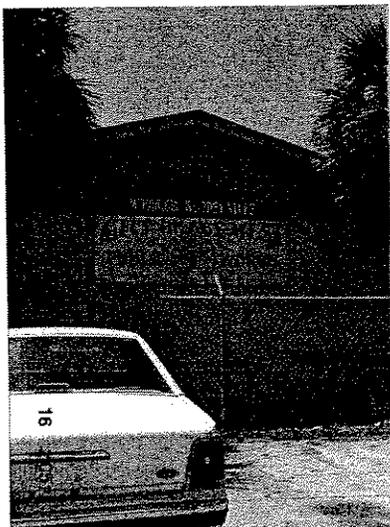
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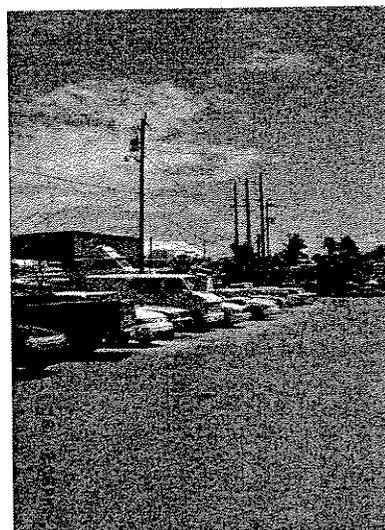
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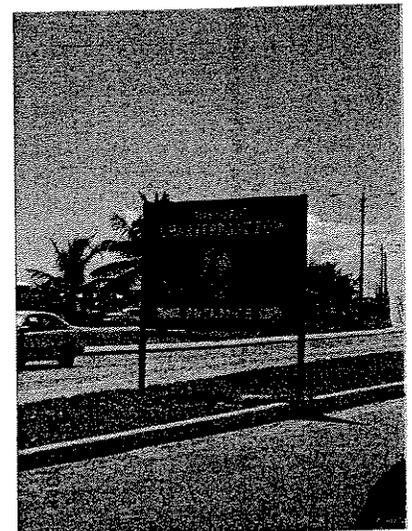
DSC00064



DSC00065

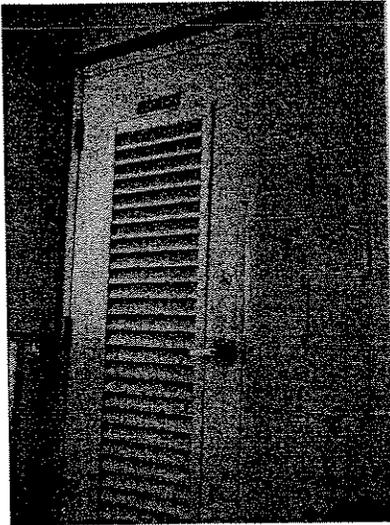


DSC00066



DSC00067

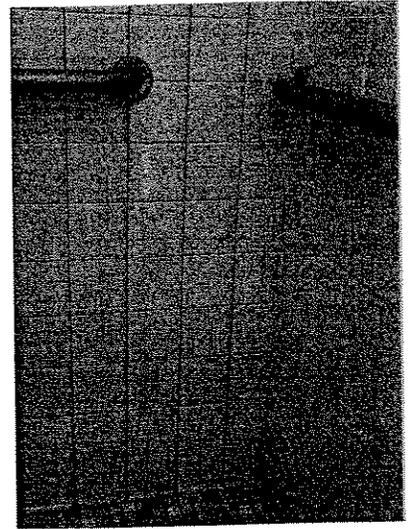
Key West 4-17-02



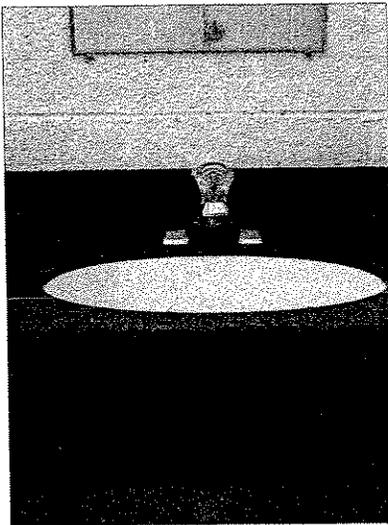
DSC00068



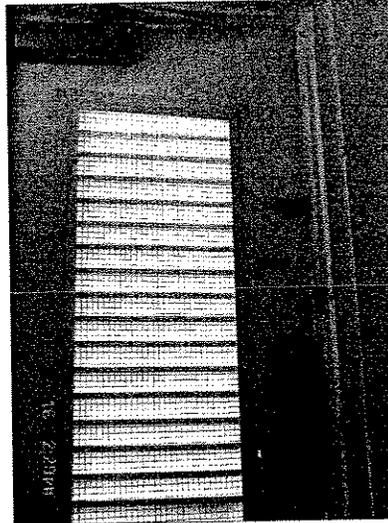
DSC00069



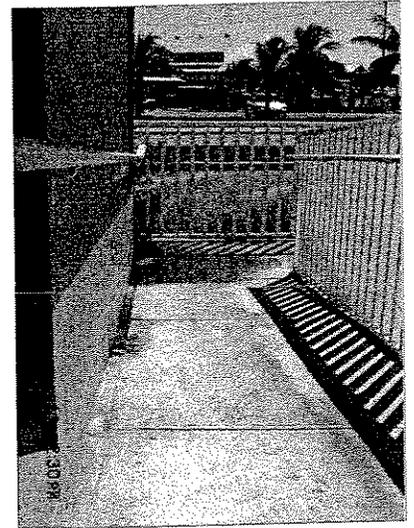
DSC00070



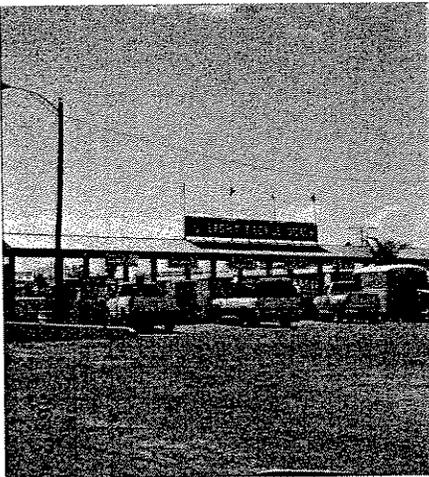
DSC00071



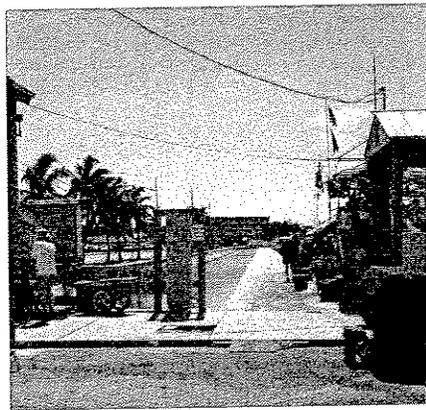
DSC00072



DSC00073

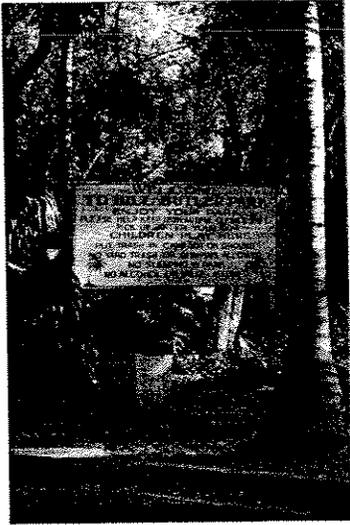


DSC00074



DSC00075

Key West 4-17-02 Parks



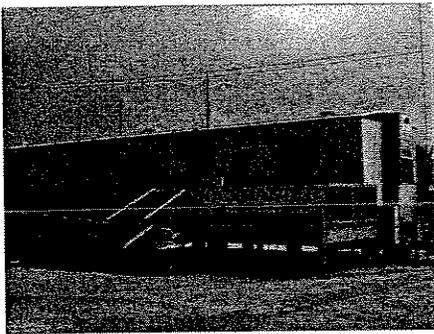
Bill Butler Park 1



Bill Butler Park 2



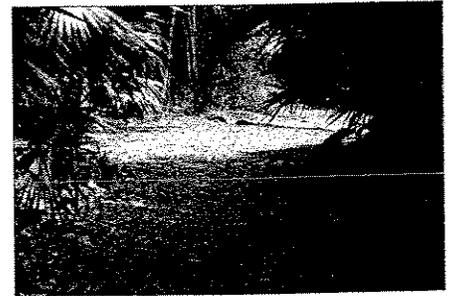
Bill Butler Park 3



dockmaster



KW Botanical Garden 1



KW Botanical Garden 2



KW Botanical Garden 3



Little hamaca Path 1



Little Hamaca path 2

Key West 4-17-02 Parks



Little Hamaca path 3



Little Hamaca path 4

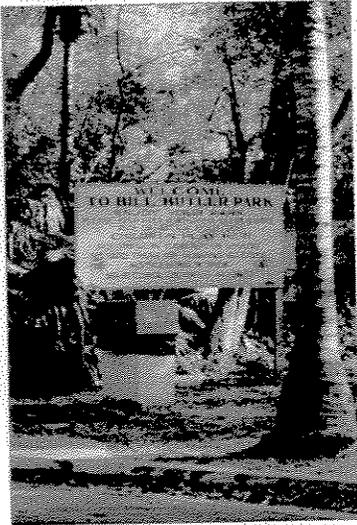


Little Hamaca road

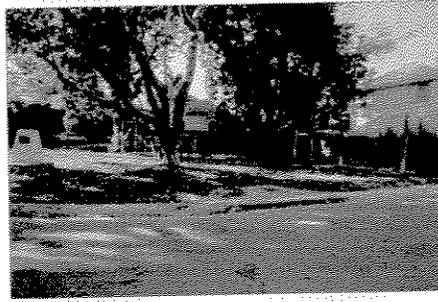


Little Hamaca Sign

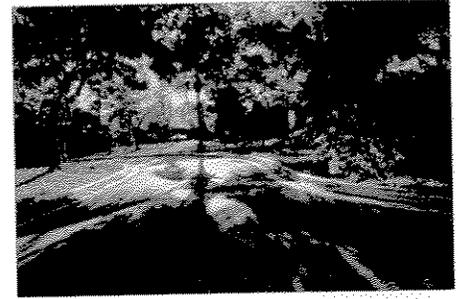
Key West Parks



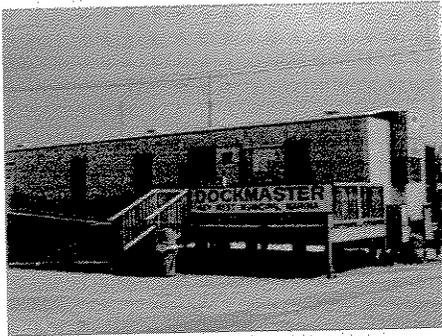
Bill Butler Park 1



Bill Butler Park 2



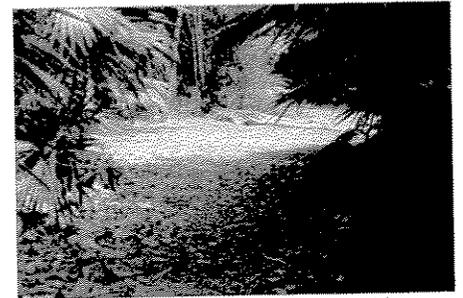
Bill Butler Park 3



dockmaster



KW Botanical Garden 1



KW Botanical Garden 2



KW Botanical Garden 3



Little hamaca Path 1



Little Hamaca path 2

Key West Parks



Little Hamaca path 3



Little Hamaca path 4



Little Hamaca road



Little Hamaca Sign

Key West Curb Cuts



Angela and Duval



Caroline and Duval



Catherine and Duval



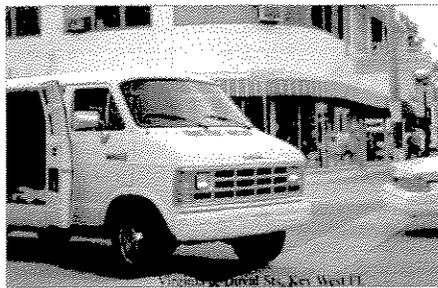
Eaton and Duval



Fleming and Duval



Green and Duval



Key West enforcement



Louisa and Duval



Petronia and Duval

Key West Curb Cuts



Southard and Duval

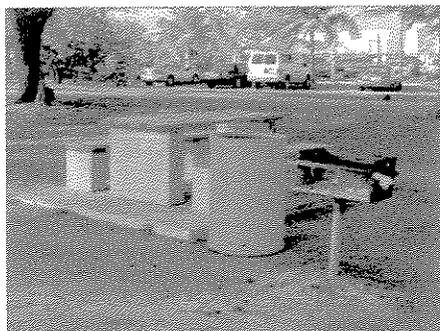


Virginia and Duval

Key West 2-10-04



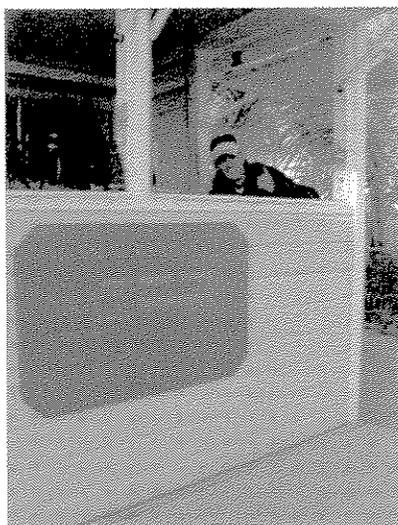
Smathers 1



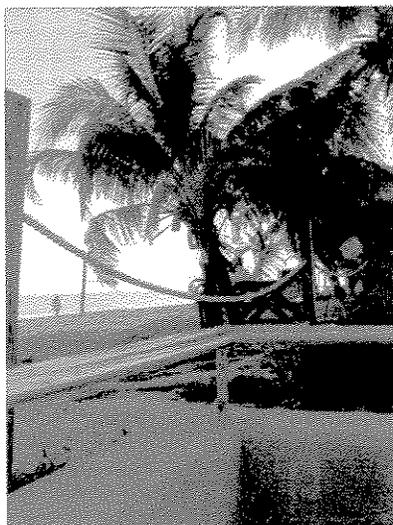
Smathers 2



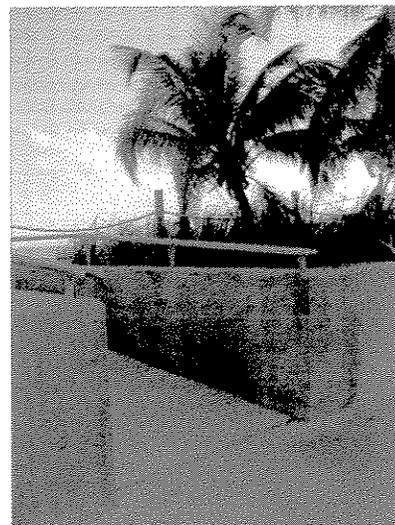
Smathers 3



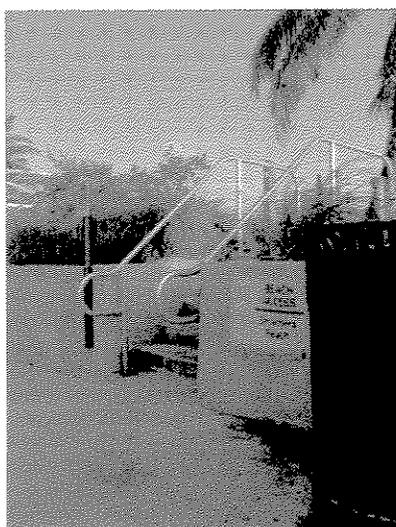
Smathers 4



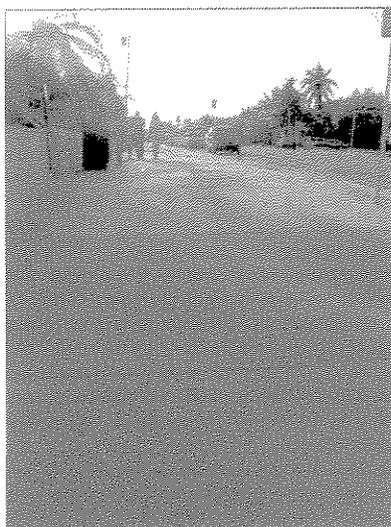
Smathers 5



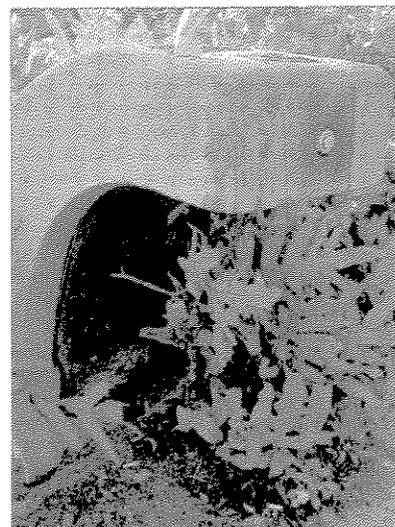
Smathers 6



Smathers 7

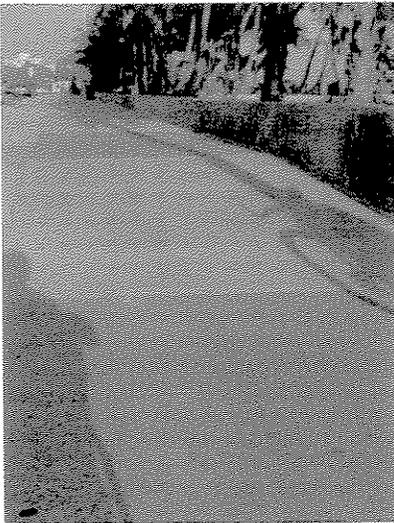


Smathers 8

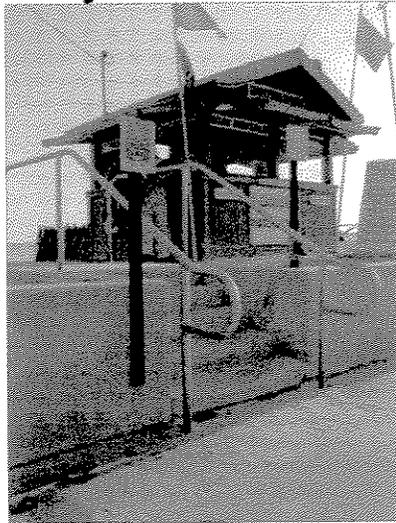


Smathers 9

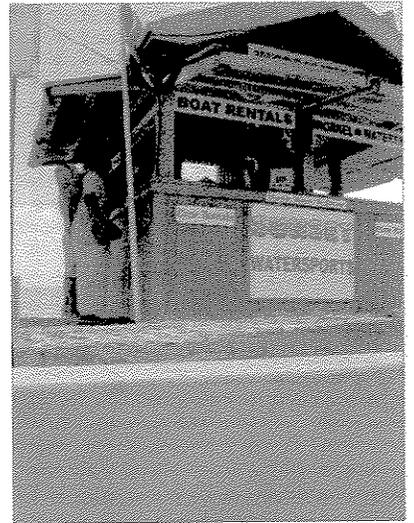
Key West 2-10-04



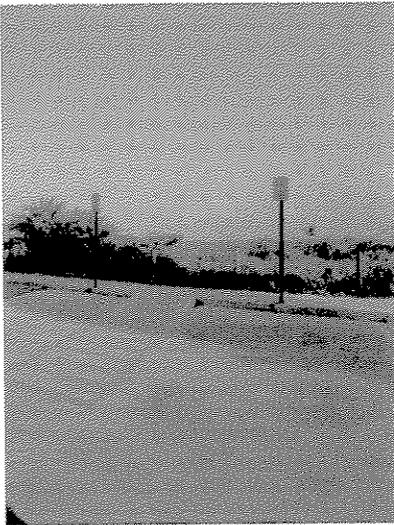
Smathers 10



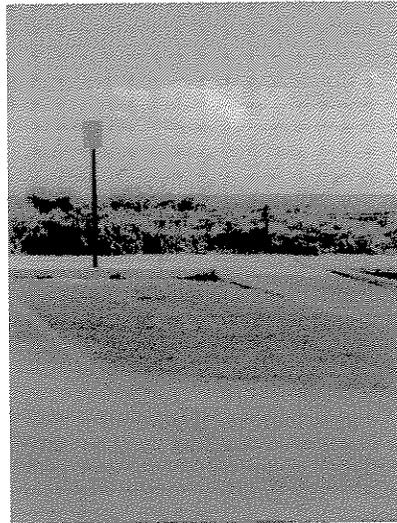
Smathers 11



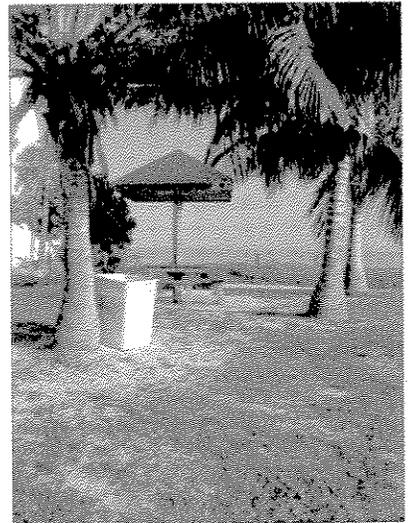
Smathers 12



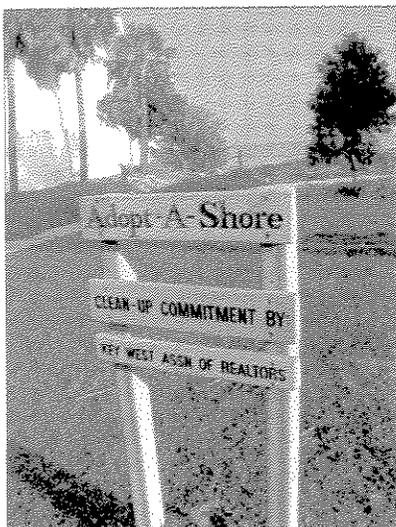
.Higgs 13



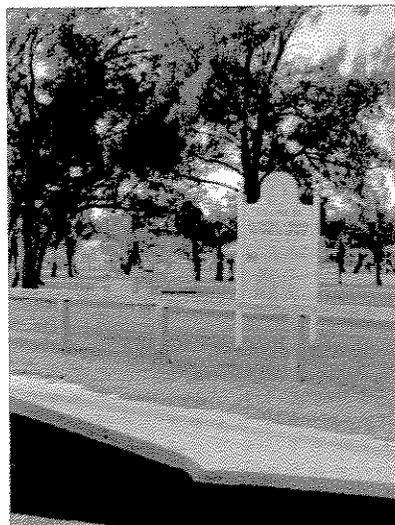
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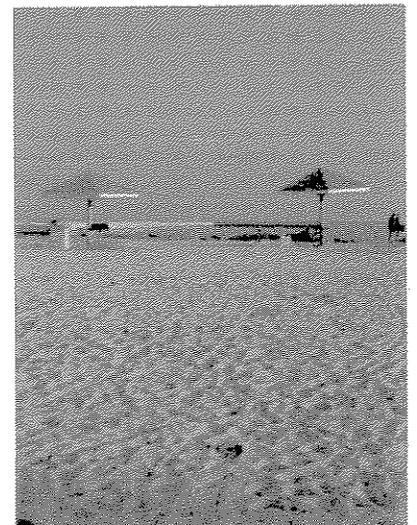
.Higgs 15



.Higgs 16

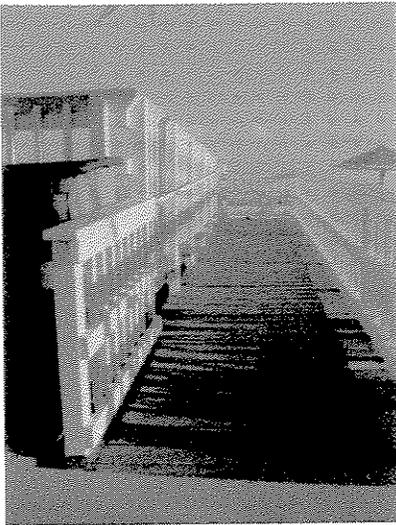


.Higgs 17

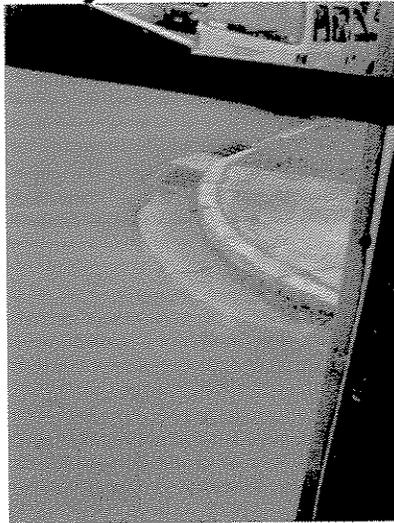


.Higgs 18

Key West 2-10-04



Higgs 19



Curb Cuts 20



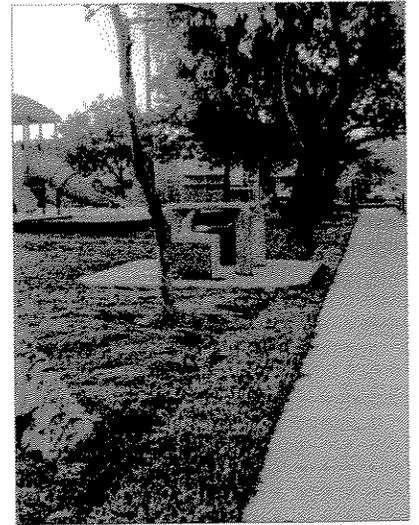
Curb Cuts 21



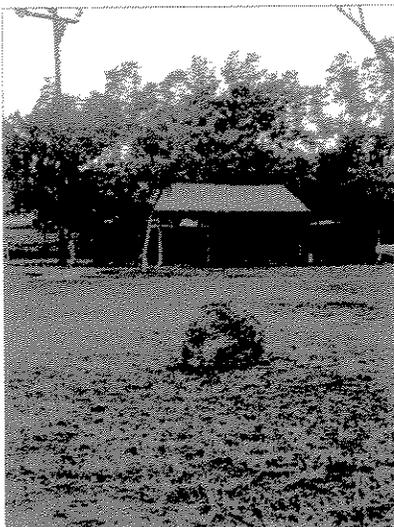
Curb Cuts 22



Curb Cuts 23



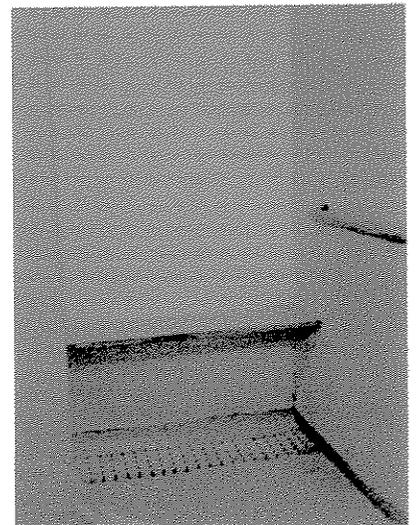
MLK 24



MLK 25



MLK 26

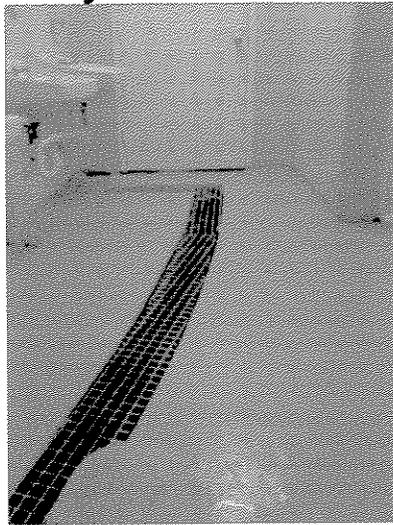


MLK 27

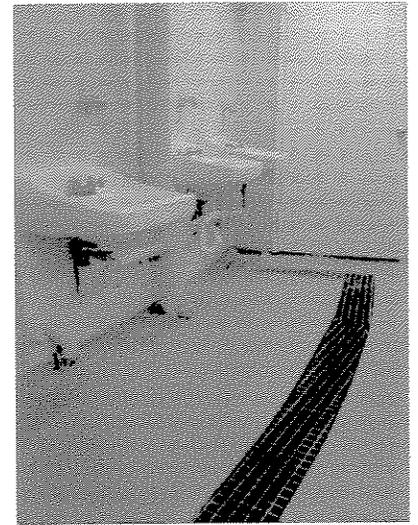
Key West 2-10-04



MLK 28



MLK 29



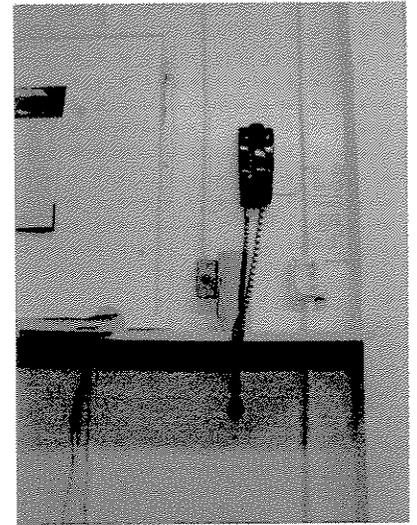
MLK 30



MLK 31



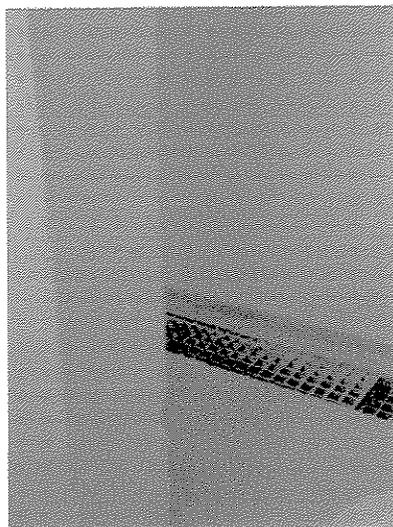
MLK 32



MLK 33



MLK 34

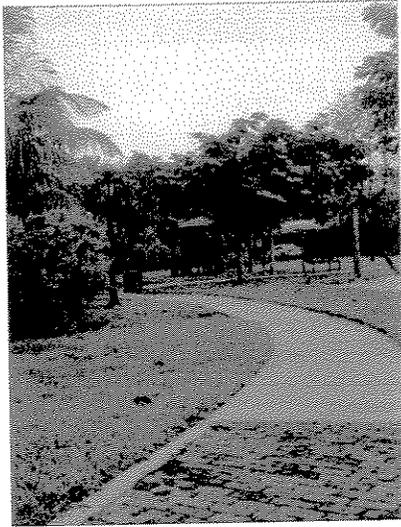


MLK 35

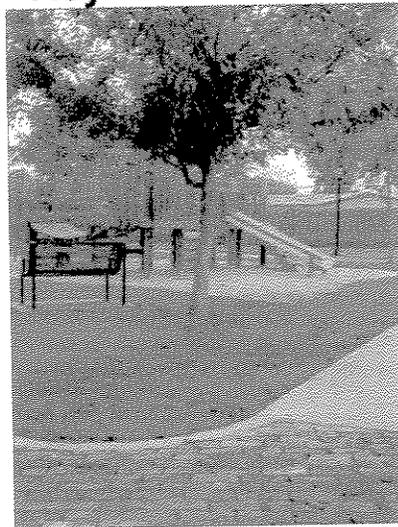


MLK 36

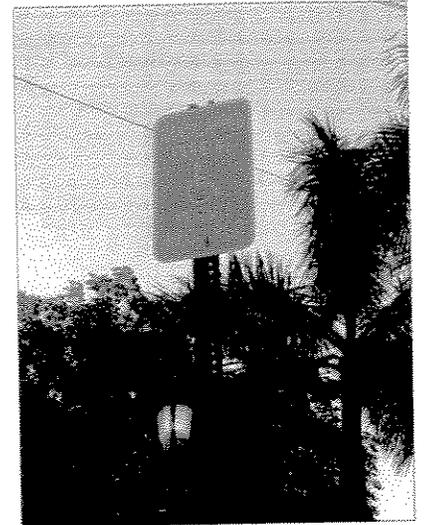
Key West 2-10-04



MLK 37



MLK 38



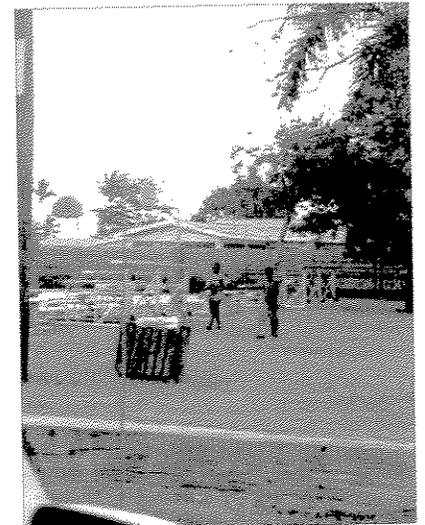
MLK 39



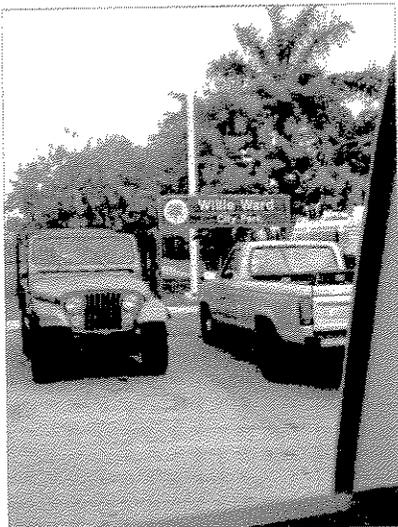
MLK 40



MLK 41

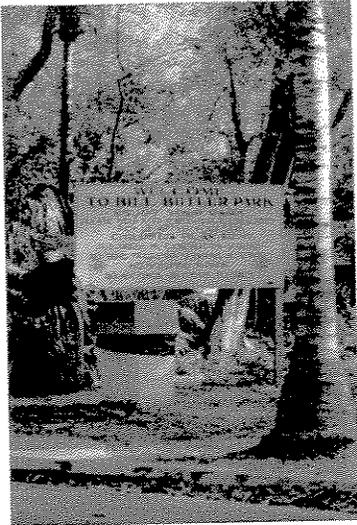


MLK 42

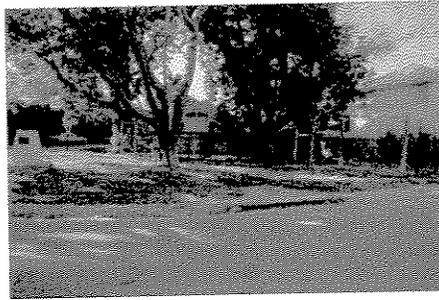


MLK 43

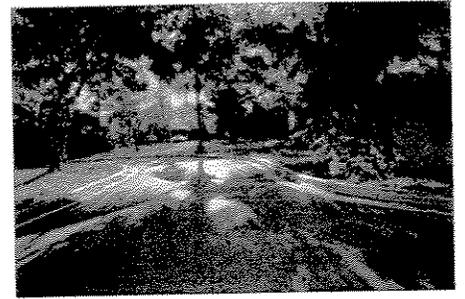
Key West Parks



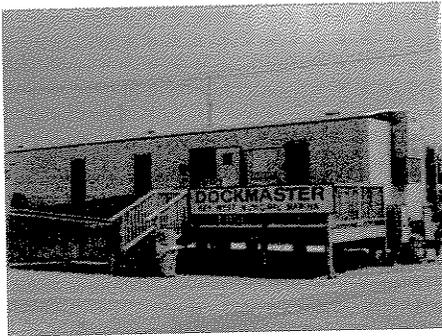
Bill Butler Park 1



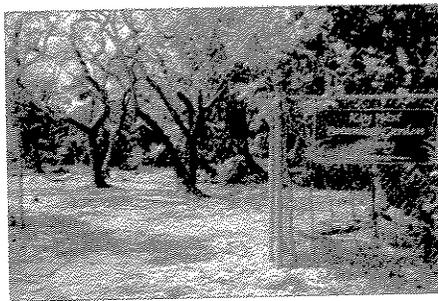
Bill Butler Park 2



Bill Butler Park 3



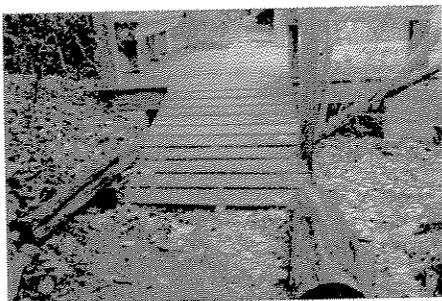
dockmaster



KW Botanical Garden 1



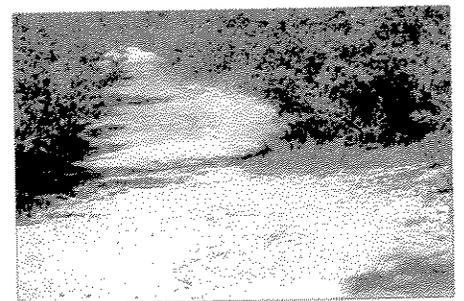
KW Botanical Garden 2



KW Botanical Garden 3



Little hamaca Path 1

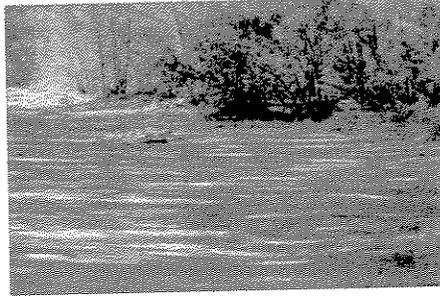


Little Hamaca path 2

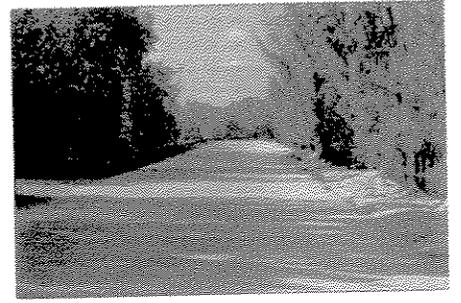
Key West Parks



Little Hamaca path 3



Little Hamaca path 4



Little Hamaca road



Little Hamaca Sign

Key West Curb Cuts



Angela and Duval



Caroline and Duval



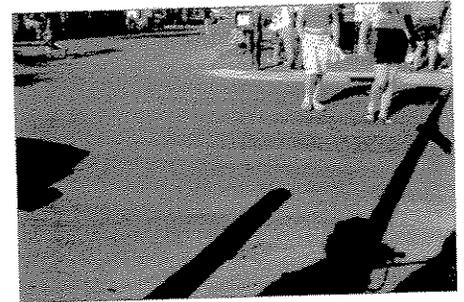
Catherine and Duval



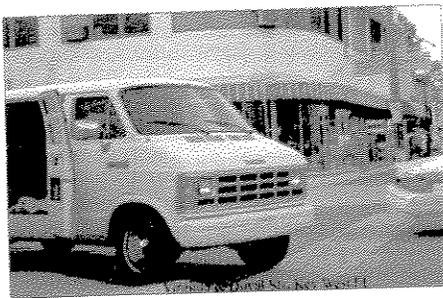
Eaton and Duval



Fleming and Duval



Green and Duval



Key West enforcement



Louisa and Duval

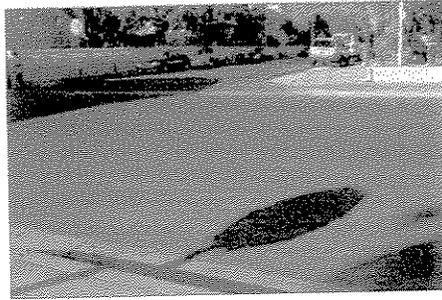


Petronia and Duval

Key West Curb Cuts

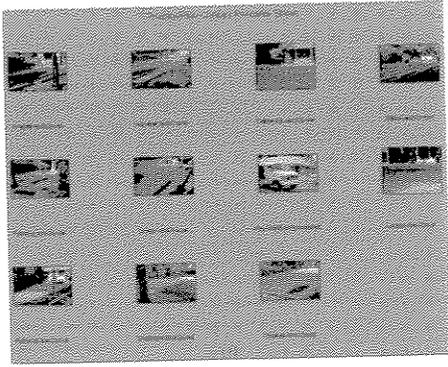


Southard and Duval

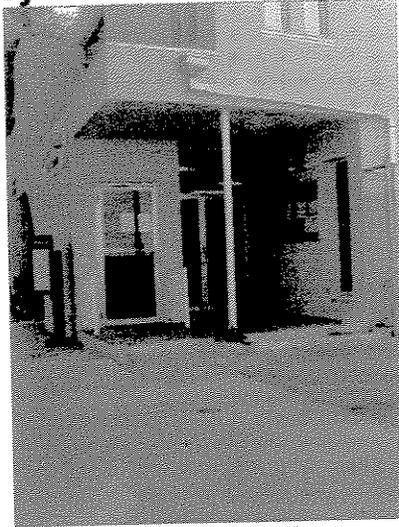


Virginia and Duval

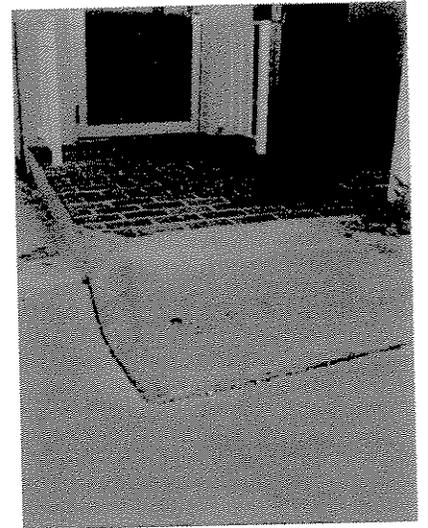
Key West Pre-Litigation



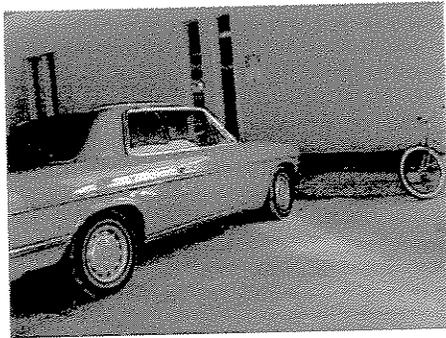
KW curb cuts



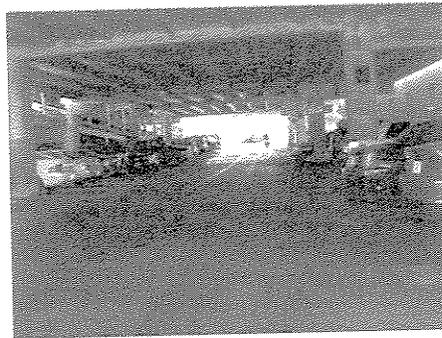
MVC-269F



MVC-270F



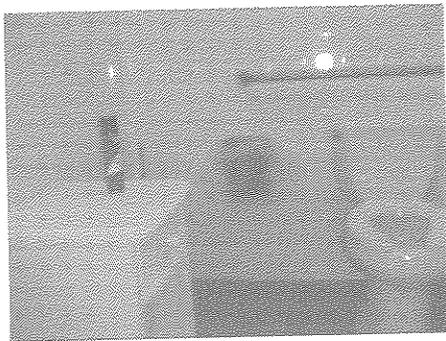
MVC-271F



MVC-272F



MVC-273F



MVC-274F



MVC-275F



MVC-276F

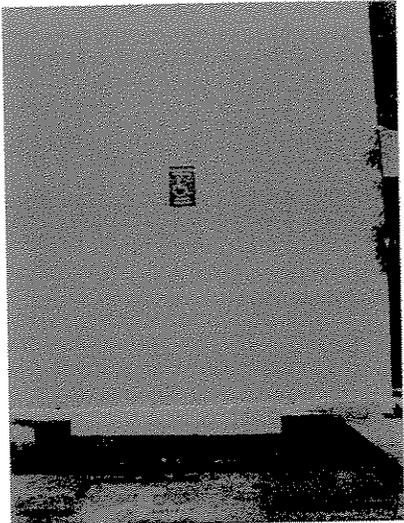
Key West Pre-Litigation



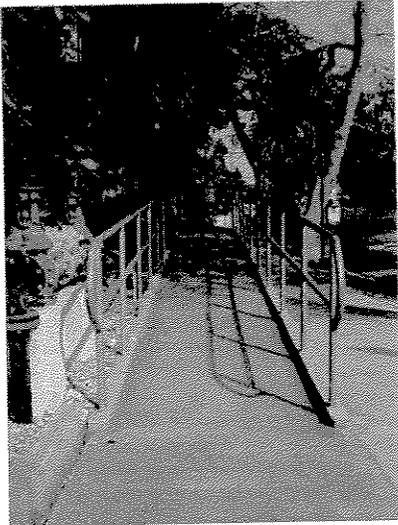
MVC-277F



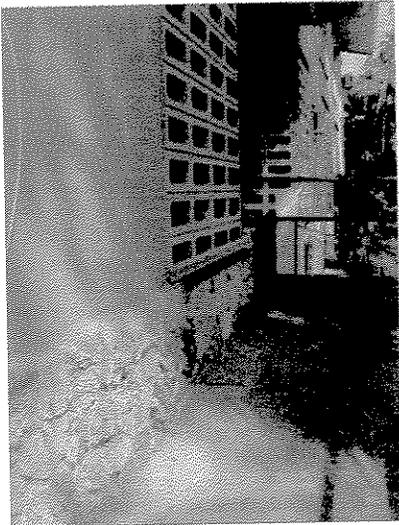
MVC-278F



MVC-279F



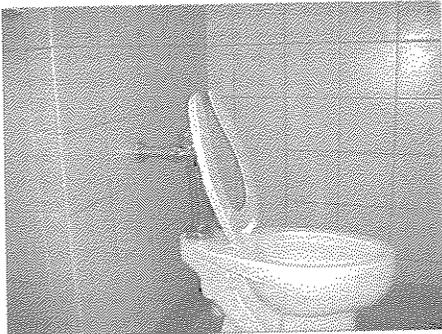
MVC-280F



MVC-281F



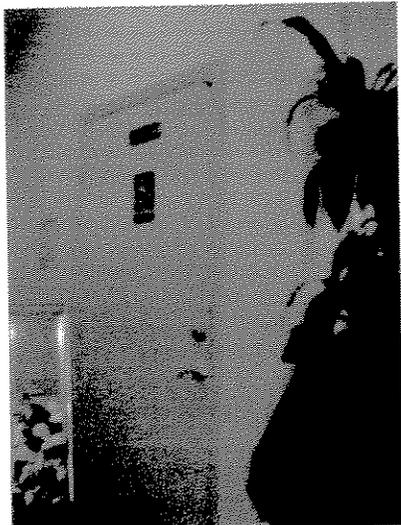
MVC-282F



MVC-283F



MVC-284F

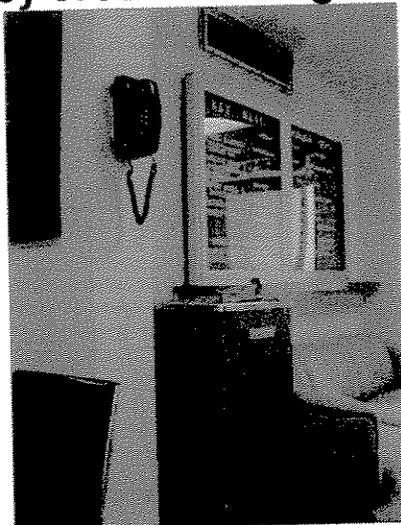


MVC-285F

Key West Pre-Litigation



MVC-286F



MVC-287F



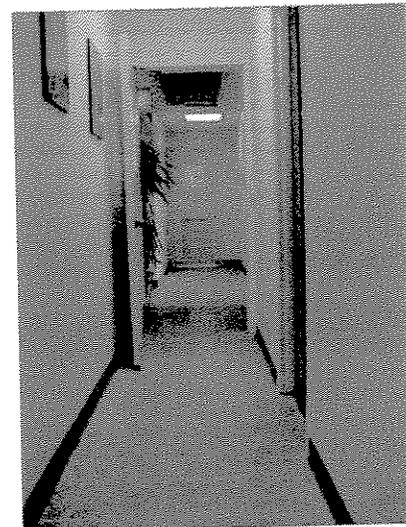
MVC-288F



MVC-289F



MVC-290F

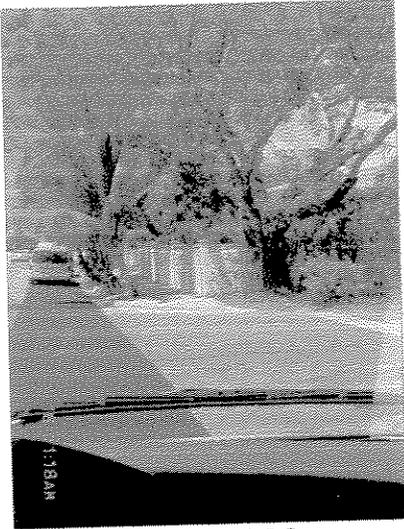


MVC-291F

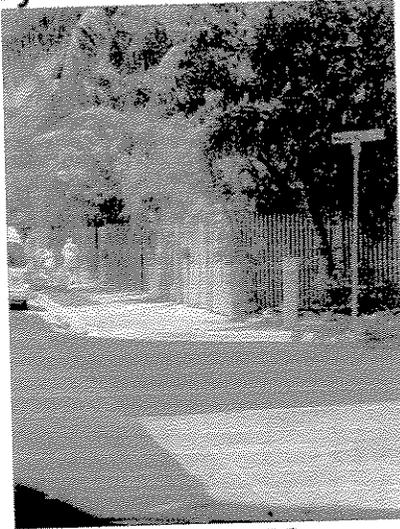


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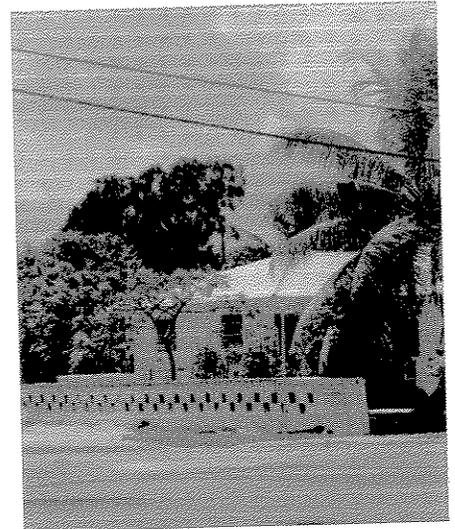
Key West Pre-Litigation



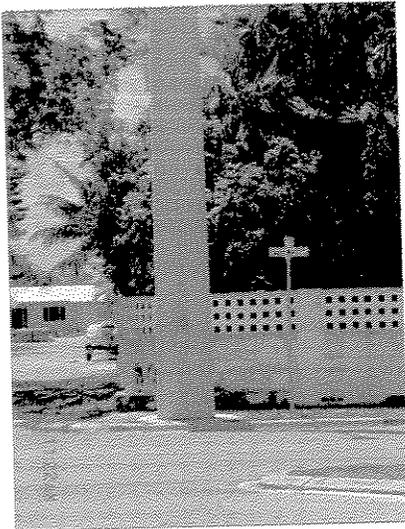
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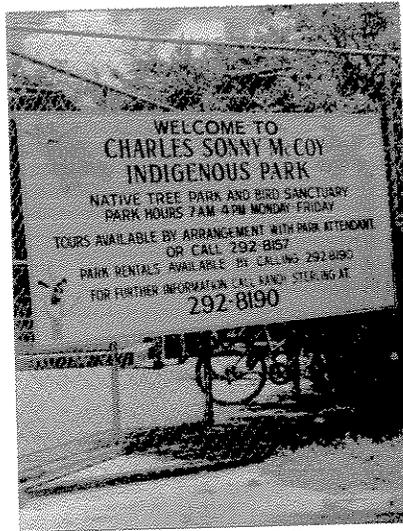
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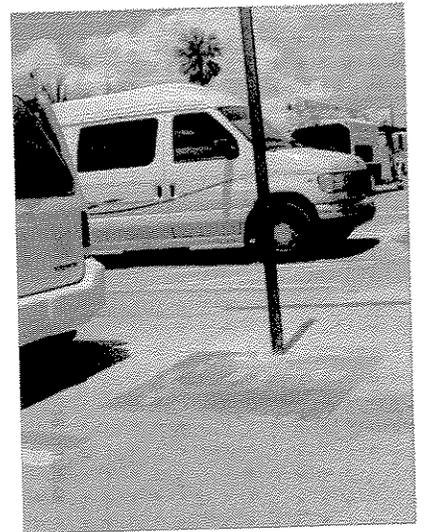
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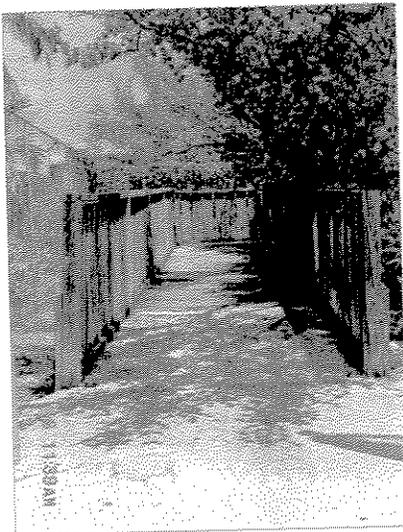
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DSC00026



DSC00027



DSC00028

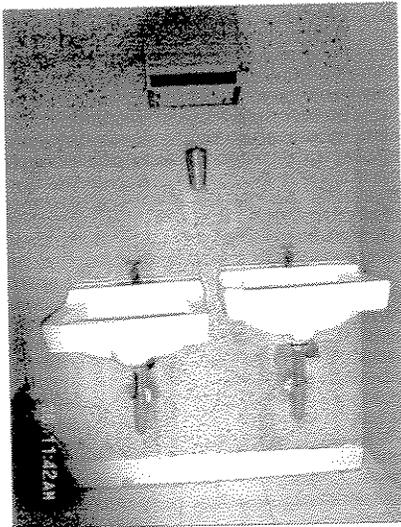


DSC00029

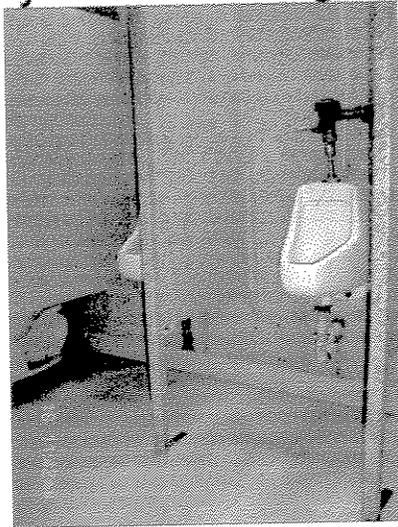


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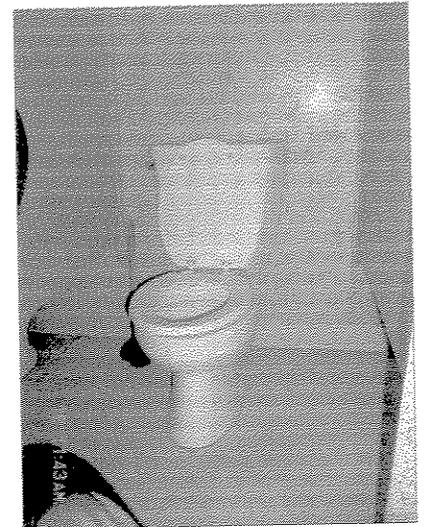
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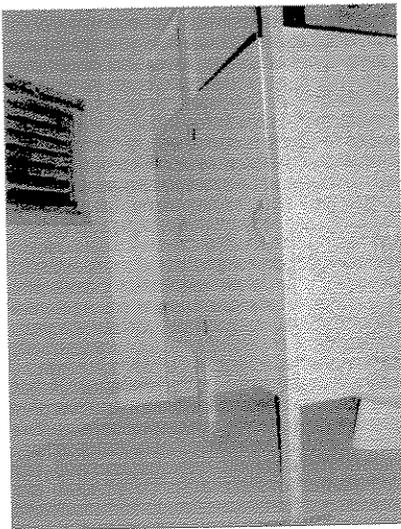
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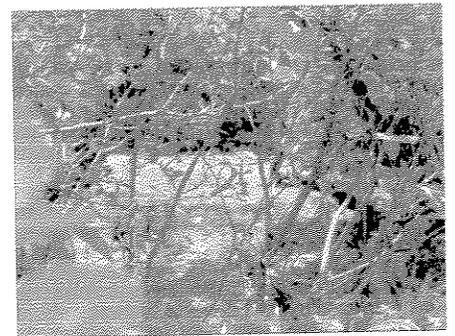
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DSC00034



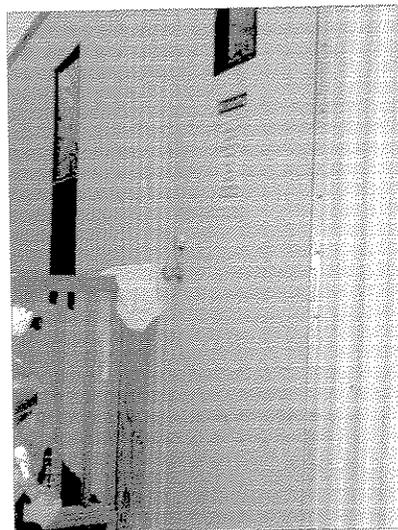
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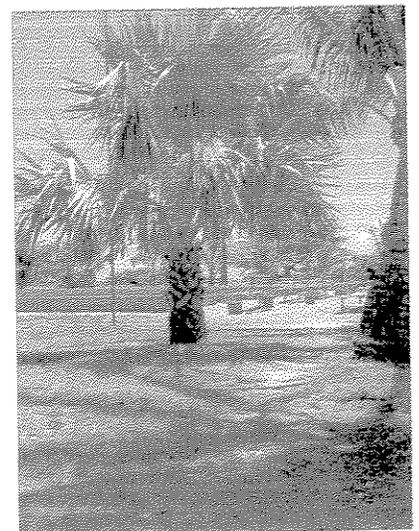
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DSC00037



DSC00038



DSC00039

Key West Pre-Litigation



DSC00040



DSC00041



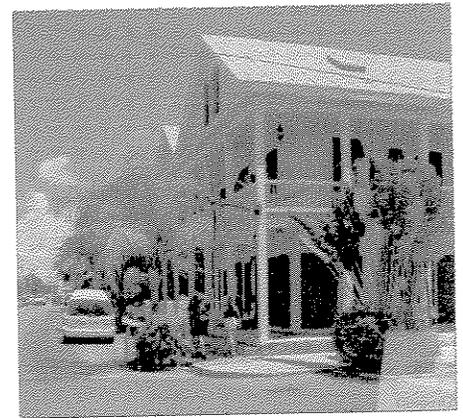
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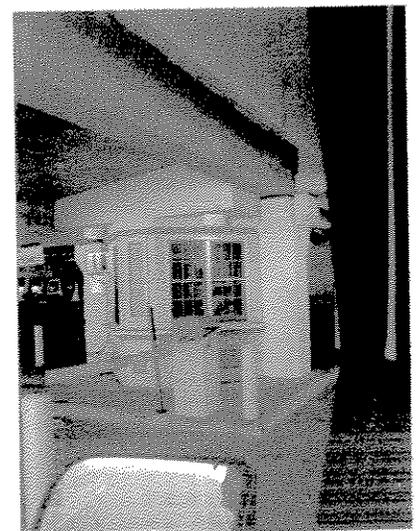
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DSC00047



DSC00048

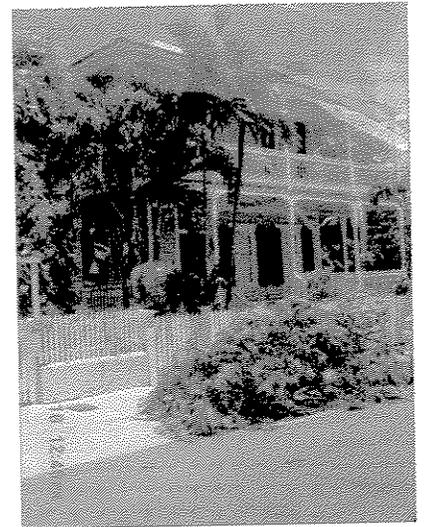
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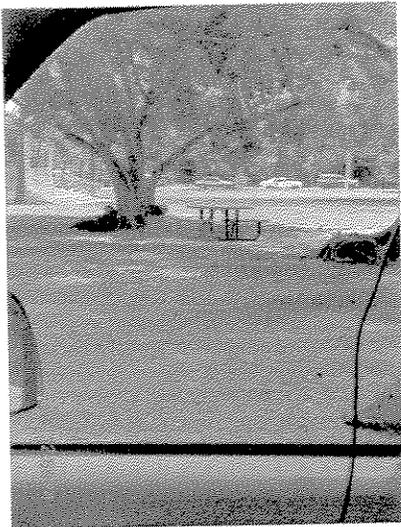
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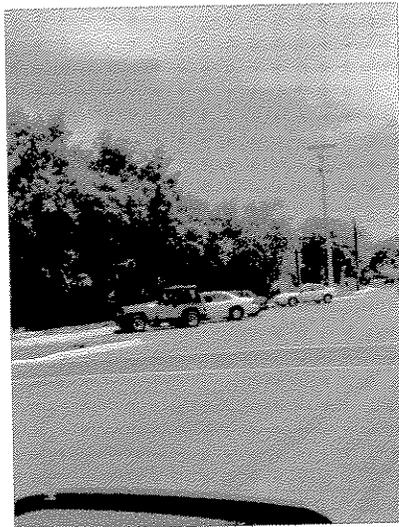
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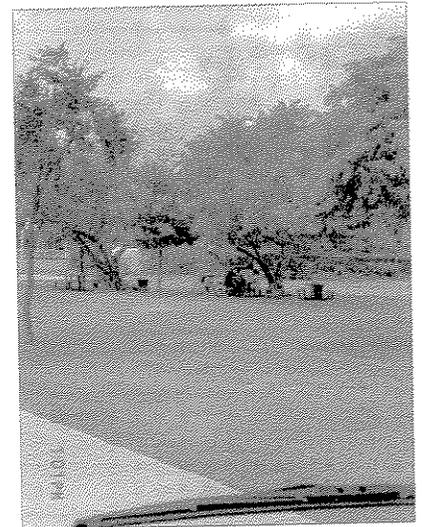
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DSC00053



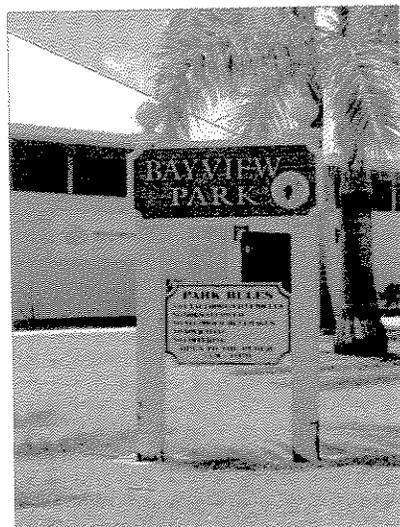
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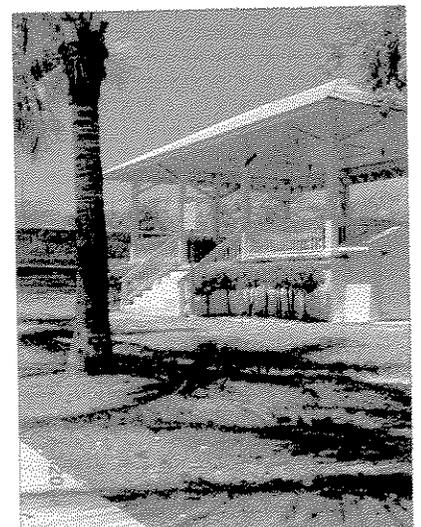
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DSC00056



DSC00057

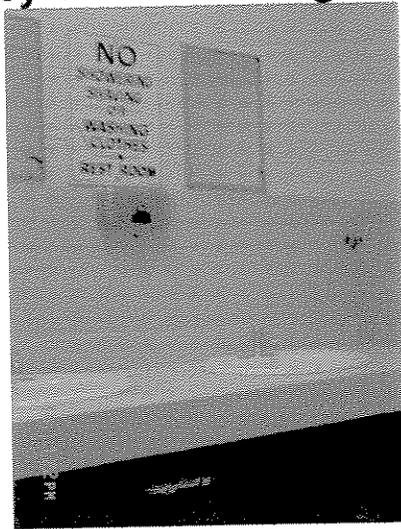


DSC00058

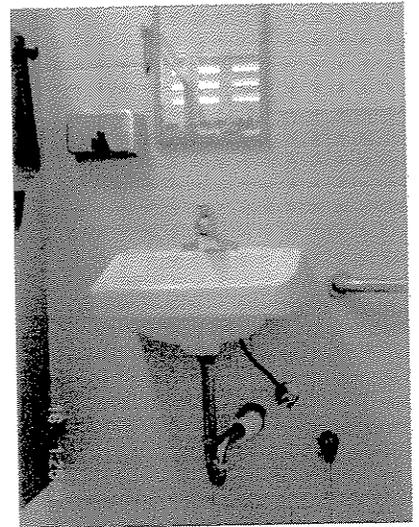
Key West Pre-Litigation



DSC00059



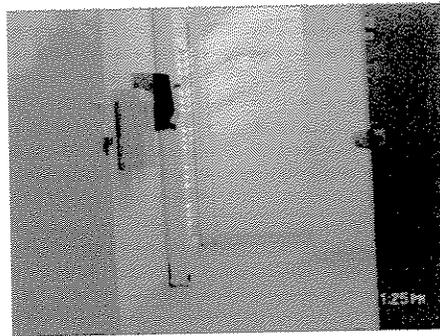
DSC00060



DSC00061



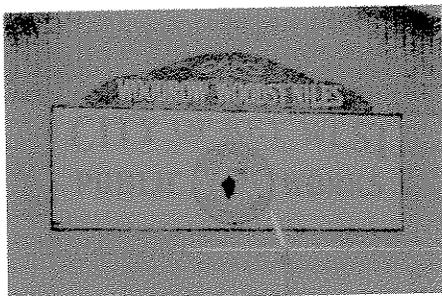
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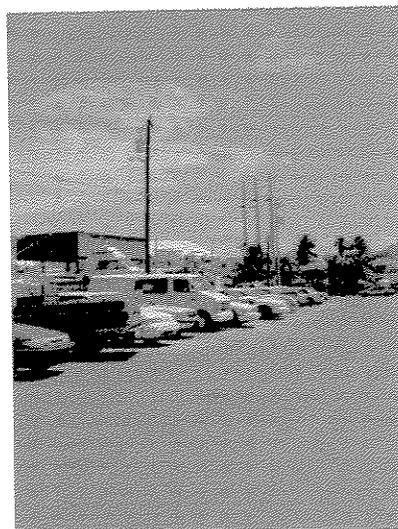
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DSC00064



DSC00065

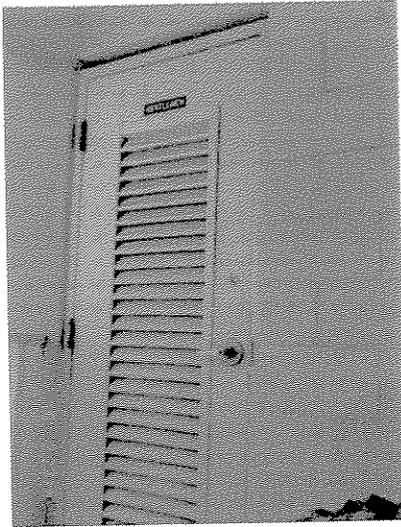


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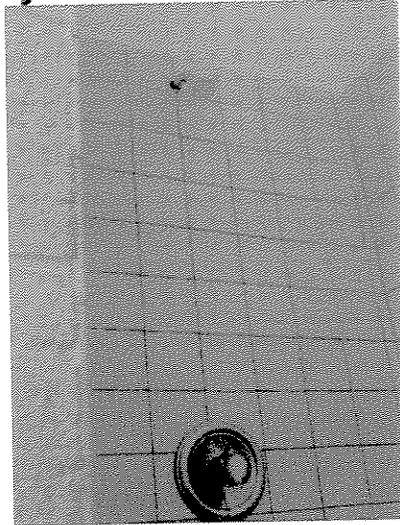


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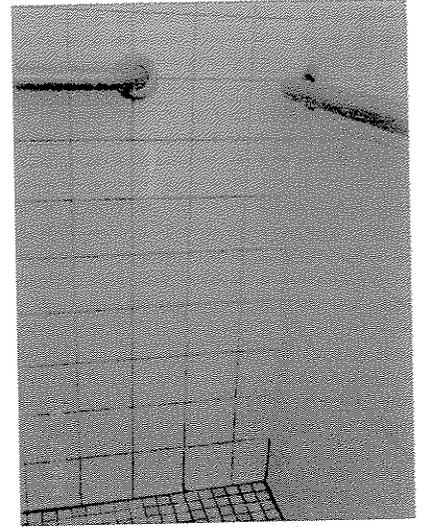
Key West Pre-Litigation



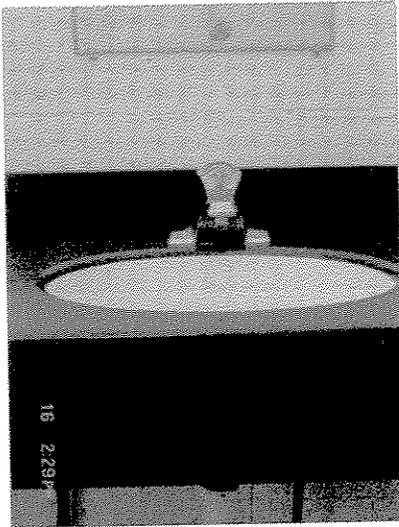
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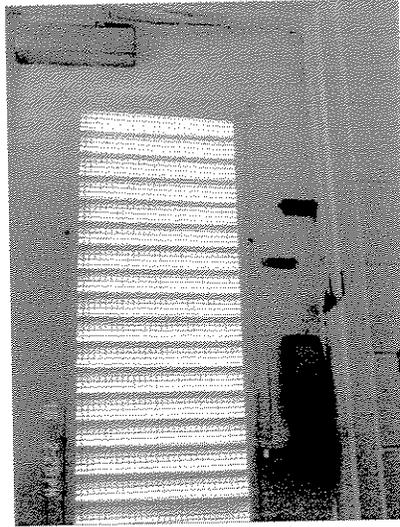
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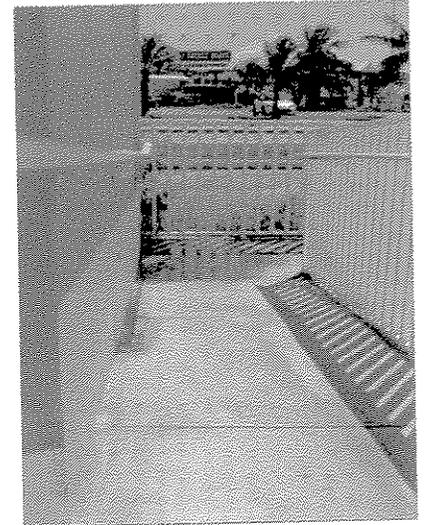
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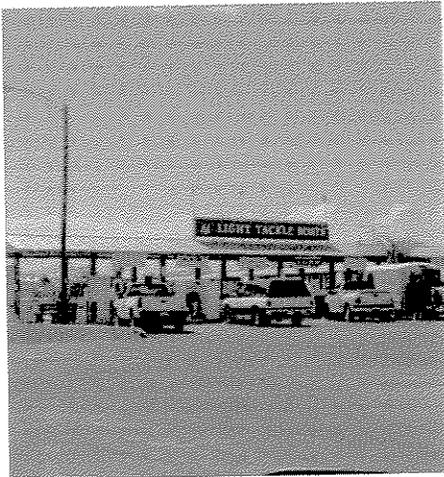
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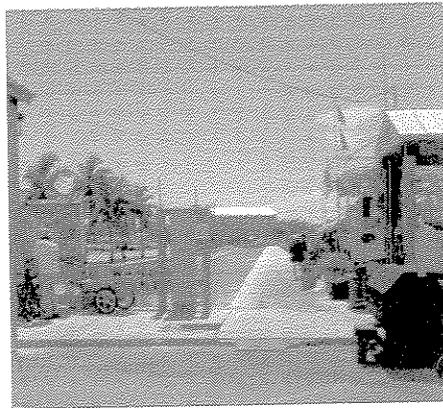
DSC00072



DSC00073

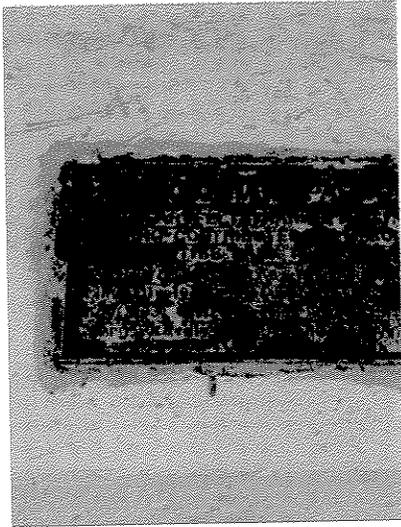


DSC00074



DSC00075

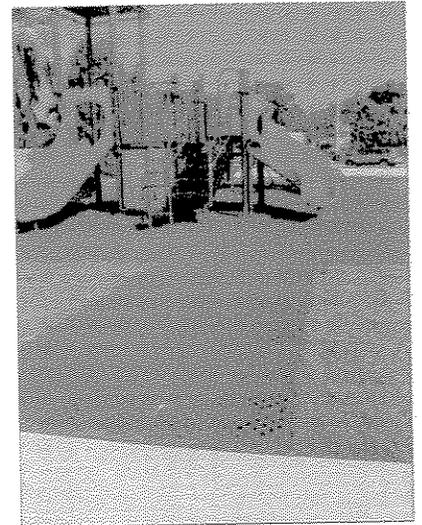
Key West 2-11-04



Cozmel 1



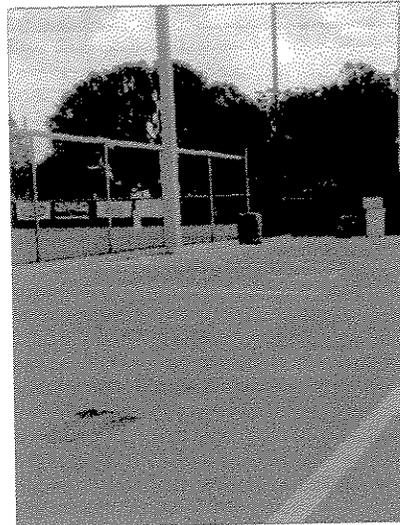
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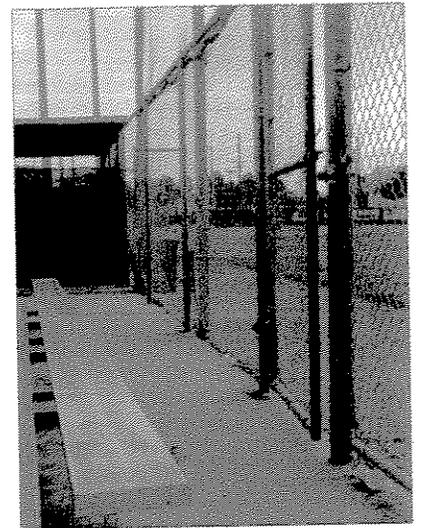
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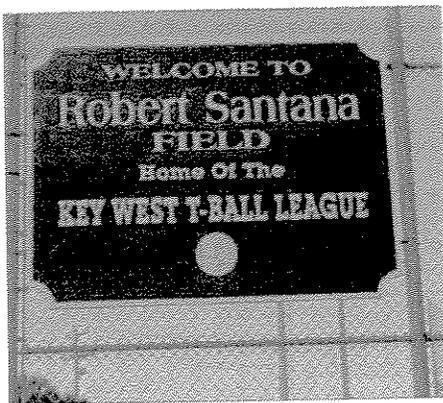
Sterling 4



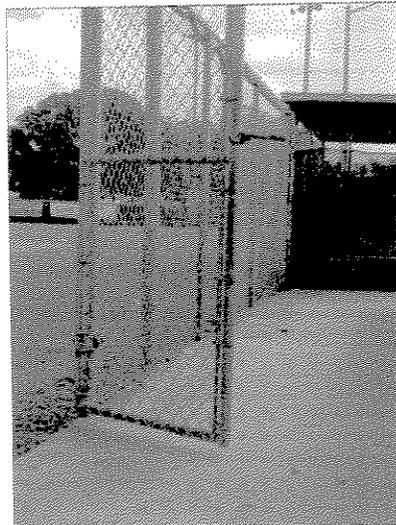
Sterling 5



Sterling 6



Sterling 7

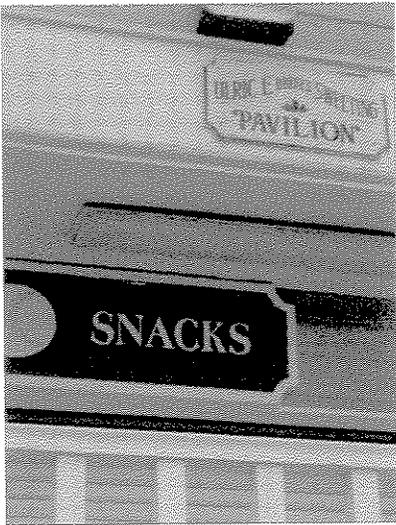


Sterling 8



Sterling 9

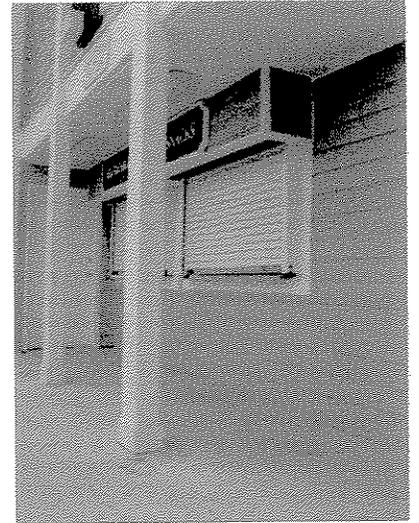
Key West 2-11-04



Sterling 10



Sterling 11



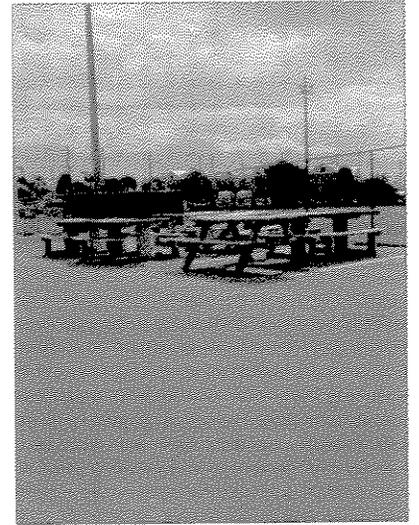
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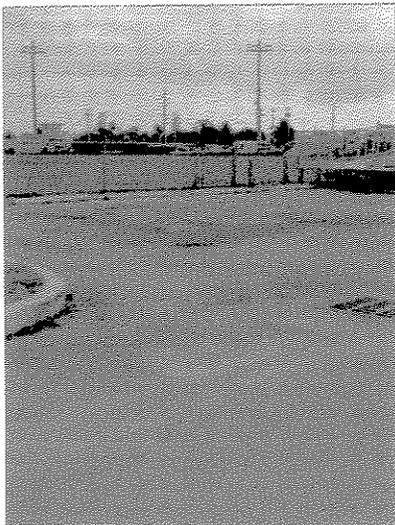
Sterling 13



Sterling 14



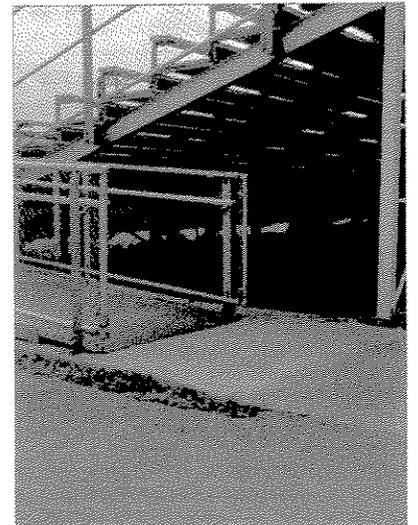
Sterling 15



Sterling 16



Sterling 17



Sterling 18

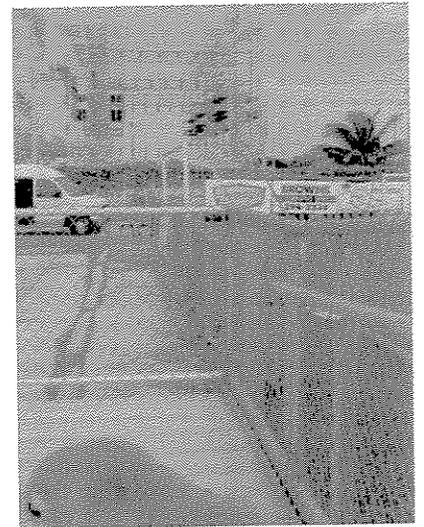
Key West 2-11-04



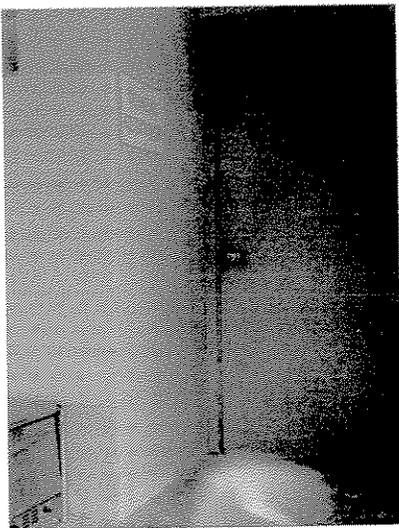
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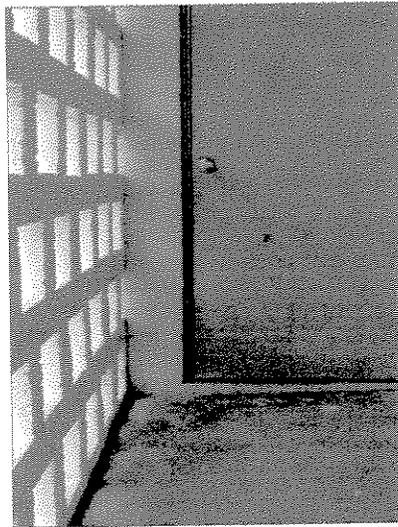
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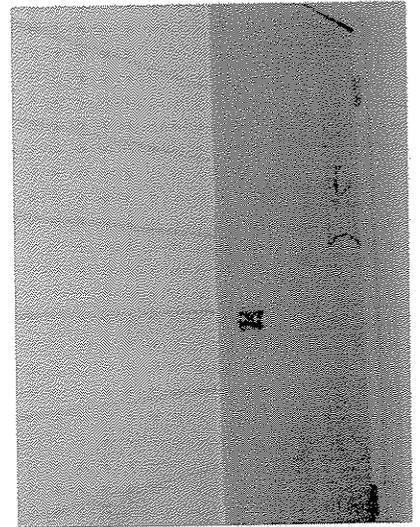
Sterling 21



Sterling 22



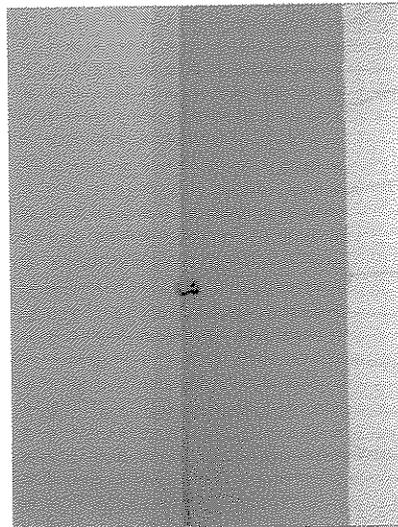
Sterling 23



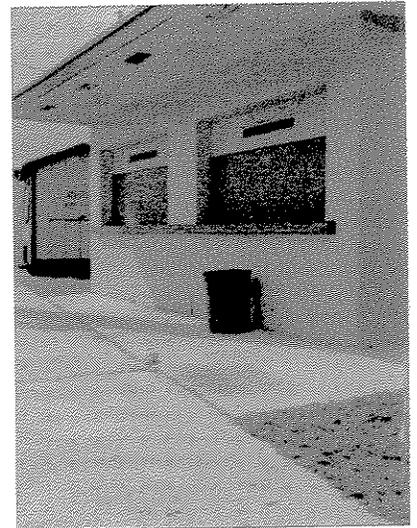
Sterling 24



Sterling 25

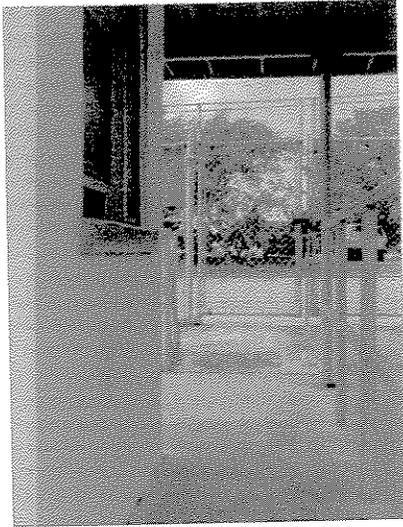


Sterling 26

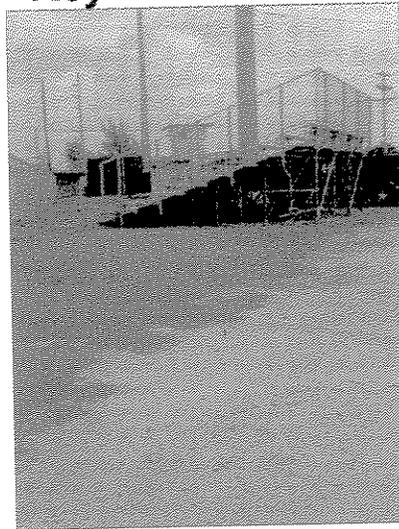


Sterling 27

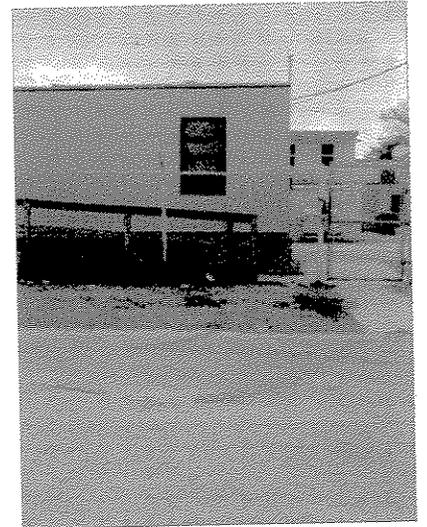
Key West 2-11-04



Sterling 28



Sterling 29



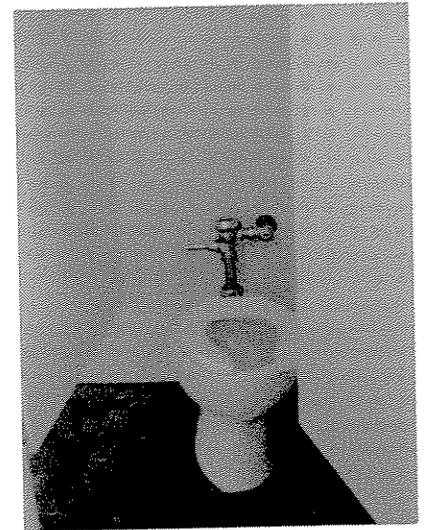
Sterling 30



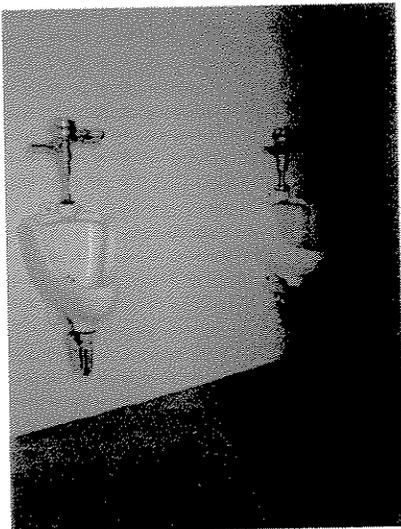
Sterling 31



Sterling 32



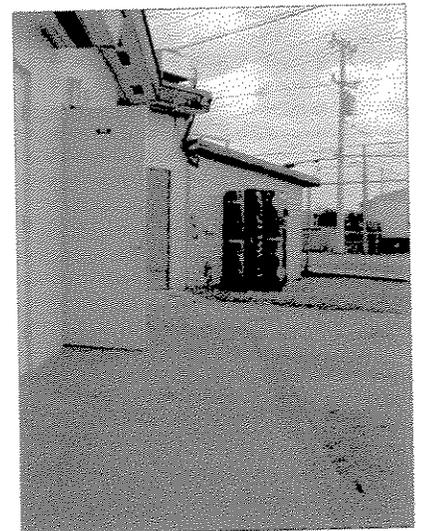
Sterling 33



Sterling 34

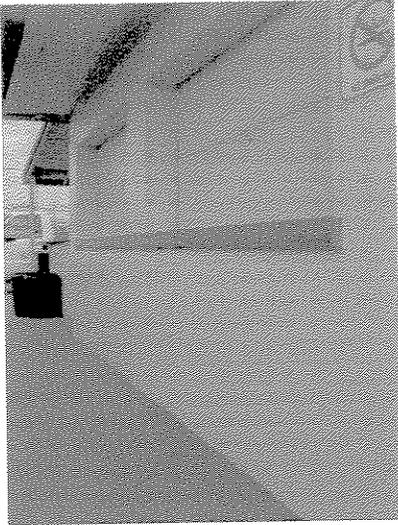


Sterling 35



Sterling 36

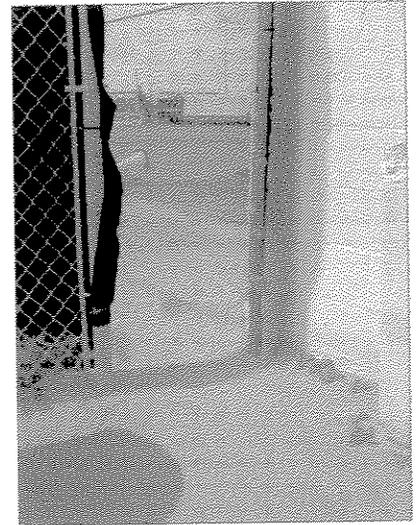
Key West 2-11-04



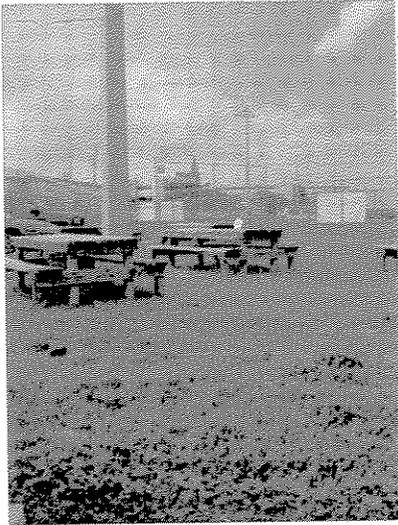
Sterling 37



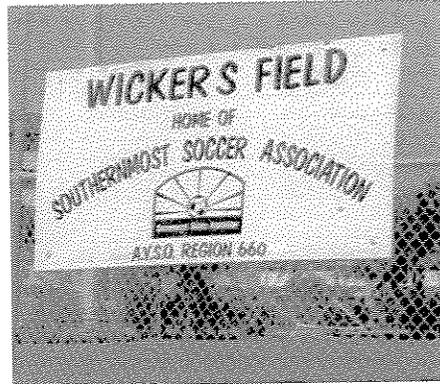
Sterling 38



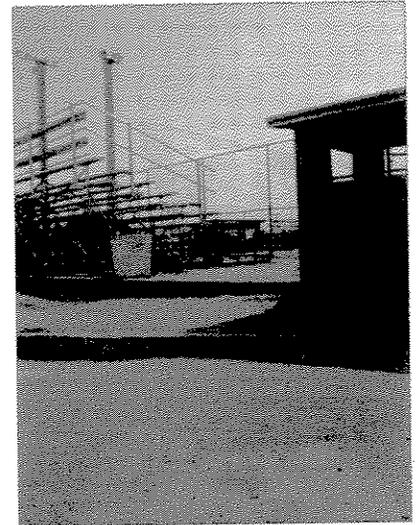
Sterling 39



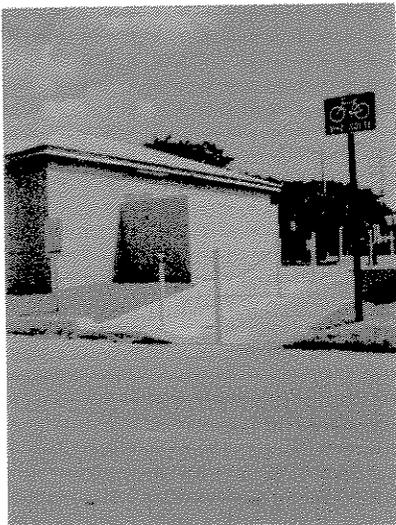
Sterling 40



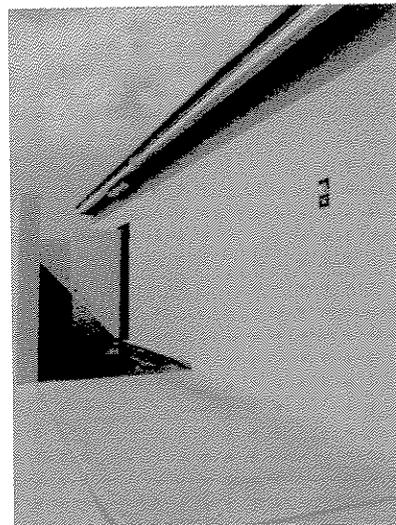
Wickers 41



Wickers 42



Wickers 43

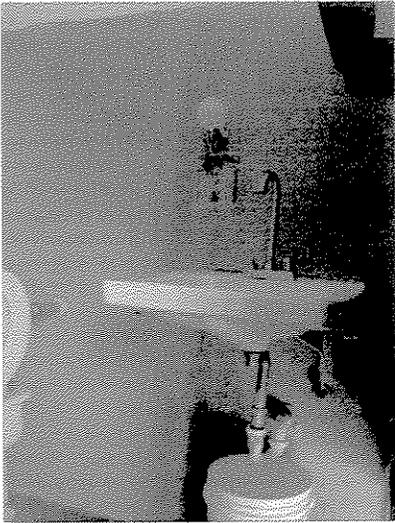


Wickers 44

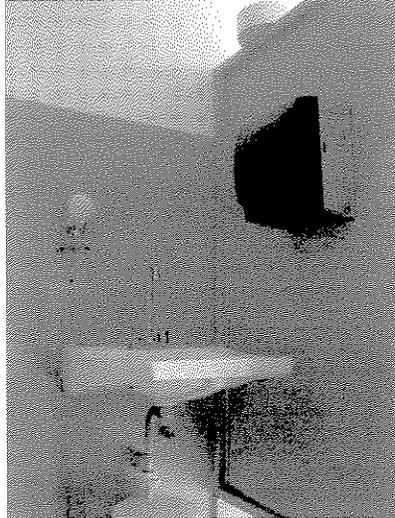


Wickers 45

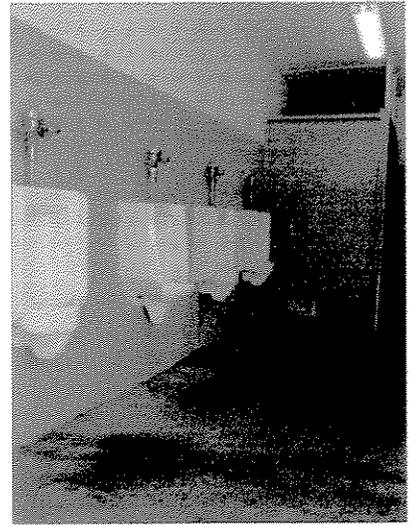
Key West 2-11-04



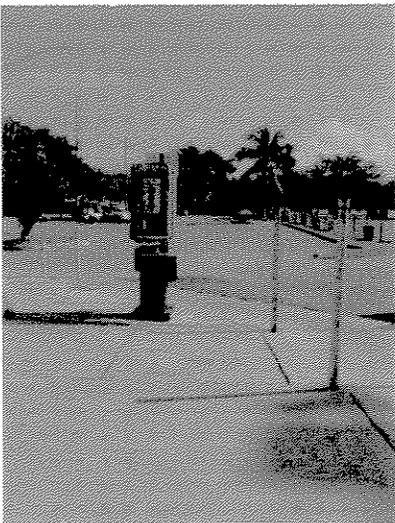
Wickers 46



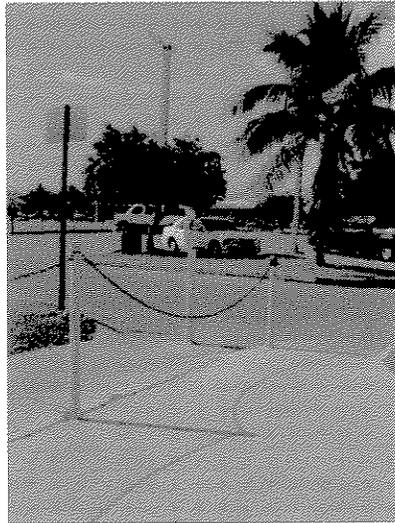
Wickers 47



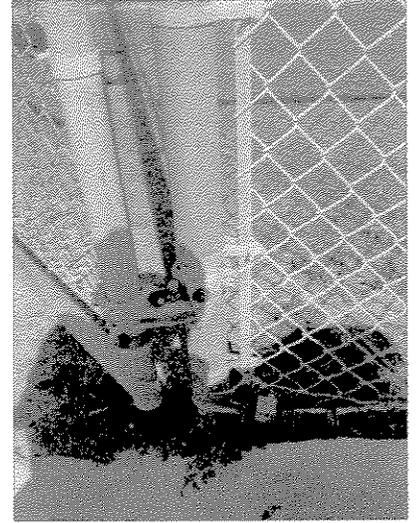
Wickers 48



Wickers 49



Wickers 50



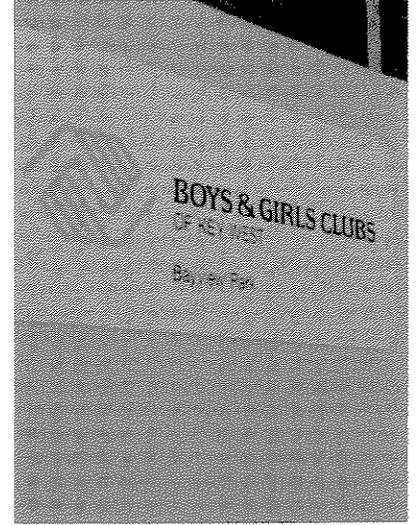
Wickers 51



Wickers 52



Bayview 53

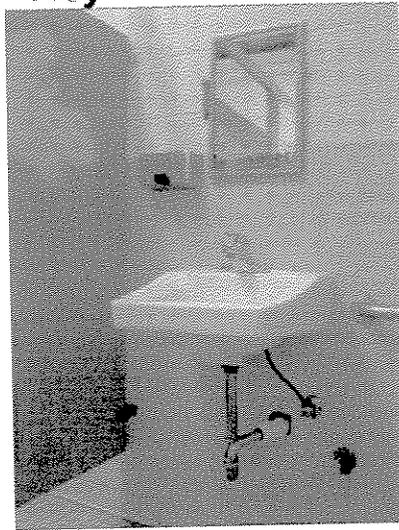


Bayview 54

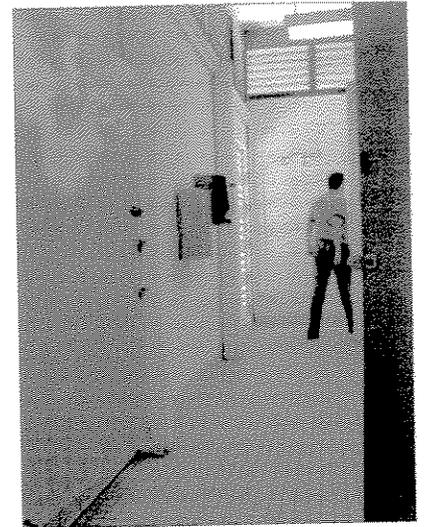
Key West 2-11-04



Bayview 55



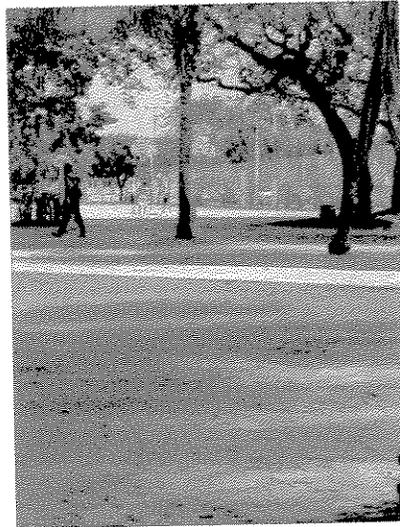
Bayview 56



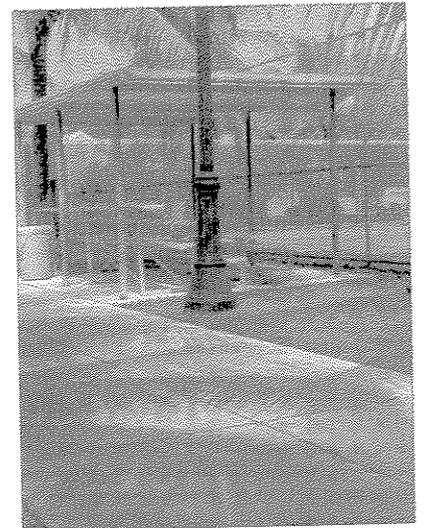
Bayview 57



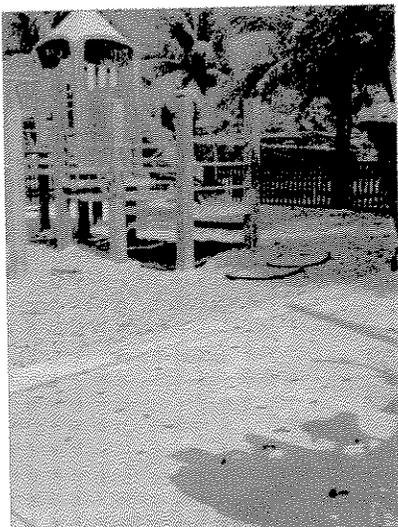
Bayview 58



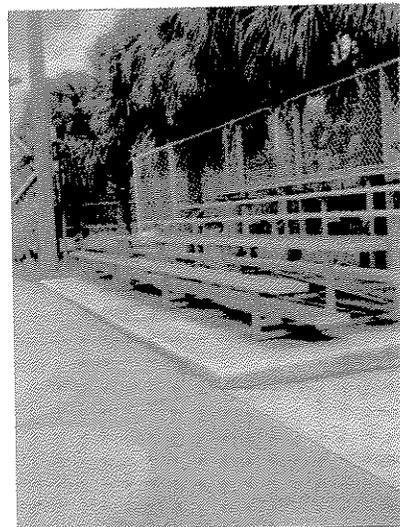
Bayview 59



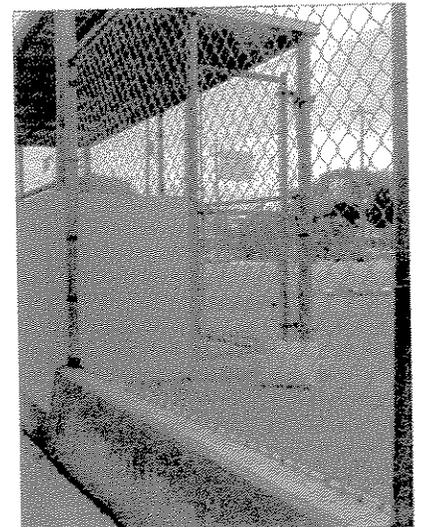
Bayview 60



Bayview 61

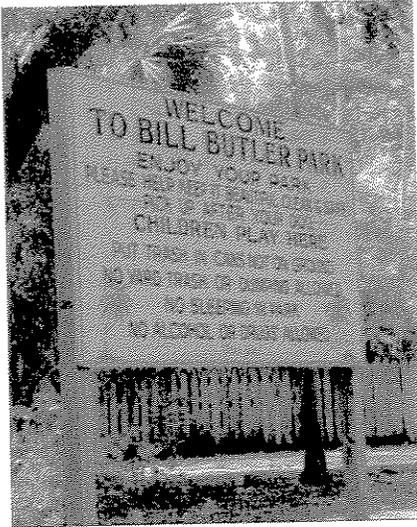


Bayview 62



Bayview 63

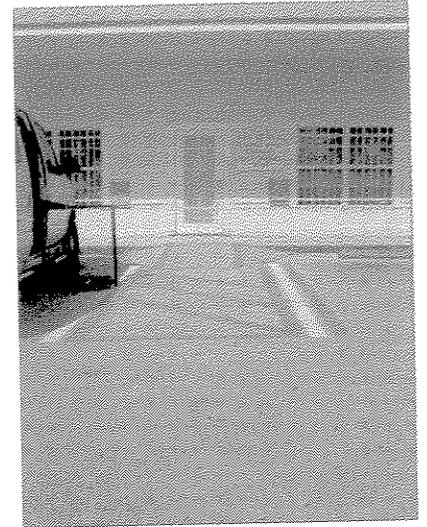
Key West 2-11-04



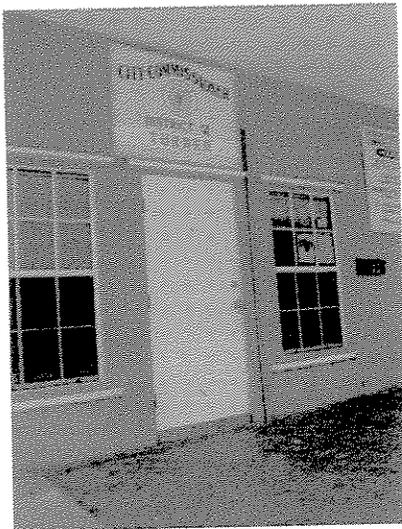
Bill Butler 64



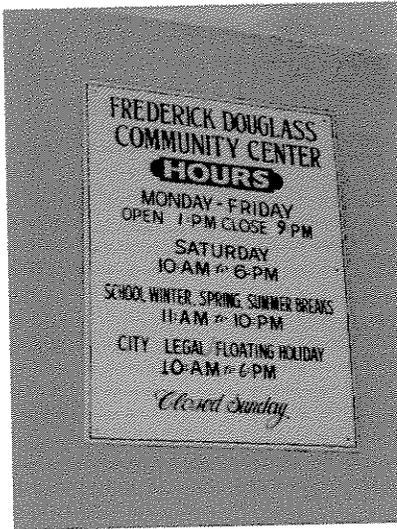
Bill Butler 65



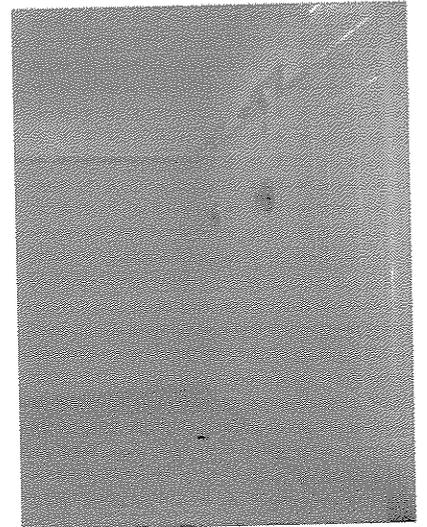
Douglas 66



Douglas 67



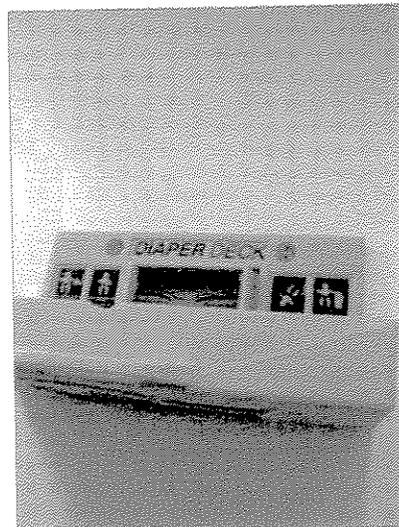
Douglas 68



Douglas 69



Douglas 70



Douglas 71

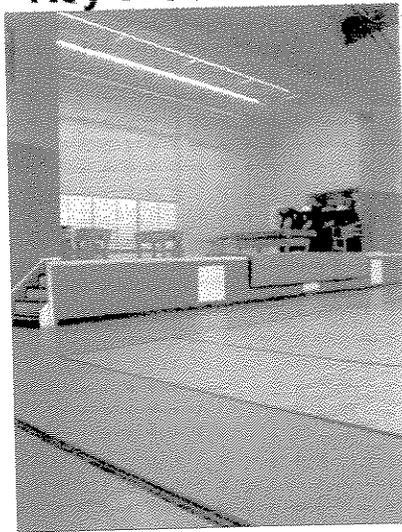


Douglas 72

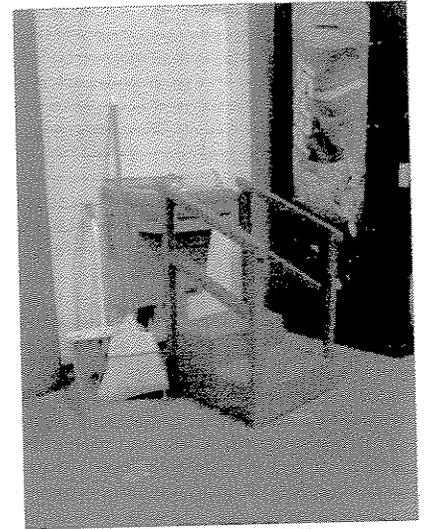
Key West 2-11-04



Douglas 73



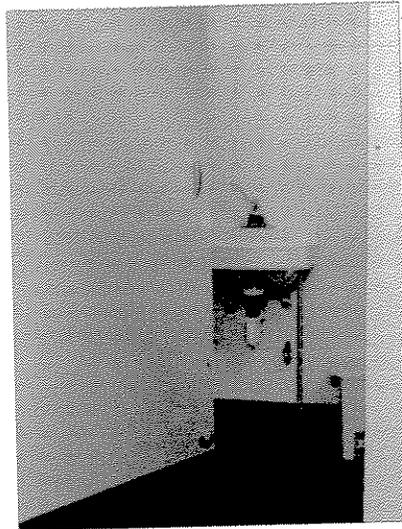
Douglas 74



Douglas 75



Douglas 76



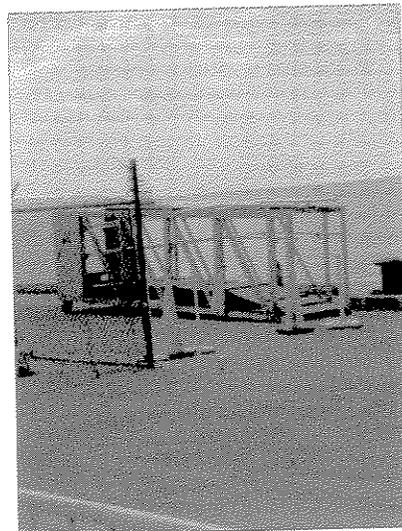
Douglas 77



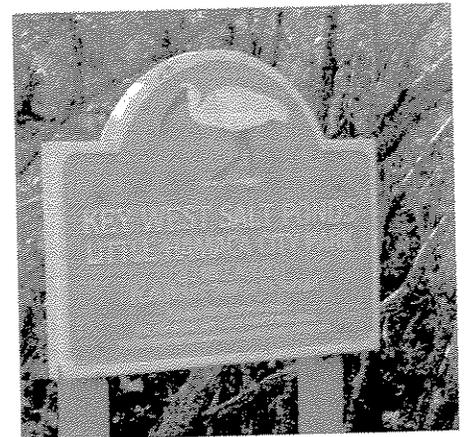
Flagler & 5th St. 78



Flagler & 5th St. 79



Fort Zac 80



Hamaca 81

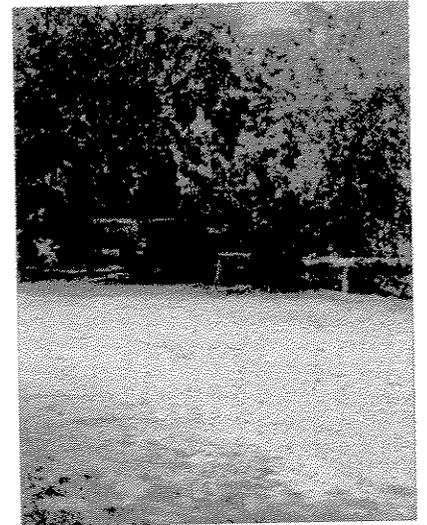
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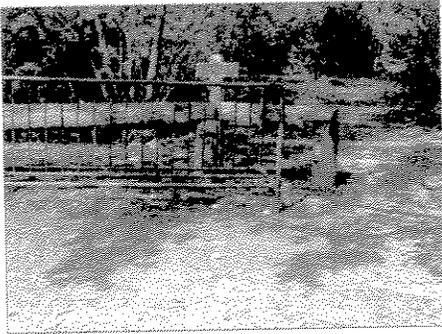
Hamaca 82



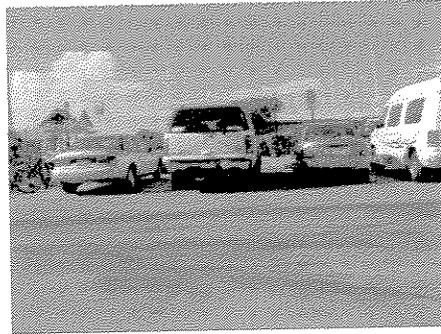
Hamaca 83



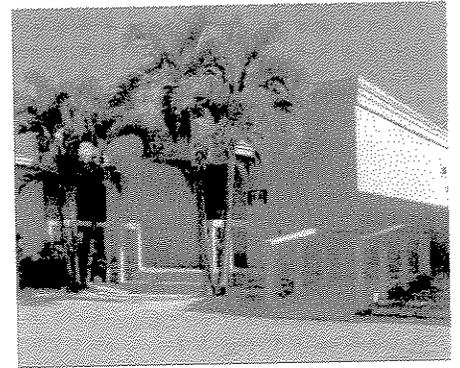
Hamaca 84



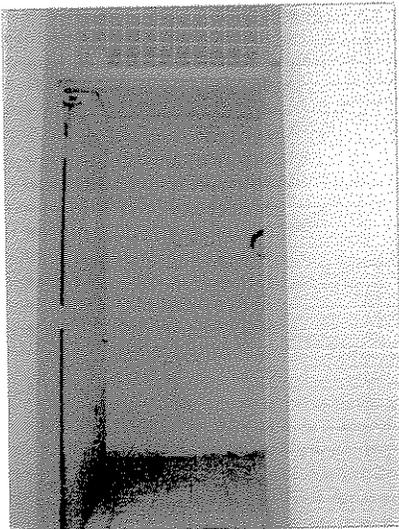
Hamaca 85



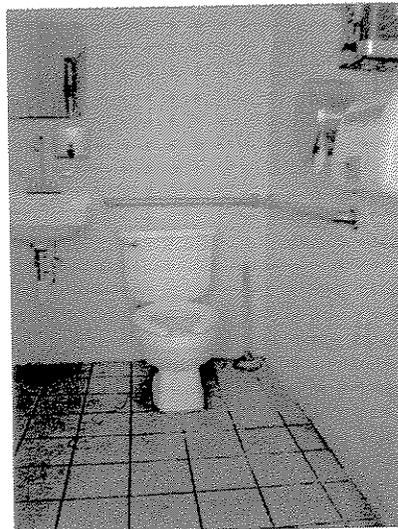
KW Bight 86



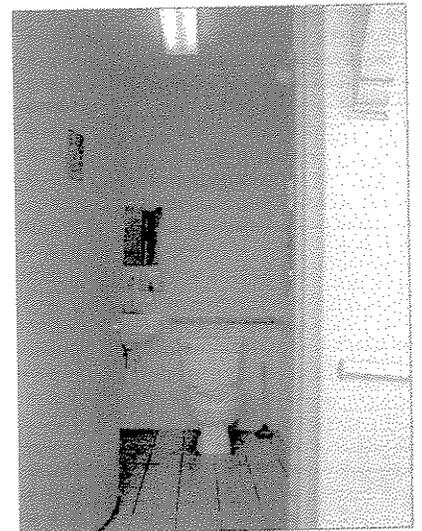
KW Bight 87



KW Bight 88



KW Bight 89

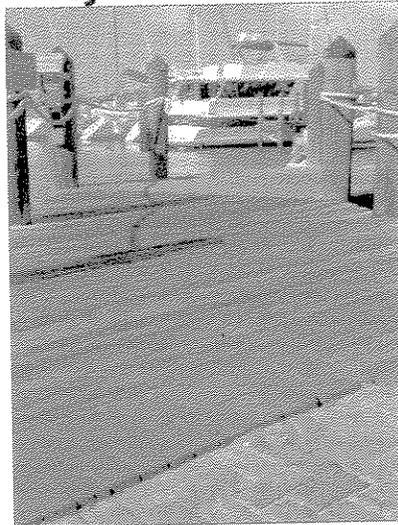


KW Bight 90

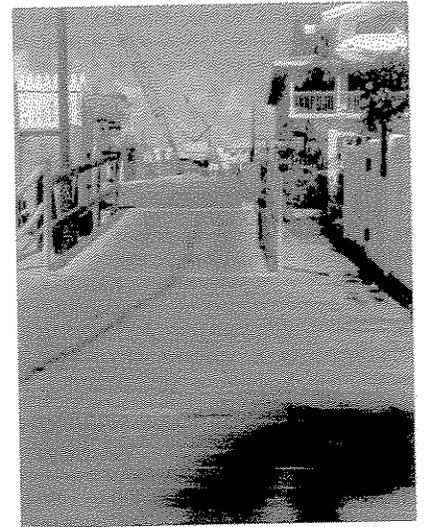
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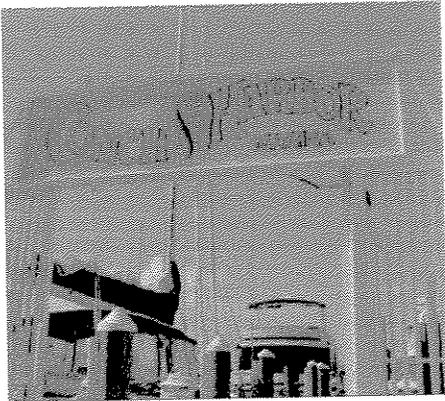
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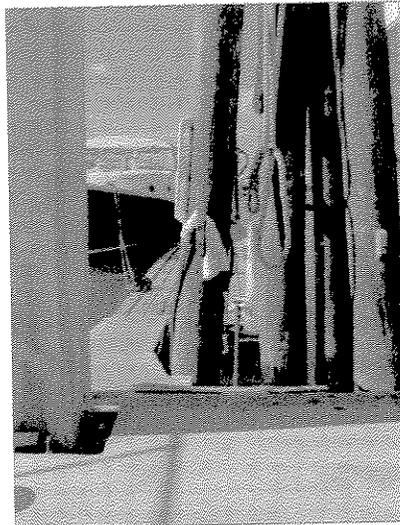
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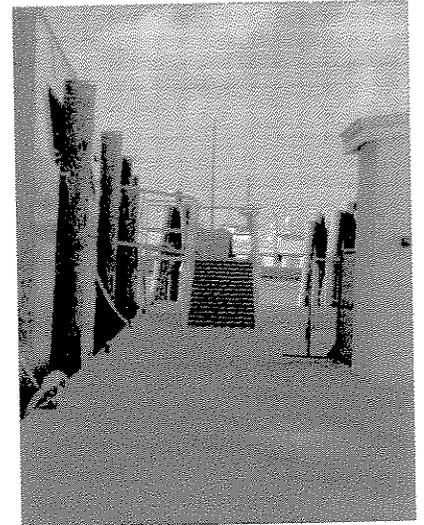
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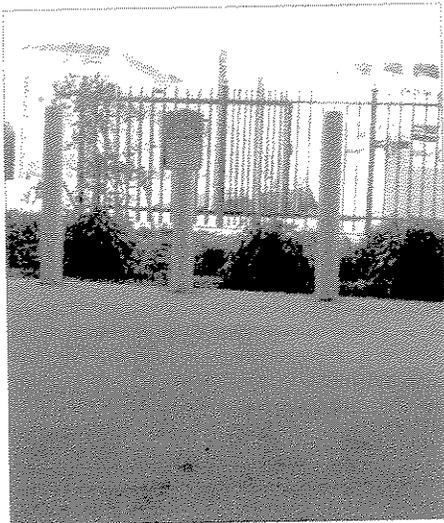
KW Bight 94



KW Bight 95



KW Bight 96



KW Bight 97



KW Bight 98

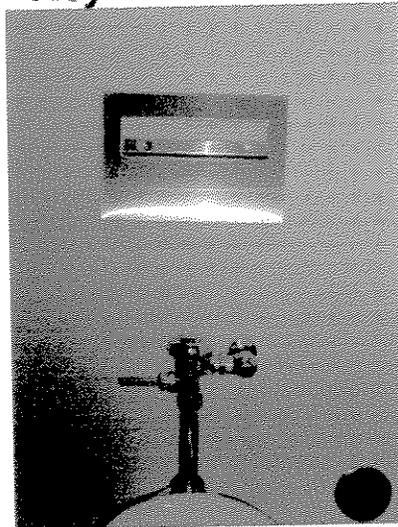


KW Bight 99

Key West 2-11-04



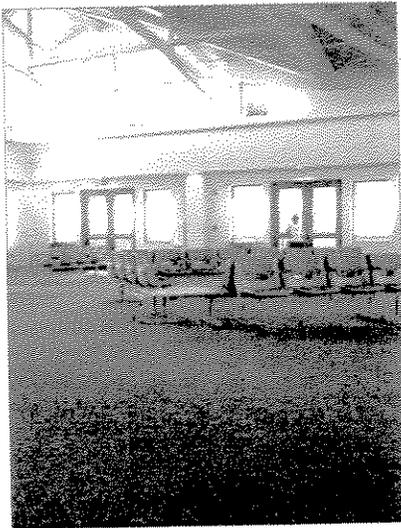
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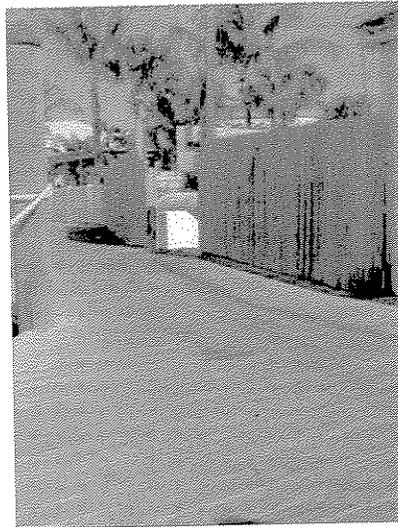
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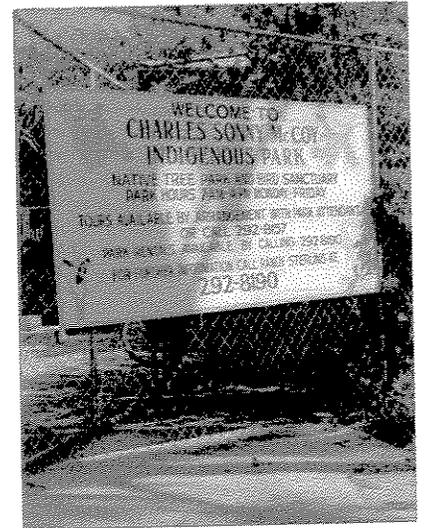
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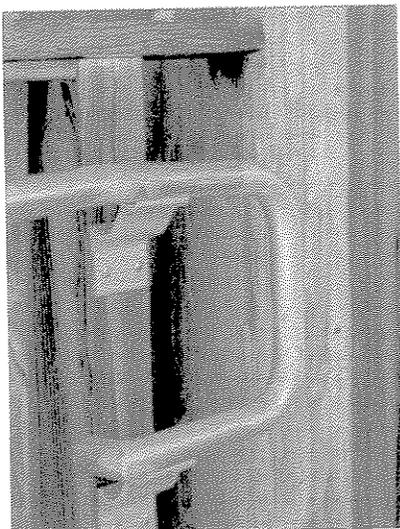
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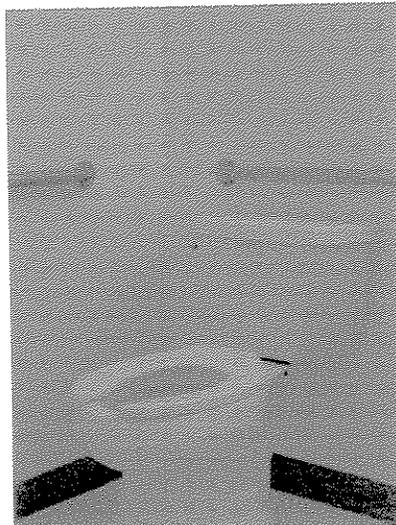
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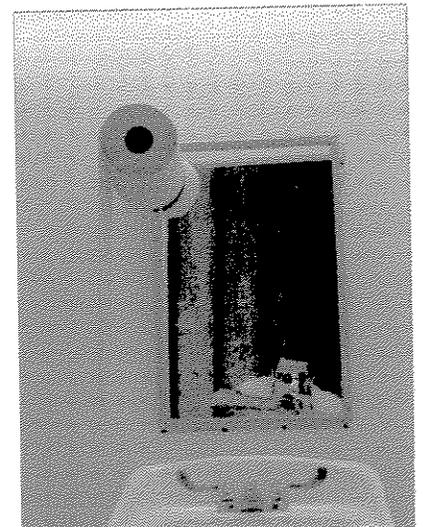
KWIndigenous 105



KWIndigenous 106



KWIndigenous 107

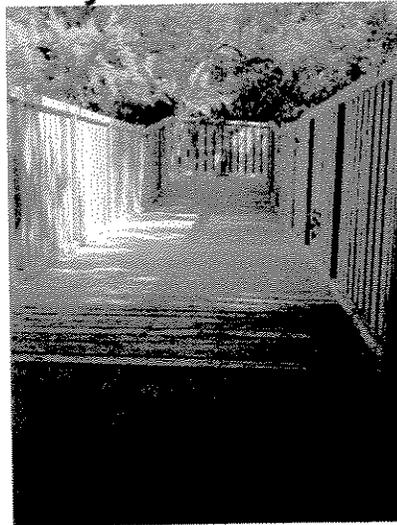


KWIndigenous 108

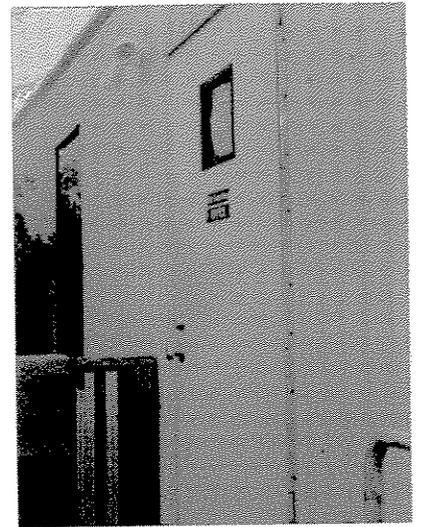
Key West 2-11-04



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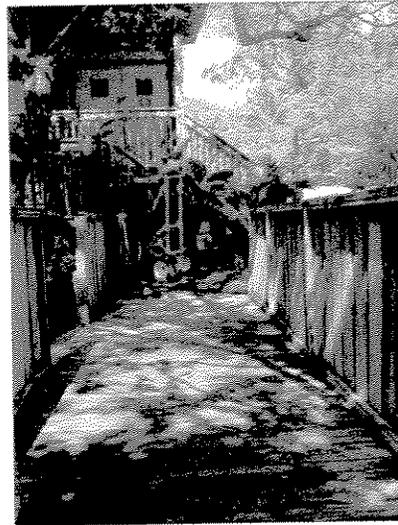
KWIndigenous 110



KWIndigenous 111



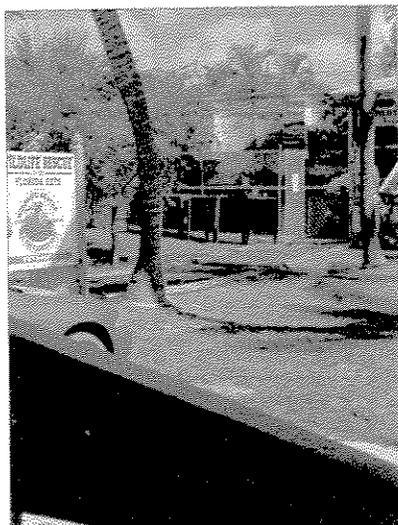
KWIndigenous 112



KWIndigenous 113



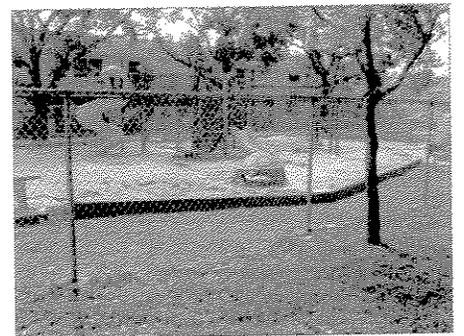
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KWIndigenous 115

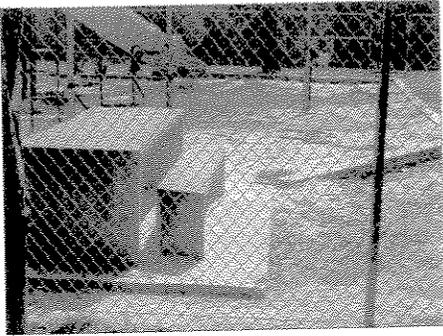


Unknown PK 116



Unknown PK 117

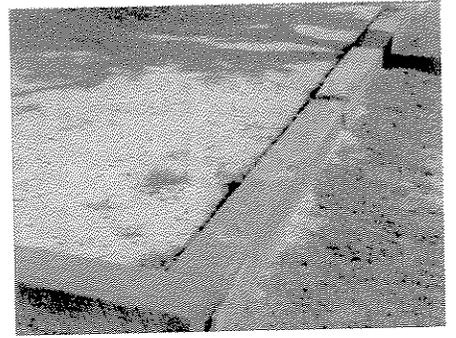
Key West 2-11-04



Unknown PK 118



Unknown PK 119



Unknown PK 120

Key West 3-1-04



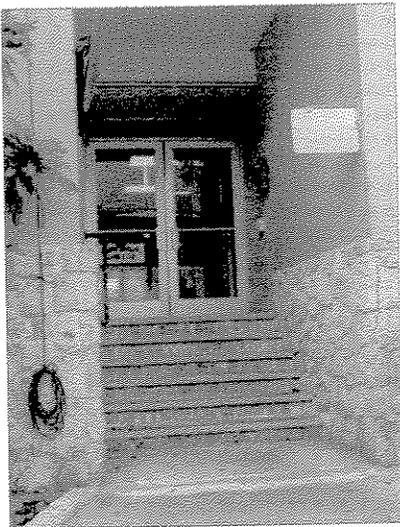
DSC00001



DSC00002



DSC00003



DSC00004



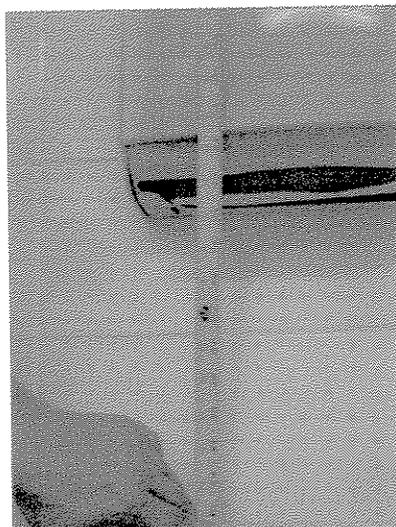
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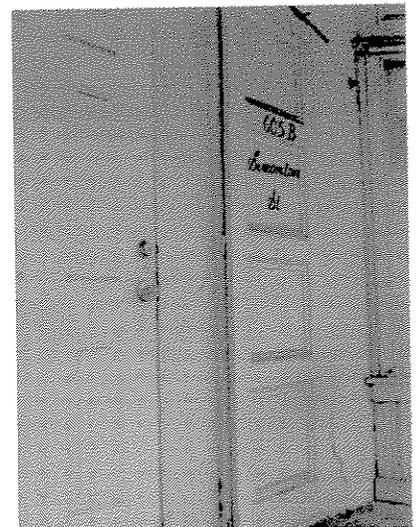
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DSC00007

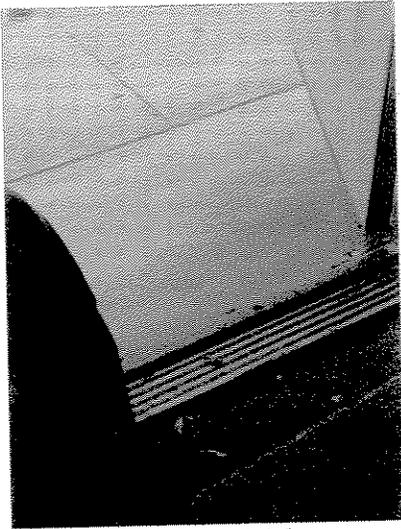


DSC00008



DSC00009

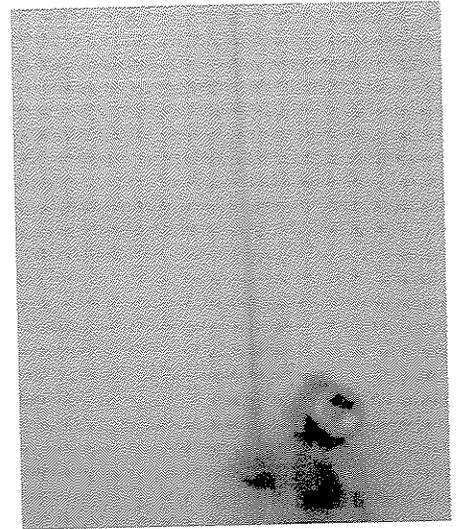
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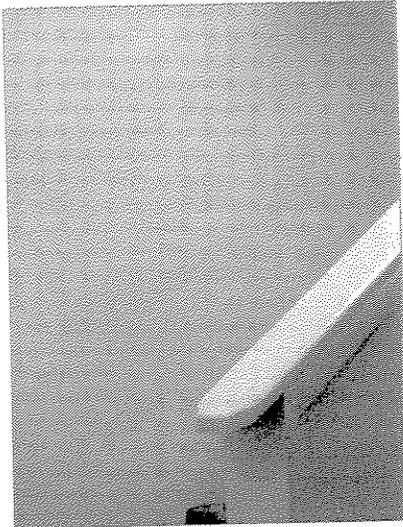
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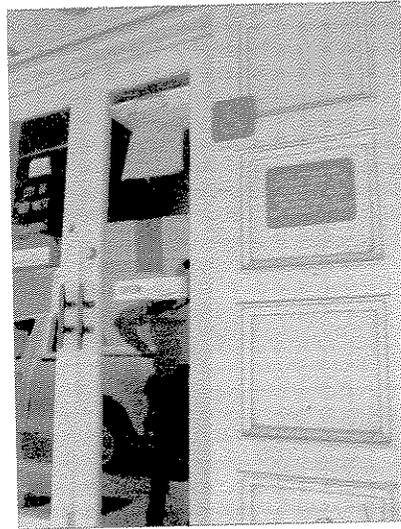
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DSC00012



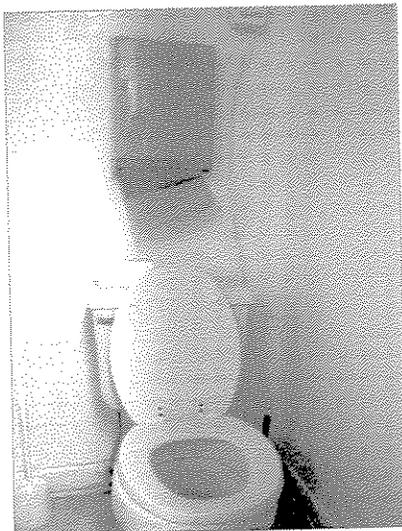
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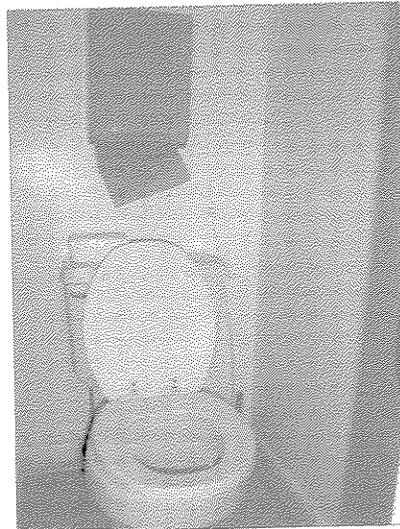
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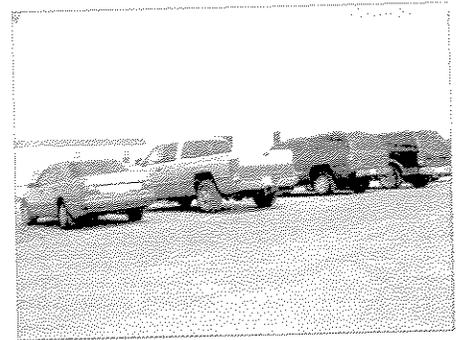
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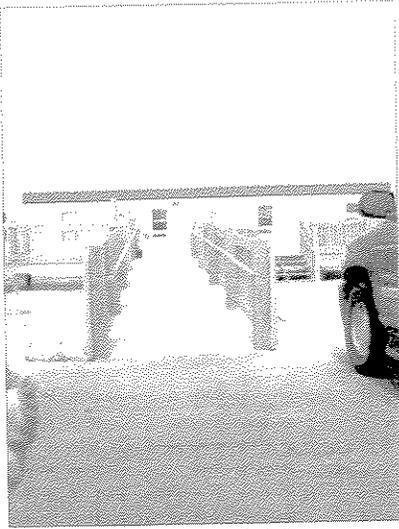


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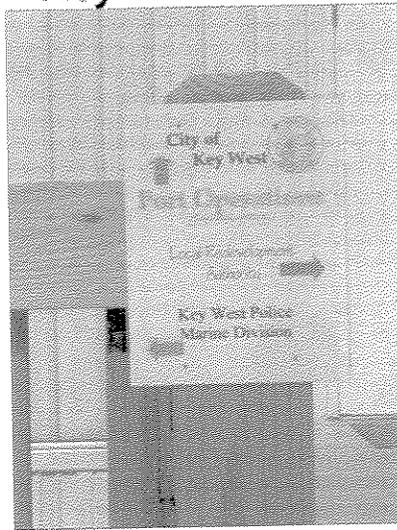


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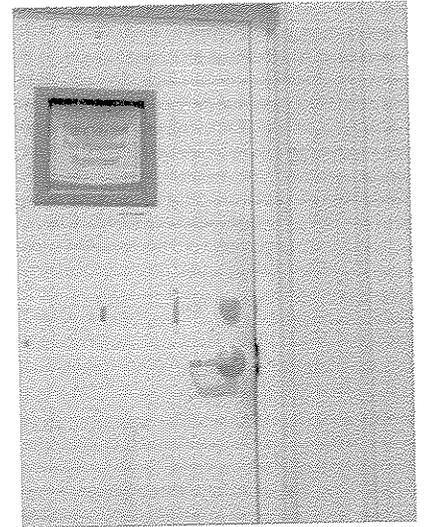
Key West 3-1-04



DSC00019



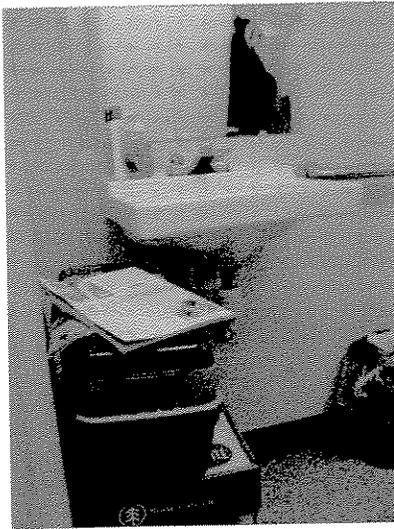
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DSC00021



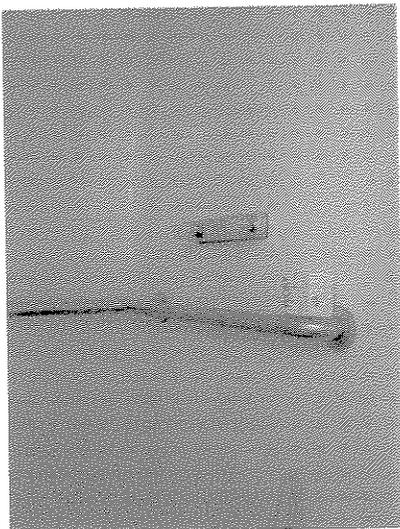
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DSC00023



DSC00024



DSC00025

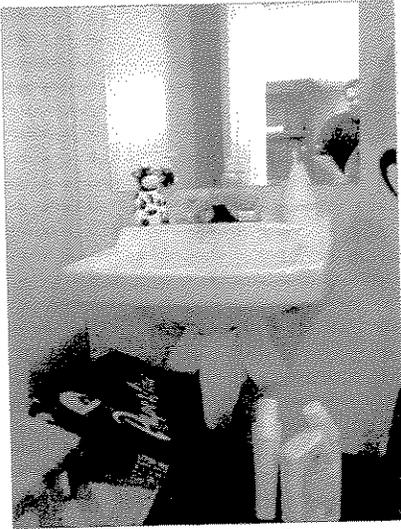


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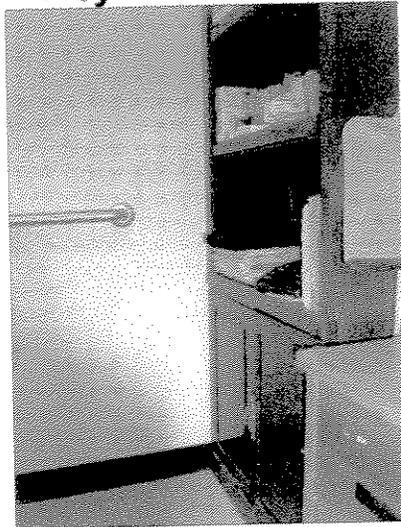


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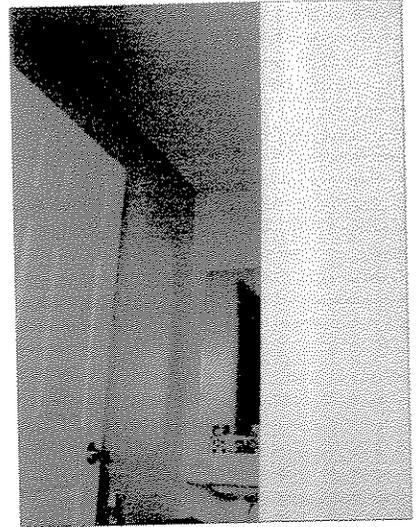
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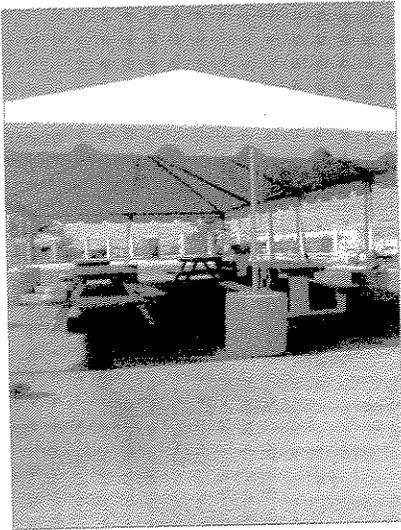
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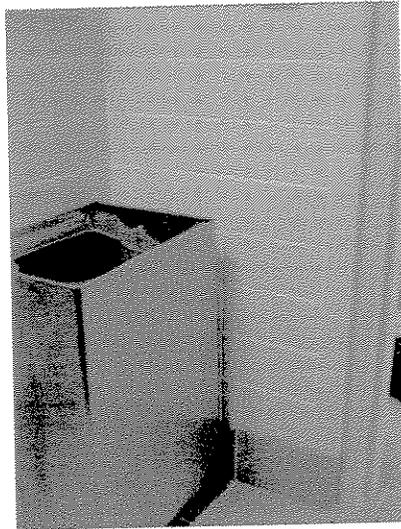
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DSC00030



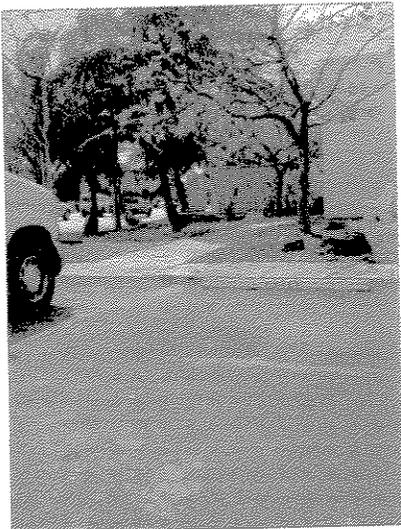
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DSC00032



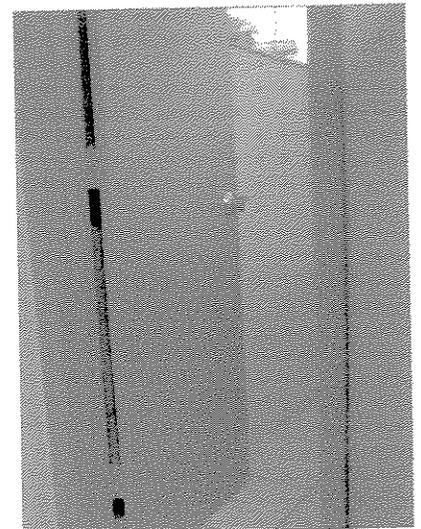
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DSC00034

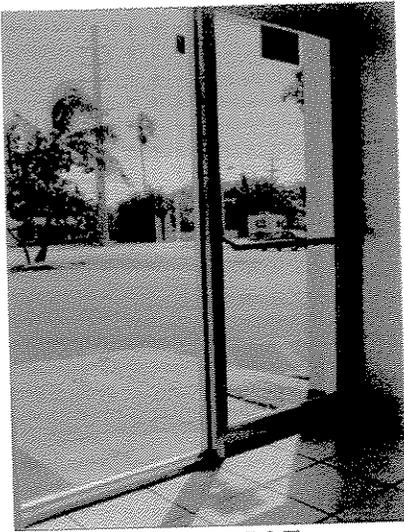


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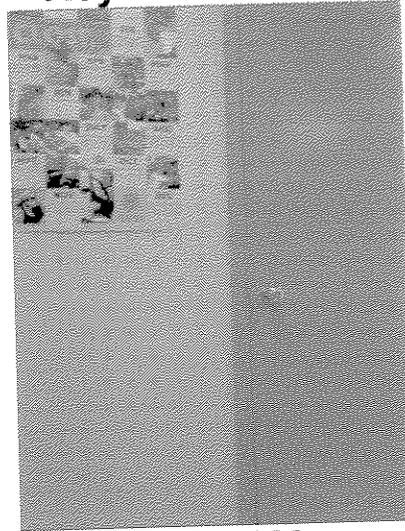


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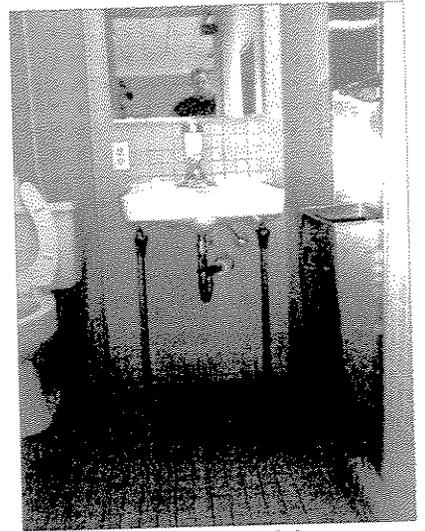
Key West 3-1-04



DSC00037



DSC00038



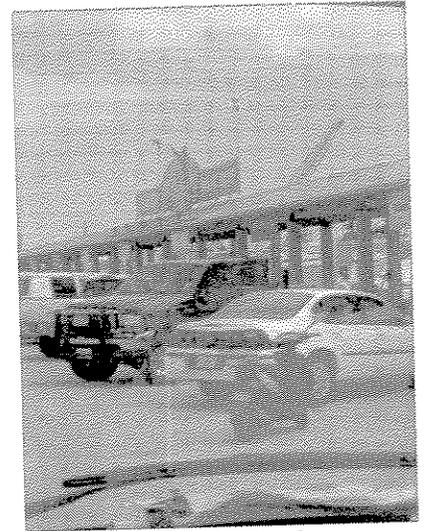
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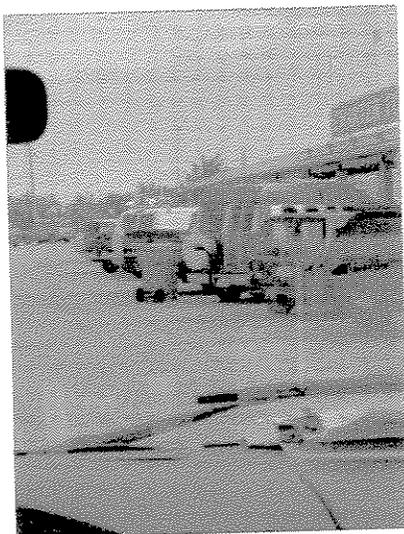
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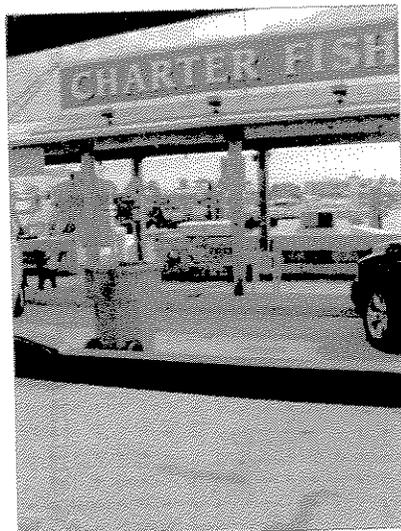
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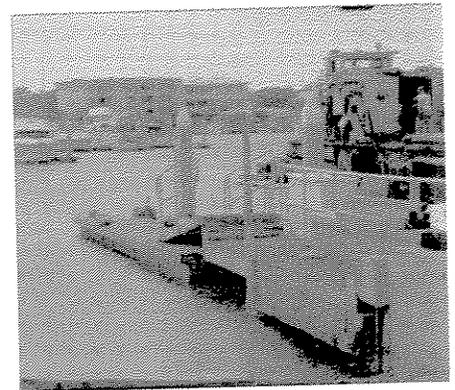
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DSC00043

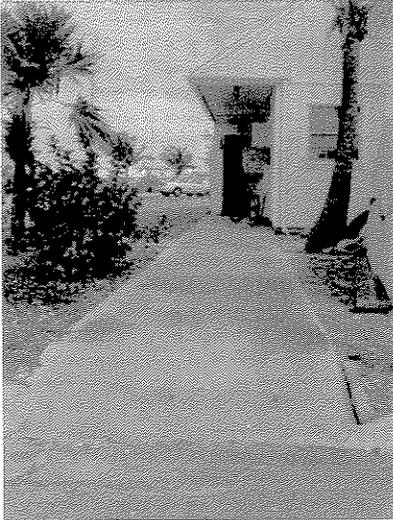


DSC00044



DSC00045

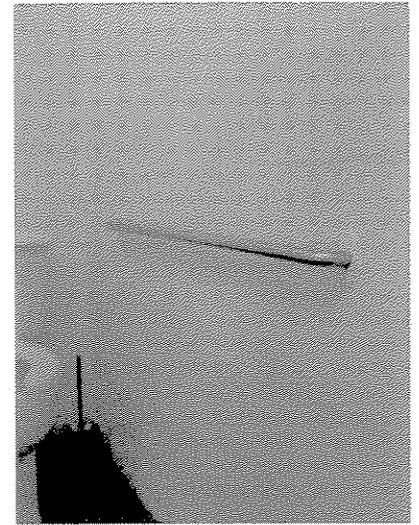
Key West 3-1-04



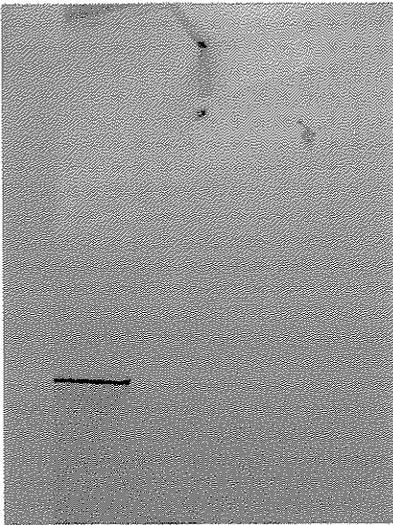
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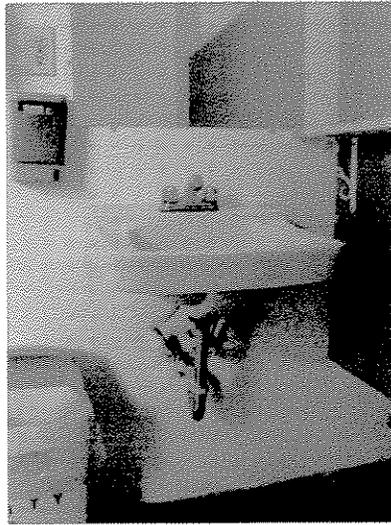
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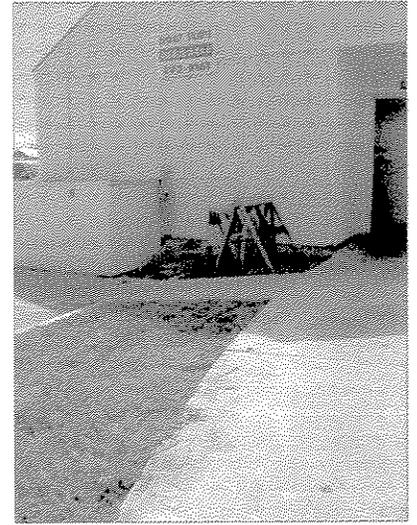
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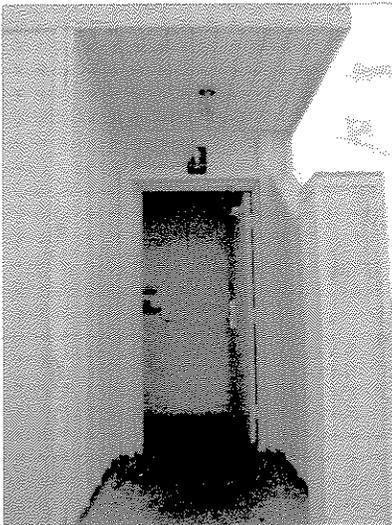
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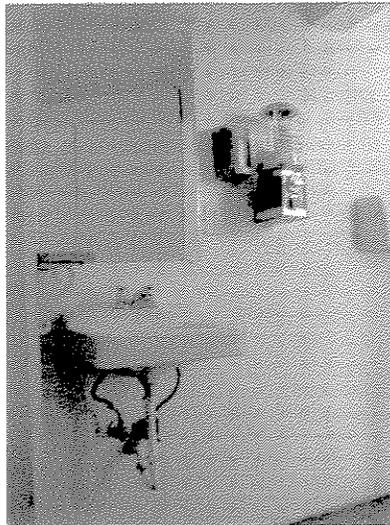
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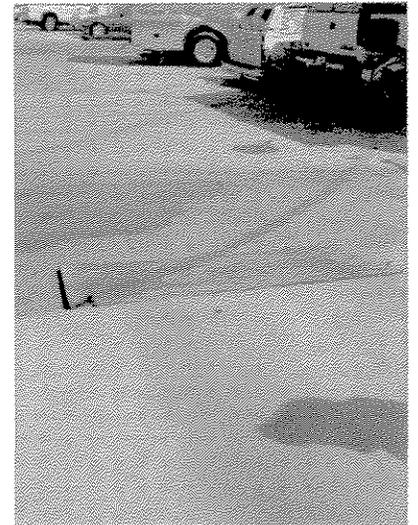
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DSC00052

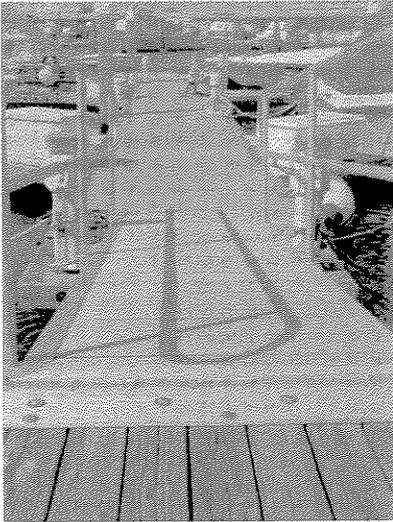


DSC00053

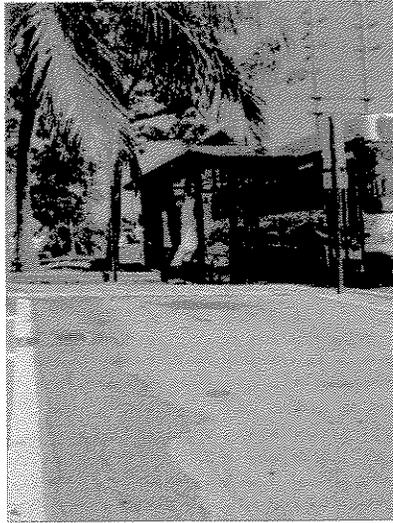


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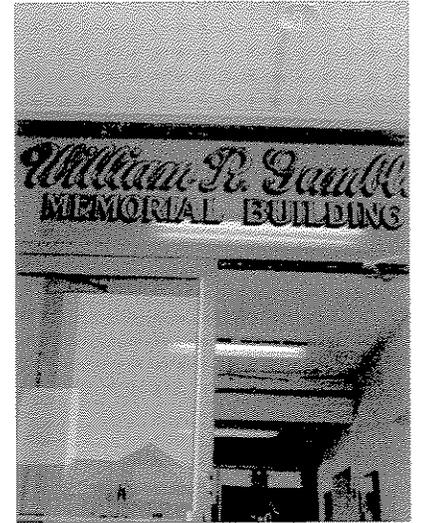
Key West 3-1-04



DSC00055



DSC00056



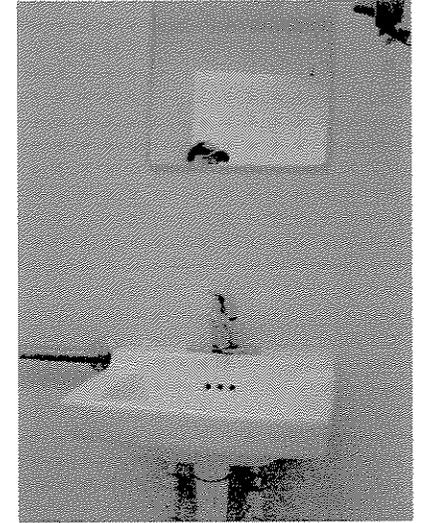
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DSC00058



DSC00059



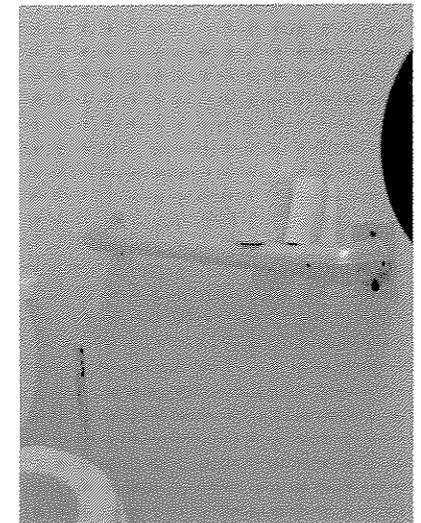
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DSC00061



DSC00062

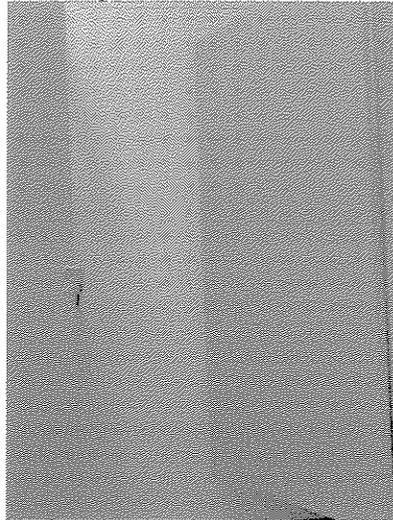


DSC00063

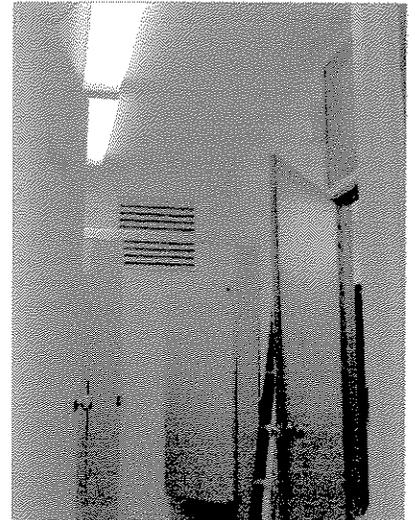
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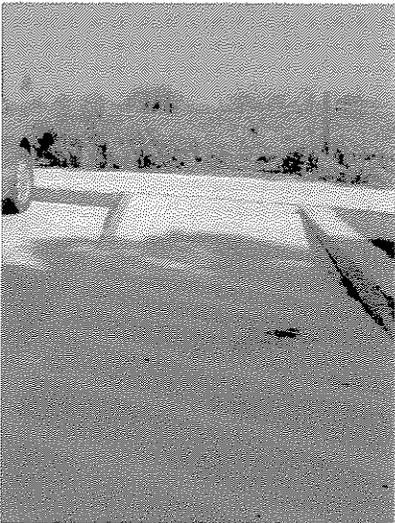
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DSC00065



DSC00066



DSC00067



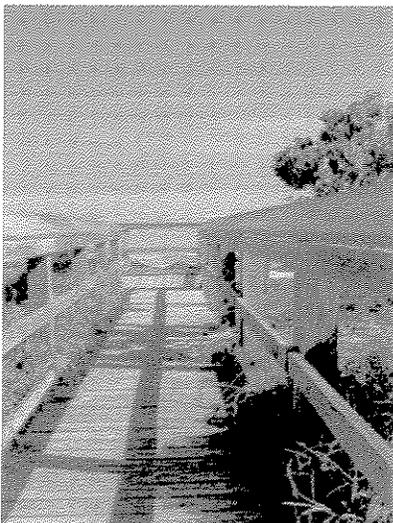
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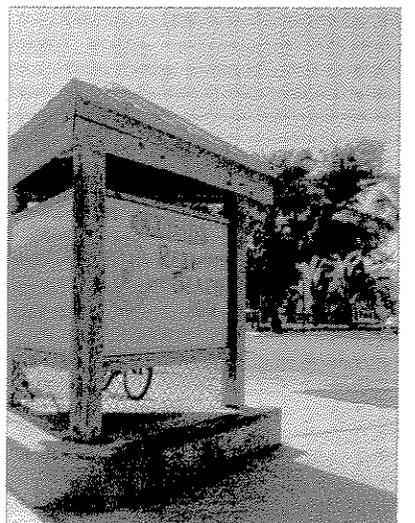
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DSC00070

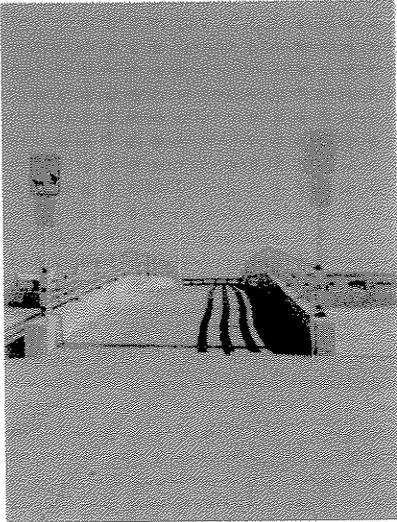


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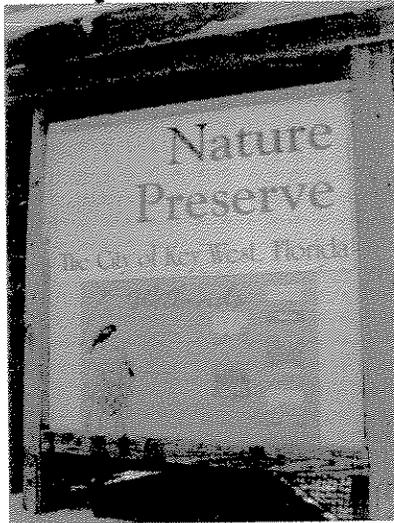


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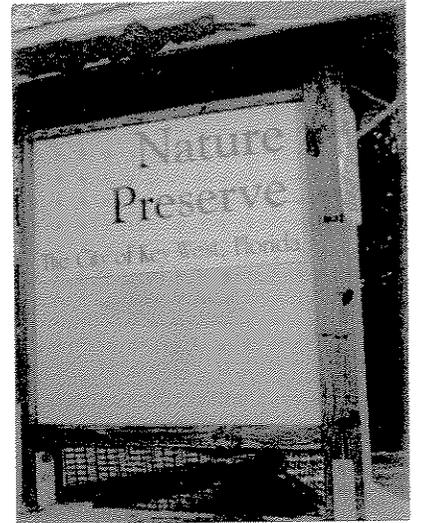
Key West 3-1-04



DSC00073



DSC00074

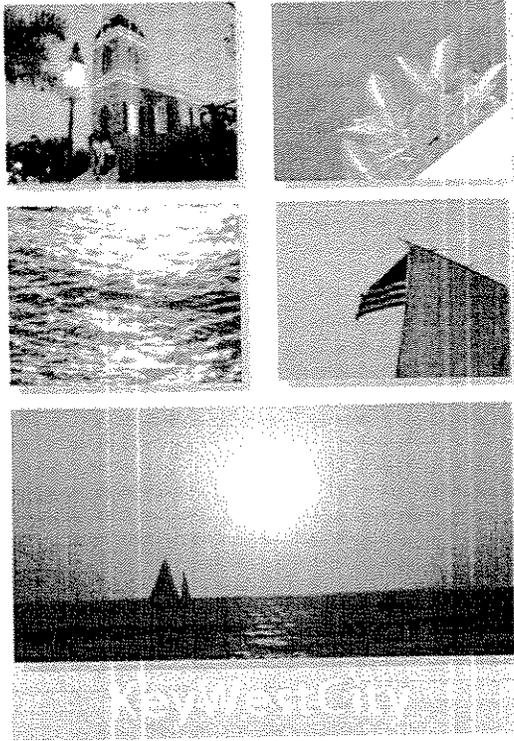


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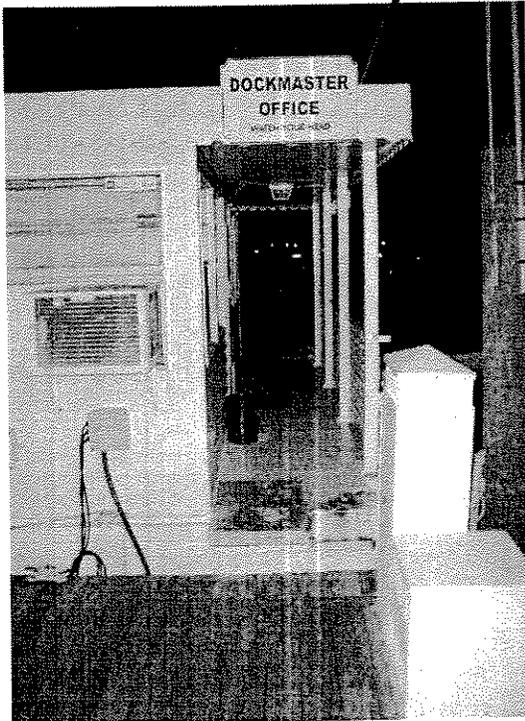


DSC00076

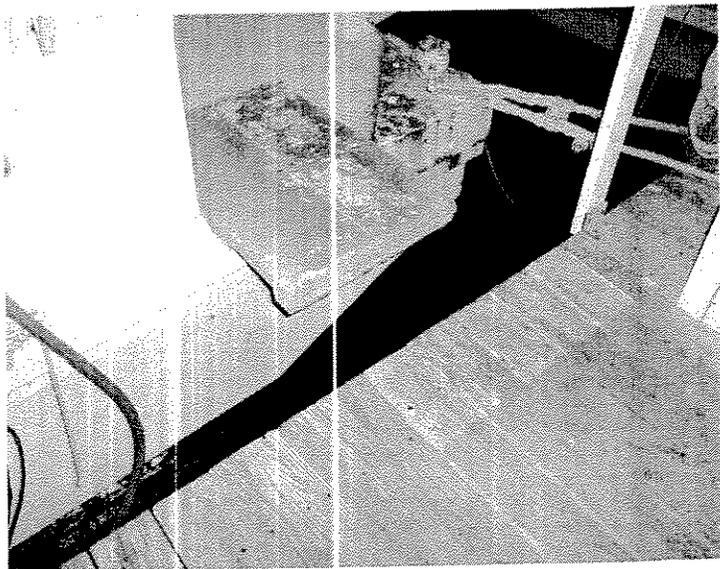
Key West



Old City Hall A-1



Dock Master A-2



Dock Master Access A-3

ADDENDUM I TO STIPULATION FOR SETTLEMENT

The Plaintiffs, ASSOCIATION FOR DISABLED AMERICANS, INC., DANIEL RUIZ, P. MICHELLE WISNIEWSKI, KATIA DICH, LINDA MURPHY, EUGENE MURPHY, BELA ZEKY, ANNA COSTELLO and DONNA DEVLIN (jointly referred to herein as "Plaintiffs") and Defendant, the CITY OF KEY WEST, FLORIDA (hereinafter referred to as "Defendant"), by and through their undersigned counsel agree to the following clerical amendments to the Stipulation for Settlement ("Stipulation") as follows:

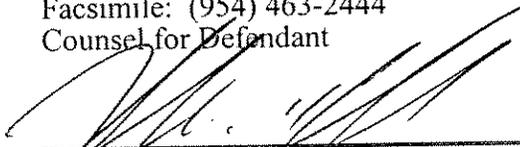
1. In Section K.ii, "Accessible Route Plan To and From Government Facilities," on page 12 of the Stipulation, the reference to the attachment of the Transition Plan as Exhibit Y should be deleted. The parties previously agreed that the Transition Plan would not be attached.

2. In Section K.vi, "State/County Roads," on page 13 of the Stipulation, the last sentence of that paragraph should refer to Title II of the Americans with Disabilities Act and not Title III.

3. In Exhibit U.6, on page 62 of the Stipulation, the first sentence should refer to Title II of the Americans with Disabilities Act and not Title III.

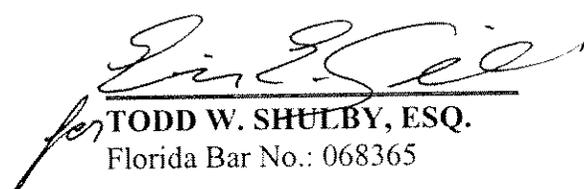
In Witness Whereof, counsel for the Parties agree to the above clerical changes in the Stipulation for Settlement.

JOHNSON, ANSELMO, ET AL.
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Facsimile: (954) 463-2444
Counsel for Defendant


MICHAEL T. BURKE, ESQ.
Florida Bar No.: 338771

Dated: 9-8-04

TODD W. SHULBY, P.A.
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Davie, Florida 33330-4304
Telephone: (954) 862-1770
Facsimile: (954) 862-1769
Counsel for Plaintiffs


TODD W. SHULBY, ESQ.
Florida Bar No.: 068365

Dated: 9-8-04

ADDENDUM II TO STIPULATION FOR SETTLEMENT

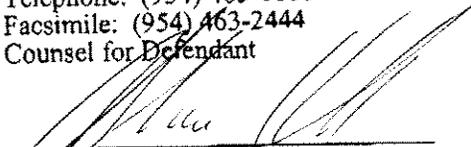
The Plaintiffs, ASSOCIATION FOR DISABLED AMERICANS, INC., DANIEL RUIZ, P. MICHELLE WISNIEWSKI, KATIA DICH, LINDA MURPHY, EUGENE MURPHY, BELA ZEKY, ANNA COSTELLO and DONNA DEVLIN (jointly referred to herein as "Plaintiffs") and Defendant, the CITY OF KEY WEST, FLORIDA (hereinafter referred to as "Defendant"), by and through their undersigned counsel agree to the following amendment to the Stipulation for Settlement ("Stipulation") as follows:

1. The following language shall be added to the end of Section L, paragraph 1 on page 13 of the Stipulation:

Further, the time period of completion by the City shall be subject to acts of God, *force majeure*, or events beyond the control of the City, including but not limited to, contractor defaults, work stoppages, or serious weather conditions, such as hurricanes. In the event of such unforeseen circumstances, the time period for completion of the barrier removal, alterations and modifications provided in this Stipulation for Settlement, will be extended by the number of days reasonably attributable to the delay-causing event as long as the City immediately provides written notice by certified or registered mail to Plaintiffs' counsel, Todd W. Shulby, Esq., 12555 Orange Drive, Suite 270, Davie, Florida 33330. Such notice shall identify the delay, the specific reasons therefore, and the estimated time for completion. The City agrees to make a good faith effort to effect implementation as soon as reasonably possible thereafter.

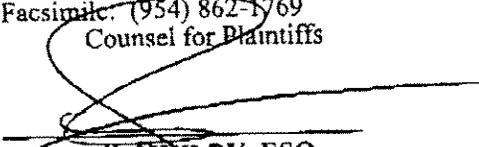
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TODD W. SHULBY, ESQ.
Florida Bar No.: 008365

Dated: 9/20/04

Executive Summary

TO: Julio Avel, City Manager

CC: Roland Flowers, P.E., Director of General Services

DATE: August 31, 2004

FROM: Annalise Mannix-Lachner, Manager of Engineering Services 

RE: Resolution approving settlement agreement between the Association for Disabled Americans, Inc, et al, Plaintiffs, and the City of Key West, Defendant.

ISSUE

Plaintiffs filed action against the City of Key West for its alleged violations of Title II of the Americans With Disabilities Act, 42 U.S.C. §12131, *et seq.* ("ADA") claiming failure have a transition plan, failure to make sufficient modifications to it facilities and programs, and failure make timely changes to street corners in the form of curb ramps that meet the federal code. The city of Key West denies that it violated the ADA, but has agreed that we will make additions to our transition plan and ensure the changes are made in a timely manner, as set forth in the attached. The settlement allows for collection of attorneys' fees, litigation expenses and costs.

The main issues affecting the City of Key West are:

1. Increased staffing requirements for management of transition plan and settlement (2 to 3 full time staff plus consultants or contract employees for 3 years.
2. Increased costs due to training requirements
3. Continued funding of ADA improvements and training
4. Strict adherence to budget and construction timetables
5. Analysis and Modification of existing leases

The settlement agreement causes some changes in staffing requirements. Starting October 1 the ADA coordinator will need to have a greater presence and be a full time position for at least eighteen months to ensure all stipulations of the settlement are met. The position requires the ability to develop a thorough city policy, develop a training program, maintain records, write effective monthly reports, lead the ADA team, and audit city programs and special events.

After 18 months the position should be reevaluated to determine the staffing requirements. The position will also need to be provided more authority to ensure departments actively pursue the goals set forth in the agreement, and the goals are met in the time frame required. Therefore reporting responsibilities should be addressed and it will require HR to address the grade level and salary of the new position requirements. Currently the city tasks a staff member, the Bicycle Pedestrian Coordinator, with the

ADA coordination as one part of a multifaceted position. Many of the duties of the Bike/Ped position may be able to be shifted to the bicycle educator and other recreation staff to maintain the current personnel load for the Bike/Ped section of Recreation.

All city programs must be accessible. The settlement agreement requires a time frame for certain programs to come into compliance. An aggressive plan program for modifications to existing programs must be developed by the ADA Coordinator.

The Federal Law requires the City of Key West to name the "Official responsible for implementation of the [Transition] Plan". This person should be a city official who has the authority to ensure the work is implemented in the time frame required. This official must fulfill the extremely important obligations of the settlement agreement and the law. If the agreement is not met the City will be brought in front of the federal magistrate. This could be costly to the city

The settlement agreement requires a rigorous construction schedule for facilities that are identified in our accessibility transition plan. The plan indicates what programs and facilities need modification, the estimated cost and date to be completed. The updated plan is a 3 year plan requiring alteration to 30 facilities ranging from Old City Hall to SWTE. The cost of much of the work was budgeted in FY 2004 (\$300,000) and was budgeted this year in 2005 (\$400,000). An additional funding item will be required in 2006 of \$400,000. Please note these budgets assume goods and services do not rise significantly and designs are performed in house at rates less than \$50 per hour (including benefits.) Should the City desire to use consultants typically costing over \$100 per hour, additional funding will be required totaling \$310,000.

Facilities construction project management and design for this area of expertise will require staff with building construction design experience. The cost of this position is included in the construction estimates.

A series of specialized training programs are required for all city employees. The police department will continue their initial training, which may have additional information presented, then, annually training will occur to maintain the level of education. Recreation staff assigned to recreation programs will be trained specifically for interaction with people with disabilities. Parking enforcement, code, enforcement, and building and engineering permitting staff will receive specialized training, as will all department heads.

There is a rigorous sidewalk plan that also has strict time lines, and required funding of \$500,000 per year. City officials must allow the ADA plan sidewalk funds to be used only on the sidewalks identified, in the time frame identified and must allow the sidewalks installed to meet the code. Any other sidewalk work not appropriately indicated in the time frame must be funded separately.

The sidewalk plan is not similar to the facilities plan. Typically you would have someone with civil or "flatwork" experience managing the construction and design process for this area of expertise. The cost of this position is included in the construction estimates

The sidewalk plan has 4 phases of work: complete ramps at all corners identified in previous ADA ramp installation list by Sept. 2007, budget up to \$500,000; complete sidewalk access to new and existing government facilities within the most active pedestrian routes up to 800 feet away (a total of 172,000 linear feet of walkways) which will take 25 years, completion due in 2030, budget \$6.2 million dollars; Complete pedestrian elements of bike plan to enhance or regional access, (a total of 54,000 linear feet of walkways) which will take 2.6 years, completion due in 2041, budget \$644,000; Begin methodical ADA access plan inclusive of crosswalks, driveways, ramps at Mallory Square area working uphill scheduled in the most used areas first, the cost is \$46,880,000 at \$500,000 per year this is a 93.7 year plan. Completion is due at 2131.

Design, construction and construction management issues most affect the ability of the City of Key West to comply with the settlement requirements. Management must determine how best to ensure the construction schedule for sidewalks and facilities is met, and work is completed accurately. This takes a significant amount of funding and is where the city falters on most projects. There are no taking short cuts. Professional engineers and/or architects will need to certify designs, by statute, and construction inspectors must ensure the walks are correct by maintaining constant supervision of projects. Only products meeting the exact design can be approved.

An audit of leases of city property will have to be made. All tenants must operate in conformance with title III of the federal code. Some leases may indicate that the tenant is responsible for structural modifications and some may not indicate anything. All leases in the future should have reference to operating under ADA Title III.

OPTIONS

Authorize settlement, ask to negotiate alternative settlement or litigate the matter in federal court

FINANCIAL ISSUES

The cost of the immediate 3 year facilities/training transition plan is budgeted for 2 of the 3 years, \$300,000 in FY 2004, \$400,000 in FY 2005 and an additional \$400,000 is required to be budgeted for 2006.

There is no budget for the plaintiff's attorney's fees. Presumably, plaintiff's attorney's fees will be paid by the City's self-insurance fund; however, the amount of those fees are not yet determined and subject to a separate negotiation.

The budget required for pedestrian access -- sidewalks and walkways in the rights of way -- is \$500,000 per year through the year 2131. During the next century we will eventually come into full compliance with the ADA. This proposed funding source is gas and sales tax funds.

ADVANTAGES/ DISADVANTAGES

The advantage to settling this action is that the cost of defense in court is costly should there be a judgment against the city.

There is no disadvantage to settling since virtually every action required in the plan was an item in out transition plan and was budgeted for, or planned to be budgeted for accordingly.

RECOMMENDATION

Resolve to settle the action, and fund all requirements of the action accordingly.