



TOWN OF PALM BEACH

Town Manager's Office

TOWN COUNCIL MEETING DEVELOPMENT REVIEW

**TOWN HALL
COUNCIL CHAMBERS-SECOND FLOOR
360 SOUTH COUNTY ROAD**

AGENDA

MARCH 12, 2014

9:30 AM

For information regarding procedures for public participation at Town Council Meetings, please refer to the end of this agenda.

I. CALL TO ORDER AND ROLL CALL

Mayor Gail L. Coniglio
Robert N. Wildrick, President
William J. Diamond, President Pro Tem
Richard M. Kleid
Michael J. Pucillo
Penelope D. Townsend

II. INVOCATION AND PLEDGE OF ALLEGIANCE

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

(Another opportunity will be offered immediately after the lunch break, if a lunch break is taken.)

VI. APPROVAL OF AGENDA

VII. PUBLIC HEARINGS

- A. **RESOLUTION NO. 41-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 153 Cocoanut Row Meets the

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Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

John S. Page, Director of Planning, Zoning and Building

- B. **RESOLUTION NO. 42-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 337 Brazilian Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

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Request for Deferral to the April 9, 2014, Town Council Meeting Per Letter Dated March 3, 2014, from Guy Rabideau.

John S. Page, Director of Planning, Zoning and Building

VIII. RESOLUTIONS

- A. **RESOLUTION NO. 43-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving A Purchase Order To Murphy Stillings, LLC, For Historic Preservation Services Related To The Establishment of Royal Poinciana Way Historic District In An Amount Not To Exceed \$15,000.

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John S. Page, Director of Planning, Zoning and Building

- B. **RESOLUTION NO. 44-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 235 Sunrise Avenue and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."

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John S. Page, Director of Planning, Zoning and Building

- C. **RESOLUTION NO. 45-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 252 El Bravo Way and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."

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John S. Page, Director of Planning, Zoning and Building

- D. **RESOLUTION NO. 46-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 350 Worth Avenue (Kitchen Renovation, Phase II) and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax

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Exemptions."

John S. Page, Director of Planning, Zoning and Building

- E. **RESOLUTION NO. 47-2014** A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 319 El Vedado Road and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions." Page 84

John S. Page, Director of Planning, Zoning and Building

IX. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of Denial of Demolition Permit for 440 Royal Palm Way Per Letters Dated February 24, 2014, from M. Timothy Hanlon and February 25, 2014, from Raymond M. Masciarella, II. [Attorneys: Raymond Masciarella, II and Timothy Hanlon] Page 89

John S. Page, Director of Planning, Zoning and Building

B. Time Extensions and Waivers

1. Request for Waiver of Section 42-199, Hours of Construction Work, at 1480 North Lake Way Per Letter Dated February 20, 2014 from Maura Ziska. Page 122

John S. Page, Director of Planning, Zoning and Building

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **SITE PLAN REVIEW #2-2014 WITH SPECIAL EXCEPTION** Page 130
The application of Ambassador Hotel Co-Op (Bill Whitehead, Manager); relative to property commonly known as **2730 South Ocean Blvd.**; described as AMBASSADOR HOTEL CO-OP APTS INC COMMON AREA A/K/A 23-44-43, N 216 FT OF S 385 FT OF N 3000 FT OF FRAC SEC LYG BET ELY R/WLI OF SR A-1-A & ATLANTIC OCEAN; located in the R-D (2) Zoning District. The applicant is requesting a Site Plan Review to renovate the exterior walkways of the West Building by increasing the width of the walkways by 16 inches (717.6 sq. ft. total) and upgrading the railing using glass barriers. The new railing will be continued to the pool deck. In addition, the façade of the West Building will be improved providing for more articulation and architectural features incorporating Moderno elements. The height of the West Building is currently 44.9 feet (existing nonconforming) and is proposed to be increased to 49.9 feet. (62.6 feet maximum allowed) (Sec. 134-229, Sec. 134-1060(8)(d) and Sec. 134-1064). The lot coverage of the West Building totals just 5.6% of the overall lot coverage of the site (27.47%) and would increase to 5.22% of overall lot

coverage with the proposed renovations. [Attorney: Neil M. Schiller]

Deferred from the February 12, 2014, Town Council Meeting

John S. Page, Director of Planning, Zoning & Building

2. New Business

- a. **VARIANCE #9-2014** The application of Rick and Marie Wackenhut; relative to property commonly known as **930 South Ocean Boulevard**; described as Lengthy legal description on file; located in the R-A Zoning District. The existing residence is a Palm Beach Historic Landmark. The applicant is proposing modifications to the existing pool cabana structure. The plan is to raise the floor of the existing structure approximately 3 feet to be above the pool deck (it currently is below the deck with the steps down to access the structure), add 124 square feet to the east side of the existing pool cabana, and add a second floor for a total square footage of 1,320 for the renovated pool cabana. The following variances are requested: to raise the floor and add a second floor to the existing pool cabana and replace the flat roof with a pitched roof which will expand the height and overall height on the existing non-conforming side setback of 2.9 feet in lieu of the 15 foot minimum required; and, for the same modifications to the existing pool cabana with a rear setback of seven (7) inches in lieu of the 15 foot minimum required in the R-A Zoning District. [Attorney: Maura Ziska] [Landmark Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject landmarked property. Carried 7-0]

John S. Page, Director of Planning, Zoning and Building

- b. **VARIANCE #10-2014** The application of K. Prescott Low and Susan T. Low; relative to property commonly known as **242 Jungle Road**; described as Lengthy legal description on file; located in the R-A Zoning District. The applicants request permission to install a 60kw Generac QT060 generator in the northwest corner of their property with a front yard setback of 6 feet 8 inches in lieu of 35 foot minimum required. [Attorney: M. Timothy Hanlon]
Request for Deferral to the April 9, 2014, Town Council Meeting Per Letter Dated March 4, 2014, from M. Timothy Hanlon.

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John S. Page, Director of Planning, Zoning and Building

- c. **VARIANCE #11-2014** The application of John David Corey; relative to property commonly known as **426 Australian Avenue**; described as Lot 43 and 44, Block 5 of ROYAL PARK ADDITION, according to the Plat thereof, as recorded in Plat Book 4, Page 1, of the Public Records of Palm Beach County, Florida; located in the R-C Zoning District. A variance is

requested to allow construction of a new 3,750 square foot two story residence on a lot with a width of 50 feet in lieu of the 75 foot minimum required and a lot area of 6,250 sq. ft. in lieu of the 10,000 sq. ft. minimum required in the R-C Zoning District. [Attorney: Maura Ziska]

John S. Page, Director of Planning, Zoning and Building

- d. **VARIANCE #12-2014** The application of Reinhard Brandner; relative to property commonly known as **315 Eden Road**; described as W 15.5 ft of Lot 41 & 42, Eden Properties; located in the R-B Zoning District. A variance is requested to allow a 185.2 sq. ft. cabana addition (for a total 305.2 sq.ft.) to be set back 5 feet 2 inches in lieu of the 10 foot minimum allowed. [Attorney: Peter Broberg]

John S. Page, Director of Planning, Zoning and Building

- e. **VARIANCE #13-2014** The application of Matthew McCormick and Chadwick Hoeft; relative to property commonly known as **218 Via Linda**; described as Lot 22 ALLARD SUBDIVISION, according to the Plat thereof as recorded in Plat Book 23, Page 186, Public Records of Palm Beach County, Florida; located in the R-B Zoning District. A variance is requested to construct a 216 square foot, one story addition to the southwest corner of the existing residence with a 5.3 foot west side yard setback to match the existing house setback in lieu of the 12.5 foot minimum required in the R-B Zoning District. [Attorney: Maura Ziska]

John S. Page, Director of Planning, Zoning and Building

- f. **SPECIAL EXCEPTION #2-2014** The application of Marion Hugh and Penelope Antonini; relative to property commonly known as **920 South Ocean Boulevard**; described as Lengthy legal description on file; located in the R-A Zoning District. The applicant is requesting a special exception to build a new 500 square foot beach cabana on the ocean parcel which has a frontage of 167 feet and is across the street of the main residence. [Attorney: Maura Ziska]

John S. Page, Director of Planning, Zoning and Building

- g. **SITE PLAN REVIEW #3-2014 WITH VARIANCES** The application of Capital Construction & Development, Inc. (Josh McAlees, President); relative to property commonly known as **215 Brazilian Avenue**; described as Lot 5 and the West 84 feet of Lot 6, Block E of REVISED MAP OF ROYAL PARK ADDITION TO PALM BEACH, FLORIDA, according to the plat thereof as recorded in Plat Book 4, Page 1, Public Records of Palm Beach County, Florida; located in the R-C Zoning District. The applicant is requesting a Site Plan Review to construct a two-story, four (4) unit, townhouse building with associated swimming pools and hardscape. Each unit will be approximately 5,300 square feet under air with basement garages. The

following variances are proposed: to allow horizontal overlapping between individual dwelling units that is not permitted under the townhouse regulations; and, to not provide a 20 foot access to the interior of the block which is required under the townhouse regulations. [Attorney: Maura Ziska]

John S. Page, Director of Planning, Zoning and Building

X. ANY OTHER MATTERS

XI. ADJOURNMENT

PLEASE TAKE NOTE:

- Note 1:** No written materials received after 5:00 p.m. on the Thursday immediately prior to a monthly Town Council meeting will be included in the back-up binders distributed to the Mayor and Town Council in preparation for that meeting. Written materials received after 5:00 p.m. on Thursday will be separately distributed to the Mayor and Town Council; however, depending upon the length of the materials, the time of submittal, and other circumstances, the Mayor and Town Council may not be able to read and consider such late submittals prior to acting upon the policy matter(s) which they address.
- Note 2:** The progress of this meeting may be monitored by visiting the Town's website (townofpalmbeach.com) and clicking on "Meeting Audio" in the left column. If you have questions regarding that feature, please contact the Office of Information Systems (561) 227-6315. The audio recording of the meeting will appear within 24 hours after the conclusion of the meeting.
- Note 3:** If a person decides to appeal any decision made by this Council with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings. For such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.
- Note 4:** Disabled persons who need an accommodation in order to participate in the Town Council Meeting are requested to contact the Town Manager's Office at 838-5410 or through the Florida Relay Service by dialing 1-800-955-8770 for voice callers or 1-800-955-8771 for TDD callers, at least two (2) working days before this meeting.
- Note 5:** Items listed on the Consent Agenda will be approved by one motion of the Town Council, unless the Mayor or an individual Council Member requests that any item (s) be moved to the Regular Agenda and individually considered.
- Note 6:** A summary of the actions taken at Town Council meetings can be viewed on the Town's website after 5 p.m. on the Friday following the Town Council meeting.

PROCEDURES FOR PUBLIC PARTICIPATION

Citizens desiring to address the Town Council should proceed toward the public microphones when the applicable agenda item is being considered to enable the Town Council President to acknowledge you.

PUBLIC HEARINGS:

Any citizen is entitled to be heard on an official agenda item under the section entitled "Public Hearings," subject to the three minute limitation.

COMMUNICATIONS FROM CITIZENS:

Any citizen is entitled to be heard concerning any matter under the section entitled "Communications from Citizens," subject to the three minute limitation.

The public also has the opportunity to speak to any item listed on the agenda, including the consent agenda, at the time the agenda item comes up for discussion.

OTHER AGENDA ITEMS:

Any citizen is entitled to be heard on any official agenda item when the Town Council calls for public comments, subject to the three minute limitation.

Town Council Meetings are public business meetings and, as such, the Town Council retains the right to limit discussion on any issue.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 41-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 153 Cocoanut Row Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 26, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 41-2014](#)
- [Excerpt from the Minutes of the Landmarks Preservation Commission Meeting of February 19, 2014](#)
- [Designation Report for 153 Cocoanut Row](#)
- [Applicable Code](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning and Building

Re: Landmark Designation of 153 Cocoanut Row
Resolution No. 41 – 2014

Date: February 26, 2014

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 153 Cocoanut Row as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the February 19, 2014 meeting of the Landmarks Preservation Commission, the Commission voted unanimously to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

- The property meets the following criteria for designation as a landmark of the Town of Palm Beach.

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen.

Landmark Designation of 153 Cocoanut Row

Resolution No. 41 - 2014

February 26, 2014

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OWNER CONSENT

Please be advised that the property owners support the landmark designation of this property.

FUNDING/FISCAL IMPACT

No direct funding is needed for this action.

COMPREHENSIVE PLAN

The action proposed is consistent with the goals, objectives and policies contained in the Historic Preservation Element of the Town's Comprehensive Plan.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 41 - 2014 relating to 153 Cocoanut Row, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

cc: Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
John Lindgren, AICP, Planning Administrator
pf

RESOLUTION NO. 41 - 2014

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 153 COCOANUT ROW MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

WHEREAS, pursuant to the provisions of Ordinance No. 2-84, (Chapter 54, Article IV, Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and recommended to the Town Council that certain property described herein be designated as a landmark as described in said Ordinance and Code; and

WHEREAS, after due notice to the property owner(s) affected, a public hearing was held at which all parties interested were given an opportunity to be heard and express their views and opinions with respect to the property and its designation as a landmark; and

WHEREAS, the Town Council does hereby find and determine that the property described herein meets the criteria required by the Ordinance to designate a landmark, and shall be designated as a landmark;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The recommendation and determination of the Landmarks Preservation Commission as to the property hereinafter described in Section 3 of this Resolution, being designated as a landmark is hereby ratified, approved and confirmed.

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **153 Coconut Row** and the property to be landmarked is legally described as follows:

LOT 45 OF PRIMAVERA ESTATES (MIDDLE SECTION), ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 7, AT PAGE 39, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Section 4. The Town Clerk is hereby ordered to furnish the property owner of the landmarked property a copy of this Resolution.

Section 5. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described property comprises a landmark, as defined in and subject to the provisions of Ordinance No. 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this ____ day of _____ 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, Council President Pro Tem

Richard M. Kleid, Town Council Member

ATTEST:

Michael J. Pucillo, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

**EXCERPT FROM THE MINUTES OF THE LANDMARKS PRESERVATION
COMMISSION MEETING OF FEBRUARY 19, 2014**

VIII. DESIGNATION HEARINGS:(10:33:05 a.m.)

Item 1: 153 Cocoanut Row

Owner: Bruce H. Bossidy and Dorothy P. Bossidy

Call for disclosure of ex parte communication: Disclosures by several members

Mrs. Delp verified that proof of publication and proper legal service were achieved with regard to this hearing.

Janet Murphy, Town Historic Preservation Consultant, testified to the architecture, history, and architects for this 1950 Bermuda style home designed by Caler and Plockelman. She stated that this property meets the following criteria for designation as a Town of Palm Beach landmark:

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen.

MOTION BY MR. FELDKAMP THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

MOTION BY MR. FELDKAMP THAT 153 COCOANUT ROW BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MR. STRAWBRIDGE.

MOTION CARRIED UNANIMOUSLY.

153 Coconut Row



DESIGNATION REPORT

February 19, 2014

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

153 Cocoanut Row

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Report produced by Murphy Stillings, LLC

I. General Information

Location:	153 Cocoanut Row Palm Beach, Florida
Date of Construction:	1950
First Owner:	Mr. and Mrs. Kurt H. Volk
Architect:	Caler and Plockelman
Builder/Contractor:	Jack Stephens of Newlon & Stephens
Present Owner:	Bruce H. and Dorothy P. Bossidy
Present Use:	Single Family Dwelling
Present Zoning:	RB
Palm Beach County Tax Folio Number:	50434322040000450
Current Legal Description:	Primavera Estates (Middle Section) Lot 45

II. Location Map

153 Coconut Row



III. Architectural Information

Located on the northeast corner of Clarke Avenue and Cocoanut Row, 153 Cocoanut Row is part of the Primavera Estates subdivision of the Town of Palm Beach. Built in 1950 for approximately \$40,000, the one-story dwelling is a very good example of the Bermuda style as interpreted by the architectural firm of Caler & Plockelman and constructed by Jack Stephens. The dwelling sits on a large lot known for its two varieties of grass and is one of the few houses not hidden by hedges facing Cocoanut Row between Royal Palm Way and Royal Poinciana Way.

The Bermuda style of architecture, also known as the British Colonial style, is the commonly used name for a West Indian adaptation of Georgian architecture. It was inspired by the traditions of the English colonists' architectural heritage. Ornamental details were kept to a minimum in response to the characteristics of the local building materials. Residences designed in this style are usually one story in height, have a symmetrical fenestration, steeply pitched hip roofs surfaced with flat white tiles, quoins and smooth stucco exteriors. Arches can be found over entry doors but window openings are generally rectangular.

The Bermuda style was introduced to Palm Beach in 1925 by Howard Major with the design of Major Alley on Peruvian Avenue. Major liked the lighter and simpler design of the Bermuda style and considered it a style well suited to the South Florida climate. The Bermuda style was not commonly used, however, until the 1930s when John L. Volk expanded on the theme and constructed a number of Bermuda style residences.¹ The style continued to gain popularity through the middle part of the century and many well-known architects including Marion Sims Wyeth, Maurice Fatio, Gustav Maass, Henry Harding, Howard Chilton, G. Sherman Childs, and Belford Shoumate designed Bermuda style houses in Palm Beach.

¹ White Gables on South County Road was a well know Bermuda Style house designed by John L. Volk in the 1930s.



153 Coconut Row is a very good example of Caler and Plockeman's skillful interpretation of the Bermuda style of architecture. The main living section of the house is symmetrical with a center block and two wings all covered in a smooth stucco finish. The focal point of the front façade is the large multi-light bay window that projects westward toward the street. On the interior this bay window provides the natural light for the large cypress paneled living room with a high tray ceiling.



The wings each have two traditional Georgian 6/6 double-hung sash windows flanked by side hinged louvered shutters, which are common to Bermuda style dwellings. The main entrance is on the north side of the center block and is approached by a path from the driveway. The entryway consists of a single wood paneled door with an elegant glazed and iron transom. A one-story carport is connected to the house at the northeast section of the dwelling.



The roof of the house is steeply pitched and covered with white cement tile. It has a multi-level roofline of intersecting hipped roofs and minimal overhangs, both common in the Bermuda style. The chimney rises from the south wall of the dwelling's main block and has a geometric windcap. Since construction in 1950, only minor alterations have been done to the property, including roof repairs, interior remodeling and the installation of a pool and heating.²

The architects of 153 Cocoanut Row, William "Kemp" Caler and Raymond Plockelman, were both well established in Palm Beach and worked with some of the best architectural firms during their careers. For approximately ten years in the 1930s and 1940s, Kemp Caler worked with John L. Volk. And from 1928-1941, Raymond Plockelman worked in the Palm Beach office of Treanor & Fatio. In 1950 and 1953 Kemp Caler and Raymond Plockelman worked together as Caler & Plockelman designing buildings in varying styles in Palm Beach and the surrounding towns. They split amicably in late 1953.

² Raymond Plockelman was hired to install radiant heating in 1955.

The builder, Jack W. Stephens, was a general contractor and builder in partnership with William Newlon during much of the 1920s.³ During this time, Newlon & Stephens offices were located in the Guaranty Building in West Palm Beach but they were established and active builders in Palm Beach. In 1925, they were the general contractors for the Palm Beach Town Hall. During the height of the Land Boom in 1926 their firm was listed as general contractors, builders and real estate developers. By 1929, the partnership had split up and they went into practice on their own.

IV. Historical Information

The 1940's brought the War years and the new kind of living in the Town of Palm Beach. Housing styles became simpler and many of the large estates were subdivided to make room for new houses with a more casual lifestyle. The building slowdown lasted until after World War II when once again the island became the most desirable winter resort on the East Coast. Palm Beach hosted a myriad of millionaires and movie stars and the local population also increased significantly.⁴

Prior to 1948, Cocoanut Row ended at the Royal Poinciana Chapel grounds and mostly served local traffic. In 1930, the Garden Club hired city planners Bennet, Parsons and Frost to formulate a long-range improvement program for the Town of Palm Beach. One of these was the extension of Cocoanut Row from the Royal Poinciana Chapel grounds to Royal Poinciana Way so that people could travel on Cocoanut Row from Royal Palm Way to Royal Poinciana Way. The extension was completed November 19, 1948, and the new road was opened with ceremonies. Mayor Owens called upon "all citizens to use this new street and enjoy it."⁵ It has since become one of the town's main thoroughfares and 153 Cocoanut Row is a well-recognized house along this stretch of Cocoanut Row.

153 Cocoanut Row was originally built in 1950 for Mr. Kurt H. Volk.⁶ From 1951-1970, Mr. Kurt E. Volk and his wife Gertrude S. Volk lived in

³ 130 Brazilian Avenue is the only other Palm Beach Landmark designed? Built? by Newlon & Stephens.

⁴ A number of service men and women, who had trained in the area during the War, returned and decided to call Palm Beach home.

⁵ The Palm Beach Sun, "Extension To Cocoanut Row Is Opened With Ceremonies," 19 November 1948.

⁶ No relationship to architect John Volk.

the house they had . In 1971, Mr. & Mrs. Bart H. Bossidy purchased the house and it has remained in the Bossidy family ever since, today being owned by Mr. and Mrs. Bruce H. and Dorothy P. Bossidy.

V. Architects Biographies

William Kemp Caler, Sr.

William “Kemp” Caler was born in Troy, New York on January 6, 1912. His family moved to Miami at an early age, where he went to school, graduating from high school there in 1930. He earned an architectural degree from Georgia Tech in Atlanta in 1935. After Georgia Tech he returned to Florida and settled in Palm Beach. In the late 1930s he designed houses in Palm Beach and Jupiter Island.

During World War II, Kemp Caler served as a Naval officer in Jacksonville, Florida and in the South Pacific with the 101st SEABEES. After the war, he returned to Palm Beach to work with John Volk and continued his successful career. Kemp Caler married his wife Sarah Seward Anthony in 1943 and they had two children; William Kemp Caler, Jr., born in 1944 and Rosa May Seward Caler born in 1946. In 1947, they moved into a house Caler designed for the family at 250 Nightingale Trail. In 1950, he formed a partnership with Raymond Plockelman as Caler & Plockelman Architects with an office in Palm Beach. In 1951, he returned to Naval service as a Commander and the entire family moved to Trinidad for two years. Upon return in 1953, he resumed his partnership with Raymond Plockelman but later that year the partnership ended amicably and Kemp Caler returned to practicing architecture in Palm Beach under his own name. He kept his office in Palm Beach but in 1954 he moved his family to Hobe Sound, Florida. He became well connected in Martin County and designed many houses on Jupiter Island.⁷ He remained active in Palm Beach’s civic and professional activities, serving on the Town’s Architectural Review Commission (ARCOM) in intermittent terms, whenever called upon, for 30

⁷ Nathaniel Pryor Reed, A Different Vision: The History of the Hobe Sound Company and the Jupiter Island Club. “ In his years on Jupiter Island, Kemp Caler built an astonishing number of houses. His work was distinctive, traditional approach with unusual attention paid to unexpected custom features. The effort to which Mr. Caler was most proud was the Johnson Boathouse, his stunning recreation of the Old New York Yacht Club shore station.. His last commission on Jupiter Island was the Marshall Field residence.” In the 1940s he built homes for the Reed Family, Spindrift and Casuarina, and the Golf House for the Jupiter Island Club.

years. A few of Kemp Caler's distinctive Palm Beach commissions include the McLennan house at 576 Island Drive (1969) and the Frank Prior House at 1045 South Ocean Boulevard (1969). One of his last commissions was Lilly Pulitzer's house "Jungle" at 710 S. County Road where he spent over a year working with Lilly to design the house. Kemp Caler passed away on November 9, 1989 at the age of 77.⁸

Raymond Henry Plockelman

Raymond Henry Plockelman was born in Manitowac, Wisconsin on July 25, 1902. His parents, Mr. & Mrs. William Plockelman, moved to West Palm Beach from Duluth, Minnesota in 1915 and his father worked as a contractor and builder. Raymond Plockelman attended architectural school at the University of Florida during 1923 and 1924 and attended the University of Pennsylvania during 1925, but he never received a college degree in architecture. He moved back to West Palm Beach and was married to Grace Elizabeth Holley in 1928. During his career, Raymond Plockelman was associated with many architectural firms. He was first associated with the architectural firm of Clark J. Lawrence in Palm Beach. Raymond Plockelman was then employed as a draftsman and designer by Treanor & Fatio in their Palm Beach office from 1928–1941. After leaving Treanor & Fatio, he was hired as chief draftsman for the L. Phillips Clarke architectural firm in West Palm Beach. Raymond Plockelman enlisted in the U.S. Coast Guard Reserve but he was never called to active duty in World War II. On May 3, 1945, he applied for his Florida architectural license, which was granted on June 13, 1947. During this time he worked in Palm Beach as a designer for the Simonson & Holley architectural firm in 1946 and for the Henderson & Votaw firm in 1947. He practiced under his own name from 1947-1950. In 1950, he teamed up with Kemp Caler, forming Caler & Plockelman until 1953. He then went into partnership with Jefferson N. Powell as Plockelman & Powell in 1954. Raymond Plockelman returned to practicing under his own name in 1955, where he continued until 1968. During his career he was active in civic and professional activities. In 1951, he served as president of the Palm Beach Chapter of the A.I.A. He served several years as chairman of the West Palm Beach Zoning Commission and the Parks and Recreation Commission. He also served many years as a Board Member of the Salvation Army. He considered his most significant

⁸ Correspondence with William Kemp Caler, Jr. Most of Kemp Caler's work was in the Town of Palm Beach and Jupiter Island, but he also worked in Lost Tree Village, John's Island, Country Club of Florida and Port Royal in Naples.

commercial designs to be the First Baptist Church's Chapel-by-the-Lake and the West Palm Beach Municipal Stadium.⁹ Raymond Plockelman died on April 16, 1968, at the age of 65.

VI. Statement of Significance

The residence at 153 Cocoanut Row is a good example of the Bermuda style of architecture as interpreted by architects Caler & Plockelman in 1950. With its timeless charm and prominent location on a well-traveled section of Cocoanut Row, the house has become one of Palm Beach's iconic dwellings.

VII. Criteria For Designation

Section 54-161 of the Town of Palm Beach Landmarks Preservation Ordinance outlines the criteria for designation of a landmark or landmark site and suggests that at least one criterion must be met to justify the designation. Listed below are the criteria which relate to this property and justification for designation:

(1) "Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town."

The residence at 153 Cocoanut Row reflects the post-WWII building development in Palm Beach when once again the island became one of the most desirable winter destinations for residents on the East Coast. It also reflects the housing development along Cocoanut Row after the road's extension to Royal Poinciana Way in 1948. It would be the first house designed by William "Kemp" Caler or Raymond Plockelman to become a Landmark in Palm Beach.

(3) "Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship."

⁹ The baseball stadium has since been demolished.

153 Cocoanut Row is a very good example of the Bermuda style of architecture. The main living section of the house is symmetrical with a center block and two wings all covered in a smooth stucco finish. The focal point of the front façade is the large bay window that projects toward the street. It has a multi-level roofline of steeply pitched intersecting hipped roofs covered with white cement tiles and minimal overhangs. Since construction in 1950, only minor alterations and additions have been done to the residence.

VIII. Selected Bibliography

Bossidy, Bruce H. Telephone conversation with current owner.

Caler, Jr., William Telephone and E-mail correspondence with Kemp Caler's son William "Bill" Caler. Including information from Nathaniel P. Reed's book A Different Vision: The History of the Hobe Sound Company and the Jupiter Island Club.

Curl, Donald W. Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

The Historical Society of Palm Beach County. Newlon & Stephens file; Palm Beach Sun Article; Palm Beach Post articles; Palm Beach Daily News Articles, William Kemp Caler Obituary, Raymond Plockelman file; Coconut Row file.

McAlester, Virginia and Lee. A Field Guide to American Houses. New York: Alfred A. Knopf, Inc., 1984.

Plockelman, Raymond, Jr. Telephone conversation with Raymond Plockelman's son, Raymond Plockelman, Jr.

Preservation Foundation of Palm Beach. File for 153 Coconut Row, including biographical information on Raymond Plockelman and William Kemp Caler.

The Palm Beach Daily News and Palm Beach Post. Archived Articles.

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1926 revised. City of West Palm Beach Public Library, Florida Room.

Town of Palm Beach. Building Permits, 1950– 2013.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1950-1971.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PH15247
 Recorder Jane S. Day
 Field Date 11/15/2010
 Form Date 3/1/2011
 Form No 201011
 Form No - Field Date (YYYYMM)

First Site Form Recorded for this Site? YES

GENERAL INFORMATION

Site Name (address if none) Alice R. Bossidy, House Multiple Listing (DHR only) _____
 Other Names _____ >> _____
 Survey or Project Name Palm Beach Historic Sites Survey, Phase V Survey# _____
 National Register Category Building(s)

LOCATION & IDENTIFICATION

Address _____

Street No.	Direction	Street Name	Street Type	Direction Suffix
<u>153</u>		<u>Cocoanut Row</u>		

Cross Streets (nearest between) Barton Ave. and Clarke Ave.
 City / Town (within 3 miles) Town Of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel #(s) 50-43-43-22-04-000-0450
 Subdivision Name Primavera Este Middle se Block _____ Lot 45
 Ownership Private Individual
 Name of Public Tract (e.g., park) _____
 Route to (especially if no street address) On the northeast corner of Cocoanut Row and Clarke Ave.

MAPPING

USGS 7.5' Map Name _____ Publication Date _____ >> PAIM BEACH, 1986
 Township: _____ Range: _____ Section: _____ 1/4 section: _____ >> 43S ; 43E ; 22 ; UNSP
 Irregular Section Name: _____
 Landgrant _____
 UTM: Zone _____ Easting _____ Northing _____
 Plat or Other Map (map's name, location) _____

DESCRIPTION

Style Ranch Other Style _____
 Exterior Plan Irregular Other Exterior Plan _____
 Number of Stories 1
 Structural System(s) _____ >> Concrete block
 Other Structural System(s) _____
 Foundation Type(s) _____ >> slab
 Other Foundation Types _____
 Foundation Material(s) _____ >> Poured Concrete Footing
 Other Foundation Material(s) _____
 Exterior Fabric(s) _____ >> Stucco
 Other Exterior Fabric(s) _____
 Roof Type(s) _____ >> Rip
 Other Roof Type(s) _____
 Roof Material(s) _____ >> Flat tile
 Other Roof Material(s) _____
 Roof Secondary Structure(s) (dormers etc) _____ >> _____
 Other Roof Secondary Structure(s) _____
 Number of Chimneys 1
 Chimney Material Brick
 Other Chimney Material(s) stucco on exterior
 Chimney Location(s) south slope

Page 1 of 3

HISTORICAL STRUCTURE FORM

8PB15247

DESCRIPTION (continued)

Window Descriptions not visible

Main Entrance Description (stylistic details) single door on the west facade with a fanlight above

Porches: \$open 2 \$closed 1 \$incised Location(s) entry - w, pool patio- e

Porch Roof Types(s)

Exterior Ornament none

Interior Plan Unknown

Other Interior Plan

Condition Good

Structure Surroundings

Commercial: NONE of this category

Residential: ALL this category

Institutional: NONE of this category

Undeveloped: NONE of this category

Ancillary Features (Number / type of outbuildings, major landscape features)

Archaeological Remains (describe): none observed

If archaeological remains are present, was an Archaeological Site Form completed?

Narrative Description (optional)

HISTORY

Construction year 1950

Architect (last name first): Flockelman, Raymond

Builder (last name first): Stephens, Frank

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>>			

Structure Use History

Use Year Use Started Year Use Ended >> Private residence; 1950;

Other Structure Uses

Ownership History (especially original owner, dates, profession, etc.)

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods tax records, windshield

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? NO

Name of Local Register if Eligible Town of Palm Beach Landmark

Individually Eligible for National Register? NO

Potential Contributor to NR District? NO

Area(s) of historical significance >> Architecture

Other Historical Associations

Explanation of Evaluation (required) This is a typical ranch style house from the 1950s.

HISTORICAL STRUCTURE FORM

87B15247

DOCUMENTATION (Photos, Plans, etc.)

Photographic Negatives or Other Collections Not Filed with FMSF, Including Field Notes, Plans, other Important Documents.

Document type: _____ Maintaining Organization: _____
 File or Accession #: _____ Descriptive Information: _____
 >> _____

RECORDER INFORMATION

Recorder Name (Last, First) Day, Jane S.
 Recorder Address / Phone 728 Granada Dr., Boca Raton, FL 33432 561-362-4473
 Recorder Affiliation Research Atlantica Other Affiliation Town of Palm Beach
 Is a Text-Only Supplement File Attached (Surveyor Only)? _____

***** MASTER SITE FILE USE ONLY *****

Cultural Resource Type: <u>92</u> Electronic Form Used: <u>92</u> Form Type Code: <u>92</u> Form Quality Ranking: <u>92</u> Form Status Code: <u>92</u>	SHPO's Evaluation of Resource Date: _____
Supplement Information Status: <u>92</u> Supplement File Status: <u>92</u>	FMSF Staffer: _____ Computer Entry Date: _____
Form Comments: _____ _____ _____	

REQUIRED PAPER ATTACHMENTS

- (1) USGS 7.5" MAP WITH STRUCTURE PINPOINTED IN RED
- (2) LARGE SCALE STREET OR PLAT MAP
- (3) PHOTO OF MAIN FACADE, B&W, AT LEAST 3"X5"

Palm Beach, Florida, Code of Ordinances >> PART II - CODE OF ORDINANCES >> **Chapter 54 - HISTORICAL PRESERVATION >> ARTICLE IV. - DESIGNATION PROCEDURE >>**

ARTICLE IV. - DESIGNATION PROCEDURE

Sec. 54-161. - Criteria for landmarks and landmark sites.

Sec. 54-162. - Creation of historic districts.

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

Sec. 54-161. - Criteria for landmarks and landmark sites.

A landmark or landmark site shall meet at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
- (2) Is identified with historic personages or with important events in national, state or local history.
- (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

(Code 1982, § 16-38)

Sec. 54-162. - Creation of historic districts.

- (a) *Authorized.* For preservation purposes, the commission shall identify geographically defined areas within the town to be designated as historic districts and shall cite the guideline criteria upon which such designation shall be made. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the town that:
 - (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
 - (2) Is identified with historic personages or with important events in national, state or local history.
 - (3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.
 - (4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.
 - (5) Constitutes a unique area of architecture, landscaping and planning.
- (b) *Petition for special historic district category.* Following the designation of each landmark or landmark site, the commission may petition the town council for the categorizing of such

property as special district H. Following the designation of each historic district, the commission may petition the town council for the categorizing of each property in such district to special district HD.

(Code 1982, §§ 16-38.1, 16-39)

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

The commission has the power to:

- (1) Designate a building, together with its accessory buildings and its lot of record, or a vacant site or a district as historic and worthy of preservation as a landmark, landmark site or historic district, as the case may be, within the jurisdiction of the commission, provided such designation is ratified by the town council.
- (2) Recommend appropriate legislation for the preservation of any building, site or district which it has so designated.
- (3) Make application for public and private funds when appropriate and available for the purposes set forth in this article subject to the approval of the town council.
- (4) Review applications proposing erection, alteration, restoration or moving of any building it has so designated or any building located in a district it has so designated, and to issue or deny certificates of appropriateness accordingly.
- (5) Review applications for demolition permits proposing demolition of all or part of any landmark or any building located in an historic district, and to issue certificates of appropriateness or to deny them for one year.
- (6) Cooperate with the owner of a landmark or a property located in an historic district throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for such landmark or property.
- (7) Review its denial of a certificate of appropriateness for demolition of such landmark or property annually, during a public hearing at which time the owner of the affected landmark or property shall be afforded an opportunity to appear with counsel and to present testimony.
- (8) Prohibit the issuance of building, exterior remodeling or demolition permits affecting any property under consideration for landmark designation without a certificate of appropriateness, this prohibition to remain in effect for the length of time required by the commission and the town council for final action on the proposed designation. The commission shall accomplish such prohibition by furnishing the building official a list of all property under consideration for landmark designation.

(Code 1982, § 16-42)

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

- (a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:
 - (1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.
 - (2)

Notice of a proposed designation shall be sent by certified mail to the owner of record of property proposed for designation as a landmark or landmark site and to each owner of record of property in a district proposed for designation as an historic district, describing the property proposed and announcing a public hearing by the commission to consider such a designation to be held not less than 30 days after the mailing of such notice.

- (3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.
 - (4) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.
 - (5) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.
 - (6) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.
 - (7) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.
 - (8) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.
 - (9) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.
 - (10) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.
 - (11) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.
 - (12) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.
- (b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.
- (c)

Designation of a landmark, landmark site or a historic district may be withdrawn by following the same procedure as listed above.

(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following the designation of his property, enter into a restrictive covenant on the property after negotiation with the commission. The commission may assist the owner in preparing such a covenant in the interest of preserving the landmark or the landmark site. The owner shall record such covenant in the office of the county recorder of deeds and shall notify the town clerk, building official and town council and may notify the office of the county property appraiser of such covenant and the conditions thereof.

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Public Hearings

Agenda Title

RESOLUTION NO. 42-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Ratifying and Confirming the Determination of the Landmarks Preservation Commission that the Property Known as 337 Brazilian Avenue Meets the Criteria Set Forth in Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach; and Designating Said Property as a Town of Palm Beach Landmark Pursuant to Ordinance No. 2-84, Also Known as Chapter 54, Article IV of the Code of Ordinances of the Town of Palm Beach.

Request for Deferral to the April 9, 2014, Town Council Meeting Per Letter Dated March 3, 2014, from Guy Rabideau.

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 26, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 42-2014](#)
- [Designation Report for 337 Brazilian Avenue](#)
- [Excerpt from the Minutes of the Landmarks Preservation Commission Meeting of February 19, 2014](#)
- [Applicable Code](#)
- [Letter Dated March 3, 2014, from Guy Rabideau](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning and Building

Re: Landmark Designation of 337 Brazilian Avenue
Resolution No. 42 – 2014

Date: February 26, 2014

STAFF RECOMMENDATION

Staff recommends ratification of the property known as 337 Brazilian Avenue as a Town landmark.

LANDMARKS PRESERVATION COMMISSION RECOMMENDATION

At the Public Hearing for Designation held during the February 19, 2014 meeting of the Landmarks Preservation Commission, the Commission voted unanimously to recommend to the Town Council that the above mentioned property be designated as a landmark. In accordance with Section 54-164 (a) (11) of Chapter 54 of the Town of Palm Beach Code of Ordinances, the Town Council shall hold a public hearing within ninety (90) days of the final decision of the Landmarks Commission to consider ratification of the Commission's recommendation.

GENERAL INFORMATION

- The property meets the following criteria for designation as a landmark of the Town of Palm Beach.

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen.

Landmark Designation of 337 Brazilian Avenue

Resolution No. 42 - 2014

February 26, 2014

Page 2

OWNER CONSENT

Please be advised that the property owners were represented by Attorney Guy Rabideau at the February 19, 2014 meeting of the Landmarks Preservation Commission. At that meeting, Attorney Rabideau testified that the owners object to the landmark designation of this property.

FUNDING/FISCAL IMPACT

No direct funding is needed for this action.

COMPREHENSIVE PLAN

The action proposed is consistent with the goals, objectives and policies contained in the Historic Preservation Element of the Town's Comprehensive Plan.

TOWN ATTORNEY REVIEW

Please be advised that the Town Attorney has reviewed Resolution No. 42 - 2014 relating to 337 Brazilian Avenue, and has approved it as to legal form and sufficiency.

attachments

JSP:cmd

cc: Thomas G. Bradford, Deputy Town Manager
John C. Randolph, Town Attorney
Susan A. Owens, Town Clerk
John Lindgren, AICP, Planning Administrator
pf

RESOLUTION NO. 42 - 2014

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, RATIFYING AND CONFIRMING THE DETERMINATION OF THE LANDMARKS PRESERVATION COMMISSION THAT THE PROPERTY KNOWN AS 337 BRAZILIAN AVENUE MEETS THE CRITERIA SET FORTH IN ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH; AND DESIGNATING SAID PROPERTY AS A TOWN OF PALM BEACH LANDMARK PURSUANT TO ORDINANCE NO. 2-84, ALSO KNOWN AS CHAPTER 54, ARTICLE IV OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH.

WHEREAS, pursuant to the provisions of Ordinance No. 2-84, (Chapter 54, Article IV, Code of Ordinances of the Town of Palm Beach) the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and recommended to the Town Council that certain property described herein be designated as a landmark as described in said Ordinance and Code; and

WHEREAS, after due notice to the property owner(s) affected, a public hearing was held at which all parties interested were given an opportunity to be heard and express their views and opinions with respect to the property and its designation as a landmark; and

WHEREAS, the Town Council does hereby find and determine that the property described herein meets the criteria required by the Ordinance to designate a landmark, and shall be designated as a landmark;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The foregoing recitals are hereby ratified and confirmed.

Section 2. The recommendation and determination of the Landmarks Preservation Commission as to the property hereinafter described in Section 3 of this Resolution, being designated as a landmark is hereby ratified, approved and confirmed.

Section 3. The landmark herein designated, pursuant to the provisions of Ordinance No. 2-84, and the provisions of the Town Code described herein, is known as **337 Brazilian Avenue** and the property to be landmarked is legally described as follows:

LOTS 9 AND 10, BLOCK 2 OF ROYAL PARK ADDITION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 1 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

Section 4. The Town Clerk is hereby ordered to furnish the property owner of the landmarked property a copy of this Resolution.

Section 5. Within thirty (30) days from the date of this Resolution, the Landmarks Preservation Commission shall cause to be filed in the Office of the Recorder of Deeds in and for Palm Beach County, Florida, a certificate that the above-described property comprises a landmark, as defined in and subject to the provisions of Ordinance No. 2-84 and the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular adjourned session of Town Council of the Town of Palm Beach this ____ day of _____ 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, Council President Pro Tem

Richard M. Kleid, Town Council Member

ATTEST:

Michael J. Pucillo, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

337 Brazilian Avenue



DESIGNATION REPORT

February 19, 2014

Landmark Preservation Commission

Palm Beach, Florida

DESIGNATION REPORT

337 Brazilian Avenue

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Report produced by Murphy Stillings, LLC

I. General Information

Location:	337 Brazilian Avenue Palm Beach, Florida
Date of Construction:	1924
First Owner:	J.D. Esterra
Architect:	None Listed; Likely Builder Designed and Constructed
Builder/Contractor:	Theodore Eissfeldt
Present Owner:	Friese Family Trust
Present Use:	Residential
Present Zoning:	RC
Palm Beach County Tax Folio Number:	50-43-43-23-05-002-0090
Current Legal Description:	Royal Park Addition, Lots 9 & 10, Block 2

II. Location Map

337 Brazilian Avenue



III. Architectural Information

The house and accessory structure at 337 Brazilian Avenue in the Royal Park subdivision were constructed by Theodore Eissfeldt in 1924 during the Palm Beach Land and Housing Boom. The residence was designed in the popular Mediterranean Revival style of architecture. The Mediterranean Revival style is an eclectic style incorporating architectural elements derived from the area around the Mediterranean Sea, especially Italy and Spain. The style is found most frequently in states that have a Spanish Colonial heritage, but its use gained national popularity after the Pan-American Exhibition held in San Diego in 1915. In Palm Beach, the style was first popularized in 1919 by Addison Mizner's design for the Everglades Club. The popularity of the style soared in the 1920s and remained a pervasive influence on building design until World War II.



The residence at 337 Brazilian Avenue is a two-story wood frame structure covered with rough stucco. It has an L-shaped plan with a one-story main entrance located on the southwest corner of the home. The entry is placed on an angle with a paneled wood door and an arched staggered cast stone block surround topped with a statue of a crowned lion. A tower is located to the north of the one-story, flat roofed entrance. A set of three arched windows, on the first floor of the main façade, are separated by engaged cast stone columns. The central window of the set contains a large fixed pane of

glass. The fanlight above the central window has a unique muntin design. The muntins are wavy, reminiscent of the sun's rays, while the fanlights above the flanking windows have straight muntins. A staggered cast stone surround frames these windows. Two medallions are located on the second floor of the main façade flanking a set of three, six-over-six, sash windows.



Angled Entrance



Statue above Entrance



Set of Arched Windows with Unique Fanlight

The hip roof of the residence reflects the Mediterranean Revival style with barrel tile, overhanging eaves and carved wooden brackets. The roof of the tower element has narrower eaves than the main block of the residence. A brick chimney surfaced with stucco is located on the east façade. A

cantilevered porch is located on the second story of the east façade. The residence has a variety of fenestration including fixed windows, multi-light sash windows and arched windows with fanlights.



East Façade with Second Story Porch

A two-story, flat roofed, accessory structure is located at the northeast corner of the property. Originally constructed as a garage apartment, the building was converted in 1974 to a two-story living space. The two garage doors were replaced with two windows and a door. A kitchen, living room and dining area were created on the first floor. The second floor's kitchen was removed and an interior spiral staircase was installed.



Accessory Structure

The residence has had few alterations since its construction in 1924. Air conditioning was installed, rotted wood replaced, roof replaced, some windows were replaced and windows were installed in the second floor porch.

III. Historical Information

The early 1920s was a period of tremendous growth in the Town of Palm Beach. The Island had become the winter resort of America's most influential families and the building boom was radically changing the face of the small community. By 1920, Ocean Boulevard was completed and motorists from the north were driving down to enjoy the popular winter resort town. As Addison Mizner and other prominent Palm Beach architects were designing large estates along the ocean and lake in the Mediterranean Revival style, demand for hotels, apartments and smaller residences grew. Many of these smaller homes were taking their design cues from the larger estates and were being built in the Mediterranean Revival style as well, increasing the style's popularity. Residences such as 337 Brazilian Avenue were constructed as part of Captain E.N. Dimick and Harvey Geer's development called Royal Park.

Captain Dimick, the first mayor of Palm Beach, and Harvey Geer formed the Palm Beach Improvement Company in 1908. Their Royal Park subdivision included 160 acres of land that contained jungle, sand and muck. The area included land 290 feet north of Royal Palm Way south to 140 feet south of Worth Avenue, from the Atlantic Ocean to Lake Worth. In 1912, Lewis H. Green, a renowned developer from New York, who had just sold lots in the Floral Park subdivision, formed an agreement with the Palm Beach Improvement Company where Green was responsible for the management, design, and sale of land in Royal Park. It was decided that the entire area was to be developed in its entirety at one time. A sea wall was built, areas of the land were filled in, as much of it was under water, and the area graded. The streets were constructed and named after the vegetation that was to be planted on them. A bridge was constructed to connect Royal Park to West Palm Beach at Royal Palm Way. Lighting, water mains, electricity and telephone lines were also installed.

The residence and accessory structure at 337 Brazilian Avenue were built in 1924 for approximately \$10,000 for J.D. Esterra by Theodore Eissfeldt. The residence was not lived in by Esterra and had many different residents during its early years, which could indicate that it was used as a rental property for winter residents. Beginning in 1939, the house was occupied by various owners.

V. Architects Biography

There is no architect listed on the Palm Beach building permit for 337 Brazilian Avenue and therefore, like many Palm Beach buildings constructed in the early twentieth century, it was most likely designed and built by the listed contractor Theodore Eissfeldt.

In the 1920 City Directory, Theodore Eissfeldt was listed as an architect. Following that, he was listed as a contractor for many years, working in Palm Beach, Lake Worth and West Palm Beach. Some of his Palm Beach commissions included 305 and 409 Seabreeze Avenue and 267 Atlantic Avenue built in 1923 and 1924.¹ In 1925, Eissfeldt began the construction of thirty homes in West Palm Beach's Northwood Hills neighborhood, including his own home at 3815 Eastview Avenue. In 1926, he is listed in the City Directory as President of High Mound Construction Company. By 1932, Eissfeldt was president of Northwood Millworks, Inc., and from 1935-1942 he was president of Northwood Builder's Supply Company.²

VI. Statement of Significance

The house at 337 Brazilian Avenue is a very good example of a Mediterranean Revival style residence built during the Palm Beach Land Boom of the 1920s. The residence is an excellent example of the fabric of Palm Beach and the Royal Park subdivision. It is an untouched gem in the heart of the Town.

VII. Criteria For Designation

Section 54-161 of the Town of Palm Beach Landmarks Preservation Ordinance outlines the criteria for designation of a landmark or landmark site and suggests that at least one criterion must be met to justify the

¹ The house at 267 Atlantic Avenue is awaiting Landmark Designation decision by the Town Council.

² Eissfeldt was a prolific builder in West Palm Beach. City of Palm Beach building permits have him listed as the builder for 701 Kanuga Drive (1921), 501 30th Street (1922), 415 30th Street, 419 30th Street and 412 33rd Street (1923), 4210 Washington Road and 2700 Broadway (1924), 338-340 Central Drive, 445 Roseland Drive, 3306, 3310, 3315, 3319, 3402, 3412, 3416, 3504, 3506, 3512, 3706, 3718, 3801, 3805, Greenwood Avenue, 3916 Westview, 953 29th Street, 824 32nd Street, 820, 822, 823 33rd Street, 825 34th Street, 800 35th Street, 505 36th Street, 937, 940, 941, 944, 947, 948, 952, 953, 956, 957, 960, 962, 964, 965, 969 and 970 39th Court and 3511 and 3815 Eastview (1925).

designation. Listed below are the criteria which relate to this property and justification for designation:

(1) “Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.”

The house at 337 Brazilian Avenue was constructed during the Florida Boom Time Era of the 1920s. It was a time of significant population growth in Palm Beach. Land was being developed and many houses of varying sizes and styles were built to fulfill the growing demand. The residence is a very good example of the early fabric of Palm Beach and the Royal Park subdivision and as such is worthy of Landmark designation.

(3) “Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.”

The house at 337 Brazilian Avenue is a good example of Mediterranean Revival style architecture popularized in Palm Beach during the Land Boom of the 1920s. The building embodies distinctive Mediterranean Revival characteristics including a tower feature, barrel tile roofing, ornate cast stone door and window surrounds, engaged columns, medallions, and overhanging eaves with carved brackets. This residence’s unique design elements include its angled entrance and wavy fanlight design. The residence, having very few alterations during its ninety years, is an untouched gem and therefore, is a specimen inherently valuable for study and worthy of Landmark designation.

VIII. Selected Bibliography

Curl, Donald W. Palm Beach County: An Illustrated History. Northridge, California: Windsor Publications, Inc., 1987.

The Historical Society of Palm Beach County. Files with information Theodore Eissfeldt, Royal Park Subdivision, and Northwood Hills.

Hoffstot, Barbara D. Landmark Architecture of Palm Beach. Third Edition. Pittsburgh, Pennsylvania: Pittsburgh History & Landmark's Foundation. 1991

McAlester, Virginia and Lee. A Field Guide to American Houses. New York: Alfred A. Knopf, Inc., 1984.

The Palm Beach Daily News and Palm Beach Post. Archived Articles

Preservation Foundation of Palm Beach. 337 Brazilian Avenue file; Information on Theodore Eissfeldt.

Sanborn Insurance Map of Palm Beach. New York: Sanborn Map Co., 1926. City of West Palm Beach Public Library, Florida Room.

Town of Palm Beach. Building Permits, 1924– 2013.

West Palm Beach City Directories. Asheville, NC: Florida-Piedmont Directory Company, 1918-1973.

West Palm Beach Historic Preservation Staff. Northwood Hills Expanded Nomination Documentation.

IX. Florida Master Site File Form



HISTORICAL STRUCTURE FORM

Electronic Version 1.1.0

Site # PS06369
 Recorder # Jane S. Day
 Field Date 3/25/2010
 Form Date 5/15/2010
 Form No 201003
 Form No + Field Date (YYYYMM)

First Site Form Recorded for this Site? NO

GENERAL INFORMATION

Site Name (address if none) Friese family Trust, House Multiple Listing (DHR only)
 Other Names >>
 Survey or Project Name Palm Beach Historic Sites Survey, Phase V Survey#
 National Register Category Building(s)

LOCATION & IDENTIFICATION

Address

Street No.	Direction	Street Name	Street Type	Direction Suffix
<u>337</u>		<u>Brazilian</u>	<u>Avenue</u>	

Cross Streets (nearest between) Hibiscus and Coconut Row
 City / Town (within 3 miles) Town of Palm Beach In Current City Limits? YES
 County Palm Beach Tax Parcel # (s) 50-43-43-23-05-002-0090
 Subdivision Name Royal Park Addition Block 2 Lot 9,10
 Ownership Private-Corporate-Non-Profit
 Name of Public Tract (e.g., park)
 Route to (especially if no street address) On the north side of Brazilian Avenue between Hibiscus and Coconut Row.

MAPPING

USGS 7.5' Map Name PALM BEACH;1983 Publication Date >>
 Township: 43S Range: 43E Section: 23 1/4 section: UNSP
 Irregular Section Name:
 Landgrant
 UTM: Zone 18N Easting 18N Northing 18N
 Plat or Other Map (map's name, location)

DESCRIPTION

Style Mediterranean Revival Other Style
 Exterior Plan Irregular Other Exterior Plan
 Number of Stories 2
 Structural System(s) Wood frame
 Other Structural System(s) hollow clay tile
 Foundation Type(s) Continuous
 Other Foundation Types
 Foundation Material(s) Concrete Block
 Other Foundation Material(s)
 Exterior Fabric(s) Stucco
 Other Exterior Fabric(s)
 Roof Type(s) Hip
 Other Roof Type(s)
 Roof Material(s) Spanish tile
 Other Roof Material(s)
 Roof Secondary Structure(s) (dormers, etc) >>
 Other Roof Secondary Structure(s)
 Number of Chimneys 1
 Chimney Material Brick
 Other Chimney Material(s) stucco on exterior
 Chimney Location(s) east facade, exterior wall

Page 1 of 3

HISTORICAL STRUCTURE FORM

8PB06369

DESCRIPTION (continued)

Window Descriptions 6/6, 4/4 DSH, fixed fanlights

Main Entrance Description (stylistic details) placed on an angle on the south side of the house with a staggered cast stone block surround

Porches: Open 1 Closed Enclosed Location(s) entry - ss

Porch Roof Type(s) flat

Exterior Ornament cast stone, medallions, exposed rafters, balustrades, engaged columns

Interior Plan Unknown

Other Interior Plan

Condition Excellent

Structure Surroundings

Commercial: NONE of this category

Residential: ALL this category

Institutional: NONE of this category

Undeveloped: NONE of this category

Ancillary Features (Number / type of outbuildings, major landscape features)

Archaeological Remains (describe): none observed

If archaeological remains are present, was an Archaeological Site Form completed?

Narrative Description (optional) The original fan light is over the front window

HISTORY

Construction year 1924

Architect (last name first):

Builder (last name first): Eissfeldt

Changes in Locations or Conditions

Type of Change	Year of Change	Date Change Noted	Description of Changes
>>			

Structure Use History

Use Year Use Started Year Use Ended >> Private residence/1924;

Other Structure Uses

Ownership History (especially original owner, dates, profession, etc.)

RESEARCH METHODS

Research Methods >> Examine local property records

Other research methods

SURVEYOR'S EVALUATION OF SITE

Potentially Eligible for a Local Register? YES

YES

Name of Local Register if Eligible Town of Palm Beach Landmark

Individually Eligible for National Register? INSUFF. INFO

INSUFF. INFO

Potential Contributor to NR District? NO

NO

Area(s) of historical significance >> Architecture

Other Historical Associations

Explanation of Evaluation (required) This is a good example of the Mediterranean Revival style designed during the 1920s. It is worthy of local designation.

HISTORICAL STRUCTURE FORM

8FB06369

DOCUMENTATION (Photos, Plans, etc.)

Photographic Negatives or Other Collections Not Filed with FMSF, including Field Notes, Plans, other Important Documents.

Document type: _____ Maintaining Organization: _____
 File or Accession #: _____ Descriptive Information: _____
 >> _____

RECORDER INFORMATION

Recorder Name (Last, First) Day, Jane S.
 Recorder Address / Phone 728 Granada Drive, Boca Raton, Fl. 33432 561-362-4473
 Recorder Affiliation Research Atlantica Other Affiliation Town of Palm Beach
 Is a Text-Only Supplement File Attached (Surveyor Only)? _____

***** MASTER SITE FILE USE ONLY *****

Cultural Resource Type: Electronic Form Used: Form Type Code: Form Quality Ranking: Form Status Code:	SHPO's Evaluation of Resource Date: _____
Supplement Information Status: Supplement File Status:	FMSF Staffer: Computer Entry Date:
Form Comments: _____ _____ _____	

REQUIRED PAPER ATTACHMENTS

- (1) USGS 7.5" MAP WITH STRUCTURE PINPOINTED IN RED
- (2) LARGE SCALE STREET OR PLAT MAP
- (3) PHOTO OF MAIN FACADE, B&W, AT LEAST 3"X5"

**EXCERPT FROM THE MINUTES OF THE LANDMARKS PRESERVATION
COMMISSION MEETING OF FEBRUARY 19, 2014**

Item 2: 337 Brazilian Avenue

Owner: Friese Family Trust, Paul Friese Trustee

Call for disclosure of ex parte communication: No disclosures

Emily Stillings testified to the architecture and history relative to this two story 1924 Mediterranean Revival style home. She noted that no architect was listed for this home, and that it was likely designed and built by the contractor, Theodore Eissfeldt. She stated that this property meets the following criteria for designation as a Town of Palm Beach landmark:

Sec. 54-161 (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town; and,

Sec. 54-161 (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmen.

Mrs. Delp verified that proof of publication and proper legal service were achieved with regard to this hearing.

MOTION BY MR. FELDKAMP THAT THE DESIGNATION REPORT BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MS. MURPHY.

MOTION CARRIED UNANIMOUSLY.

Attorney Guy Rabideau, representing the property owner, stated that the property owner objects to the landmark designation on the basis that “the architectural elements do not come together as a coherent whole for this building that actually makes it exemplary of the Mediterranean style that has been presented.” He elaborated on other perceived problems with the house, i.e., the size of the home, less than 1900 sq. ft.; structural damage to the property; and, continuing flooding issues due to low elevation. He presented photos illustrating the flooding conditions at the site. He reiterated that this is not the best example of a Mediterranean house; there is an unknown architect; and, no prominent residents are associated with the house. Mr. Rabideau maintained that this property does not meet the criteria for designation.

Mr. Strawbridge asked Eugene Pandula and Dr. Jane S. Day, who were seated in the audience, to provide some historical information relative to the LPC’s response to houses with structural and/or flooding issues, and/or multiple problems. Mr. Eugene Pandula, past member and past Chairman of the LPC, responded that the LPC has always made decisions relative to designation based on the criteria established in the ordinance. Dr. Day, Historic Preservation Consultant for the past 20 years, responded that she could not recall anyone coming forward saying that they could not landmark a property because of flood elevation. Houses in the town have been raised

up in the past, and she cited 330 Island Road and 181 Clarendon as examples. “There have been other houses in town that have had this problem, and because they were landmarked, it saved that fabric of the building stock in the town.” She noted that tax abatement is available to property owners who undertake such projects. Emily Stillings agreed with Mr. Pandula and Dr. Day, and added that there is nothing in the ordinance that precludes landmarking based on structural issues.

Mr. Feldkamp noted that recently studied properties like 153 Cocoanut Row and 267 Atlantic Avenue are likewise below the flood elevation. Both of those owners want to do additional projects at their respective properties, and because they are landmarked, they are not impacted by the Town’s 50% rule. He urged the commission to abide by the designation criteria, and commented that this is an example of very well preserved 1920’s Mediterranean Revival architecture. Mr. Cooney commented that the house stands on its own and meets the criteria. He reminded the members that their job is to vote according to the ordinance and its criteria for designation.

MOTION BY MR. STRAWBRIDGE THAT THE PROPERTY AT 337 BRAZILIAN AVENUE BE RECOMMENDED TO THE TOWN COUNCIL FOR DESIGNATION AS A LANDMARK OF THE TOWN OF PALM BEACH, AND THAT THE CRITERIA, AS PRESENTED, BE MADE A PART OF THE RECORD.

MOTION SECONDED BY MR. FELDKAMP.

MOTION CARRIED UNANIMOUSLY.

Palm Beach, Florida, Code of Ordinances >> PART II - CODE OF ORDINANCES >> **Chapter 54 - HISTORICAL PRESERVATION >> ARTICLE IV. - DESIGNATION PROCEDURE >>**

ARTICLE IV. - DESIGNATION PROCEDURE

Sec. 54-161. - Criteria for landmarks and landmark sites.

Sec. 54-162. - Creation of historic districts.

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

Sec. 54-165. - Voluntary restrictive covenants.

Secs. 54-166—54-195. - Reserved.

Sec. 54-161. - Criteria for landmarks and landmark sites.

A landmark or landmark site shall meet at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
- (2) Is identified with historic personages or with important events in national, state or local history.
- (3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.
- (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

(Code 1982, § 16-38)

Sec. 54-162. - Creation of historic districts.

- (a) *Authorized.* For preservation purposes, the commission shall identify geographically defined areas within the town to be designated as historic districts and shall cite the guideline criteria upon which such designation shall be made. An historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the town that:
 - (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, county or town.
 - (2) Is identified with historic personages or with important events in national, state or local history.
 - (3) Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship.
 - (4) Is representative of the notable works of one or more master builders, designers or architects whose individual ability has been recognized to have influenced their age.
 - (5) Constitutes a unique area of architecture, landscaping and planning.
- (b) *Petition for special historic district category.* Following the designation of each landmark or landmark site, the commission may petition the town council for the categorizing of such

property as special district H. Following the designation of each historic district, the commission may petition the town council for the categorizing of each property in such district to special district HD.

(Code 1982, §§ 16-38.1, 16-39)

Sec. 54-163. - Commission powers with respect to landmarks, landmark sites and historic districts.

The commission has the power to:

- (1) Designate a building, together with its accessory buildings and its lot of record, or a vacant site or a district as historic and worthy of preservation as a landmark, landmark site or historic district, as the case may be, within the jurisdiction of the commission, provided such designation is ratified by the town council.
- (2) Recommend appropriate legislation for the preservation of any building, site or district which it has so designated.
- (3) Make application for public and private funds when appropriate and available for the purposes set forth in this article subject to the approval of the town council.
- (4) Review applications proposing erection, alteration, restoration or moving of any building it has so designated or any building located in a district it has so designated, and to issue or deny certificates of appropriateness accordingly.
- (5) Review applications for demolition permits proposing demolition of all or part of any landmark or any building located in an historic district, and to issue certificates of appropriateness or to deny them for one year.
- (6) Cooperate with the owner of a landmark or a property located in an historic district throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for such landmark or property.
- (7) Review its denial of a certificate of appropriateness for demolition of such landmark or property annually, during a public hearing at which time the owner of the affected landmark or property shall be afforded an opportunity to appear with counsel and to present testimony.
- (8) Prohibit the issuance of building, exterior remodeling or demolition permits affecting any property under consideration for landmark designation without a certificate of appropriateness, this prohibition to remain in effect for the length of time required by the commission and the town council for final action on the proposed designation. The commission shall accomplish such prohibition by furnishing the building official a list of all property under consideration for landmark designation.

(Code 1982, § 16-42)

Sec. 54-164. - Landmark, landmark site and historic district designation and undesignation procedures.

- (a) The following procedure shall be adhered to by the commission in designating any building, building site or district that is worthy of preservation:
 - (1) The commission shall consider for landmark designation any property proposed by the owner of record or by a member of the commission.
 - (2)

Notice of a proposed designation shall be sent by certified mail to the owner of record of property proposed for designation as a landmark or landmark site and to each owner of record of property in a district proposed for designation as an historic district, describing the property proposed and announcing a public hearing by the commission to consider such a designation to be held not less than 30 days after the mailing of such notice.

- (3) The commission shall also cause notice of each such proposed designation to be posted at least 30 days prior to the public hearing on the bulletin board in the lobby of the town hall, and in addition the commission shall cause such notice to be published in a newspaper having general circulation in the town.
 - (4) The commission may retain or solicit expert testimony regarding the historic and architectural importance of the buildings and districts under consideration for designation.
 - (5) The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark, landmark site or historic district.
 - (6) The commission shall afford the owner of each affected property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of such property.
 - (7) The owner of each affected property shall be afforded a right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the commission.
 - (8) Any interested party may present testimony or documentary evidence regarding the designation of a proposed landmark, landmark site or historic district at the public hearing and may submit to the commission documentary evidence within three days after the hearing.
 - (9) Within not more than 30 days after a public hearing, the commission shall render a final decision regarding the proposed designation and give written notice of its decision to each owner of property affected by the designation, setting forth the reasons for the decision.
 - (10) The commission shall maintain a record of testimony and documentary evidence submitted to it for consideration of the designation of a proposed or previously designated landmark, landmark site or historic district.
 - (11) In accordance with section 54-163(1), the town council shall, within 90 days of the commission's final decision, hold a public hearing to consider ratification of the determination of the commission prior to the designation of a property as a landmark or landmark site or of a district as an historic district becoming effective. Absent ratification by the town council, the commission's determination shall be ineffective.
 - (12) Within 30 days of the date on which the town council ratifies the commission's designation of a landmark, landmark site or historic district, the commission shall cause to be filed in the office of the county recorder of deeds a certificate of notification that such property is designated a landmark or landmark site or is located within a district designated an historic district; and the certificate of notification shall be maintained on the public record until such time as such designation may be withdrawn by the commission and the town council.
- (b) Designation and undesignation hearings before the commission shall be held only during the months of November, December, January, February, March and April.
- (c)

Designation of a landmark, landmark site or a historic district may be withdrawn by following the same procedure as listed above.

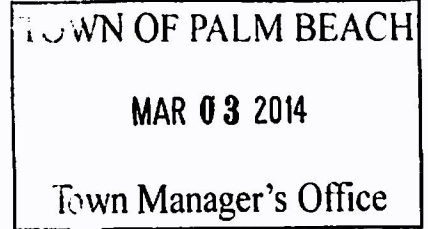
(Code 1982, § 16-43)

Sec. 54-165. - Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following the designation of his property, enter into a restrictive covenant on the property after negotiation with the commission. The commission may assist the owner in preparing such a covenant in the interest of preserving the landmark or the landmark site. The owner shall record such covenant in the office of the county recorder of deeds and shall notify the town clerk, building official and town council and may notify the office of the county property appraiser of such covenant and the conditions thereof.

(Code 1982, § 16-48)

Secs. 54-166—54-195. - Reserved.



*Guy Rabideau, Esq.
direct: 561.402.7411
grabideau@rabideau-law.com
Florida Bar Board Certified in Real Estate Law*

March 3, 2014

Via Hand Delivery

Mr. John Lindgren
Planning Administrator
Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

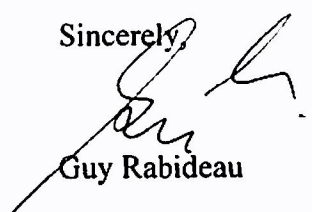
Re: Town Council Meeting – Consideration of Landmarks
Property: 337 Brazilian Avenue, Palm Beach, Florida 33480

Mr. Lindgren:

As you are aware, I represent Paul Friese, as Trustee of the Friese Family Trust in the above-referenced matter. Town Council is currently scheduled to review the decision by the Landmarks Preservation Commission of the Property on March 12, 2014. I am requesting that this matter be postponed until the following Town Council Meeting on April 8, 2014. This would be in accordance with Section 54-164(11) of the Town of Palm Beach Code of Ordinances.

I appreciate you assisting with this request. Please let me know if you have any questions.

Sincerely,



Guy Rabideau

cc: Mr. John Page
Mr. Peter Elwell

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 43-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Approving A Purchase Order To Murphy Stillings, LLC, For Historic Preservation Services Related To The Establishment of Royal Poinciana Way Historic District In An Amount Not To Exceed \$15,000.

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 27, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 43-2014](#)
- [Proposal from Murphy Stillings LLC for Historic Preservation Services](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Royal Poinciana Way Historic District
Cost Proposal from Murphy Stillings
Resolution No. 43-2014

Date: February 27, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council give consideration to the attached cost proposal from the Town's historic preservation consultant, Murphy Stillings LLC, to designate the block bordered by Royal Poinciana Way, Bradley Place, Sunset Avenue and North County Road as a Historic District on the National Register of Historic Places.

GENERAL INFORMATION

At its February 12, 2014 meeting, the Town Council voted affirmatively to request that Murphy Stillings prepare and present a cost proposal for designating the Royal Poinciana Way block (see description above) as an historic district on the National Register of Historic Places. That proposal, dated February 24, 2014, is attached for your review.

Council members should be advised of the following facts:

- The Landmarks Preservation Commission, June 2009, considered the possibility of designating the block as a local historic district, eventually voting 6-1 against. The issue resurfaced in January/February of 2012. A motion to place the proposed historic district "under consideration" failed 2-4 at that time.
- The block does not have to be declared as a local landmark in order for it to be designated as an historic district by the National Register of Historic Places.
- If designated by the National Register of Historic Places, the possibility of federal tax credits may apply. Properties on the block would also be eligible for the tax abatement provisions that apply to local landmarks as part of the Town's Historical Preservation Ordinance.

FUNDING/FISCAL IMPACT

Murphy Stillings has provided the Town with a cost quote of \$45/hour for their work. They estimate that between 150-200 hours would prove necessary (creating a high end cost of \$9,000). Note however, that their estimate does not include:

- Presence at the State of Florida, National Register Review Board Meeting at which the nomination will be heard, nor
- Any costs associated with educating and meeting with affected owners to explain all ramifications. It is a SHPO (State Historic Preservation Officer) threshold that at least 50% of the affected owners in the proposed district approve of the designation.

Although it is an estimate only, the total cost of all work necessary to effectuate the federal designation, would likely not exceed \$15,000 (including any necessary travel and owner approval arrangements). Funding for such expense can be provided within the “general fund contingency” budget.

SPECIAL CONSIDERATIONS

Janet Murphy and Emily Stillings will be present at the March 12, 2014 Town Council meeting to answer any questions you may have about required processes, etc. The last paragraph of their proposal identifies a cost-saving idea. If the Council proceeds forward, it may be wise to direct the owner approval process to occur first, with the understanding that the remainder of work, including expenses, associated with the pursuit of a federal designation would not occur unless the prerequisite percentage of owner approval (50%) is achieved.

Attachments

cc: Murphy Stillings

RESOLUTION NO. 43-2014

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A PURCHASE ORDER TO MURPHY STILLINGS LLC, FOR HISTORIC PRESERVATION SERVICES RELATED TO THE ESTABLISHMENT OF ROYAL POINCIANA WAY HISTORIC DISTRICT IN AN AMOUNT NOT TO EXCEED \$15,000.

WHEREAS, the Town Council considered and approved an ordinance establishing a PUD-5 District in the Royal Poinciana Way area; and

WHEREAS, at its February 12, 2014 meeting, the Town Council directed the staff to obtain a proposal from the Town's landmarks consultants (Murphy Stillings LLC) to place the entire five acre area on Royal Poinciana Way and Sunset Avenue that make up the PUD-5 area on the National Register of Historic Places and designate it as a Historic District; and

WHEREAS, the staff was also directed to further explore the extent to which property owners will be eligible for Federal Tax Incentives, income tax credits, and local real estate tax abatements on qualified restoration of properties within the District; and

WHEREAS, a proposal has been received by Murphy Stillings LLC to provide the services as outlined above.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The foregoing recitals are hereby ratified and confirmed.

Section 2: The Town Council of the Town of Palm Beach hereby approves a purchase order to Murphy Stillings LLC, in an amount not to exceed \$15,000 for consulting services for placing the area within the PUD-5 Royal Poinciana Way District on the National Register of Historic Places as a Historic District, including eligibility for Tax Incentives, tax credits, and tax abatements for qualified restoration.

Section 3. The Town Manager, or his designee, is hereby authorized and directed to approve this purchase order on behalf of the Town of Palm Beach.

Section 4: The Town Manager, or his designee, is hereby authorized and directed to take such further actions as may be necessary to effectuate the completion of these services, including any necessary change order work as recommended by the Planning, Zoning and Building Director.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach this 12th day of March 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, Council President Pro Tem

Richard M. Kleid, Town Council Member

ATTEST:

Michael J. Pucillo, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

Murphy Stillings LLC

218 Almeria Road
West Palm Beach, Florida 33405
Phone: Emily Stillings 561.346.4755
Janet Murphy 561.758.8002
E-Mail: Emily@Murphystillings.com
Janet@Murphystillings.com

February 24, 2014

PROPOSAL FOR HISTORIC PRESERVATION SERVICES ROYAL POINCIANA WAY NATIONAL REGISTER DISTRICT PROPOSAL

The following is a proposal for the preparation of a National Register of Historic Places, Historic District Nomination Application. The area to be included in the historic district is the five-acre tract between Royal Poinciana Way and Sunset Avenue, and between Bradley Place and North County Road.

In addition to the prestige of being listed on the National Register, other benefits of the subject area being designated a National Register Historic District is that properties within the district become eligible to receive local and federal tax incentives for rehabilitation.

The Town of Palm Beach's Tax Abatement Program, in conjunction with Palm Beach County, is a financial incentive for landmarked buildings and contributing properties within a landmarked district. The Town's program allows a property to receive a ten-year exemption of 100% of the assessed value of all improvements that result from restoration, renovation or rehabilitation. The improvements must meet the Secretary of the Interior's Standards for Rehabilitation and be approved by the Landmark Preservation Commission.

The Federal Historic Preservation Tax Incentive Program encourages private sector investment in the rehabilitation and re-use of historic buildings. The program is administered by the State Historic Preservation Office, National Park Service and Internal Revenue Service. The program allows for a 20% income tax credit for the rehabilitation of income-producing buildings that are classified as contributing buildings in a National Register Historic District or individually designated in the National Register of Historic Places. The State Historic Preservation Office and the National Park Service review the work to ensure that it meets the Secretary of the Interior's Standards for Rehabilitation. A 10% tax credit is available for the rehabilitation of non-contributing buildings in a historic district built prior to 1936.

Murphy Stillings LLC proposes to prepare the following applications to have the subject area designated as a historic district in the National Register of Historic Places:

- Preparation of a Determination of Eligibility Application for the Florida Department of State, Division of Historic Resources.
- Preparation of the Historic District Nomination Application, which will include research, writing, photography, mapping, administration and correspondence with the State.

Murphy Stillings LLC will prepare the above applications for an hourly fee of \$45.00. We estimate, at this time, the number of hours required to prepare the above materials to be between 150 and 200 hours. Travel expenses, should the Town of Palm Beach request Murphy Stillings LLC's presence at the State

of Florida, National Register Review Board Meeting in which the nomination will be heard, are not included in this proposal.

A requirement of an area being designated a historic district in the National Register of Historic Places is that at least 50% of the property owners support the designation. The process of obtaining owner approval and signatures is not included in the above proposal. Murphy Stillings LLC would have an informational meeting for the property owner's to explain the benefits of becoming a National Register District. Owners' signatures could be obtained at this time or additional meetings with individual property owners may be required. The hourly fee for these meetings would be billed at a rate of \$45.00 per hour. A grassroots effort could be organized to assist with obtaining owner support and thereby reducing the hours by Murphy Stillings LLC. We would suggest the process of obtaining owner approval be done prior to preparing the nomination applications.

Thank you for your consideration of this proposal,

Emily Stillings, AICP
Historic Preservation Consultant
Murphy Stillings LLC

Janet Murphy
Historic Preservation Consultant
Murphy Stillings LLC

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 44-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 235 Sunrise Avenue and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 26, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 44-2014](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building

Re: Tax Abatement: Palm Beach Hotel Condominium, 235 Sunrise Avenue
Resolution No: 44-2014

Date: February 26, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 44-2014, granting Tax Abatement to the property at the Palm Beach Hotel Condominium, 235 Sunrise Avenue.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

The Palm Beach Hotel Condominium at 235 Sunrise Avenue was designated as a Landmark of the Town of Palm Beach on March 11, 2008.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.
3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

TOWN ATTORNEY REVIEW

Resolution No. 44-2014 has been approved by the Town Attorney for legal form and sufficiency.

Attachment

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 44-2014

Palm Beach Hotel Condominium, 235 Sunrise Avenue

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 235 SUNRISE AVENUE AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by Palm Beach Hotel Condo Association and is located at 235 Sunrise Avenue, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-15-28-000-1001 through 50-43-43-15-28-002-0390

Legal Description: SUNRISE AVENUE ADDITION NO. 2 TO PALM BEACH, LOTS 27 THROUGH 45

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this ____ day of _____ 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, President Pro-Tem

Michael J. Pucillo, Town Council Member

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 45-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 252 El Bravo Way and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 26, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 45-2014](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building

Re: Tax Abatement: 252 El Bravo Way
Resolution No: 45-2014

Date: February 26, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 45-2014, granting Tax Abatement to the property at 252 El Bravo Way.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

252 El Bravo Way was designated as a Landmark of the Town of Palm Beach on March 14, 1989.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.
3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

TOWN ATTORNEY REVIEW

Resolution No. 45-2014 has been approved by the Town Attorney for legal form and sufficiency.

Attachment

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 45-2014

252 El Bravo Way

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 252 EL BRAVO WAY AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by Frances and Jeffrey Fisher and is located at 252 El Bravo Way, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-27-06-000-0180

Legal Description: SUPPLMNTY PL OF EL BRAVO PARK LT 18

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the
Town of Palm Beach assembled this ____ day of _____ 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, President Pro-Tem

Michael J. Pucillo, Town Council Member

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

Resolution No. 45-2014

Page 2 of 2

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 46-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 350 Worth Avenue (Kitchen Renovation, Phase II) and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 26, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 46-2014](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building

Re: Tax Abatement: The Everglades Club, 350 Worth Avenue: Kitchen Renovation,
Phase II
Resolution No: 46-2014

Date: February 26, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 46-2014, granting Tax Abatement to the property at The Everglades Club, 350 Worth Avenue – Kitchen Renovation, Phase II.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

The Everglades Club was designated as a Landmark of the Town of Palm Beach on May 22, 1980.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.
3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring

that the character of the property and the qualifying improvements be maintained during the exemption period.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

TOWN ATTORNEY REVIEW

Resolution No. 46-2014 has been approved by the Town Attorney for legal form and sufficiency.

Attachment

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 46-2014

Everglades Club, 350 Worth Avenue
Kitchen Renovation, Phase II

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 350 WORTH AVENUE (KITCHEN RENOVATION, PHASE II) AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by The Everglades Club Inc. and is located at 350 Worth Avenue, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-23-05-019-0010

Legal Description: ROYAL PARK ADD LTS 1 THRU 18 BLK 19 & UN#D LT LYG BET BLKS 19 & 20 (LESS W 25 FT) & 27-43-43, FILLED LANDS LYG WLY OF & ADJ TO LT 1 BLK 19 & SLY OF & ADJ TO UN#D LT LYG BET BLKS 19 & 20 (LESS W 25 FT)

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the Town of Palm Beach assembled this ____ day of _____ 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, President Pro-Tem

Michael J. Pucillo, Town Council Member

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Resolutions

Agenda Title

RESOLUTION NO. 47-2014 A Resolution of the Town Council of the Town of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions for 319 El Vedado Road and Stating that the Subject Property Meets the Criteria Set Forth in Chapter 54, Article V of the Code of Ordinances of the Town of Palm Beach, Relating to Landmarks Preservation and Titled "Tax Exemptions."

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 26, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Resolution No. 47-2014](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building

Re: Tax Abatement: 319 El Vedado Road
Resolution No: 47-2014

Date: February 26, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council approve Resolution No. 47-2014, granting Tax Abatement to the property at 319 El Vedado Road.

BOARD OR COMMISSION RECOMMENDATION

The Landmarks Preservation Commission has approved all changes to this property using the Secretary of Interior (Federal) Standards for Rehabilitation as required in the Tax Abatement program.

GENERAL INFORMATION

1. Project Summary: The above-mentioned applicant has applied for participation in the Town's Tax Abatement Program.

319 El Vedado Road was designated as a Landmark of the Town of Palm Beach on March 13, 2013.

2. Town Council approval is required to grant this abatement and forward same to Palm Beach County.
3. A written application for ad valorem tax exemption has been presented to Town staff as prescribed by Section 54-199 of Town Code. As additionally required by Section 54-200, the property owner must enter into a covenant or agreement with the Town, the form of which is established by the Department of State, requiring that the character of the property and the qualifying improvements be maintained during the exemption period.

FUNDING/FISCAL IMPACT

Action will abate ad valorem Town of Palm Beach property tax increase (new incremental value only) for a period of ten years. Full value assessment will be applicable after the ten year program.

TOWN ATTORNEY REVIEW

Resolution No. 47-2014 has been approved by the Town Attorney for legal form and sufficiency.

Attachment

JP:jl

cc: John Lindgren, AICP, Planning Administrator
Emily Stillings, AICP, Murphy Stillings, LLC

RESOLUTION NO. 47-2014

319 El Vedado Road

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING AD VALOREM TAX EXEMPTIONS FOR 319 EL VEDADO ROAD AND STATING THAT THE SUBJECT PROPERTY MEETS THE CRITERIA SET FORTH IN CHAPTER 54, ARTICLE V OF THE CODE OF ORDINANCES OF THE TOWN OF PALM BEACH, RELATING TO LANDMARKS PRESERVATION AND TITLED "TAX EXEMPTIONS."

WHEREAS, pursuant to the provisions of Chapter 54, Article V, Code of Ordinances of the Town of Palm Beach, the Landmarks Preservation Commission of the Town of Palm Beach held public hearings and approved Certificates of Appropriateness for renovations and improvements of the certain property described herein; and

WHEREAS, those improvements are consistent with the United States Secretary of Interior's Standards for Rehabilitation and were made in accordance with the guidelines developed by the Department of State, they will qualify for said tax exemption; and

WHEREAS, the property owner agrees to enter into a covenant of agreement with the Town for the ten year term for which the exemption is granted.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

Section 1. The property hereinafter described in Section 2 of this Resolution, being listed as a Landmark of the Town of Palm Beach, is hereby approved for the Ad Valorem Tax Exemptions for Historic Properties, pursuant to the provisions of Chapter 54, Article V.

Section 2. The landmark is owned by Virginia Mortara and is located at 319 El Vedado Road, Palm Beach, Florida. The property is legally described as follows:

Tax Folio Number: 50-43-43-27-08-000-0520

Legal Description: JUNGLE POINT REVISED LT 52 & W 25 FT OF LT
53

Section 3. The Town Clerk is hereby ordered to furnish the owner of the property a copy of this Resolution.

Section 4. A copy of this Resolution with completed application for Ad Valorem Tax Exemptions will be filed with the Property Appraiser's Office as defined in and subject to the provision of Chapter 54 of the Code of Ordinances of the Town of Palm Beach, Florida.

PASSED AND ADOPTED in a regular, adjournment session of the Town Council of the
Town of Palm Beach assembled this ____ day of _____ 2014.

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council President

William J. Diamond, President Pro-Tem

Michael J. Pucillo, Town Council Member

Richard M. Kleid, Town Council Member

Susan A. Owens, MMC, Town Clerk

Penelope D. Townsend, Town Council Member

Resolution No. 47-2014

Page 2 of 2

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Appeals

Agenda Title

Appeal of Denial of Demolition Permit for 440 Royal Palm Way Per Letters Dated February 24, 2014, from M. Timothy Hanlon and February 25, 2014, from Raymond M. Masciarella, II. [Attorneys: Raymond Masciarella, II and Timothy Hanlon]

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 28, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Letter Dated February 25, 2014 from Raymond Masciarella, II](#)
- [Letter Dated February 24, 2014 from M. Timothy Hanlon](#)
- [Letter Dated February 11, 2014 from Raymond Masciarella, II](#)
- [E-Mail Dated August 20, 2013 from John C. Randolph](#)
- [Code Enforcement Case Field Report](#)
- [Petition](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director of Planning, Zoning & Building

Re: Denial of Demolition Permit Request by SunTrust Bank
Administrative Appeal
440 Royal Palm Way

Date: February 28, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council consider and act upon the appeal filed by two parties (Attorney Raymond Masciarella II for Palm Beach Park Centre 1-6 LLC, and Attorney Timothy Hanlon for SunTrust Bank) objecting to this Department's denial of an interior demolition permit.

GENERAL INFORMATION

The Town of Palm Beach does not issue permits at any property with pending Code Enforcement deficiencies and/or unpaid fines. Per Section 1-15(a) of the Palm Beach Code of Ordinances:

“No building permit shall be granted by the town and no application for development review shall be considered by the town relating to any property which has been adjudicated by the town's code enforcement board to be in noncompliance with any of the regulations, codes or ordinances of the town or against which a lien exists in favor of the town which is unpaid.”

In addition, per Section 1-15(c) of the Palm Beach Code of Ordinances:

“The property owner shall be required to satisfy said violations or said liens prior to the town processing the application.”

The Planning, Zoning & Building Department was recently presented with a demolition permit application internal to a tenant space at 440 Royal Palm Way. Computerized records available to our office intake technicians indicated that an outstanding Town-imposed Code Enforcement fee was unpaid. Although the nature of the code violation is not the issue herein (it involved correction of ARCOM required landscaping and fencing at the rear property line), it is worthy to

note that the owner corrected the violation, yet has not paid the Code Enforcement fine of \$55,750. Code Enforcement records are attached.

This Department sent a written NOTICE OF INTENT (attached dated February 18, 2014) to Palm Beach Park Centre 1-6 LLC informing the property owner of the Town's intent not to issue the permit "because the property has been found by the Code Enforcement Board to be in noncompliance with the Town's Code of Ordinances and/or has a lien which is unpaid."

The Code allows an owner to contest this determination if done so within 15 days of the Town's written NOTICE OF INTENT. Both the building owner (represented by Raymond Masciarella II) and the tenant (represented by Timothy Hanlon) did so.

SPECIAL CONSIDERATIONS

It is worthy to note that a repair issue (requiring a building permit) occurred at this site in 2013. In that instance, Palm Beach Park Centre 1-6 LLC was seeking a building permit so that an air conditioning unit that had malfunctioned could be replaced on the roof of the building. Staff, in conjunction with the Town Attorney, determined that air conditioning repair for an existing tenant was akin to an emergency. As such, a permit for the AC work was issued. Staff believes that the present case (issuance of a demolition permit for a tenant not presently in the building) is entirely different from last year's decision.

Attorney Randolph has advised this office that there is pending litigation regarding this matter (see attached PETITION FOR WRIT OF MANDAMUS). A representative from his office will be available at the March 12 meeting to answer any questions about that separate legal process.

Attachments

cc: Raymond Masciarella II
Timothy Hanlon
Raychel Houston
Bill Bucklew

LAW OFFICES
RAYMOND M. MASCIARELLA II, P.A.
ATTORNEY AND COUNSELOR AT LAW

SUMMIT BUILDING, SUITE 340
840 U.S. HIGHWAY ONE
NORTH PALM BEACH
FLORIDA 33408

Board Certified in Construction Law
by the Florida Bar

Telephone (561) 627-4448
Facsimile (561) 627-4495

Via Email and Hand Delivery

February 25, 2014

Town Council
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480

Attn: John S. Page

RE: Denial of Demolition Permit Request by SunTrust Bank
440 Royal Palm Way

Members of Town Council:

I represent Palm Beach Park Centre 1-6, LLC. Pursuant to Town Code Section 1-15, Palm Beach Park Centre 1-6, LLC hereby appeals the denial to SunTrust Bank of the interior demolition permit as reflected in the letter from John S. Page to Palm Beach Park Centre 1-6, LLC dated February 18, 2014, a copy of which is attached.

Please place this appeal on the March 12, 2014 Town Council Agenda.

Yours very truly,

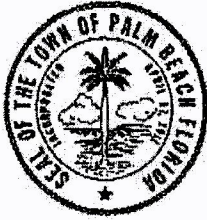
RAYMOND M. MASCIARELLA II, P.A.



Raymond M. Masciarella II, Esquire

RMM/ph
Enclosure

cc: John Randolph, Esquire
Palm Beach Park Centre 1-6, LLC
SunTrust Bank



TOWN OF PALM BEACH

Planning, Zoning & Building Department

February 18, 2014

PALM BEACH PARK CENTRE 1 - 6 LLC
M PROPP
PO BOX 3147
PALM BEACH, FL 33480-1347

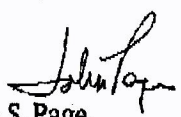
RE: NOTICE OF INTENT

Notice To Property Owner:

A request for a permit was received by the Town of Palm Beach for improvements to a tenant space at 440 Royal Palm Way. This property has been found by the Code Enforcement Board to be in noncompliance with the Town's Code of Ordinances and/or has a lien which is unpaid (Case # CE 12-854). Therefore this is to advise you of the Town's intent not to issue the permit relating to the property unless and until the code violation is corrected or the lien filed in favor of the Town is fully satisfied, in accordance with Sec. 1-15 of the Town's Code of Ordinances.

If you have any questions, please contact William Bucklew, Building Official, at 227-6415.

Sincerely,


John S. Page
Director

cc: John C. Randolph, Town Attorney
Veronica W. Close, Assistant Director
William Bucklew, Building Official

ALLEY, MAASS, ROGERS & LINDSAY, P.A.

340 ROYAL POINCIANA WAY, SUITE 321

POST OFFICE BOX 431

PALM BEACH, FLORIDA 33480-0431

(561) 659-1770

FACSIMILE (561) 833-2261

WWW.AMRL.COM

DOYLE ROGERS
ALAN LINDSAY
PAUL B. ERICKSON
DAVID H. BAKER
WILLIAM W. ATTERBURY III
LOUIS L. HAMBY III
ROBB R. MAASS
M. TIMOTHY HANLON
WARREN D. HAYES, SR.
STUART J. HAFT
CAROL S. WAXLER
BRUCE A. McALLISTER
CATHERINE KENT

RAYMOND C. ALLEY (1893-1975)
HAROLD G. MAASS (1923-2006)
KAREN S. MARX (1964-1994)

1331 SE OCEAN BOULEVARD
STUART, FLORIDA 34996
P (772) 287-4404
F (772) 287-4044

February 24, 2014

Via email and hand delivery

Town Council
Town of Palm Beach
360 S. County Road
Palm Beach, FL 33480
Attention: John S. Page

Re: Denial of Demolition Permit Requested by SunTrust Bank
440 Royal Palm Way

Members of Town Council:

This firm represents SunTrust Bank ("SunTrust"). Pursuant to Town Code Section 1-15 SunTrust hereby appeals the denial of the interior demolition permit as reflected in the letter from John S. Page to Palm Beach Park Centre 1-6 LLC dated February 18, 2014, a copy of which is attached.

SunTrust is the applicant for said permit, and SunTrust is not a party to the pending code enforcement matter and comes to the Town with "clean hands." Further, the application is complete and proper, and the Town should issue the permit accordingly. Otherwise, SunTrust is being denied its property rights as a tenant of 440 Royal Palm Way and is further being denied its due process rights if the appeal is not timely heard.

Please place this appeal on the March 12, 2014 Town Council Agenda.

If you have any questions, please contact me.

Sincerely,



M. Timothy Hanlon

cc: SunTrust Bank
John C. Randolph, Esq.

LAW OFFICES
RAYMOND M. MASCIARELLA II, P.A.
ATTORNEY AND COUNSELOR AT LAW

SUMMIT BUILDING, SUITE 340
840 U.S. HIGHWAY ONE
NORTH PALM BEACH
FLORIDA 33408

Board Certified in Construction Law
by the Florida Bar

Telephone (561) 627-4448
Facsimile (561) 627-4495

Via Email

February 11, 2014

John C. Randolph, Esquire
Palm Beach City Attorney
505 S. Flagler Dr., Suite 1100
West Palm Beach, FL 33401

RE: SunTrust Bank Building Permit

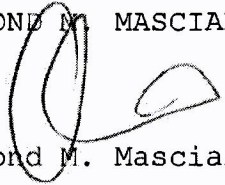
Dear Mr. Randolph:

As you know, I represent Palm Beach Park Centre who owns the office building at 440 Royal Palm Way, Palm Beach, Florida. SunTrust is a tenant in the building and has applied for a building permit to improve its tenant space, but the Town of Palm Beach will not accept SunTrust's building permit application because Palm Beach Park Centre has not paid the fines levied by the Code Enforcement Board. Would you please advise whether the Town of Palm Beach is taking this position because it claims to have an ordinance controlling the situation? I could find none. In other words, does the Town of Palm Beach claim to have an ordinance which allows it to refuse to issue building permits to tenants when the landlord has an outstanding code enforcement fine? If so, would you please point it out to me.

Best regards.

Yours very truly,

RAYMOND M. MASCIARELLA II, P.A.



Raymond M. Masciarella II, Esquire

RMM/ph



To:
Cc:
Bcc:
Subject: Email from Attorney Randolph to Attorney Masciarella of 8/20/13

----- Message from "Randolph, John C." <JRandolph@jonesfoster.com> on Tue, 20 Aug 2013 20:50:25 +0000 -----

To: "rmmlegalasst@aol.com" <rmmlegalasst@aol.com>
cc: "JPage@TownofPalmBeach.com" <JPage@TownofPalmBeach.com>, "bbucklew@townofpalmbeach.com" <bbucklew@townofpalmbeach.com>
Subject: FW: Palm Beach Park Center Air Conditioning Problem

Dear Mr. Masciarella,

This is in response to your letter of August 16, 2013, addressed to Stephanie Rapp. In that letter you request that I provide you with a citation of authority relating to the matter. Please see attached Town of Palm Beach Code Section 1-15 which provides in paragraph (a):

"No building permit shall be granted by the town . . . to any property which has been adjudicated by the town code enforcement board to be in noncompliance with any of the regulations, codes or ordinances of the town or against which a lien exists in favor of the town which is unpaid."

Under normal circumstances that section would apply. You have advised, however, that this application is a matter on behalf of a tenant of Palm Beach Park Centre which is seeking a building permit so an air conditioning unit which has malfunctioned can be replaced on the roof of the building. Under those circumstances, it appears reasonable for the Town to issue the permit.

I want to be certain that what we are looking at is indeed an emergency situation and that the tenant is, in fact, without air conditioning and that this unit needs to be replaced in order to air condition the tenant's space. I would not authorize the Town to issue the building permit if additional space is being requested to be air conditioned.

I ask that you contact Bill Bucklew in the Town's building department and explain this situation and address it with him. I am copying the Town's Director of Planning Zoning and Building with this letter so he is aware of the matter. The Town is acting in good faith on the representations made that this is an emergency situation relating to a faulty air conditioning unit. In that regard, I am curious as to your representation that your client has been waiting for several months for a building permit to be issued so an air conditioning unit can be replaced on the roof of the building. I need to have that matter addressed to my satisfaction and the satisfaction of the Town before a permit will be issued.

Thank you.

JOHN C. RANDOLPH

CASE FIELD REPORT**Town of Palm Beach/Code Enforcement**Assigned
to:
Walton,
Robert**CE 12-854**

Location of Violation: 440 ROYAL PALM Way
PALM BEACH, FL 33480 APN# 50434323050230530

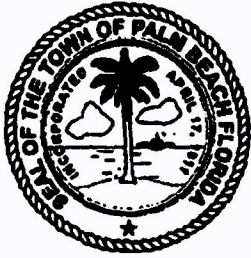
CDBG Custom Location Field Custom Field
NO Property Type: Commercial CAD Number: 2012-160-339
Stage: BO 1023 - check on delivery

Subject Name: Address (if different) Hm:
(Violator) Wk:

No Open Violations

Date	Type	Officer	Note/Activity
11/26/2013	Note	Dunn, Joan	112113 Board Order: This case came before the Board for consideration of Palm Beach Park Centre's Motion for Relief Pursuant to the Circuit Court of the Fifteenth Judicial Circuit, Appellate Division, Order Entered on September 16, 2013, and the Board having considered said request, it is the order of this Board regarding Case # CE 12-854 to defer said motion for further consideration of this request until the appeal of the case of Palm Beach Park Center 4 LLC, now pending before the Fourth District Court of Appeal, DCA Case No. 4D13-1993, has been decided, or earlier in the event of an agreement between the Board's attorney and the property owner's attorney to bring the matter back before the Board when all facts relating to the case can be presented
11/26/2013	Note	Dunn, Joan	Copy of Certified 11/21/13 Board Order was mailed, regular mail to Attorney Mascarella
03/14/2013	Case	Dunn, Joan	Case Status changed to Closed - Unpaid Fine/Admin Fee
03/14/2013	Case Closed	Dunn, Joan	Closing all violations for closed case
03/14/2013	Violation	Dunn, Joan	Change violation status from: Open to: Closed
03/14/2013	Note	Dunn, Joan	Received information from R. Walton to put this address in compliance. Still has outstanding fines.
03/08/2013	Note	Walton, Robert	Inspection on 03-05-2013 found the fence still lacking the top rail and the fence permit still open.
02/19/2013	Note	Walton, Robert	Inspection on 02-15-2013 found the fence still lacking the top rail and the fence permit still open.
02/04/2013	Note	Walton, Robert	Inspection found the fence still lacking the top rail.
01/29/2013	Note	Walton, Robert	Lindgren's email confirms that the fence now complies with the ARCOM approval. Steve Carew failed the final inspection as the plan shows a top rail pipe and the installed fence is lacking this rail.
01/28/2013	Note	Walton, Robert	Left message for Lindgren asking him to confirm the 12" space is compliant with the ARCOM approval. Final inspection on permit not yet call in nor passed.
01/25/2013	Note	Walton, Robert	Inspection found the fence now installed to within 12" of the property wall to the west will check with Lindgren to confirm that this is what was approved by ARCOM. Final inspection not passed.
01/18/2013	Note	Walton, Robert	Email from Lindgren attached approving the visual screen, spoke with Ms Propp & informed her that the final inspection has not been passed. She ask I phone Mitch @ Bulldog Fence. Mitch requested Lindgrens email which I forwarded to him and stated he will call in a final inspection request. Fine continues to run.
01/18/2013	Note	Walton, Robert	Have asked John Lindgren to sign off on the ARCOM required visual screening aspect of the case.
01/14/2013	Note	Walton, Robert	Inspection found fence installed, permit final inspection not passed.
01/14/2013	Note	Walton, Robert	Ms Propp called and stated the fence is now complete, I explained again that the fine continues to run until the fence has passed all required inspections. She further stated that her PO Box address is wrong and would like all correspondence re-sent to her.
12/21/2012	Note	Walton, Robert	Re inspection found that the western section of the chain link fence still has not been installed and permit has not passed final inspection.
12/14/2012	Note	Walton, Robert	Re inspection found that the western section of the chain link fence still has not been installed and permit has not passed final inspection.
12/08/2012	Note	Walton, Robert	Re inspection found that the western section of the chain link fence still has not been installed and permit has not passed final inspection. Called Ms Propp and explained that the fine continues to run as the fence does not match the plan and that she must install the rest of the fence or have the plan changed by a ARCOM and the building dept
12/03/2012	Note	Monarty, John	The western section of the chain link fence still has not been installed.
11/19/2012	Note	Walton, Robert	Re inspection on 11-16-2012 found the chain link fence installed, the western section behind the apartment building at 445 Brazilian is not installed. I also spoke with Ms Propp and relayed this information to her and also told her that the contractor must call for and pass final inspection. Fence permit # B-12-27545 has no inspections called in, fine continues to run.
11/05/2012	Note	Walton, Robert	Re-inspection found the fence not installed.
10/24/2012	Note	Walton, Robert	At the ARCOM meeting today they required the chain link fence shown on the ARCOM plan, be installed as this fence is part of the approval. Marnie Prop phoned this PM to inquire if the fence post may be randomly spaced to accommodate the newly planted fishtail palms. I told her that she needs to speak with the building depart., Jeff Taylor for that answer.
10/23/2012	Note	Walton, Robert	Re-inspection of fish tail palm completed, some minor die back of the palms noted. Fence not installed and permit # B12-27545, has not passed final inspection.
10/08/2012	Note	Walton, Robert	Fish tails palms planted and inspected by John Lindgren on Tuesday 10-02-2012. I have also confirmed planting of fish tail palm completed. Fence not installed and permit has not passed final inspection.
10/01/2012	Note	Walton, Robert	Marni Propp phoned and said that the fish tail palms have been installed and requested a inspection. She further stated that the palms are planted in such a way that the fence will not fit and she will be going back to ARCOM for a revision. I am scheduled for a inspection 3 PM tomorrow with Mr Lindgren.

09/28/2012 Note	Walton, Robert	Inspection found 23' to 25' fishtail palms planted on 7' centers installed, fence permit b-12-27545, no inspection called in on fence permit. No inspection requested by property owner for case CE 12-854. Violation continues to exist.
09/19/2012 Note	Walton, Robert	No inspection called in.
09/13/2012 Note	Walton, Robert	Inspection found 23' to 25' fishtail palms planted on 7' centers installed along south property line. At the west end of the south property line, for approximately 50' (+/-) a new rail road tie retaining wall has been built to a height of approximately 3' to 3'6". The new wall is approximately 4' south, of the south edge, of the concrete curb that is along the south side of the parking area. Violation continues to exist.
09/10/2012 Note	Walton, Robert	Spoke with Ray Royce and he requested copy's of ARCOM approvals, I emailed same to him.
09/10/2012 Note	Walton, Robert	Called Liliam and told her fence must be installed as it was part of the ARCOM approval.
09/10/2012 Note	Walton, Robert	Mami Propp phoned and said that the fish tail palms will be completely installed Tues. PM and has requested a late PM inspection. Phoned Lindgren and requested ARCOM approval letter with specifications and requested he meet for a inspection on Tuesday.
09/05/2012 Note	Walton, Robert	Mami Propp phoned and said that the fish tail palms are being procured in Homestead today. I explained to her that once the installation is complete to call for a inspection and that I will have to also have John Lindgren sign off on this project.
08/31/2012 Note	Walton, Robert	Re inspection found no plants installed, violation continues to exist.
08/27/2012 Note	Dunn, Joan	Certified Board Order returned no such number. Since property owner and attorney were present at hearing, no further posting will be necessary.
08/27/2012 Note	Dunn, Joan	Certified Lien to Randolph for processing.
08/20/2012 Note	Dunn, Joan	081812 Board Order: It is the order of this Board regarding Case # CE 12-854 that the violator pay a fine in the amount of Two Hundred and Fifty Dollars (\$250.00) a day, commencing on August 1, 2012 and continuing until compliance is achieved by obtaining all required approvals and permits and passing all required inspections.
08/17/2012 Case	Dunn, Joan	Case Status changed to CEB Order - Daily Running Fine.
08/10/2012 Note	Walton, Robert	Spoke with Ray Royce, atty, he advocated his clients position.
08/01/2012 Note	Walton, Robert	Re inspection found no plants installed, violation continues to exist. Spoke with atty, Ziska and informed her of this and that the case will be heard for fine consideration at the 08-16-2012 CEB hearing. She said that a revised screening design is completed and scheduled to be heard at the 08 ARCOM meeting. This meeting is after the CEB hearing.
07/17/2012 Note	Walton, Robert	Spoke with Liliam and informed her that this case is not on the agenda and will not be heard at the July 19 hearing. Ms Prop called and I explained again that the matter will be heard at the Aug 16 hearing if not in compliance by the CEB ordered date of July 31.
07/11/2012 Note	Dunn, Joan	Certified mailing of Board Order returned. Mami Propp was at the hearing so no further notification needs to be pursued.
07/02/2012 Note	Dunn, Joan	Board Order returned no such number. We sent it out Palm Beach Parks Centre 1-6 because they seem to own all units. Will resend to just M Propp at the P.O. Box given in PAPA and Tax record. Certified number for that mailing 7196 9008 9040 1033 2489.
06/27/2012 Note	Walton, Robert	Site inspection with Manager Houston and my self to review hedge removed. Inspected garage with the property manager Thubac Rodriguez. Also met with condo owners to the south and reviewed their complaints, one complaint was regarding the parking area ceiling mounted lights. Nite inspection found all but one lite off and this one was blinking. Will review with property manager today.
06/26/2012 Note	Dunn, Joan	It is the order of this Board regarding Case # CE 12-854 to find the violator in non-compliance, assess administrative costs in the amount of \$150.00 and to give them until July 31, 2012 to achieve compliance.
06/22/2012 Case	Dunn, Joan	Case Status changed to Code Board Hearing.
06/08/2012 Note	Walton, Robert	The approximately 25' high ficus hedge on the south-side of 440 Royal Palm Way has been removed without ARCOM or staff approval. This hedge is a required buffer that was to remain as part of the property's most recent approved landscape/hardscape plan therefore, the property owner is in violation of Sec. 18-175(a) of the Town's Code of Ordinances, which requires ARCOM approval for changes to sites, including alterations to landscaping.
06/08/2012 Violation	Walton, Robert	Added: 18 - General - Buildings and building reg.
06/08/2012 Case	Walton, Robert	Initial Case Status Notice of Violation/Hearing Letter.
06/08/2012 Case	Walton, Robert	Case Opened (Created).
Follow-up		
INVESTIGATION:		



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



November 21, 2013

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

ORDER OF DEFERRAL

Palm Beach Park Center 1-6 LLC
c/o M. Propp
P.O. Box 3147
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 2164 1023

Re: Case # CE 12-854, 440 Royal Palm Way, Palm Beach Park Centre 1-6 LLC

Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, changes in materials or appearance to an approved ARCOM plan requires additional ARCOM approval

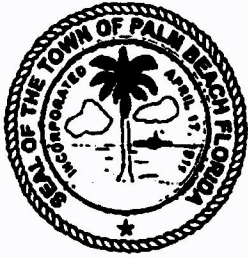
ORDER

This case came before the Board for consideration of Palm Beach Park Centre's Motion for Relief Pursuant to the Circuit Court of the Fifteenth Judicial Circuit, Appellate Division, Order Entered on September 16, 2013, and the Board having considered said request, it is the order of this Board regarding Case # CE 12-854 to defer said motion for further consideration of this request until the appeal of the case of Palm Beach Park Center 4, LLC, now pending before the Fourth District Court of Appeal, DCA Case No. 4D13-1993, has been decided, or earlier in the event of an agreement between the Board's attorney and the property owner's attorney to bring the matter back before the Board when all facts relating to the case can be presented.

DONE AND ORDERED this 21st day of November, 2013.

Harris S. Fried
Chairman, Code Enforcement Board

cc: Case File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



August 16, 2012

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

ORDER IMPOSING FINE

Palm Beach Park Center I-6 LLC
c/o M. Propp
P.O. Box 3174
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 1123 1586

Re: Case # CE 12-854, 440 Royal Palm Way, Palm Beach Park Centre I-6 LLC

Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, changes in materials or appearance to an approved ARCOM plan requires additional ARCOM approval

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 16th day of August, 2012 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

1. Maura Ziska, attorney for the property owner, was present at the hearing and testified they are working toward compliance and requested more time to comply
2. The Town of Palm Beach Code Enforcement Officer briefly reviewed the facts of the case.

CONCLUSIONS OF LAW

1. Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances continues to exist

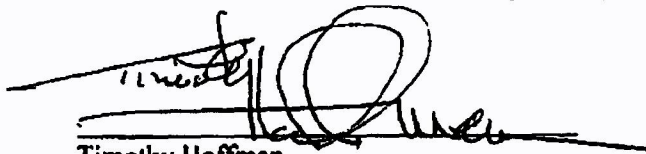
Palm Beach Park Center 1-6 LLC
August 16, 2012
Page 2

ORDER IMPOSING LIEN

It is the order of this Board regarding Case # CE 12-854 that the violator pay a fine in the amount of **Two Hundred and Fifty Dollars (\$250.00) a day**, commencing on **August 1, 2012** and continuing until compliance is achieved by obtaining all required approvals and permits and passing all required inspections. A certified copy of this Order may be recorded in the Public Records of Palm Beach County, Florida, and, once recorded, shall constitute a lien against the property of the original amount upon which the violation existed and upon any other real or personal property owned by the Respondent, pursuant to Chapter 162, Florida Statutes for the original amount.

Upon complying, it is the responsibility of the violator to notify the Town of Palm Beach Code Enforcement Office at (561) 227-7080 to request a re-inspection of the property.

DONE AND ORDERED this 16th day of August, 2012



Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



June 8, 2012

Palm Beach Park Centre 1-6 LLC
P.O. Box 3174
Palm Beach, FL 33480

CERTIFIED/REGULAR MAIL/HAND DELIVERED
7196 9008 9040 0985 5817

NOTICE OF CODE VIOLATION AND HEARING

440 Royal Palm Way, Palm Beach

Case # CE 12-854

Property Control Number: 50-43-43-23-05-023-0520

Dear Property Owners,

A recent inspection of your property found the 25' high required buffer hedge removed on the south side of the property without prior ARCOM approval.

According to Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, any changes in material or appearance to an approved ARCOM plan requires additional ARCOM approval.

Please replace the vegetation on the south side of the property as required by your ARCOM approved landscape plan by **June 20, 2012**.

Should compliance with the Town Ordinances not be met within this time frame, you are hereby notified there will be a public hearing before the Code Enforcement Board on **June 21, 2012 at 2:00 p.m.** in the second floor Town Council Chambers at Town Hall, 360 S. County Road, Palm Beach.

If you decide not to be present, the hearing will be held in your absence. If you are found in violation of the Town Code, the Code Enforcement Board has the power by law to levy fines up to Two Hundred Fifty (\$250.00) Dollars a day against you and your property for every day any violation continues beyond the date set in the order for compliance. An administrative fee of One Hundred Fifty (\$150.00) Dollars for the cost of the hearing may be assessed to you should your case be heard.

Palm Beach Park Centre 1-6 LLC
June 8, 2012
Page 2

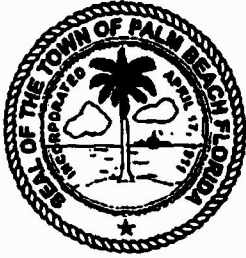
If you have any questions, please do not hesitate to contact me at (561) 227-6423. Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Walton', with a long horizontal flourish extending to the right.

Robert Walton
Lead Code Enforcement Officer

cc: Code Enforcement File
Property File



TOWN OF PALM BEACH POLICE DEPARTMENT

DEDICATED TO EXCELLENCE



June 21, 2012

BEFORE THE CODE ENFORCEMENT BOARD OF THE TOWN OF PALM BEACH

ORDER FINDING VIOLATION

Palm Beach Parke Centre 1-6 LLC
P.O. Box 3174
Palm Beach, FL 33480

CERTIFIED MAIL
7196 9008 9040 1017 3054

Re: Case # CE 12-854, 440 Royal Palm Way, Palm Beach Park Centre 1-6 LLC

Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, changes in materials or appearance to an approved ARCOM plan requires additional ARCOM approval

The Code Enforcement Board heard testimony at the Code Enforcement Board Hearing held the 21st day of June, 2012 and based on the evidence, the Code Enforcement Board enters the following FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

FINDINGS OF FACT

1. Marni Propp, property owner/manager, was present at the hearing and testified that she was unaware of the ARCOM requirements.
2. Raymond Royce, attorney for the Brazils Homeowner Association, advocated his clients' position. Mrs. Whitney Schneider, a member of the Brazils Homeowner Association, gave her testimony to the Board.
2. The Town of Palm Beach Code Enforcement Officer testified and produced photographs of the violation.

CONCLUSIONS OF LAW

1. Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances does exist.

ORDER

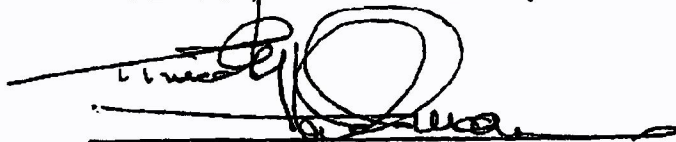
It is the order of this Board regarding Case # CE 12-854 to find the violator in non-compliance. assess administrative costs in the amount of \$150.00 and to give them until July 31, 2012 to achieve compliance.

Upon complying, it is the responsibility of the violator to notify the Town of Palm Beach Code Enforcement Office at (561) 227-7080 to request a re-inspection of the property.

Should compliance with Town Ordinances not be obtained as prescribed by the Board, let this Order serve as notice that a fine of Two Hundred Fifty (\$250.00) Dollars a day may be considered and imposed by the Board at its next regularly scheduled hearing on August 16, 2012.

Failure to pay the above ordered administrative costs within ten (10) days will result in a lien being filed against your property. A certified copy of this Order may be recorded in the Public Records of Palm Beach County, Florida, and, once recorded, shall constitute a lien against the property of the original amount upon which the violation existed and upon any other real or personal property owned by the Respondent, pursuant to Chapter 162, Florida Statutes for the original amount.

DONE AND ORDERED this 21st day of June, 2012



Timothy Hoffman
Chairman, Code Enforcement Board

cc: Case File
Property File
Raymond Royce

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
APPELLATE DIVISION
Fla.R.App.P. 9.100(f)

CASE NO. 502013C A018007XXXMB

PALM BEACH PARK CENTRE 1-6, LLC,

Petitioner,

vs.

TOWN OF PALM BEACH, CODE
ENFORCEMENT BOARD,

Respondent.

PETITION FOR WRIT OF MANDAMUS

Pursuant to Rule 9.100, the Petitioner, Palm Beach Park Center 1-6, LLC, respectfully petitions this Court for a writ of mandamus compelling the Respondent, Town of Palm Beach, Code Enforcement Board, to serve on the Petitioner the Respondent's order imposing fine dated August 16, 2012.

Basis for Invoking Jurisdiction

This Court has jurisdiction to issue a writ of mandamus pursuant to Article V, §5(b) of the Florida Constitution and Rule 9.030(c)(3) of the Florida Rules of Appellate Procedure. Mandamus is the proper remedy since the duty to serve an

order imposing fine issued pursuant to Florida Statutes, Chapter 162 is a ministerial duty.

Statement of Facts

The Petitioner owns an office building located at 440 Royal Palm Way, Palm Beach, Palm Beach County, Florida. (Appendix 1). The Petitioner's predecessor developed the property and constructed the office building. The original landscape plans for the project were approved by all required departments, agencies, and boards of the Town of Palm Beach. (Appendix 2). The landscape plans required the installation of a six feet ficus hedge along the rear (south) boundary line of the site.¹ This hedge was installed and the Petitioner's predecessor received all required final approvals for the development and construction of the site.

Over the years, the hedge grew to a height of approximately 25 feet. (Appendix 3). The Petitioner discovered that the invasive nature of the hedge was causing damage to the building structure. This damage caused leaks in the underground parking garage. In order to repair the leaks, the Petitioner was advised by its engineering and construction professionals that the hedge would have to be removed. The Petitioner made an inquiry to the building department of the Town of Palm Beach as to whether a permit was required to remove the hedge. The

¹See Appendix 7, page 39, line 21 to line 25.

Petitioner was advised by the building department that no permit was required.²

Thereafter, the Petitioner removed the hedge.

On June 11, 2012, the Petitioner was personally served with a notice of code violation. (Appendix 4). The notice alleged the following:

A recent inspection of your property found the 25' high required buffer hedge removed on the south side of the property without prior ARCOM approval.

According to Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, any changes in material or appearance to be approved by ARCOM plan requires ARCOM approval.

Section 18-175(a) provides:

Approval of request. Unless request for demolition (a request shall be reviewed considering proposed date to demolish, construct, and future use of new construction), building and landscaping plans, elevations and proposed signs for buildings or structures, or alterations thereto, including reroofing that involves a significant change in materials or appearance, have been approved by the Architectural Commission, or by the Town Council on appeal, no permit shall be issued for any such demolition, building, structure, sign, or other development of property, or appurtenances or alterations thereto. (Appendix 5).

The notice demanded that the Petitioner replace the hedge by June 20, 2012, or appear the following day before the Code Enforcement Board, hereinafter referred to as the "Board." Because twenty-five feet ficus hedges are not commercially

²See Appendix 7, page 7, line 7 to page 8, line 15; page 14, line 17 to page 15, line 2; page 17, line 5 to line 10; page 50, line 16 to page 51, line 3.

available,³ the Petitioner did not replace the hedge so it appeared before the Board on June 21, 2012. The Board found that the Petitioner violated Section 18.175(a) because it did not obtain ARCOM⁴ approval to remove the hedge from the Petitioner's property. The Board assessed administrative costs in the amount of \$150.00 and gave the Petitioner until July 31, 2012 to comply with the notice of code violation. (Appendix 7).

Because the Petitioner did not replace the hedge as required by the Board's directive, the Petitioner was again summoned to appear before the Board on August 16, 2012. At the conclusion of the hearing, the Board ordered the Petitioner to pay the amount of \$250.00 per day beginning on August 1, 2012 and continuing until the Petitioner had obtained all required approvals and permits, and passed all required inspections.

On August 16, 2012, the Board issued a written order imposing fine. (Appendix 8). The order purports to have been served on the Petitioner by certified mail, but the Petitioner never received it because the Petitioner's address contained in the order was incorrect. The address in the order was P.O. Box 3174, Palm

³ This fact was recognized by the Board. See Appendix 7, page 41, line 7 to line 15.

⁴ ARCOM is the Town of Palm Beach Architectural Commission created in Sections 18-166 to 18-177 of the Town of Palm Beach Code of Ordinances. (Appendix 6). When the Town's building department advised the Petitioner that a building permit was not needed to remove the hedge, the Town did not advise the Petitioner it needed ARCOM approval to remove the hedge.

Beach, Florida 33480. The Petitioner's correct address is P.O. Box 3147, Palm Beach, Florida 33480. (Appendix 9).

The Respondent learned that the Petitioner did not receive the order. The Respondent's case field report (Appendix 10) indicates that on August 27, 2012, the Respondent's order, which was attempted to be mailed to the Petitioner by certified mail was returned because there was "no such number." This entry means that the post office box to which the order was sent did not exist. The field case report further reveals that the Respondent made no attempt to insure that the Petitioner received a copy of the order because the report indicates "Since property owner and attorney were present at hearing, no further posting will be necessary." This entry means that the Respondent never intended to and did not re-mail the order or post it on the property as required by Florida Statutes, Section 162.12.

Statement of Case

When the Petitioner learned that the Respondent recorded a copy of its August 16, 2012 order in the Public Records of Palm Beach County, the Petitioner filed in this Court a petition for a writ of certiorari because the Respondent's order imposed a lien on the Petitioner's property once it was recorded. (Appendix 11). The petition sought a writ quashing the Respondent's order finding that the Petitioner violated Section 18-175(a) of the Town of Palm Beach Code of Ordinances and the Respondent's order imposing a continuing fine and lien on the

Petitioner's real property. The Petitioner's primary argument in support of the relief it sought was that the Respondent denied the Petitioner due process of law.

The Respondent filed a motion to treat petition for writ of certiorari as notice of appeal and to dismiss as untimely. (Appendix 12). As grounds for dismissal, the Respondent asserted 1) that the proper procedure for seeking review of a code enforcement order is to file a notice of appeal within thirty (30) days from the date of entry of the order, and not a petition for writ of certiorari and 2) that the Petitioner was not denied due process because it had actual knowledge of the Respondent's order because it was delivered orally to Petitioner's counsel at the Board's August 16, 2012 hearing. The Respondent did not dispute the fact that the Petitioner was never served with the August 16, 2012 order as required by Florida Statutes, Section 162.12.

The Petitioner filed a response to the Respondent's motion explaining that the Petitioner never had an opportunity to file a notice of appeal pursuant to Florida Statutes, Section 162.11 because the Petitioner never received the Respondent's order. The Petitioner cited *Tampa v. Brown*, 711 So. 2d 1188 (Fla. 2d DCA 1988) for the proposition that due process required that the Petitioner be served a copy of the Respondent's order. (Appendix 13).

The Respondent filed a reply to the Petitioner's response. (Appendix 14). The Respondent claimed that due process did not require the Petitioner actually receive

a copy of the Respondent's order, but rather merely required that the Petitioner had notice of the Respondent's ruling. The Respondent again conceded that the Petitioner never received a copy of the order imposing fine. The Respondent contended that it complied with the provisions of Section 162.12 because it sent its order to the Petitioner at the Petitioner's address found in the records of the Palm Beach County Tax Collector's office. The Respondent apparently contends that this notice was proper even though it knew the address was incorrect.

On May 20, 2013, this Court entered an order granting the Respondent's motion to treat petition for writ of certiorari as a notice of appeal and dismissed the petition for writ of certiorari as untimely. (Appendix 15). In doing so, the circuit court found 1) that the Petitioner's address contained in the Palm Beach County Tax Collector's office contained a scrivener's error; 2) that the Respondent complied with Section 162.12 by serving its order on the Petitioner at the incorrect address shown in the Palm Beach County Tax Collector's records; and 3) that the Petitioner had actual notice of the Respondent's order because its Board issued its ruling orally in the presence of the Petitioner's counsel at the August 16, 2012 hearing.

On May 23, 2013, the Petitioner filed a motion for rehearing. (Appendix 16). The motion contended that this Court overlooked critical facts and/or misconstrued the law applicable to those facts. Among other things, the Petitioner relied on

Vosilla v. Rosado, 944 So. 2d 289 (Fla. 2006) and *Delta Property Management v. Profile Investments, Inc.*, 87 So. 3d 765 (Fla. 2012) for the proposition that the notice requirements of due process were not satisfied merely because the Respondent allegedly sent its written order to the Petitioner's address shown in the Tax Collector's records when the Respondent had reason to believe that the records were inaccurate, i.e., that the Respondent's order sent to the Petitioner by certified mail was returned to the Respondent because the address was incorrect. The Petitioner argued that the Respondent had a duty to take reasonable steps to serve the Petitioner with the order when the Respondent discovered that the order imposing fine was sent to the Petitioner at the incorrect address, rather than doing nothing claiming that it had complied with Section 162.12.

On September 16, 2013, this Court entered an order granting the Petitioner's motion for rehearing and vacated this Court's order issued on May 20, 2013. However, this Court again dismissed the Petitioner's petition for writ of certiorari, but this time without prejudice so that the Petitioner could petition the Respondent for relief pursuant to *Palmer v. Reemployment Assistant Appeals Commission*, 2013 W.L. 3942922 (Fla. 1st DCA 2013), *Durando v. Palm Beach County*, 719 So. 2d 1258 (Fla. 1st DCA 1998), and *Johnson v. Terry Hunt Construction Co.*, 878 So. 2d 1282 (Fla. 1st DCA 2004). (Appendix 17).

Pursuant to this Court's granting the Petitioner's motion for rehearing, the Petitioner filed a motion for relief with the Respondent's Code Enforcement Board. (Appendix 18). The Respondent's Board held a hearing on the Petitioner's motion on November 21, 2013. At the hearing, the Petitioner requested the Board re-issue its order *nunc pro tunc* to August 16, 2012 and serve the new order on the Petitioner. Since the Board did not have the Petitioner's correct address, the Petitioner requested the Board send its order to the Petitioner's counsel to insure delivery. (Appendix 19, pages 4 to 12).

The Board debated the Petitioner's motion and sought the advice of the Board's counsel. The Board inquired of its counsel whether the Board was required by law to serve on the Petitioner a copy of its order imposing fine and whether the Board had done so. The Board's counsel advised that the Board was in fact required by law to serve on the Petitioner a copy of the Board's order and acknowledged that the Board had not done so because it sent its order to the Petitioner at the incorrect address. (Appendix 19, page 14). The Board's counsel also pointed out that the reason the Petitioner was seeking relief was because the Petitioner intended to appeal the Board's order pursuant to Florida Statutes, Section 162.11. This statute required the Petitioner to file its appeal within 30 days of execution of the order, and it was explained to the Board that the Petitioner did not timely file an appeal because it was never served with the Board's order. (Appendix 19, page 16).

Despite the fact the Board had not complied with the notice requirements of Chapter 162 and that the Petitioner had obviously been denied due process as a result, the Board's counsel recommended that the Board take no action because the Petitioner had filed a complaint for declaratory relief in the circuit court. The Board's counsel explained that this complaint had been dismissed with prejudice and that the Petitioner had appealed the dismissal. The Board's counsel incorrectly stated that the issues on appeal in that case were identical to the issues the Petitioner would raise in an appeal from the Board's order.

The Petitioner's counsel pointed out the inaccuracy of the Board's counsel's statements and explained that the Petitioner was not as a matter of law entitled to appellate review of the Board's order through an action for declaratory relief and that the legal issues on appeal from dismissal of the complaint for declaratory relief were different even though the claim for declaratory relief arose from the Board's action. The Board rejected the Petitioner's arguments, accepted the recommendation of the Board's counsel, and refused to serve on the Petitioner a copy of the Board's order imposing fine pending the outcome of the appeal on the dismissal of the Petitioner's action for declaratory relief. (Appendix 19, Page 37).

Nature of Relief Sought

The nature of relief sought by this petition is a writ of mandamus compelling the Respondent to issue its order imposing fine *nunc pro tunc* to August 16, 2012,

and serve it on the Petitioner at its correct address so that it may file an appeal pursuant to Florida Statutes, Section 162.11.

Legal Argument

Code enforcement proceedings are quasi-judicial in nature. *Verdi v. Metropolitan Dade County*, 684 So. 2d 870 (Fla. 3d DCA 1996). A writ of mandamus is available to require a quasi-judicial board to perform its duties required by law. *Tarpon Springs v. State ex rel Meister*, 392 So. 2d 1345 (Fla. 2d DCA 1981). *See also Berens v. Cobb*, 539 So. 2d 24 (Fla. 2d DCA 1989) [Where a judge refuses to perform a duty required by law, the issuance of a writ of mandamus is appropriate].

In the present case, the Respondent's Board was required to issue a written order imposing a fine and serve it on the Petitioner. *Tampa v. Brown*, 711 So. 2d 1188 (Fla. 2d DCA 1998); §162.09, *Fla. Stat.*; §162.12, *Fla. Stat.* The issuance and service of an order imposing fine is a ministerial act required by law, and not discretionary. *See Moody v. Moody*, 705 So. 2d 708 (Fla. 1st DCA 1998); *Berens v. Cobb*, 539 So. 2d 24 (Fla. 2d DCA 1989) [Ruling on a motion and issuing an order is an official duty of a judicial officer and ministerial in nature].⁵

This Court's order issued on September 16, 2013 (Appendix 17), granted the Petitioner's motion for rehearing of the dismissal of the Petitioner's petition for

⁵ At the hearing on the Petitioner's motion for relief before the Respondent's Board, the Board's counsel acknowledged that the service of a written order imposing fine is required by law. (Appendix 19, Page 14).

writ of certiorari to permit the Petitioner to petition the Respondent's Board for relief so that the demands of due process could be satisfied. The Petitioner, pursuant to that order, sought this relief. The Petitioner merely requested that the Respondent's Board re-issue its order imposing fine *nunc pro tunc* to August 16, 2012 and serve it on the Petitioner as required by law. The Petitioner requested this relief because the record before the Respondent's Board clearly showed that the Petitioner did not receive the Board's order imposing fine, that the Board knew the Petitioner did not receive the order because it was sent to the wrong address, and that the Board took no steps to insure the Petitioner received a copy of the order after discovering the Board sent the order to the Petitioner's incorrect address.

The Petitioner frankly explained to the Board that proper service of the order was necessary for the Petitioner to appeal the Board's initial decision. Rather than complying with the provisions of Chapter 162, satisfying the demands of due process, and complying with this Court's September 16, 2013 order, the Board chose to "defer" ruling on the Petitioner's motion for relief and refused to re-issue its order and serve it on the Petitioner. There is no doubt that the Board took this action to thwart the Petitioner's ability to directly appeal the Board's initial order imposing fine.⁶

⁶ The Florida Local Code Enforcement Board's Act is contained in Florida Statutes, Sections 162.01-162.13. The basic code enforcement process is as follows. When a code violation is allegedly discovered by a local government, the alleged violator must receive a notice of hearing §162.12, *Fla Stat*. At the conclusion of the hearing, the board is required to issue findings of fact and conclusions of law, and issue a written order. §162.07(4), *Fla Stat*. If the

It was improper for the Respondent's Board to refuse to make a determination on the Petitioner's motion for relief. *See Berens*, 539 So. 2d at 25 [A petition for a writ of mandamus was granted where a circuit judge refused to hear and *determine* a motion to dismiss, motion to set aside default and motion to continue jury trial]; *Moody*, 705 So. 2d at 708 [A writ of mandamus may issue to require a *timely ruling* on a matter pending before a lower tribunal]. In the present case, the issuance of an order *nunc pro tunc* and its service on the Petitioner is a ministerial act because such issuance and service is a requirement of law. Instead of doing so, the Respondent's Board inappropriately exercised discretion to defer ruling pending the outcome of a companion case that raised issues wholly different than those which could have and would have been raised in the Petitioner's direct appeal from the Respondent's Board's initial order imposing fine.

board finds a violation, its order may include a notice establishing a deadline for compliance and a notice that a fine may be imposed for failure to comply. *Id* If the violator fails to comply with the Section 162.07 order, a second written order may be entered pursuant to Section 169.09 imposing the fine. This order, upon recording in the public records, becomes a lien on the violator's property. §162.09(3), *Fla Stat*.

All notices required by the Act are to be provided to the violator pursuant to Section 162.12. If a notice sent by certified mail is returned unclaimed or refused, the notice may be posted provided it was originally sent by certified mail to the owner of the property at the address listed in the Tax Collector's Office for tax notices and any other addresses provided to the local government by the owner §162.12(1)(a), *Fla Stat*. If a notice or order sent by certified mail is returned to the local government because it was sent to the wrong address and the local government knows that it was sent to the wrong address, the local government has an affirmative duty to take reasonable steps to insure that the violator receives a copy of the notice or order, e.g., resending the notice or order to the correct address or posting it on the owner's property. *See Id*; *Vosilla*, 944 So. 2d at 289; *Delta Property Management*, 87 So. 3d at 765.

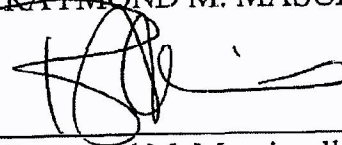
Conclusion

In light of the foregoing, it is respectfully submitted that this Court must issue a writ of mandamus to correct the Respondent's Board's error. The Respondent's Board must be directed to reissue its order imposing fine *nunc pro tunc* to August 16, 2012, and serve it on the Petitioner to satisfy the demands of due process and to comply with Chapter 162.

Respectfully submitted,

~~RAYMOND M. MASCIARELLA II, PA~~

By:



Raymond M. Masciarella II, Esquire
Florida Bar Number: 441716
840 U. S. Highway One, Suite 340
North Palm Beach, FL 33408
Telephone (561) 627-4448
Facsimile (561) 627-4495
noreplieservice@aol.com
Attorney for Petitioner

CERTIFICATE OF INTERESTED PERSONS

PALM BEACH PARK CENTRE 1-6, LLC
Petitioner

RAYMOND M. MASCIARELLA II, ESQUIRE
Attorney for Petitioner

TOWN OF PALM BEACH
Respondent

PETER B. ELWELL
Palm Beach Town Manager

JOHN C. RANDOLPH, ESQUIRE
Palm Beach City Attorney

SUSAN A. ELLINS
Palm Beach Town Clerk

PALM BEACH CODE ENFORCEMENT BOARD

MAYOR AND TOWN COUNCIL OF PALM BEACH

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this petition complies with the font size requirements contained in Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.



Raymond M. Masciarella II

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Petition and its Appendix has been furnished by 9 U.S. mail Dec hand delivery to John C. Randolph, Esquire, Palm Beach Town Attorney, jranderph@jonesfoster.com, 505 South Flagler Dr., Suite 1100 West Palm Beach, FL 33401 and to the Town of Palm Beach, 360 South County Road, Palm Beach, FL 33480 this 9 day of Dec, 2013.

~~RAYMOND~~ M. MASCIARELLA II, PA



By:

Raymond M. Masciarella II, Esquire
Florida Bar Number: 441716
840 U. S. Highway One, Suite 340
North Palm Beach, FL 33408
Telephone (561) 627-4448
Facsimile (561) 627-4495
noreplieservice@aol.com
Attorney for Petitioner

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Time Extensions

Agenda Title

Request for Waiver of Section 42-199, Hours of Construction Work, at 1480 North Lake Way Per Letter Dated February 20, 2014 from Maura Ziska.

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Memorandum dated February 25, 2014 from John S. Page, Director of Planning, Zoning and Building](#)
- [Letter Dated February 20, 2014 from Maura Ziska](#)
- [Letter Dated February 20, 2014 from Chris Lapinski](#)
- [Notice Affidavit](#)
- [Letter Dated February 19, 2014 from Maura Ziska](#)

TOWN OF PALM BEACH

Information for Town Council Meeting on: March 12, 2014

To: Mayor and Town Council

Via: Peter B. Elwell, Town Manager

From: John S. Page, Director, Planning, Zoning & Building Department

Re: Extension of Time Schedule for Completion of Construction per Town Code
Chapter 18, Section 242-105.4.1.6
1480 N Lake Way

Date: February 25, 2014

STAFF RECOMMENDATION

Staff recommends that the Town Council consider an extension of the Code-specified time limit for construction for the project located at 1480 North Lake Way (new single family home).

GENERAL INFORMATION

The applicant is requesting an extension of the time limit (permit B-11-14923) for the construction of a new single family residence over 10,000 square feet. The permit was issued on March 25, 2011 and was given a time for completion per the schedule in the Town Code of Ordinances of 36 months.

This limit imposes a completion date for the construction of March 25, 2014. See attachments from the owner's attorney and the contractor outlining their plan to complete.

As outlined within the Code, the Council may impose conditions on the extension which may include the implementation of mitigation measures deemed appropriate by the Council and imposition of a fee as established by resolution for each day of the extension beyond the 36 month term imposed. The fee established is 10 cents per square foot with a minimum of \$500.00/per day. From the Town's record drawings, the project square footage is 10,604 square feet. This means that the maximum fee that the Council could opt to impose is \$1,060.00 per day (which would accrue until the Planning, Zoning and Building Department issues a Certificate of Occupancy).

Attachments

JP/wcb

cc: Maura Ziska, Attorney for applicant
Chris Lapinski, Fair Dinkum Construction
Paul W. Castro, Zoning Administrator
H. Paul Brazil, Public Works Director
Raychel Houston, Code Enforcement Unit

KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel**

*Also admitted in New York

*Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

VIA HAND DELIVERY

February 20, 2014

Mr. Bill Bucklew, Building Official
Town of Palm Beach
360 S County Road
Palm Beach, FL 33480

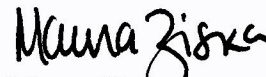
Re: Extension for construction time frame / 1480 North Lake Way, Palm Beach, FL

Dear Bill,

Enclosed please find the request for a waiver of the time schedule for completion of construction by the owner of 1480 North Lake Way, Palm Beach, Florida. Also enclosed is a letter from Fair Dinkum Construction explaining the reason for the delay and proposed completion date. I have also included the Notice Affidavit for sending the notification to the surrounding property owners'.

Please place this request on the March 12, 2014 Town Council agenda.

Respectfully,


Maura Ziska

/maz

00022444

RECEIVED
FEB 20 2014
TOWN OF PALM BEACH
PZB DEPT

Fair Dinkum Construction
11 S Swinton Avenue
Delray Beach, FL 33444
561-266-0845

February 20, 2014

Maura A. Ziska, Esq.
Kochman & Ziska PLC
222 Lakeview Avenue, Suite 1500
West Palm Beach, FL 33401

Dear Ms. Ziska:

Below is an explanation for the necessity of granting an extension permit on the construction of the property at 1480 N. Lake Way, Palm Beach.

1. The existing permit was originally issued to the Wilson's (former owners). When they decided to sell the house the construction was stopped for months until the sale was finalized with 1480 N Lake Way LLC (Fessler/Moens). There were changes made to the architectural plans after the sale and so additional permits needed to be obtained. A few months later, Mr. Moens decided to purchase the home for himself. He made his own personal changes and so once again, the construction was stalled until the new architectural plans were drawn up and approved. Since Mr. Moens purchased the lot next to 1480, changes were made to the landscape and the hardscape. In addition plans and approvals are being submitted for an additional guest building, which has been approved by ARCOM, but we are waiting for final revisions for the guesthouse. So between the changes of ownership and the architectural changes and the additional lot we have lost many months of construction time.
2. I believe the project could be completed in 6 months once the building permits and all selections are made. I would prefer to ask for an extension of 9 months to be on the safe side as there are many decisions still left to be made. Below is a list of items that need to be addressed:
 - a. Cabinets and hardware for the kitchen, laundry, bath and guest house cabinets, wet bar etc. The cabinet company is going to take at least 4 months to complete.
 - b. Ceilings and wall finishes.
 - c. Plans and permits for site work gates, walls, driveway landscaping.
 - d. Any other changes that will be made in the near future will also require additional permits.

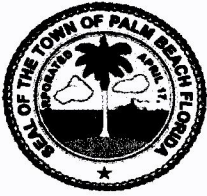
- e. Mitigation negotiations: As soon as approvals for site walls and gates are obtained, we will install them with Street Scape Landscaping, keeping in accordance with Palm Beach Standards.
- f. There is also a delay at the site due to the archeological findings on the property and the scheduling with said archeologist.

If I can be of any help or if you need further explanations, please contact me at 561-309-4084. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Lapinski". The signature is fluid and cursive, with the first name "Chris" and last name "Lapinski" clearly distinguishable.

Chris Lapinski
General Contractor



NOTICE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME THIS DAY PERSONALLY APPEARED Maura Ziska
WHO BEING DULY SWORN, DISPOSES AND SAYS THAT:

1. He/she is the owner, or the owner's authorized agent, of the real property legally described in the Architectural Commission Application.
2. The accompanying Property Owners List is, to the best of his/her knowledge, a complete and accurate list of all property owners' mailing addresses and property control numbers post dated no later than 10 days prior to the hearing at which the subject application will be heard, and as recorded in the latest official tax rolls for the subject property and all other properties within two hundred (200) feet of the real property.
3. A copy of the letter notifying the surrounding property were sent as required.

Sworn to and subscribed before me this 19th day of February, 2014.

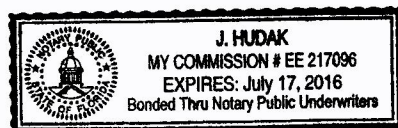
by Maura Ziska who is personally known to me or who has
produced _____ as identification and who did (did not) take an oath.
(Type of identification)

J. Hudak
(Signature of Notary)

Maura Ziska
(Applicant's Signature)

J. Hudak
(Printed Name of Notary)

Maura Ziska
(Printed name of Applicant)



KOCHMAN & ZISKA PLC

Ronald S. Kochman*

Maura A. Ziska

Marvin S. Rosen, *Counsel* •

*Also admitted in New York

• Also admitted in Michigan

Esperanté

222 Lakeview Avenue, Suite 1500
West Palm Beach, Florida 33401

Telephone: (561) 802-8960

Facsimile: (561) 802-8995

February 19, 2014

To Whom It May Concern:

A waiver of Town Ordinance 18-242, Section 105.4.1.6, agreed maximum time schedule for completion of construction, is being requested by 1480 N. Lake Way, Palm Beach, Florida allowing extra time to complete construction.

This matter will be presented to the Palm Beach Town Council at the regularly scheduled meeting on March 12, 2014. Any concerns regarding this matter should be expressed at this meeting and/or submitted to the Town's Planning, Zoning & Building Department in advance of the Town Council meeting.

Respectfully,



Maura Ziska

MAZ/jch

TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Development Review - Old Business

Agenda Title

SITE PLAN REVIEW #2-2014 WITH SPECIAL EXCEPTION The application of Ambassador Hotel Co-Op (Bill Whitehead, Manager); relative to property commonly known as **2730 South Ocean Blvd.**; described as AMBASSADOR HOTEL CO-OP APTS INC COMMON AREA A/K/A 23-44-43, N 216 FT OF S 385 FT OF N 3000 FT OF FRAC SEC LYG BET ELY R/WLI OF SR A-1-A & ATLANTIC OCEAN; located in the R-D (2) Zoning District. The applicant is requesting a Site Plan Review to renovate the exterior walkways of the West Building by increasing the width of the walkways by 16 inches (717.6 sq. ft. total) and upgrading the railing using glass barriers. The new railing will be continued to the pool deck. In addition, the façade of the West Building will be improved providing for more articulation and architectural features incorporating Moderno elements. The height of the West Building is currently 44.9 feet (existing nonconforming) and is proposed to be increased to 49.9 feet. (62.6 feet maximum allowed) (Sec. 134-229, Sec. 134-1060(8)(d) and Sec. 134-1064). The lot coverage of the West Building totals just 5.6% of the overall lot coverage of the site (27.47%) and would increase to 5.22% of overall lot coverage with the proposed renovations. [Attorney: Neil M. Schiller]

Deferred from the February 12, 2014, Town Council Meeting

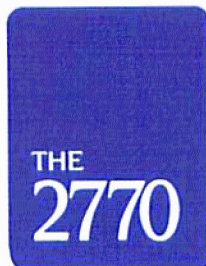
Presenter

John S. Page, Director of Planning, Zoning & Building

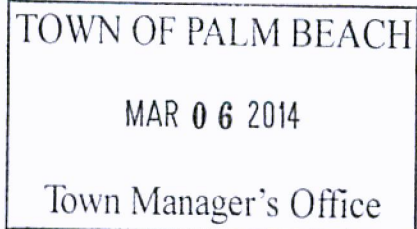
Supporting Documents

- [Letter Dated March 10, 2014, from Gerald Heller, President, The 2770 South Ocean Boulevard Condominium Association, Inc.](#)

Board of Directors
Gerald Heller, President
Jack Sussman, Vice President
Sidney Lassen, Secretary
Irwin Shechtman, Treasurer
Gerald Gilberg
Richard Sharfman



A Condominium



2770 South Ocean Boulevard Palm Beach, Florida 33480 Tel: (561) 547-0268 Fax: (561) 547-1593

March 10, 2014

Mayor Gail Coniglio and the Honorable Palm Beach Town Council
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480

RE: SPR 2-2014 with Special Exception – Ambassador Hotel & Co-op Apartments, Inc.

Dear Mayor Coniglio and the Town Council,

After the Town Council meeting on February 12, 2014, several members of the Board of Directors for The 2770 South Ocean Boulevard Condominium Association, Inc. met with representatives of the Ambassador Hotel & Co-op Apartments, including its president, architect and attorneys, on several occasions to discuss potential changes to the Ambassador's proposed parapet wall as part of its renovation project. I am happy to report that on February 26, 2014, Mr. David Miller, the Ambassador's architect, presented us with a fourth proposal with essentially removes the proposed parapet wall in the center of the Ambassador's studio building, thus preserving, to the greatest extent possible, our view corridor of the intracoastal waterway.

We wholeheartedly support this version of the project (attached) and urge the Town Council and ARCOM to approve it as submitted on March 4th to Mr. Castro.

Thank you again for your support and facilitation of discussions with our neighbor to make this a win-win project for the Town.

Sincerely,

THE 2770 SOUTH OCEAN BOULEVARD CONDOMINIUM ASSN., INC.



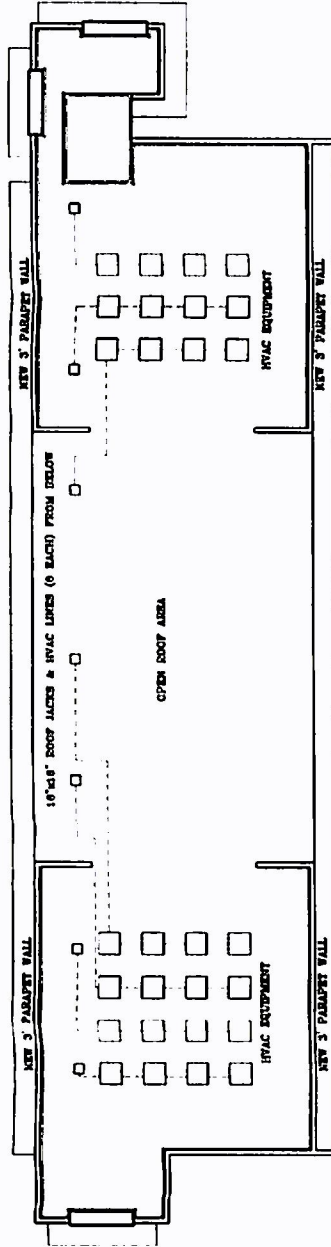
Gerald Heller
President

attachments

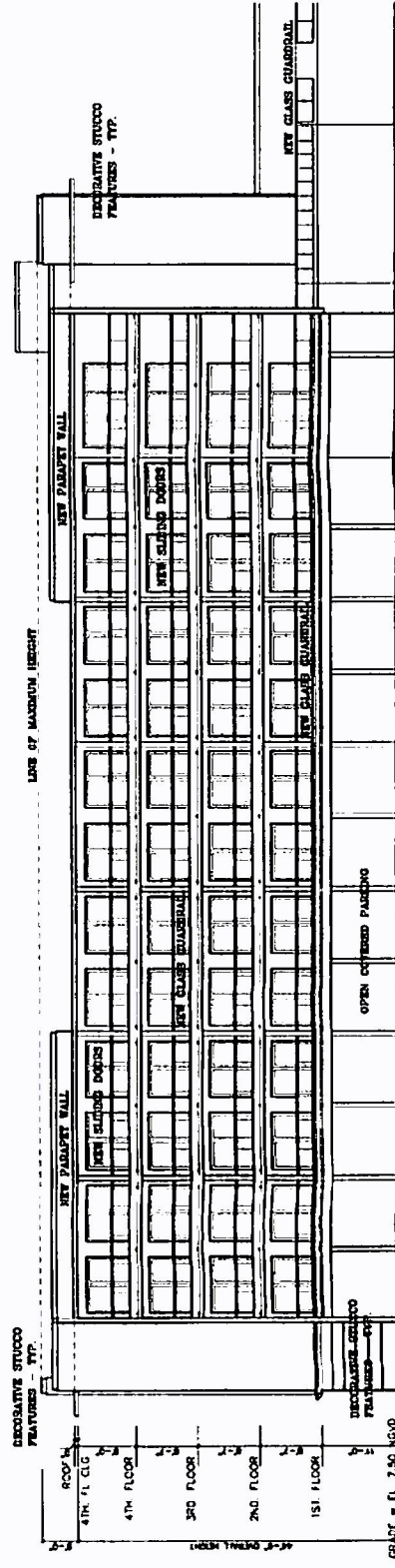
THE AMBASSADOR HOTEL

2730 South Ocean Blvd.

Town of Palm Beach, Florida



PROPOSED ROOF PLAN
SCALE 1/8"=1'-0"



PROPOSED SOUTH ELEVATION
SCALE 1/8"=1'-0"

2/24/14
1/22/14

A-4.1

ARCOM # B-014-2014
David Miller and Associates, P.A.
319 Clematis Street, Suite 802
West Palm Beach, Florida 33401
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WEST BUILDING - PROPOSED ROOF PLAN & SOUTH ELEVATION

**2730 South Ocean Blvd.
Town of Palm Beach, Florida**



WEST BUILDING - PROPOSED ROOF PLAN & NORTH ELEVATION

ARCOM # B-014-2014
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TOWN OF PALM BEACH

Town Council Meeting Development Review on: March 12, 2014

Section of Agenda

Development Review - New Business

Agenda Title

VARIANCE #10-2014 The application of K. Prescott Low and Susan T. Low; relative to property commonly known as **242 Jungle Road**; described as Lengthy legal description on file; located in the R-A Zoning District. The applicants request permission to install a 60kw Generac QT060 generator in the northwest corner of their property with a front yard setback of 6 feet 8 inches in lieu of 35 foot minimum required.

[Attorney: M. Timothy Hanlon]

Request for Deferral to the April 9, 2014, Town Council Meeting Per Letter Dated March 4, 2014, from M. Timothy Hanlon.

Presenter

John S. Page, Director of Planning, Zoning and Building

Supporting Documents

- [Letter Dated March 4, 2014, from M. Timothy Hanlon](#)

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HAROLD G. MAASS (1923-2008)
KAREN S. MARX (1984-1994)

1331 SE OCEAN BOULEVARD
STUART, FLORIDA 34996
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March 4, 2014

Sent Via Email and U.S. Mail

Paul Castro
Town of Palm Beach
360 South County Road
P.O. Box 2029
Palm Beach, FL 33480

Re: Variance #10-2014
242 Jungle Road

Dear Paul:

On behalf of the property owners, we hereby request a deferral of Variance #10-2014 until the April 9, 2014 Town Council Meeting.

The owners wish to change from a 60 kW generator to a 70 kW generator to meet the anticipated change in the Town's sound requirements.

If you have any questions, please contact me.

Sincerely,



M. Timothy Hanlon