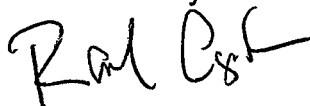


MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Raul J. Aguila, City Attorney 

DATE: June 5, 2019

SUBJECT: City Commission Appeal File No. 2018-002
Appeal, filed by Beach Towing Services, Inc., of a Design Review Board approval granted on December 4, 2018, for the property located at 1733-1759 Purdy Avenue and 1724-1752 Bay Road (DRB File No. 17-0198).

Mayor Gelber and Members of the City Commission,

At its meeting on June 5, 2019, at 3:00 p.m., the City Commission is scheduled to hear an appeal from a decision of the Design Review Board ("DRB") relating to the DRB's approval granted on December 4, 2018, for the property located at 1733-1759 Purdy Avenue and 1724-1752 Bay Road (DRB File No. 17-0198). Below please find important information regarding the appeal.

1. *Ex parte* communications

Given that the City Commission will be sitting in an appellate capacity on this matter, any *ex parte* communications by members of the City Commission regarding this appeal must be disclosed, and City Commissioners are subject to cross-examination regarding any such communications. An *ex parte* communication is any communication conducted outside of the public hearing.

While not prohibited under our Code, our office **discourages** members of the City Commission from engaging in *ex parte* communications. However, if you do engage in any *ex parte* communications relating to this appeal, please send an email to Paul Saca at paulsaca@miamibeachfl.gov, including the name of the individual with whom you communicated. If you send or receive any emails relating to the appeal, those should also be forwarded to Paul. *Ex parte*

communications must be disclosed on the record prior to the commencement of the hearing.

2. Conduct of hearing

Consistent with prior appeals heard by the City Commission, the schedule of the hearing will be as follows:

1. Argument of Appellant Beach Towing Services, Inc. – 5 minutes
2. Argument of Respondent City of Miami Beach Design Review Board – 5 minutes
3. Argument of Respondents Sunset Land Associates, LLC and SH Owner, LLC – 5 minutes
4. Rebuttal by Beach Towing Services, Inc. – 3 minutes
5. Deliberation by City Commission

There is no public hearing associated with this appeal.

3. Voting requirement and standard of review

A five-sevenths (5/7) vote of the City Commission is required to reverse or modify the decision of the DRB. In order to reverse or modify, the Commission must first find that the DRB

- (i) failed to provide procedural due process;
- (ii) failed to observe the essential requirements of law; or
- (iii) failed to base its decision upon competent substantial evidence.