

MARCH 17, 2021 CITY COMMISSION MEETING
AGENDA ITEM R9D
***EX PARTE* COMMUNICATIONS**

The attached *ex parte* communications regarding the subject appeal are hereby disclosed and made part of the record pursuant to City Code Section 2-512. In addition to the attached communications, the following members of the City Commission received individual briefings by the Planning Department and City Attorney's Office:

1. Mayor Dan Gelber (briefed by Nick Kallergis, First Assistant City Attorney, Farosha Andasheva, Assistant City Attorney I and Thomas R. Mooney, Planning Director)
2. Commissioner Micky Steinberg (briefed by Nick Kallergis, First Assistant City Attorney, Farosha Andasheva, Assistant City Attorney I and Thomas R. Mooney, Planning Director)
3. Commissioner Steven Meiner (briefed by Nick Kallergis, First Assistant City Attorney, Farosha Andasheva, Assistant City Attorney I and Thomas R. Mooney, Planning Director)
4. Commissioner David Richardson (briefed by Nick Kallergis, First Assistant City Attorney, Farosha Andasheva, Assistant City Attorney I and Thomas R. Mooney, Planning Director)
5. Commissioner Mark Samuelian (briefed by Nick Kallergis, First Assistant City Attorney, Farosha Andasheva, Assistant City Attorney I and Thomas R. Mooney, Planning Director)
6. Commissioner Michael Gongora (briefed by Nick Kallergis, First Assistant City Attorney, Farosha Andasheva, Assistant City Attorney I and Thomas R. Mooney, Planning Director)

From: [Kallergis, Nick](#)
To: [Saca, Paul](#); [Andasheva, Faroat](#)
Subject: FW: R9D - DRB Appeal - 301-317 71st Street (Removal of Pylon)
Date: Thursday, March 11, 2021 3:20:39 PM

FYI

From: Burger, Michele <MicheleBurger@miamibeachfl.gov>
Date: Thursday, March 11, 2021 at 3:19 PM
To: Kallergis, Nick <NickKallergis@miamibeachfl.gov>
Subject: FW: R9D - DRB Appeal - 301-317 71st Street (Removal of Pylon)

Nick,

The Mayor and I met with Tom Mooney, Neisen Kasdin, Marcia Greene and Joel Piotrkowski on Feb 3, 2021 at 10am to discuss this issue. I do not recall if anyone else was in the meeting.

MIAMIBEACH

Michele Burger

Chief of Staff

OFFICE OF THE MAYOR AND COMMISSION

[1700 Convention Center Drive, 4th floor, Miami Beach, FL 33139](#)

[305-673-7030 ext. 6460](#)

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From: Kallergis, Nick <NickKallergis@miamibeachfl.gov>
Sent: Thursday, March 11, 2021 3:03 PM
To: Kallergis, Nick <NickKallergis@miamibeachfl.gov>
Cc: Paz, Rafael <RafaelPaz@miamibeachfl.gov>; Boksner, Aleksandr <AleksandrBoksner@miamibeachfl.gov>; Andasheva, Faroat <FaroatAndasheva@miamibeachfl.gov>; Aguila, Raul <RaulAguila@miamibeachfl.gov>; Carpenter, Eric <EricCarpenter@miamibeachfl.gov>; Mooney, Thomas <ThomasMooney@miamibeachfl.gov>
Subject: R9D - DRB Appeal - 301-317 71st Street (Removal of Pylon)

Mayor Gelber and Members of the City Commission,

At its meeting on March 17, 2021, at 9:05 a.m., the City Commission is scheduled to hear an appeal from a decision of the Design Review Board (“DRB”) relating to the DRB’s denial of an application filed by Beach Legal Properties, Inc. (“Petitioner”) to remove a concrete pylon structure at 301-317 71st Street. Below please find important information regarding the appeal.

1. ***Ex parte* communications**

Given that you 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, 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. They 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:

- Argument of Petitioner Beach Legal Properties, Inc. – 5 minutes
- Argument of Respondent City of Miami Beach Design Review Board – 5 minutes
- Rebuttal by Beach Legal Properties, Inc. – 3 minutes
- 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.

Please do not hesitate to contact me if you have any questions.

Nick

The logo for the City of Miami Beach, featuring the word "MIAMIBEACH" in a bold, sans-serif font. The letters are a light green color with a slight shadow effect.

Nick Kallergis

First Assistant City Attorney and Special Assistant to the City Manager
OFFICE OF THE CITY ATTORNEY

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vibrant, tropical, historic community.