

Relationships. Resources. Results.

•MIAMI BEACH PLANNING BOARD

•DISCUSSION CONCERNING RM-3 OCEANFRONT  
PROPERTIES WITHIN THE ARCHITECTURAL DISTRICT,  
HEIGHT FOR ADDITIONS - ORDINANCE

•Presentation by Bradley Gould, Esq. of GrayRobinson, P.A.  
on behalf of Setai Hotel Acquisition, LLC  
(Dempsey-Vanderbilt Hotel)  
April 23, 2021

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# SETAI HOTEL ACQUISITION LLC (SHA)

- Purchased Dempsey Vanderbilt Hotel
- Own/Control 88 units in Hotel
- No Units in New Tower
- Purchased Units to Operate Hotel
- Reasonable Investment Backed Expectation to Operate Hotel with Ocean Views



# Dempsey Vanderbilt Hotel

- Brainchild of Jack Dempsey – World Heavy Weight Boxing Champion
- Designed by renowned architect Henry Hohauser
- Built in 1937
- Beacon of Art Deco Design in South Beach
- Iconic Oceanfront Address
- Stunning Ocean Views
  - Important Attribute/Feature
  - Rental Rates/Revenue



# OCEAN VIEW CORRIDOR

- Hotel Rooms Have Ocean Views
- Across/Through Seagull Hotel Property
- Setback on South to Ocean
- Ocean View Corridor Since 1948
- Protected
- Property Right





## Section 142-246(d) (2007-3589)

- Protects Established & Existing View Corridors
- Limits Ground Additions to 5 floors or 50 feet
- Prohibits Additions if:
  - Substantially Reduces Existing or Established View Corridors
- Creates Property Right in View Corridor



# PROPOSED TEXT AMENDMENT

- Eliminates Protection of Established & Existing View Corridor
- Solely for Benefit of Proposed Bulgari Hotel Development
  - Enhance and Enlarge Bulgari Hotel Development
  - Increase Height & Width of Addition
  - Create Additional Ocean Views
  - Still Renovate
- Only Impacts Dempsey Vanderbilt Hotel
  - Eliminates View Corridor as Protected Property Right
  - Eliminates Ocean View Corridor/Ocean Views

# STAFF REPORT

- Acknowledges for Bulgari Hotel Development
- Drafted by Bulgari Hotel
- Fails to Mention/Analyze:
  1. Elimination of Protection of View Corridor
  2. Detrimental Affect on Dempsey Vanderbilt Hotel
  3. Taking Dempsey Vanderbilt/ SHA's View Corridor for Bulgari Hotel
  4. Substantive
  5. Payment to City

# VIOLATION OF SUBSTANTIVE DUE PROCESS

- Arbitrary, Capricious, Unreasonable and Improper Motives
- Vanderbilt's Property Rights vs. Enhanced/Enlarged Development
- Taking Dempsey Vanderbilt's Property Rights to Enhance Bulgari Development
- Sole Benefit of Bulgari Hotel vs Sole Detriment of Dempsey Vanderbilt
- Contract Zoning
- Spot Zoning
- Payment to City

# Taking of Property Rights

- City is Taking Dempsey Vanderbilt/SHA's Property Rights
- Purchase Included View Corridor
- Reasonable Investment Backed Expectation

# Bert J. Harris Private Property Rights Act

- Triggers Bert J. Harris Private Property Rights Act
- Government Action
- Applied to Dempsey Vanderbilt Hotel's Property
- Inordinately Burdens
- Established Use