BOARD OF ADJUSTMENT FOR THE CITY OF MIAMI BEACH, FLORIDA

ADMINISTRATIVE APPEAL OF CITY OF MIAMI BEACH PLANNING DETERMINATION

FILE NO. ZBA21-0135

So Boots, LLC, as a Trustee of 350 Meridian PH Land Trust, et al.,

Petitioners,

vs.

THOMAS R. MOONEY,
in his official capacity as
Planning Director for the
City of Miami Beach, Florida

and

MIAMI SOFI BEST, LLC, a Florida
limited liability company

Respondents.
_____/

BRIEF OF RESPONDENT MIAMI SOFI BEST, LLC

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INTRODUCTION

MIAMI SOFI BEST, LLC (the "Property Owner"), the owner of the property at 310 Meridian Avenue, Miami Beach, FL (the "Property"), responds to the appeal in this matter. For the reasons described below, the Property Owner respectfully demands prompt dismissal of the appeal, so that an unlawful and damaging Stay-of-Work order, which has abruptly halted ongoing minor repairs and renovations on the Property's contributing historic structure, can be lifted and work can be resumed.

Prior to the events leading up to the appeal in this matter, the City of Miami Beach ("City"), through its Building and Planning Department, issued the Building Permit[1] allowing minor repairs and renovations to the Property (the "Permit"). See Exhibit A, Permit. The Permit was issued on December 16, 2019, to the previous property owner, 310 Meridian, LLC. In reliance on the Permit, the Property Owner subsequently purchased this Property, and then, in further reliance on the Permit, planned and financed the permitted repairs and renovations, all with the expectation of operating the structure as an apartment-hotel, a lawful use at the time the Permit was issued. The Property Owner thereafter commenced construction pursuant to the Permit.

On October 13, 2021, So Boots, LLC, as a Trustee of 350 Meridian PH Land Trust, and NJA Property Holdings, LLC, (collectively the "Appellants") submitted to the City's Planning Director a petition to appeal "certain administrative decisions" for the Property

[1] Permit ID Number is BC1704920.

(the "Appeal"). See Exhibit B, Appeal. The City subsequently opened case file ZBA21-0135 to process this Appeal.

The sole issue raised on Appeal is whether a hearing before the Historic Preservation Board ("HPB") was required as a prerequisite for the Certificate of Appropriateness ("COA") issued as a part of the Permit. No such HPB hearing or decision was required. Planning Department staff properly issued an administrative COA, consistent with the City of Miami Beach Code of Ordinances (the "Code") and with the City's long-standing practice for the type of minor repairs and renovations contemplated here.

As further discussed below, this Appeal must be dismissed for four reasons:

1. Appellants' Challenge is Untimely and They Lack Any Standing to Bring the Appeal;
2. The Board of Adjustment ("BOA") Lacks Jurisdiction to Review Either This Type of Administrative COA or the Advice of the City Attorney;
3. A Hearing Before the HPB Was Not Required to Issue the Permit; and
4. The Property Owner Has a Vested Right to Resume and Complete Development Pursuant to the Permit.

The Appeal and Stay-of-Work order are causing irreparable financial harm to the Property Owner and indeed to the historically contributing structure. The Property Owner

therefore respectfully requests that the Appeal be immediately dismissed, the Stay-of-Work order lifted, and the BOA case file closed.

STATEMENT OF FACTS

Originally constructed in 1940, a contributing historic structure on the Property lies within the City's designated Ocean Beach Historic District. Situated in the R-PS2 zoning district, the contributing structure has long housed a dilapidated multifamily apartment complex that was in serious disrepair.

On August 7, 2017, 310 Meridian LLC, the previous property owner, applied to the City for a building permit to convert the Property into an apartment-hotel with 16 hotel units, 1 apartment unit, and a lobby (the "Application" or "Proposed Project"). Most of the Proposed Project consists of internal reconfiguration of the layout to comply with apartment-hotel use Code requirements. See Exhibit C, Marked Approved Permit Plans at 2-3. During the review process, professional staff expressly evaluated whether a HPB hearing and approval would be required for the exterior work and noted it in a comment to the applicant. See Exhibit D, Responses to Building Department Comments 01/19/2018. After reviewing the proposed plans against pictures and microfilm records provided, the City made a final determination that HPB review was not required and resolved the comment. As has long been customary for minor repairs and modifications, staff approved the Application by issuing an administrative COA under Section 118-

563(d) of the Code, via approval of the Permit. See Exhibit E City Attorney Advice Letter at 2; Exhibit F, LTC 381-2021 at 9-10.

The proposed exterior renovations largely consisted of replacing windows and doors with new Code-compliant windows and doors, which were reviewed and approved by staff to ensure consistency with the historic architectural features of the Property. See Exhibit C at 1. The **only** other minor exterior work was proposed as follows, in large part to comply with federal laws governing building accessibility for people with disabilities:

- North elevation – enlarge one side window to match new Americans with Disabilities Act ("ADA")-compliant door and block rear unit service doors on the ground floor to comply with Code requirement that apartment-hotels are accessed only through a common lobby pursuant to Section 118-563(d)(4) of the Code;
- South elevation – convert one window into a new ADA-compliant door pursuant to Section 118-563(d)(4) of the Code;
- East elevation – at the request of staff, convert one window back to its historic condition as a door by lowering sill pursuant to Section 118-563(d)(2) of the Code.

Finding that the proposed minor renovations were consistent with the Code and with the United States Secretary of Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures ("S&G"), staff approved the Permit. See Exhibit A, Permit.

In April 2021, and in reliance on the approved Permit, the Property Owner purchased the Property with the intention, and the reasonable expectation, of developing it pursuant to the Permit. Construction began in June 2021.

On July 26, 2021, the Appellant submitted a letter to the City Manager arguing that the Permit should be rescinded (the "July 26 Letter"). See Exhibit G, July 26 Letter. In their letter, Appellants stated: "[w]e understand that your Staff maintains that the Planning Department reviewed the Project Plans and that the mere issuance of the Building Permit to the permit applicant served as a de facto COA." See *id.* at 2. Further, they noted that renovations pursuant to the Permit were "well underway." See *id.* at 1. Thus, by no later than July 26, 2021—and most likely well before then—Appellants were aware that the Permit served as an administrative COA and made a concrete effort[2] to halt a legally permitted project by submitting the July 26 Letter.

On August 5, 2021, the City Attorney responded to July 26 Letter stating that City staff had "thoroughly researched and reviewed the Permit (…) and have ascertained that **there were no errors in the review or issuance of the permit, and that it remains lawfully issued**." (emphasis added)(the "City Attorney Advice Letter"). See Exhibit E at 1. Further, the City Attorney Advice Letter clarifies that the City's ability to rescind a validly issued building permit is limited pursuant to section 105.6 of the Florida Building Code to instances of noncompliance with the Florida Building Code and **no circumstances existed that would warrant revocation of the Permit as requested**. Moreover, the City Attorney Advice Letter noted the following staff conclusions:

[2] Appellants have led a coordinated effort to stop the Proposed Project and other apartment-hotels in the South of Fifth neighborhood.

- "The proposed [apartment-hotel] use is consistent with the [Code]".
- **"The [proposed renovations] did not (in 2019) require review by the HPB and, as long as the work is consistent with what is shown in the approved permit plans, HPB review will not be required."**
- **"The Permit issued on December 16, 2019 included a Certificate of Appropriateness (COA) issued in accordance with Sec. 118-563(d) [of the Code]**."[3] (emphasis added) See *id.* at 2.

On September 14, 2021, the City Attorney's office issued a Letter to the City Commission ("LTC") 381-2021, which addressed apartment-hotels in the South of Fifth neighborhood, including the Property ("LTC 381-2021"). See Exhibit F. In this letter, the City Attorney carefully delineated the power of semi-autonomous personnel such as the Building Official and the Planning Director and made clear that the City Commission cannot dictate how any particular application is decided, even when faced with immense political pressure from constituents. See *id.* at 3. Further, **the City Attorney stated that streamlined applications that serve as both a building permit and an administrative COA are permissible and that a proper review was in fact conducted for the Property's Permit**. See *id.* at 9-10.

The City commissioned from the President of JC Consulting Enterprises, Inc., Cecilia Ward, AICP—who has over forty years of experience with planning and zoning work—an independent Land Use and Zoning Review Report ("Independent Report"). See Exhibit H, Land Use and Zoning Review in LTC 445-2021. The Independent Report did

[3] Notably, by their own admission in the July 26 Letter, Appellants already knew the Permit acted as an administrative COA and that the renovations were "well underway."

not find issuance of the administrative COA improper. See *id.* at 15. Instead, the Independent Report stated that, relying on the information provided, "staff used its discretion to reach a determination regarding which improvements requested […]fell under the provisions of Section 118-563(d)." The Independent Report concluded that "staff utilized the application for a building permit as its administrative review of a COA and issuance of a COA for […] 310 Meridian." See *id.* at 15.

Despite being aware that the Permit acted as an administrative COA since at least July 26, 2021, Appellants waited almost three months, until October 13, 2021, to file this Appeal. During that period, the Property Owner continued work on the Property pursuant to the Permit.

Less than coincidentally, also on October 13, 2021, the City Commission enacted legislation prohibiting apartment-hotel use in the R-PS1 and R-PS2 zoning district. See Exhibit I. On October 29, 2021, the Planning Director ordered and the Building Official issued a stay-of-work order on the Property, claiming as grounds that this Appeal had been filed and that Section 118-9(b)(5) of the Code required the stay-of-work order (the "Stay-of-Work Order"). See Exhibit J, Stay-of-Work Order. The Planning Director made this request despite being responsible for the administrative COA issued as part of the Permit in 2019 and despite advice from the City Attorney confirming in 2021 that there was no mistake in the issuance of the Permit. Since then, work on the Property has

completely stopped, causing irreparable economic harm to the Property Owner and grave risk to the contributing structure.

On December 6, 2021, four days before this Response Brief is due, the Property Owner received a draft Inspector General report dated November 1, 2021, regarding issuance of the Permit. The Property Owner intends to respond to the draft report and has requested appropriate time to do so. Without either suggesting error or affirming the draft report, the Property Owner expressly reserves the right to rely, address, and rebut in whole or in part the factual statements, analysis and conclusions in the Inspector General report and asks that no part of this draft report be considered by this Board, because the Property Owner has not had reasonable opportunity to review or respond to it.

STATEMENT OF STANDING

Section 118-9(b)(2)(i) of the Code authorizes property owners to file appeals of administrative decisions to the BOA; and thus it follows that property owners can also file responses to administrative decisions relating to their property in defense of their property rights. In addition, the City Attorney issued a letter on October 29, 2021, explicitly asking both the Planning Director and the Property Owner to file a response to this Appeal by December 10, 2021 (the "City Attorney Appeal Acknowledgement Letter"). See Exhibit K, City Attorney Appeal Acknowledgement Letter.

SUMMARY OF THE ARGUMENT

This Appeal must be dismissed for four key reasons:

1. Appellants' Challenge is Untimely and They Lack Any Standing to Bring the Appeal
2. The BOA Lacks Jurisdiction Over This Appeal
3. A Hearing Before the HPB Was Not Required to Issue the Permit
4. The Property Owner Has a Vested Right to Resume and Complete Development Pursuant to the Permit.

ARGUMENTS

I. Appellants' Challenge is Untimely and They Lack Any Standing to Bring the Appeal

The Appeal is Untimely

Appellants' clearly and unequivocally stated that they are "specifically [appealing] the issuance of a Certificate of Appropriateness." See Exhibit A at 1. The City Attorney Advice Letter and the LTC 381-2021 confirmed that, as allowed by Sec. 118-563(d) of the Code, the Permit is both a building permit and a COA. See Exhibit E at 2; Exhibit F at 9-10. Pursuant to Sec. 118-9(b)(2)(A), a petition for an appeal of an administrative decision, such as the issuance of a COA, must be submitted by an eligible party to the planning director "on or before the 30th day after the date of publication."

Issued permits are posted on the City's permit database. **Any person may search the City's permit database by address at any time.** This posting constitutes adequate publication under the Code. In fact, in a memorandum to City Commission the City Attorney states: "[i]t is important to note that due to the sheer volume of administrative

level certificate of appropriateness applications, as well as the limited nature of the work that is eligible for administrative review, **the date of the issuance of the building permit has always been used as the timeframe for which an appeal of an administrative decision can be filed**." (emphasis added). See Exhibit L, Memorandum to Commission 12/08/2021.

Finding that the posting of issued building permits on the City's online permit database is not publication of the administrative COA would leave every administrative COA issued in this fashion—which has been the Planning Department's standard practice for years—vulnerable to an appeal during the whole period that a building permit is open. Hundreds of administrative COAs, and indeed all other administrative determinations, would be vulnerable to appeal for a long and unpredictable period of time. This would invalidate the purpose and usefulness of administrative review processes as they would result in a development that is too risky and volatile for any reasonable person to undertake. Further, persons owning potentially historic properties would likely forego and resist designating their property as historic if even minor renovations would require a public hearing before the HPB to foreclose possible appeals. This is counterproductive to the City's historic preservations goals. Public hearings are expensive, time consuming and unnecessary for the type of minor work that can be approved administratively under the Code. The City would have to unnecessarily spend substantial money and resources

accommodating the increased number of public hearings that are sure to ensue. Therefore, posting on the City's permit database constitutes publication under the Code.

The Building Permit was applied for on August 7, 2017, and was issued on December 16, 2019. See Exhibit A. Issued building permits are published on the City's online permit database at the time of issuance. See Exhibit L. Accordingly, the deadline to appeal the Permit **was January 16, 2020**. This Appeal, filed on October 13, 2021, almost two years after the Permit was issued and after substantial work pursuant to the Permit has been completed, is untimely and must be dismissed.

Further, in this case, the **Appellants had actual notice** that the Permit acted as an administrative COA, both because construction was visibly commenced as early as June 2021, and, at the very least, as of July 26, 2021, they acknowledged their notice in the July 26 Letter. Yet they did not file the Appeal until October 13, 2021—well over 30 days later. In their July 26 Letter Appellants state "[w]e understand that your Staff maintains that the Planning Department reviewed the Project Plans and that the mere issuance of the Building Permit to the permit applicant served as a de facto COA." See Exhibit G at 2. Further they noted that renovations pursuant to the Permit were "well underway". See *Id.* at 1. Instead of filing an appeal then, Appellants **chose to sit on the their (purported) rights** and waited until October 13, 2021, the very day City Commission approved an ordinance prohibiting apartment-hotel use in the Property's zoning district, to file the Appeal. The Appeal's timing manifests the Appellants'

unmistakable goal, not to respect a historic preservation process, but rather to destroy the use that the Permit approved in December 2019.

During the time that Appellants sat on their potential appeal and waited for the City Commission to act on apartment-hotel uses, the Property Owner continued to spend time and resources progressing visible work on the Property. Far more than 30 days passed from Appellants' actual notice to their filing of this Appeal. Therefore, this Appeal is not timely and must be dismissed.

Appellants Lack Standing

Section 118-9(b)(2)(B) limits standing to bring an administrative appeal before the BOA. Section 118-9(b)(2)(B)(iii) expressly provides that "an affected person, which for purposes of this section shall mean a person owning property within 375 feet of the site or application which is the subject of the administrative appeal …."

The Appellants have not provided any evidence that they are persons owning property within 375 feet of the Property. Absent timely, factual proof of the facts required by the Code to be shown, the Appeal must be dismissed for lack of standing.

II. The BOA Lacks Jurisdiction Over this Appeal.

BOA Lacks Jurisdiction to Review the Administrative COA

The Permit was issued pursuant to Section 118-563(d) which provides that all applications for certificates of appropriateness involving minor repairs, demolitions,

alterations and improvements as defined in the section shall be reviewed by the staff of the board. Minor repairs are further defined as:

(1) Ground level additions to existing structures, not to exceed two stories in height, which are not substantially visible from the public right-of-way (excluding rear alleys), any waterfront or public parks, provided such ground level additions do not require the demolition or alteration of architecturally significant portions of a building or structure.

(2) Replacement of windows, doors, storefront frames and windows, or the approval of awnings, canopies, exterior surface colors, storm shutters and signs.

(3) Façade and building restorations, recommended by staff, which are consistent with historic documentation, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure

(4) Minor demolition and alterations to address accessibility, life safety, mechanical and other applicable code requirements, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.

(5) Minor demolition and alterations to rear and secondary facades to accommodate utilities, refuse disposal and storage, provided the degree of demolition proposed is not substantial or significant and does not require the demolition or alteration of architecturally significant portions of a building or structure.

Pursuant to Section 118-563(e), **only** decisions of the Planning Director issued pursuant to Sections 118-563(d)(**1**) and 118-563(d)(**3**) can be appealed to the BOA.[4]

[4] Section 118-563(e) is the controlling Code section. While Section 118-9(b)(1) gives the BOA general authority to hear appeals of decisions of the planning director, 118-563(e) specifically addresses appeal rights in relation to administrative COAs. As the Code itself states in Section 114-2 of the Code "when there are different regulations, one general and one more specific, both of which may apply to a given subject, the more specific one shall

Scope of work pursuant to subsections 118-563(d)(**2**), 118-563(d)(**4**), and 118-563(d)(**5**) are not appealable to the BOA. Here, all renovations are minor and fall under Sections 118-563(d)(**2**) and 118-563(d)(**4**), as described below and are therefore **not appealable to the BOA**.

The majority of the renovations consist of the replacement of existing windows and doors with impact resistant windows and doors, which fall under 118-563(d)(2) and **are therefore not appealable**. At Staff's request, the scope of work contemplates converting a window back to its historic condition as a door, by lowering the sill on the east elevation, which constitutes "replacement of windows, doors" under 118-563(d)(4); one such replacement of a window to a door is exceedingly minor, enhances accessibility, and cannot be considered an entire "façade restoration." Additional minor renovations including blocking the rear unit service doors on the ground floor on the north elevation constitute "minor alterations to address…other applicable code requirements" (i.e. requirements of apartment-hotel use) under Section 118-563(d)(4) and therefore **are also not appealable**. Other minor renovations include converting a window into an ADA-compliant door on the south elevation and enlarging a window to match a new ADA-

govern…" The more specific provisions governing the rights of Appellants then expressly bars their effort to appeal this administrative COA.
Again Section 118-9(b)(2)(A) limits the appeals period to 30 days from the date of publication of the decision, which the Appellants did not comply with.

compliant door on the north elevation which are "alterations to address accessibility" specifically mentioned in 118-563(d)(4) and therefore **are also not appealable**.

Therefore, the scope of work in the Permit was not appealable to the BOA and as already determined by planning professionals on three separate occasions, was minor as defined in Section 118-563(d) and, **staff was within its right to issue an administrative COA**. See Exhibit E at 1-2; Exhibit F at 9-10; Exhibit H at 15.

The BOA Lacks Jurisdiction to Review Advice of the City Attorney

The BOA has limited authority to hear administrative appeals. Generally, pursuant to Section 118-9(b)(1), the BOA has the authority to hear and decide "administrative appeals when it is alleged that there is error in any ***written planning order, requirement, decision, or determination made by the [planning] director*** or his designee in the enforcement of these land development regulations." (emphasis added).

As previously noted, Appellants clearly state that they are appealing the issuance of the Permit. If Appellants seek to appeal statements made by the City Attorney in LTC 381-2021 dated September 14, 2021, then the Appeal is not properly before the BOA. The BOA can only hear orders, requirements, decisions and determination made by the **Planning Director, not the City Attorney**.[5]

[5] An appeal of the City Attorney Advice Letter would be improper both as an appeal of the City Attorney's opinions and untimely as more than 30 elapse since the City Attorney Advice Letter was published.

The City Attorney Appeal Acknowledgement Letter, states that this Appeal was of "certain administrative decisions" set forth in LTC 381-2021. See Exhibit K; Exhibit F. Allowing this Appeal to proceed under that basis was a mistake. LTC 381-2021 is a letter of the City Attorney providing his legal opinion regarding specific questions posed by the City Commission. **Legal opinions of the City Attorney are not appealable to the BOA.** The Planning Director's only administrative decision was the issuance of the Permit and as previously stated, the period to appeal that determination elapsed on January 16, 2020. The fact that the determination was merely discussed in LTC 381-2021 does not create a new appeal period.

Further, in LTC 381-2021, the City Attorney was acting properly in his position as legal counsel to the City, not as a designee of the Planning Director. See Exhibit F. Finally, these statements are advice and are not properly categorized as orders, requirements, decision or determinations. The City Attorney was simply opining about the legality of previous orders, decisions and determination made by the Planning Director. As such, the BOA does not have authority to hear this Appeal.

III. A Hearing Before the HPB Was Not Required to Issue the Permit

The Appellants erroneously argue that the work approved by the Permit is not minor because it calls for "a gut renovation of the entire building, both inside and out, creation of new interior public spaces where none previously existed, closure of existing

doors and window openings, enlargement of existing window openings and creation of new entrances as well as overall redevelopment and chance in use." See Exhibit A at 5. This statement is both factually wrong and misleading—the proposed renovations are in fact minor as defined in the Code and as interpreted and applied by the City's professional staff.

As a preliminary matter, any historic preservation review is strictly limited to the exterior components of designated buildings and public interior spaces. Interior non-public spaces are not within subject to historic preservation review. See Sec. 114-1 (definition of "historic building"); Sec. 118-563(a); Exhibit F at 9. The Property has historically operated as a multifamily apartment building. The lobby or common area of a residential building is not a public open space like a hotel lobby which may be significant and preserved. Finally, historic preservation review is concerned with the preservation of existing historically designated public interior spaces, not the creation of new interior public spaces ones. All interior renovations—which is the majority of the work approved pursuant to the Permit—are therefore well beyond the scope of historic preservation review.

As for the exterior renovations, again the scope of work all constitutes "minor" repairs, demolitions, alterations and improvements pursuant to Section 118-563(d), and more specifically falls under Sections: 118-563(d)(2) and 118-563(d)(4) of the Code, as described above. A review of the plans makes clear that all exterior renovations are in

fact minor. See Exhibit C. The Independent Report further confirmed this fact stating that: "Staff used its discretion to reach a determination regarding which improvements requested […] fell under of Section 118-563(d)…." See Exhibit H at 16.

Further, these minor renovations are consistent with the S&Gs. As previously stated, most of the exterior renovations consist of replacing windows and doors. Staff reviewed the new windows and doors to ensure that they were consistent with the historic façade of the building and preserved its architectural legacy. In addition, the replacement of a window back to its historic condition as a door (by merely lowering the sill) bolsters the architectural legacy of the building. These renovations were therefore entirely consistent with the S&Gs and properly considered minor under the Code.

Section 118-563(d) actually mandates that all applications for certificates of appropriateness involving minor repairs, demolition, alterations and improvements **shall be reviewed by the staff of the board,** who shall approve, approve with conditions, or deny a certificate of appropriateness. As the facts show, the renovations were minor and, thus, at no time was a hearing before the HPB required – or even allowed under the Code. This determination was made first by the Planning Department at the time of review and was recently confirmed. The City Attorney Advice Letter unequivocally states: "**the work did not (in 2019) require review by the HPB and as long as the work is consistent with what is shown in the approved permit plans, HPB review will not be required.**" See Exhibit E, at 2. Further the Independent Report concluded that "Staff used its

discretion to reach a determination regarding which improvements requested (…) fell under of Section 118-563(d)." See Exhibit H, at 16. Because at no time was a HPB hearing necessary or proper to issue a COA, this Appeal must be dismissed.

IV. The Property Owner Has a Vested Right to Resume and Complete Development Pursuant to the Permit.

Once a building permit is issued, if the property owner has in good faith relied on the building permit to his detriment, the property owner has a vested right in the permit and may finish development accordingly. See *Sakolsky v. City of Coral Gables*, 151 So.2d 433, 436 (Fla. 1963); *Smith v. City of* Clearwater, 383 So. 2d 681, 686 (Fla. 2d DCA 1980); *Metro Dade Cty. v. Rosell Const. Corp.*, 297 So.2d 46, 48 (Fla. 3d DCA 1974).

The Permit challenged here was issued on December 16, 2019. In reliance on the Permit, the Property Owner purchased the Property in April 2021, and began construction pursuant to the Permit in June 2021. Since then the Property Owner has invested substantial time and financial and other resources progressing work on the Property pursuant to the Permit. The Property Owner's reliance on the Permit was made in good faith and at no time did the Property Owner have reason to believe the Permit could not be issued administratively or was otherwise improperly issued by the City. Accordingly, the Property Owner has a vested right in the Permit and in completing the repairs and renovations allowed under it.

CONCLUSION

The Appeal is both procedurally improper (untimely, not properly before the BOA, and improperly brought by parties without legal standing) and also substantively invalid (improper challenge to a valid administrative COA and improper effort to deprive the Property Owner of its vested right in the Permit). The Stay-of-Work order issued by the very staff that issued the Permit, on the sole ground that this Appeal has been filed, is causing irreparable financial and other harms to the Property Owner and threatens a historically contributing structure. Respondent, Miami SOFI BEST, LLC, therefore respectfully requests that the Appeal be immediately dismissed, the Stay-of-Work order lifted, and the BOA case file closed.

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