

HPB21-0487, 1901 Collins Ave.  
5/10/22 meeting "Exhibit B"

BOOK 1974 PAGE 1

THIS AGREEMENT entered into this 18<sup>th</sup> day of April, 1938, between SAM MATZ, MAX MATZ and EDWARD MATZ, AS TRUSTEES OF THE BESS MATZ LIBERMAN TRUST (hereinafter referred to as "Trustees") and TRAYMORE HOTEL, INC., a corporation organized and existing under the laws of Florida (hereinafter referred to as "Traymore"),

W I T N E S S E T H:

WHEREAS, an agreement was heretofore entered into dated July 16, 1936, between Philip Liberman and Bess Matz Liberman, his wife, and Rebecca Shappell and Clayton E. Shappell, her husband, creating certain easements and providing for certain restrictions on the following described lands situate, lying and being in the City of Miami Beach, Dade County, Florida, to wit:

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9) and Ten (10), of Block "A" of OCEAN FRONT PROPERTY OF MIAMI BEACH IMPROVEMENT COMPANY, according to Amended Plat thereof, recorded in Plat Book 5, at Pages 7 and 8, of the Public Records of Dade County, Florida; also that strip of land lying between the easterly boundary of said Block "A" and the Atlantic Ocean, and bounded on the North by the southeasterly extension of the North line of said Block "A" and bounded on the South by the southeasterly extension of the Southerly boundary line of said Block "A", together with all riparian rights, if any, appurtenant to said lands;

which agreement was filed in the office of the Clerk of the Circuit Court of Dade County, Florida, on August 11, 1936, and recorded in Deed Book 1727, at page 535, and

WHEREAS, the Trustees have succeeded to all the rights and privileges of the said Philip Liberman and Bess Matz Liberman in and to said agreement and are the owners of said Lots 2, 4, 6, 7, 8, 9 and 10, and Traymore has succeeded to all the rights and privileges of the said Rebecca Shappell and

Clayton E. Shappell in and to said agreement, and is the owner of said Lots 1, 3 and 5, and

WHEREAS, the said Rebecca Shappell and Clayton E. Shappell, and Traymore, have made or caused or permitted to be made without the consent of the Trustees certain improvements and erected certain structures on said Lots 1, 3 and 5 as appear by a Sketch of Survey prepared for Loftin, Stokes & Calkins by Biscayne Engineering Company, Civil Engineers, Miami, Florida, dated December 22, 1938, attached to this agreement and made a part hereof, and

WHEREAS, a controversy has arisen between the parties as to whether the erection of said improvements and structures constitutes a violation of the agreement of July 16, 1936, and

WHEREAS, the parties have agreed by this instrument to settle and compromise their differences arising out of the said construction of the said improvements,

NOW, THEREFORE, in consideration of the premises and of the mutual promises of the parties herein contained, and of the waiver by the Trustees of the alleged violations of the agreement of July 16, 1936, the parties hereto covenant and agree as follows:

1. That the structures and improvements erected on said Lots 1, 3 and 5 as the said structures and improvements are shown on the attached sketch, may remain upon said lots, and may be repaired or rebuilt provided that their present type and character of construction are not substantially altered.

2. That the Trustees may, at any time in the future, in their discretion and as they shall see fit, erect (and repair or rebuild) on said Lots 3, 4 and 5 structures and improvements

of the same type and character as the said Rebecca Shappell and Clayton E. Shappell and Traymore have made or caused or permitted to be made on said Lots 1, 3 and 5, but the waiver by the Trustees of the alleged violations of the agreement of July 16, 1936, and the execution of this agreement, shall not in any way affect any of the other rights of the Trustees under the said agreement of July 16, 1936, it being understood that this agreement shall operate only as a waiver on the part of the Trustees of such alleged violations of the agreement of July 16, 1936, as have been occasioned by the construction of the improvements and buildings which are now on Lots 1, 3 and 5 as aforesaid.

3. Nothing in this agreement shall in anywise affect the rights of the Trustees or of Traymore to erect new buildings or structures, provided they are erected in accordance with the said agreement of July 16, 1936. By "new buildings or structures" is meant, (1) such construction which is not done to repair or rebuild the buildings or improvements which are now on Lots 1, 3 and 5, or (2) such construction which is not done to repair or rebuild the buildings or improvements which may be erected by the Trustees on Lots 2, 4 and 6 of the same type and character as the buildings and improvements now on Lots 1, 3 and 5.

4. The construction of any "new buildings or structures" in the future by either party shall be controlled and restricted by the said agreement of July 16, 1936.

5. The private driveway mentioned in paragraph 2 of said agreement of July 16, 1936, is hereby reduced from a width of 20 feet throughout to a width of 18 feet throughout, and shall be maintained and kept open to the sky, the parties hereto dedicating a strip 8 feet 6 inches on each side of the north and south dividing line between Lots 7 and 8 on the west and Lots 5

and 6 on the east, that is to say, each of the parties dedicated so much of their respective property as is necessary to create such 10 foot driveway and each of the parties hereby accepts the dedication so made by the other and the parties agree that the resulting 10 feet shall constitute a private drive and shall continuously be maintained and kept open to the sky subject to revocation only by the joint act of the parties hereto or their successors in ownership so dedicated. Such portions of said paragraph 2 not herein amended or modified are re-adopted and re-affirmed.

6. Should Traymore remove that certain one-story frame building measuring about 27.5' x 18' and located near the southeast corner of said Lot 1, the respective parties agree that when said building is so removed, for all intents and purposes, it shall for all times be considered by the parties hereto as though said building had never been erected on said lot notwithstanding any reference thereto in that certain blueprint hereinbefore referred to, and which building is thereon designated by the letter "B". If, before said building should be removed by Traymore the said Trustees shall have erected a similar building in a corresponding position on Lot 2, it is hereby understood and agreed that when Traymore demolishes its said building, then the Trustees shall likewise demolish and remove the building which they may have meanwhile so erected.

7. All the conditions and stipulations contained in said agreement of July 16, 1936, that have not been amended or modified by this agreement, are hereby re-adopted, ratified and confirmed. In the event either party hereto shall violate or attempt to violate any of the provisions of this agreement or of the agreement of July 16, 1936, then, in such event, either party may, without notice to the other party, and at the expense of the offending party and without liability to the aggrieved party, enter upon the premises of the offending party and remove the same.

and remove any structure or thing that may exist thereon contrary to the intent of this agreement or of the agreement of July 16, 1936, or either party at their election, in addition to the remedies hereinabove set forth may, without notice to the offending party, apply to any court of competent jurisdiction, and consent is hereby given to said Court, upon said application, to issue a restraining order, injunction or such other legal or equitable remedy as may be necessary or appropriate against the violation by the offending party of any of the provisions contained in this agreement or in that of July 16, 1936. The remedies herein provided for the benefit of either party to this agreement or to that of July 16, 1936, shall be cumulative and not exclusive of any other remedy which the law may afford to either party hereto.

8. This agreement and the agreement of July 16, 1936, and all the conditions, stipulations, restrictions and prohibitions contained in both of said agreements have been made for the benefit of the land and shall run with and bind the land and shall be binding upon the heirs, executors, successors and assigns of the parties and shall inure to the benefit of and be enforceable by the respective owners thereof and the failure of either party to enforce said agreements or either of them or any of the covenants contained therein, shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or to any breach occurring prior or subsequent thereto.

IN WITNESS WHEREOF, the Trustees have hereunto set their hands and seals and Traymore Hotel, Inc. has caused its corporate name to be subscribed by its duly authorized officers and its corporate seal to be affixed, all on the day and year first above written.

Signed, sealed and delivered  
in the presence of:

*[Signature]*

*[Signature]* (SEAL)  
Sam Hays

*[Signature]*  
As to

Signed, sealed and delivered  
in the presence of:

*[Signature]*  
*William F. Sandmeyer*  
As to Max Matz

*Margeline Sadler*  
*Mary Dunphy*  
As to Edward Matz

*[Signature]*  
*Clayton E. Sheppell*  
As to Traymore Hotel, Inc.

*Max Matz* (SEAL)  
Max Matz

*Edward Matz* (SEAL)  
Edward Matz

AS TRUSTEES FOR THE BESS MATZ  
LIBERMAN TRUST.

TRAYMORE HOTEL, INC.,

By *Re. Sheppell*  
President.

Attest:

*P.E. Greasy*  
*and Secretary*



STATE OF FLORIDA }  
COUNTY OF DADE }

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Florida, County of Dade, personally appeared SAM MATZ, as Trustee for the Bess Matz Liberman Trust, to me personally known and known to me to be the person described in and who executed the foregoing instrument as Trustee for the Bess Matz Liberman Trust, and who acknowledged before me that he executed the said instrument in his capacity as such Trustee, freely and voluntarily and for the purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, in said County, and State, this 18<sup>th</sup> day of April, 1939.



May Dunphy  
Notary Public, State of Florida.

My Commission Expires:

June 11, 1941

STATE OF FLORIDA }  
COUNTY OF DADE }

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Florida, County of Dade, personally appeared MAX MATZ, as Trustee for the Bess Matz Liberman Trust, to me personally known and known to me to be the person described in and who executed the foregoing instrument as Trustee for the Bess Matz Liberman Trust, and who acknowledged before me that he executed the said instrument in his capacity as such Trustee, freely and voluntarily and for the purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, in said County, and State, this 18<sup>th</sup> day of April, 1939.



May Dunphy  
Notary Public, State of Florida.

My Commission Expires:

June 11, 1941



BOOK 1974 PAGE 8

STATE OF FLORIDA }  
COUNTY OF DADE }

BEFORE ME, the undersigned authority, a Notary Public, in and for the State of Florida, County of Dade, personally appeared EDWARD MATZ, as Trustee for the Bess Matz Liberman Trust, to me personally known and known to me to be the person described in and who executed the foregoing instrument as Trustee for the Bess Matz Liberman Trust, and who acknowledged before me that he executed the said instrument in his capacity as such trustee, freely and voluntarily and for the purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, in said County and State this 25<sup>th</sup> day of April, 1939.



May Murphy  
Notary Public, State of Florida.

My Commission Expires:

June 11, 1941.

STATE OF FLORIDA }  
COUNTY OF DADE }

I HEREBY CERTIFY that on this 18th day of April, A. D. 1939, before me personally appeared Re Shappell, and R. E. Cressy, respectively President and Secretary of TRAYMORE HOTEL, INC., a corporation under the laws of the State of Florida, to me known to be the individuals and officers described in and who executed the foregoing instrument, and severally acknowledged the execution thereof to be their free act and deed as such officers thereunto duly authorized; and that the official seal of said corporation is duly affixed thereto, and the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal at Miami, in the County of Dade and State of Florida, the day and year last aforesaid.



May Murphy  
Notary Public, State of Florida.

My Commission Expires:

June 11, 1941.



1-8-79

DADE

DATE REPRODUCED

LOCATION

REPRODUCED FROM

State of Florida County of Dade.

This instrument was filed for record on the 27 day of May  
1979 at 10:43 AM and duly recorded in Book 1974 at  
Page 1 File No. 22058

E. H. LEATHERMAN,  
Clerk Circuit Court

H. Gardner

SKETCH-SURVEY

Survey of land of State of Florida  
containing certain Building Lines

100

LANTIN STONES & CALKINS

RECORDING COMPANY

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING

RECORDING