CITY OF MIAMI BEACH BOARD OF ADJUSTMENT HEARING MAY 5TH, 2023

1330 15th St Miami Beach, FL 33139

Case Specifics

Property was purchased on November 15, 2019 by 1330 15th Street LLC

 I am the manager of this LLC, which is 100% owned by Thangavel Family 2006 Irrevocable Trust, which has myself and my brother as sole trustees and beneficiaries

The property was properly licensed as a Hotel by the State of Florida, Miami-Dade County and City of Miami Beach at the time of purchase

In August 2020, an ordinance was passed to make shortterm rentals and hotels not allowed by zoning in the West Avenue Overlay

The Hotel use of the property became nonconforming after this time

Planning Director's Determination

The Planning Director has determined that 1330 15th St. abandoned its nonconforming use, Hotel, by adopting a conforming use of Apartments

Unfortunately, the Planning Director has based his entire determination on a **forged document**

- I submitted the Correct BTR Application to Damian Gallo, The Permit Doctor on November 18, 2019 (Exhibit A of my Response to the Planning Director)
- Somehow, a Forged BTR Application was submitted to the City of Miami Beach some time between November 18, 2019 and December 27, 2019

Forged BTR Application, Staff Report Exhibit CMB-F: Page 1

Exhibit 'CMB-F' (1 of 2) BTR 008501-12-2019 BLPC2019-08005. New Plan Number: Send Business Mailto Attention of: Last City License # for This Address: Make Check Pavable to: CITY OF MIAMI BEACH City of Miami Beach Certificate of Use (CU), Annual Fire Inspection Fee & Business Tax Application This application is NOT your business tax receipt. Do not operate the business until the Certificate of Use and the Business Tax Receip Address are issued. The place of business must be available to all inspectors Type of Application: __New Butiness Change of Owner __Adding Seats __Additional Occupation __Change of Location Application Checklist Federal ID No _____Fictitous Name Registration Articles of Inc (ifappicable) _____State License (ifappicable) Bit of Sale ______Insurance Lease/Deed/Closing Statement CUandAnnualFireFee(non-refundable Name of Emergency Contact Does the Application Involve: Change of Use Renovation (Provide Certificate of Occupancy Process Number A Channe of Use may generate additional building and fire code requirements as applied to new construction A valid Certificate of Occupancy is required before an occupational license can be issued. Is the Business one or more of the following types: Tes dualeres one of one of one of the intervent grades.
Head
An and Antice An Apartment Building loe Cream Parlor Hair Salon Escort Service sthe Business one of the following types: sube business one of the topological substances on topological substances on the topological substances on the topological substances on Business Name 1330 15th Street LLC cation Date_11/13/2019 Location 1330 15th st Miami Beach FL 33/09 Lease Own____ Type of Business (be very specific) Short form read Hours of Operation Hours Serving Alcohol _____ APT Bldg Name (10mm) (10mm) (10mm) (10mm) (10mm) (1/29/1934) 01 (1521-000-30) (1/29-0) Federal 10n 94-337 5063 500 55-1102 Home Accords 1714 Boly 101 255 120 04 (10 and 10 and 12 Rev. 09/13/36 CXC. Cal Home Phone (318) 667-19 Business Phone Email Address athan wel@ laksbri - capital com end Business Mailto Attention of _____ ame as above, ourse Business Phone (818) 667 - 1875 RM: OCC-1 Rev. 09/13/16

Forged BTR Application, Staff Report Exhibit CMB-F: Page 2

If Retail, what is the inventory value? General \$_____ Food \$_____

Hair or Nail Salon? If yes, number of seats _____

Motor Scooter Rentals? If yes, number of scoolers _____

A Miami-Dade County Business Tax Receipt is also required. See "Miami Dade County Business Tax for more information.

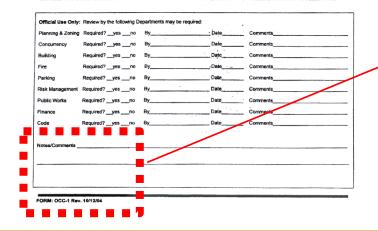
Contact the Planning Department for a Sign Permit which is required for all signage.

Any person who, in applying for a business license in the City of Miami Beach, who shall make a false statement and/or fail to disclose and/o misrepresent the information requested shall be subject to penalties authorized by City Code Section 102-375.

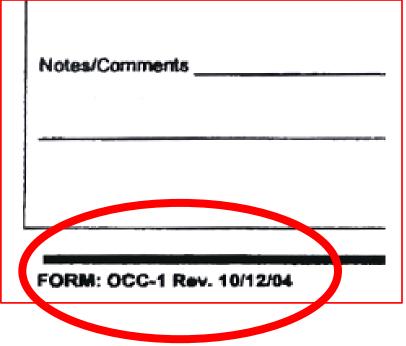
I UNDERSTAND THAT IT IS MY RESPONSIBILITY TO FOLLOW-UP ON THE APPROVAL PROCESS FOR THIS APPLICATION. TO FOLLOW-UP PLEASE CALL 305-673-7420 FOR FURTHER INSTRUCTIONS AND/OR STATUS.

I HAVE READ THIS APPLICATION AND I DO FREELY AND VOLUNTARILY CONFIRM THAT THE STATEMENTS AND INFORMATION CONTAINED THEREIN ARE TRUE AND CORRECT.

Anonthon Thomawel Standing 5 - 11/18/2019



Pages 1 and 2 are completely different revision numbers, as well as different handwriting. This is a FORGED document.



Actual BTR Application, Submitted by Ananthan Thangavel on 11/18/19 to Damian Gallo: Page 1

Certificate		y of Miami Beach Fire Inspection Fee &	Business Tax Application
This application is <u>NOT</u> your bus		perate the business until the C issued. iness must be available to all i	ertificate of Use and the Business Tax Receipt e are inspectors.
ype of Application: New Business Change of Location	Change of Owner	Adding Seats	Additional Occupation
Application Checklist Federal ID No. Articles of Inc. (if applicable) Bill of Sale	Fictitious Nam State License Insurance	e RegistrationLea (if applicable)CU	se/Deed/Closing Statement and Annual Fire Fee (non refundable)
oes the Application involve:	Change of Use	Renovation (Provide Ce	rtificate of Occupancy Process Number)
Change of Use may generate a			
Valid Certificate of Occupancy	s required before an occup	pational license can be issued.	
s the Business one or more of Apartment Building lce Cream Partor Hair Salon Escort Service Retail Alcohol Sales Beach Front Concession	the following types: _ Condominium _ Delicatessen Home Based Business _ Janitorial Service _ Travel (sales) _ Machine Distributor	✓ Hotel Nightclub Health club Mail Order Mobile Caterer	Restaurant Bakery Dancing/Entertainment Real Estate Pronofer Valet Pre-Package Food Motor Scotlar Alcoholic Beverage Establishment
s the Business one of the folic Adult Congr Liv Facility Parking Lot / Garage Video Game Arcade	wing types: _ Day Care _ Outdoor Entertainment _ Gasoline Sales	Nursing Home Open Air Entertainment Restaurant	Religious Institution School Pawnshop Warehouse Alcoholic Beverage Establishment

Hours of Operation_

FL zip 33139

DL# TEA-000-81-319-0 FL

Business Phone (\$18)667-1975

Phone (661) \$ 400-6577

Type of Business (be very specific)_____

Name of Owner / President, <u>Anda Haan Theonga ~1</u> Date of Birth. <u>9/29/1984</u> EFR: <u>64-337 8063</u> ssn. <u>564-85-4107</u> Home Address. <u>1504 Bary Rozal Apt. 720 _____</u>City <u>Milan</u>; Brichsson

ng rlank mi - capital.

Sea 63 0

tome Phone (8)8 667-1975 Business Phone

Name of Emergency Contact Murges Thragavi

Mail to Attention of:

Hours Serving Alcohol

ORM: OCC-1 Rev. 10/12/04

Address	·				
Name o	f Emerger	ncy Cont	act_N	lur.	ig es

Actual BTR Application: Page 2

Is the Buainess s: Hote Or Apartmen? If yes, how many units? # of washerskifyers (if owned)	same, and handwriting is the same; document
Office or Retail Establishment? If yes, approximate sq. ft Food \$ Liquor\$	is legitimate
Hair or Nail Salon? If yes, number of seats	
Motor Scooter Rentals? If yes, number of scooters	
A Miami-Dade County Business Tax Receipt is also required. See "Miami Dade County Business Tax for more information."	
Contact the Planning Department for a Sign Permit which is required for all signage.	Notos (Componto
Any person who, in applying for a business learne in the City of Marri Reach, who shall make a false statement and/or fail to disclose and/or misrepresent the information requested shall be subject to penalise authorized by City Code Section 102-375.	Notes/Comments
I UNDERSTAND THAT IT IS MY RESPONSIBILITY TO FOLLOW-UP ON THE APPROVAL PROCESS FOR THIS APPLICATION. TO FOLLOW-UP PLEASE CALL 305-673-7420 FOR FURTHER INSTRUCTIONS AND/OR STATUS.	
I HAVE READ THIS APPLICATION AND I DO FREELY AND VOLUNTARILY CONFIRM THAT THE STATEMENTS AND INFORMATION CONTAINED THEREIN ARE TRUE AND CORRECT.	
Anostron Thomas III/18/2019	
Official Use Only: Review by the following Departments may be required:	
Planning & Zoning Required? _vesno By Date Comments	
Concurrency Required?_yesno ByDateComments	
Building Required?_yesno By Date Comments	
Fire Required?_yes_no ByDateCommonts	
Parking Required?_yes_no ByDateComments	
Risk Management Required?_yesno By Date Comments	
Public Works Required?_yesno ByDateComments	
Finance Required?_yesno ByDateConsiderits	
Code Required?_yesno ByDateComments	
Notes/Comments	entration and an
	FORM: OCC-1 Rev. 10/12/04
-	
FORM: OCC-1 Rev. 10/12/04	

Povision numbers of pages 1 and 2 are the



Forged BTR Application

Whoever forged this document took my legitimate signature page, hand wrote a new page 1, and slipped my signature page as page 2 to create a new, false document

I believe this person to be Damian Gallo

I reported this crime to the Miami Beach Police Department on December 5, 2022

• I am continuing to work with the Police to bring this man to justice

It is not possible for this document to suffice as my voluntary intention to abandon the Hotel use of my property

• Intent cannot be proven by the result of a crime

The Planning Director was made aware of the illegitimacy of this document by both his attorney Nick Kallergis and the City Attorney Office at least three months ago, yet decided to completely ignore it

Exhibit I of Aaron Resnick Letter Dated 4/17/23: Email Communications with City of Miami Beach Employees Clearly Show Intent to Retain Hotel Use

On May 19, 2020, Taneya Williams and Jeannie Castor of the City of Miami Beach emailed me back and forth multiple times, requesting signed versions of a Resort Tax Application (Exhibit J of Aaron Resnick Letter) and Smoke Detector Form (Exhibit L of same letter) as final items to issue my BTR

Both documents were provided to them nearly instantly, clearly marking either Hotel or Short-Term Rental as Use

Direct email communication with the City shows I always intended to retain a Hotel use of the property

The Planning Director openly admits that the City received this Resort Tax Application that showed Hotel as Use dated April 12, 2020

Somehow, despite multiple documents showing that I requested Hotel as Use, the City incorrectly issued me a BTR as Apartment

This was an obvious mistake by the City

1330 15th St was Properly Licensed by State of Florida and Miami-Dade County as Hotel since December 18, 2019

1330 15th Street maintained a Transient Apartment license from the State of Florida from 12/18/19 to the present (Exhibit H in my Response to Planning Director)

- State definition: A transient apartment is any apartment building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy
- In fact, the Transient Apartment license is issued by the Division of Hotels and Restaurants by the State of Florida

The Planning Director and Ricardo Guzman initially tried to argue that the Resort Tax Account for 1330 15th St had been created in accordance with the state license (Exhibits F and G of my Response to Planning Director) before the Planning Director changed his argument in the Staff Report, and claimed that the state license has no relevance

 The Planning Director has changed his explanation of the Resort Tax Account at least 3 separate times 1330 15th St was Properly Licensed by State of Florida and Miami-Dade County as Hotel since December 18, 2019

The Planning Department claimed that the BTR and Resort Tax accounts were created based on my Florida State License

- From Ricardo Guzman's email (Exhibit G of my Response to Planning Director): "Also, on May 19, 2020: A new Resort Tax (RTX) account was setup by the Finance Department. Both BTR and RTX accounts were created based on the Florida State License (#TAP2330379), which is for an Apartment Building"
- As we know, this license is NOT for an Apartment Building, it is for Transient Apartment
- The city issued the wrong BTR based on an obvious error

1330 15th St's Use Was Changed Without Building Official Approval The Planning Director has asserted that "the change in use for the Property approved by the City in December 2019 was considered a change from a more intense use (hotel) to a less intense use (apartment)".

Unfortunately, this argument has no legal validity

Florida Building Code § 111.1 Use and Occupancy:

A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

There are no caveats made for "less intense" or "more intense" uses. Any change in use whatsoever requires Building Official approval.

The Building Official never approved a Change of Use for 1330 15th St.

Building Official Approval is Necessary for Change of Use for Good Reason If the Planning Director's fabrication of law were to actually be true, it would mean that all an applicant would need to do in order to change the use of a property without inspection or code review would be to argue that his intended use is "less intense"

This would mean that an Office could turn into a Nightclub with no input or review from the Building Official, so long as they could prove it is a "less intense" use

Obviously, this is an absurd outcome, and is completely contrary to the public good, much less explicit Florida state law

Exhibit CMG-G of Staff Report

Menu Workflow Details Item to page by the toport Man Details Name ETK/Planning Queue Description ETK/Planning Queue Stepsertment Review Set Order 0 Stepsertment Review Set Order 0 Stepsertment Review Name ETK/Planning Queue	
Plan Details Status Plan Organization Status Plan Organization Status Plan Organization Status Organization	
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🦝 Finance Review Finance Review Finance Review - 🔂 12/22/2019 01/05/2020 🗷 🚔 12/30/2019 🗷 🚔 1	

Exhibit CMB-C of Staff Report: CO19-1320

Certificate Number: C019-1320 Status: Issued Applied Date: 05/14/2019 Issued Date: 05/14/2019 Site Address: 1330 15 ST Unit Number: Parcel Number: 0232330160 Tenant: Property Owner: NOTUS LLC NOTUS LLC Occupancy Classification Code: R1 Total Number of Units of the Building: 8 Residential/Commercial/Mixed Use: Commercial Total Number of Units of the Building: 8 Residential/Commercial/Mixed Use: Commercial Base Flood Elevation: Florida Building Code Edition: Occupant Load: Certificate description and specific conditions: Occupant Load: Conversion to sube hotel, existing 4 units to new 8 units. Centraterms and conditions of the certificate : 1. This is to octify that the above noted structure or portion of the structure has been inspected for compliant florida Building Code and the provision of the zoning ordinance 80-2865 of City of Miami Beach for the procupancy and use. 1. As-built elevation certificate shall be provided by the upplicant for new construction, addition or substantia improvement, and is relained in the records of the Building Department. If the structure is designed for difference install waterlight shields over openings prior to a flood warning. 3. Any unauthorized additions, alterations or change in use of this property will void Certificate of Occupance is hereby granted to use said building for the purpose described abor subject to any condition(s) detailed in this document.	U LIVIII		CUPANCY
Applied Date: 05/14/2019 Issued Date: 05/14/2019 Site Address: 1330 15 ST Unit Number: Parcel Number: 0232330161 Tenant: Property Owner: NOTUS LLC NOTUS LLC Occupancy Classification Code: R1 Number of Building Floor: Total Number of Units of the Building: 8 Residential/Commercial/Mixed Use: Commercial Number of Units of the Building: 8 New or Substantial Improvement (Y/N): No Base Flood Elevation: Florida Building Code Edition: Occupant Load: Certificate description and specific conditions: Occupant Load: Conversion to sube hold: existing 4 units to new 8 units. General terms and conditions of this coning ordinance 80-2065 of City of Miami Beach for the proceupancy and use. 1. This is to certify that the above noted structure or portion of the structure has been inspected for complian Florida Building. Orde and the provided by the upplicant for new construction, addition or substantion instal waterfight shields over openings prior to a floot warning. 2. As-built elevation certificate shall be provided by the upplicant for new construction, addition or substantion instal waterfight shields over openings prior to a floot warning. 3. Any unauthorized additions, alterations or change in use of this property will void Certificate of Occupance is hereby granted to use said building for the purpose described abor subject to any condition(s) detailed in this document.	Certificate Number: CO19-1320	CATE OF OC	
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Exhibit 'CMB-C'

Certificate description and specific conditions:

CO -- BC1808547 -- Units 101-103, 201-204/ Interior remodeling of existing building, units 101-103 and 201-204, conversion to suite hotel, existing 4 units to new 8 units The City Made a Series of Errors on BTR Application Processing While the BTR Application was for Apartment, the Building Review was passed only on the basis of it being an 8 unit suite hotel, specifically referenced by the Certificate of Occupancy CO19-1320 in the notes

An application for Change of Use to Apartment should have been automatically Failed, at which point someone would have realized the disconnect, and that the property had not been reviewed or inspected for its new use to ensure its compliance with fire code and other safety regulations

In fact, even on the Forged BTR Application for Apartments, a Change of Use is not ticked, meaning the application was purporting to be processed as its existing use (which was Hotel); this also should have produced a Fail from the very beginning

The net result of this series of errors cannot be the permanent loss of use of my property, through no fault of my own

Precedent: 865 Collins

In a February 2018 case that came before this Board, a package liquor retailer had not paid his BTR renewal fees despite doing so properly for its prior years in existence

While the BTR fees had been unpaid, an ordinance was passed that made it illegal for a package liquor retailer to exist in the location in which it existed

The Planning Director held that the retailer was not acting lawfully at the time that the zoning had changed because the BTR fees had not been paid, and therefore it was not considered a legal nonconforming use at the time of the change in law

The BOA held that the nominal BTR fees not being paid did not constitute a basis for permanently stripping a business owner of their livelihood

Comparison of 865 Collins Case to 1330 15th St

In the matter of 1330 15th St, the Planning Director is basing his entire argument of voluntary abandonment of use of a property based on a single fraudulent document

The Planning Director has also deemed it unimportant that Florida law was violated in the Change of Use that occurred with no Building Official approval

The permanent loss of use of 1330 15th St based on the fraud of a 3rd party would be an unconscionable outcome

Thank You For Your Consideration