



James E. Rauh, Partner
Brickell World Plaza
600 Brickell Avenue, Suite 3600
Miami, Florida 33131
Phone: 305.789.2770
Fax: 305.537.3900
Direct Phone: 305.789.2732
Direct Fax: 305.537.3928
Email: james.rauh@gmlaw.com

April 17, 2024

Via Email

Thomas Mooney, Director
City of Miami Beach Planning Department
1700 Convention Center Drive, 2nd Floor
Miami Beach, Florida 33139

**Re: Response to the Cure Letter Regarding Mondrian Hotel
Planning Board File No. PB0616-0034 a/k/a PB File No. 1898
1100 West Avenue, Miami Beach, Florida 33139**

Dear Mr. Mooney:

Our Law Firm represents 1100 West Investments, LLC (“Mondrian”), the hotel owner/operator at 1100 West Avenue under the Conditional Use Permit (“CUP”) issued under Planning Board File No. PB0616-0034 a/k/a Planning Board File No. 1898.

Mondrian received your Cure Letter dated March 28, 2024, explaining you were notified nine (9) complaints were received for the pool area between January and March this year. According to the City’s records,¹ **none** of the complaints alleged resulted in a Noise Violation being issued, and therefore Condition No. 22 (i.e. the Noise Violation condition) does not apply to the instant complaints.

¹ The Cure Letter does not provide details or copies of the alleged nine (9) noise complaints, and the City has not yet responded to our Public Records Request for the same, therefore the information contained herein is based on the City’s online records available through Citizens Self-Service Portal.

Your letter requests Mondrian appear before the Planning Board for a progress report in accordance with Condition No. 21 due to “complaints about **loud, excessive, unnecessary, or unusual late night noise.**” (emphasis added). However, the noise complaints reflected in the City’s records from January to March 28 this year do not appear to meet the standard contained in Condition No. 21 for the following reasons:

- (1) **None** of the complaints alleged resulted in a Noise Violation being issued, and therefore all complaints were deemed by the investigating Code Compliance Officer(s) to be **invalid**.

- (2) Based on the City’s records, **none** of the complaints were found to be related to “loud, excessive, unnecessary, or unusual noise.” In fact, the City’s records indicate to the contrary, i.e. **“not loud/excessive,” “no noise heard,” “music not unreasonably loud nor excessive,”** etc.

- (3) Except for those complaints dated New Year’s Eve, none were issued after 11:00pm, the presumptive time the noise ordinance identifies as late night sufficient to trigger a stricter noise standard, and therefore the vast majority of the complaints alleged did not meet the “late night noise” standard under Condition No. 21.² In fact, some complaints were made in the early and late afternoon before sundown, i.e. **1:38pm, 4:45pm, 4:20p.m.**, etc., noting the Code Compliant arrival time is presumably even later than the time the alleged complaint was made by the complainant.

- (4) In some instances, the complainant did not even answer the Code Compliance Officer upon their arrival at the property, suggesting some alleged complaints may have been made anonymously, possibly by persons without a valid basis to make such complaints.

² While the CUP does not define “late night,” nor does the City’s Code, the standard which Code Compliance uses to determine a noise violation changes at 11:00 p.m. Section 46-152(b) of the City’s Code reads in relevant part as follows: “...between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 100 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.” Therefore, late night is presumably after 11:00 p.m.

In light of the foregoing, Mondrian contends the alleged noise complaints did not serve as a basis to issue the Cure Letter, and as a result, there should be no enforcement action by the Planning Board based on the facts alleged therein. For the reasons cited above, Mondrian respectfully requests you withdraw the Cure Letter and remove the progress report on this time from the April 25, 2024 Planning Board agenda.

In the event you should require additional information, or would like to discuss, please contact the undersigned.

Very Respectfully Submitted,

/s/ James E. Rauh
James E. Rauh, Esq.
For the Firm

cc: Michael Belush, Planning Department
1100 West Investments, LLC