

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONCILIATION AGREEMENT/VOLUNTARY COMPLIANCE AGREEMENT BETWEEN THE CITY AND NORMANDY LIVING, LLC, IN THE MATTERS ENTITLED: (1) NORMANDY LIVING, LLC V. CITY OF MIAMI BEACH UNDER UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) UNDER CASE NUMBERS: 04-17-7816-8; 04-17-7816-4 AND 04-17-7816-9; AND (2) *NORMANDY LIVING, LLC, V. THE CITY OF MIAMI BEACH, ET AL.*, UNDER CASE NO.: 17-2060-CA-10; CURRENTLY PENDING IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA.

WHEREAS, on May 4, 2016, Normandy Living, LLC (“Normandy Living”) filed an Application with the City to modify an existing conditional use permit (“CUP”) to allow it operate an adult congregate living facility (“ACLF” or “ALF”) at 1904 Marseille Drive and 7100 Rue Granville, and to expand the use onto 1915 Normandy Drive in Miami Beach, Florida (the “Property”); and

WHEREAS, the proposed ACLF, was actually a “detox” facility use, which facility is used as the first step in coming off of narcotics or alcohol; the intended use would be for the first 4 to 14 days of a person addicted to drugs or alcohol detoxify at the above location; and

WHEREAS, on August 31, 2016, the City issued an Administrative and Jurisdictional Determination (“Determination”) as to Normandy Living’s Application and found that it did not meet the City’s definition of an ALCF; and

WHEREAS, Normandy Living appealed the City’s Determination to the Planning Board, which upheld the findings contained in the Determination that it did not meet the City’s definition of an ALCF; and

WHEREAS, after the Planning Board upheld the City’s Determination, Normandy Living filed a HUD Complaint and initiated a related civil action, styled *Normandy Living, LLC, v. The City of Miami Beach, et al.*, Case No.: 17-2060-CA-10, in the Eleventh Judicial Circuit in and for Miami Dade County, Florida, alleging that the City, and individual employees, should be estopped from precluding the detox/ACLF use at the above location, and asked the Court to award monetary damages; and

WHEREAS, on April 17, 2017, Normandy Living filed a separate complaint with HUD and the U.S. Department of Justice alleging that the City discriminated against it under the Fair Housing Act, Rehabilitation Act, Housing and Community Development Act, and the American with Disabilities Act; and

WHEREAS, the administrative complaint was filed under the following HUD case numbers: 04-17-7816-8, Section 504 Case No. 04-17-7816-4, ADA Case No. 04-17-7816-D, Section 109 Case No. 04-17-7816-9; and

WHEREAS, Normandy Living, LLC also filed an original action entitled *Normandy Living, LLC v. City of Miami Beach, et al.*, Case No. 17-2060-CA-10, (Fla. 11th Judicial Circuit 2017), alleging

monetary damages against the City, the Planning Board, and individual members of the administration, claiming that the City should be estopped from denying Normandy Living's application for a conditional use approval to operate a detox/ACLF on the Property; and

WHEREAS, without admitting fault, liability, or responsibility for Normandy's alleged damages, the City Attorney's Office believes that it would be in the City's best interest to voluntarily settle this controversy and resolve this matter without the necessity of an evidentiary hearing or other judicial process available under the laws cited above; and

WHEREAS, on September 25, 2017, and October 18, 2017, the Mayor and City Commission held two Closed Attorney-Client Sessions to discuss litigation strategy and settlement; and

WHEREAS, pursuant to that discussion and direction, the parties have entered into a tentative Conciliation Agreement/Voluntary Compliance Agreement between the City and Normandy Living, LLC, subject to approval by the Mayor and City Commission and HUD which conciliation agreement is attached hereto as Exhibit 1.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA: that the Mayor and City Commission hereby approve and authorize the Mayor and City Clerk to execute a Conciliation Agreement/Voluntary Compliance Agreement between the City and Normandy Living, LLC, in the matters entitled: (1) Normandy Living, LLC v. City Of Miami Beach under the United States Department Of Housing And Urban Development (HUD) Case Numbers: 04-17-7816-8; 04-17-7816-4 and 04-17-7816-9; and (2) *Normandy Living, LLC, v. the City Of Miami Beach*, et al., under Case No.: 17-2060-CA-10.

PASSED and ADOPTED this ____ day of October, 2017.

ATTEST:

Philip Levine, Mayor

Rafael Granado, City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Rafael Granado 10-27-17

City Attorney Date