

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY  
RAUL AGUILA, CITY ATTORNEY  
MEMORANDUM

COMMISSION

TO: MAYOR DAN GELBER  
MEMBERS OF THE CITY COMMISSION  
JIMMY L. MORALES, CITY MANAGER

FROM: RAUL J. AGUILA, CITY ATTORNEY

*For  
RSA*

DATE: November 18, 2020

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REAFFIRMING THE CITY'S COMMITMENT TO SAFEGUARD THE DEAUVILLE BEACH RESORT (THE "DEAUVILLE"), WHICH IS A CONTRIBUTING BUILDING WITHIN THE NORTH BEACH RESORT LOCAL HISTORIC DISTRICT, AND LOCATED AT 6701 COLLINS AVENUE; DIRECTING THE CITY MANAGER AND CITY ATTORNEY TO INVESTIGATE AND PURSUE ANY AND ALL ADDITIONAL AVAILABLE ENFORCEMENT AND LEGAL REMEDIES WITH REGARD TO THE DEAUVILLE INCLUDING, WITHOUT LIMITATION, WHATEVER ADDITIONAL REMEDIES THE CITY MANAGER AND CITY ATTORNEY DEEM NECESSARY, BOTH AS AN ADMINISTRATIVE MATTER AND IN THE CONTEXT OF THE PENDING LITIGATION, TO FULFILL THE CITY COMMISSION'S MANDATE THAT THE LITIGATION BE PROSECUTED TO THE FULLEST EXTENT POSSIBLE; FURTHER DIRECTING THE BUILDING DIRECTOR AND CODE COMPLIANCE DIRECTOR, IN CONSULTATION WITH THE CITY ATTORNEY, TO IDENTIFY ANY OUTSTANDING CITY CODE AND FLORIDA BUILDING CODE VIOLATIONS AT THE DEAUVILLE PROPERTY, AND PURSUE ANY AND ALL REMEDIES AVAILABLE UNDER THE CITY CODE, FLORIDA BUILDING CODE, OR STATE LAW, IN ORDER TO SECURE THE PROPERTY, PROTECT THE HISTORIC DEAUVILLE BEACH RESORT BUILDING, AND MITIGATE ANY PUBLIC NUISANCES ON THE PROPERTY; AND FURTHER, DIRECTING THE CITY ATTORNEY OR HIS DESIGNEES TO MEET INDIVIDUALLY WITH THE MAYOR AND CITY COMMISSIONERS, IN THE NEXT THIRTY (30) DAYS, TO PROVIDE THEM WITH AN UPDATE OF THE LITIGATION.

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I have submitted the attached alternative Resolution to be heard in conjunction with Agenda Item R7 M, which was placed on the agenda by Vice-Mayor Meiner.

While I fully understand and support the concern expressed by Vice-Mayor Meiner in his Resolution, I've taken the liberty of drafting my own Resolution, which I believe not only addresses Vice-Mayor Meiner's concern/recommended action but also expands on that to reaffirm the City Commission's position that the City be aggressive in pursuing any and all available enforcement

and legal remedies against the Deauville (whether in the course of the litigation or through additional administrative remedies).

I also think it is helpful and important to remind the City Commission of the actions that have been taken thus far with regard to the Deauville. For that reason, I am attaching "Supplemental Materials," which basically provide a chronology highlighting the policy directives given by the City Commission with regard to the Deauville, as well as the City's actions (these are attached in the portion of the Memo entitled "Supplemental Materials").

Finally, while I discourage and do not recommend that the body engage in discussion of active, pending litigation in a public meeting, Chief Deputy Aleksandr Boksner, who is helming the litigation on the behalf of the City, is prepared to provide a full presentation to the City Commission should the City Commission wish, detailing the City's actions thus far in the course of this on-going litigation. Additionally, my Resolution recommends that, within thirty (30) days of the November 18, 2020 City Commission meeting, Mr. Boksner meet all of you individually with regard to any specific issues and/or questions you may have as to the Deauville litigation.

I want to recognize and thank the co-sponsors, Vice-Mayor Steven Meiner and Commissioner Michael Gongora, for placing this matter on the agenda. I trust that the intended purpose of this Agenda Item is to not only reinforce the City's commitment to this most important matter, but to let the public know of the City's on-going, proactive measures.

RJA/mm

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, REAFFIRMING THE CITY'S COMMITMENT TO SAFEGUARD THE DEAUVILLE BEACH RESORT (THE "DEAUVILLE"), WHICH IS A CONTRIBUTING BUILDING WITHIN THE NORTH BEACH RESORT LOCAL HISTORIC DISTRICT, AND LOCATED AT 6701 COLLINS AVENUE; DIRECTING THE CITY MANAGER AND CITY ATTORNEY TO INVESTIGATE AND PURSUE ANY AND ALL ADDITIONAL AVAILABLE ENFORCEMENT AND LEGAL REMEDIES WITH REGARD TO THE DEAUVILLE INCLUDING, WITHOUT LIMITATION, WHATEVER ADDITIONAL REMEDIES THE CITY MANAGER AND CITY ATTORNEY DEEM NECESSARY, BOTH AS AN ADMINISTRATIVE MATTER AND IN THE CONTEXT OF THE PENDING LITIGATION, TO FULFILL THE CITY COMMISSION'S MANDATE THAT THE LITIGATION BE PROSECUTED TO THE FULLEST EXTENT POSSIBLE; FURTHER DIRECTING THE BUILDING DIRECTOR AND CODE COMPLIANCE DIRECTOR, IN CONSULTATION WITH THE CITY ATTORNEY, TO IDENTIFY ANY OUTSTANDING CITY CODE AND FLORIDA BUILDING CODE VIOLATIONS AT THE DEAUVILLE PROPERTY, AND PURSUE ANY AND ALL REMEDIES AVAILABLE UNDER THE CITY CODE, FLORIDA BUILDING CODE, OR STATE LAW, IN ORDER TO SECURE THE PROPERTY, PROTECT THE HISTORIC DEAUVILLE BEACH RESORT BUILDING, AND MITIGATE ANY PUBLIC NUISANCES ON THE PROPERTY; AND FURTHER, DIRECTING THE CITY ATTORNEY OR HIS DESIGNEES TO MEET INDIVIDUALLY WITH THE MAYOR AND CITY COMMISSIONERS, IN THE NEXT THIRTY (30) DAYS, TO PROVIDE THEM WITH AN UPDATE OF THE LITIGATION.

**WHEREAS**, the Deauville Beach Resort is a 538-room ocean front hotel located at 6701 Collins Avenue, Miami Beach (the "Property"), owned by Deauville Associates, LLC, and operated by Deauville Associates, LLC, Deauville Hotel Property, LLC, and Deauville Hotel Holdings, LLC (collectively, "Deauville"); and

**WHEREAS**, the Deauville Beach Resort's iconic design is described as "Post War Modern" and, more recently, "Miami Modern" (MiMo), a style that picked up where Art Deco left off with the added influences of a booming post World War II economy, new technologies, the prevalence of the redesigned automobile, and a feeling of national optimism; and

**WHEREAS**, the Deauville Beach Resort was a favored venue for many notable entertainers of the 1950s and 1960s, including Frank Sinatra, Sammy Davis, Jr., and Dean Martin, and is known for hosting one of the most significant events in the history of popular music: The Beatles' performance on The Ed Sullivan Show on February 16, 1964; and

**WHEREAS**, the Deauville Beach Resort is listed on the City's Historic Properties Database as a "Contributing" structure, located within the North Beach Resort Local Historic District; and

**WHEREAS**, in July 2017, the Property was rendered uninhabitable due to extensive damages caused by an electrical fire at the property, resulting in the closure of the hotel; and

**WHEREAS**, the Deauville Beach Resort has not re-opened since its closing in July 2017; and

**WHEREAS**, since the hotel's closing in July 2017, the Deauville has not undertaken any substantial remedial measures at the Property, causing the Property to deteriorate, and jeopardizing the

structural integrity of the historic "Contributing" structure; and

**WHEREAS**, on February 5, 2019, the City filed a complaint against Deauville Associates, LLC, for failure to maintain the Property, seeking injunctive relief, damages, and appointment of receiver; and

**WHEREAS**, in August 2019, the City filed a Renewed Motion for Appointment of Receiver and Temporary Injunction and Motion for Sanctions and Compliance with Court Orders, setting forth that Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic property; and

**WHEREAS**, on June 26, 2020, the City and the Deauville attended a mediation session in an effort to bring the parties together to discuss a viable project ultimately to be approved by the City's Historic Preservation Board, but no meaningful activity has occurred between then and November, 2020; and

**WHEREAS**, since the hotel's closure, the City and the North Beach community in particular, has suffered economic damages, and the City has lost resort tax income from room rentals and food and beverage sales; and

**WHEREAS**, Deauville's continuing intentional failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which, unless resolved, will deteriorate beyond repair and require the demolition of the historic property.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby reaffirm the City's commitment to safeguard the Deauville Beach Resort (the "Deauville"), which is a Contributing building within the North Beach Resort Local Historic District, and located at 6701 Collins Avenue; direct the City Manager and City Attorney to investigate and pursue any and all additional available enforcement and legal remedies with regard to the Deauville including, without limitation, whatever additional remedies the City Manager and City Attorney deem necessary, both as an administrative matter and in the context of the pending litigation, to fulfill the City Commission's mandate that the litigation be prosecuted to the fullest extent possible; further direct the Building Director and Code Compliance Director, in consultation with the City Attorney, to identify any outstanding City Code and Florida Building Code violations at the Deauville property, and pursue any and all remedies available under the City Code, Florida Building Code, or state law, in order to secure the property, protect the historic Deauville Beach Resort building, and mitigate any public nuisances on the property; and further, direct the City Attorney or his designees to meet individually with the Mayor and City Commissioners, in the next thirty (30) days, to provide them with an update of the litigation.

**PASSED and ADOPTED** this \_\_\_\_ day of November, 2020.

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, City Clerk

\_\_\_\_\_  
Dan Gelber, Mayor

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

# **SUPPLEMENTAL MATERIALS**

City Commission actions and directives, and City Attorney's LTCs with regard to the  
Deauville, dating from November 18, 2020 to June 6, 2018

Resolutions - R7 M

## MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Vice-Mayor Steven Weiner  
DATE: November 18, 2020

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DIRECTING THE FILING OF AN AMENDED COMPLAINT SEEKING CIVIL PENALTIES PURSUANT TO CITY CODE SECTION 118-532(G)(1)(D). THIS SECTION READS: "CIVIL PENALTIES. VIOLATION OF THIS ARTICLE SHALL BE PUNISHABLE BY A CIVIL PENALTY OF UP TO \$5,000.00 PER DAY, FOR EACH DAY THAT THE REMEDIAL AND CORRECTIVE ACTION IS NOT TAKEN"; AND FURTHER DIRECTING THE FILING OF AN AMENDED COMPLAINT RENEWING THE CITY'S REQUEST, INITIALLY MADE IN FEBRUARY 2019, FOR INJUNCTIVE RELIEF, DAMAGES, APPOINTMENT OF A RECEIVER, AND FOR COMPLIANCE WITH THE COURT'S PRIOR ORDERS AGAINST THE DEAUVILLE.

**RECOMMENDATION**

The Miami Beach Commission should direct the filing of an amended complaint seeking civil penalties pursuant to City Code Section 118-532(g)(1)(d). This Section reads:

"Civil penalties. Violation of this article shall be punishable by a civil penalty of up to \$5,000.00 per day, for each day that the remedial and corrective action is not taken."The Miami Beach Commission should further direct the filing of an amended complaint renewing the City's request, initially made in February 2019, for injunctive relief, damages, appointment of a receiver, and for compliance with the Court's prior orders against the Deauville.

**BACKGROUND/HISTORY**

The Deauville Beach Resort is a historic crown jewel of North Beach and its shutdown since July 2017 has led to significant economic hardship for the surrounding North Beach area.

The Deauville was a 538-room oceanfront hotel and is a "contributing" structure located within the North Beach Historic District. The hotel was designed by architect Melvin Grossman and constructed in 1957. The Deauville is well-known for hosting the Beatles performance on The Ed Sullivan Show in February 1964 filmed in the hotel's Napoleon Ballroom. President John F. Kennedy gave a speech at the Deauville in 1961.

In February 2019 Miami Beach sued the Deauville Beach Resort for intentionally failing to maintain its historic and economically significant property. Since then, the Deauville has failed to make repairs and has ignored court orders with no adverse consequences. If repairs are not made soon the Deauville may be beyond saving, the very reason we filed the lawsuit twenty-one (21) months ago.

**ANALYSIS**

Below is a timeline of important events:

July 2017: Deauville shut down.

February 2019: The City of Miami Beach sued the Deauville Associates LLC for failing to maintain the property. The City filed its Complaint seeking injunctive relief, damages, and appointment of a receiver. The injunctive relief is to prevent demolition by neglect of the historic Deauville as defined by Section 118-532(g) of the City Code. This code section provides that properties situated within any of the City's historic districts must meet minimum maintenance standards to prevent deliberate or inadvertent neglect. The Deauville is a contributing structure to the City's North Beach Historic District.

August 2019: In the City's Renewed Motion for Appointment of Receiver and Temporary Injunction and Motion for Sanctions and Compliance with Court Orders the City informed the Court that the "Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic property, a 'Contributing' structure located in the North Beach Resort Local Historic District." The City further alleges that the "Deauville has demonstrated that it has no intention of voluntarily undertaking the repairs necessary to bring the Property into compliance with the City Code and City's Historic Preservation Board, and [the] Deauville is hedging its bets that the City will eventually allow the demolition of the structure." Quoting the owner of the Deauville: "It would be a favor that they demolish the [Property] and I get rid of the nightmare that I have. That's the truth." Unsafer Structures Case Hearing Transcript, Dec. 12, 2018.

June 26, 2020: Mediation session held between the City of Miami Beach and the Deauville in an effort to bring the parties together to discuss a viable project ultimately to be approved by the City's Historic Preservation Board.

July-November 2020: No meaningful activity.

#### **CONCLUSION**

Justice delayed is justice denied. Since the Deauville's shutdown, the North Beach community has suffered substantial economic damage and the City has lost substantial resort tax income from room rentals and food and beverage sales. The Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic property.

The City of Miami Beach should use all legal causes of action to enforce its Ordinances, including its demolition by neglect Ordinance, by amending its Complaint against the Deauville as recommended above and in the attached Resolution.

#### **Applicable Area**

North Beach

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?**

Yes

**Does this item utilize G.O. Bond Funds?**

No

#### **Legislative Tracking**

Vice-Mayor Steven Weiner

#### **Sponsor**

Co-sponsored by Commissioner Michael Gongora

#### **ATTACHMENTS:**

##### **Description**

D [Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA DIRECTING THE FILING OF AN AMENDED COMPLAINT SEEKING CIVIL PENALTIES PURSUANT TO CITY CODE SECTION 118-532(G)(1)(D). THIS SECTION READS:

“CIVIL PENALTIES. VIOLATION OF THIS ARTICLE SHALL BE PUNISHABLE BY A CIVIL PENALTY OF UP TO \$5,000.00 PER DAY, FOR EACH DAY THAT THE REMEDIAL AND CORRECTIVE ACTION IS NOT TAKEN”; AND FURTHER DIRECTING THE FILING OF AN AMENDED COMPLAINT RENEWING THE CITY’S REQUEST, INITIALLY MADE IN FEBRUARY 2019, FOR INJUNCTIVE RELIEF, DAMAGES, APPOINTMENT OF A RECEIVER, AND FOR COMPLIANCE WITH THE COURT’S PRIOR ORDERS AGAINST THE DEAUVILLE.

**WHEREAS**, the Deauville Beach Resort (the “Deauville”) is a historic crown jewel of North Beach and its shutdown since July 2017 has led to significant economic hardship for the surrounding North Beach area; and

**WHEREAS**, the Deauville was a 538-room oceanfront hotel and is a “contributing” structure located within the North Beach Historic District. The hotel was designed by architect Melvin Grossman and constructed in 1957. The Deauville is well-known for hosting the Beatles performance on The Ed Sullivan Show in February 1964 filmed in the hotel’s Napoleon Ballroom. President John F. Kennedy gave a speech at the Deauville in 1961; and

**WHEREAS**, in February 2019, the City of Miami Beach (the “City”) sued the Deauville for intentionally failing to maintain its historic and economically significant property. Since then, the Deauville has failed to make repairs and has ignored court orders with no adverse consequences. If repairs are not made soon the Deauville may be beyond saving, the very reason we filed the lawsuit twenty-one (21) months ago; and

**WHEREAS**, in July 2017 the Deauville shut down; and

**WHEREAS**, in February 2019, the City sued the Deauville Associates LLC for failing to maintain the property. The City filed its Complaint seeking injunctive relief, damages, and appointment of a receiver. The injunctive relief is to prevent demolition by neglect of the historic Deauville as defined by Section 118-532(g) of the City Code. This code section provides that properties situated within any of the City’s historic districts must meet minimum maintenance standards to prevent deliberate or inadvertent neglect. The Deauville is a contributing structure to the City’s North Beach Historic District; and

**WHEREAS**, in August 2019 the City filed a Renewed Motion for Appointment of Receiver and Temporary Injunction and Motion for Sanctions and Compliance with Court



Orders. The City's Renewed Motion informed the Court that the "Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic property, a "Contributing" structure located in the North Beach Resort Local Historic District." The City further alleges that the "Deauville has demonstrated that it has no intention of voluntarily undertaking the repairs necessary to bring the Property into compliance with the City Code and City's Historic Preservation Board, and [the] Deauville is hedging its bets that the City will eventually allow the demolition of the structure." Quoting the owner of the Deauville: "It would be a favor that they demolish the [Property] and I get rid of the nightmare that I have. That's the truth." Unsafe Structures Case Hearing Transcript, Dec. 12, 2018; and

**WHEREAS**, on June 26, 2020 a mediation session was held between the City and the Deauville in an effort to bring the parties together to discuss a viable project ultimately to be approved by the City's Historic Preservation Board; and

**WHEREAS**, between July-November 2020 there has been no meaningful activity; and

**WHEREAS**, justice delayed is justice denied. Since the Deauville's shutdown, the North Beach community has suffered substantial economic damage and the City has lost substantial resort tax income from room rentals and food and beverage sales. The Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic property; and

**WHEREAS**, the City should use all legal causes of action to enforce its Ordinances, including its demolition by neglect Ordinance, by amending its Complaint against the Deauville.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby directs the filing of an amended complaint seeking civil penalties pursuant to City Code Section 118-532(g)(1)(d). This Section reads:

"Civil penalties. Violation of this article shall be punishable by a civil penalty of up to \$5,000.00 per day, for each day that the remedial and corrective action is not taken."; and further directing the filing of an amended complaint renewing the City's request, initially made in February 2019, for injunctive relief, damages, appointment of a receiver, and for compliance with the Court's prior orders against the Deauville.

**PASSED AND ADOPTED** this 18th day of November, 2020.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

(sponsored by Vice Mayor Steven Meiner)

# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach FL 33139

LTC# **184-2020**

## LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: May 20, 2020

SUBJECT: **UPDATE ON THE BEACHWALK CLOSURE BEHIND THE DEAUVILLE HOTEL**

The purpose of this Letter to Commission is to provide the Mayor and City Commission with an update on the Deauville Hotel and the beachwalk closure.

On the morning of Wednesday, February 26, 2020, City staff confirmed that pieces of concrete were falling from the Deauville Hotel, located at 6701 Collins Avenue. As a matter of public safety, The Property Management Department secured the area and closed a portion of the Beachwalk at 67<sup>th</sup> Street, including the perimeter directly behind the Deauville Hotel (the Deauville).

On February 27, 2020, the Building Department issued violation US2020-03373 to the Deauville Hotel requiring a remedy to provide pedestrian protection and safely secure the premises in order reopen the Beachwalk by Friday, February 28, 2020. The Deauville did not comply. Accordingly, the Property Management and Building Departments secured contractors to scaffold the building and safeguard the area. Concurrently, the Public Works Department assisted in permitting the 120' long structure. The Beachwalk was reopened to the public on March 27, 2020.

The Deauville has since applied for a permit and constructed a fabric wrap along the east face of the tower. Removal of the previously installed scaffolds began on May 19, 2020. In order to properly secure the area during this dismantling, the Beachwalk at 67<sup>th</sup> Street will be temporarily fenced and closed until the remainder of week.

The temporary fencing is expected to be removed by Monday, May 26<sup>th</sup> where the Beachwalk will once again reopen for pedestrians.



LTC: Update on the Beachwalk Closure Behind the Deauville Hotel



JLM/MT/AM

BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach FL 33139

LTC# **156-2020**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: April 21, 2020

SUBJECT: **UPDATE ON DEAUVILLE HOTEL**

The purpose of this Letter to Commission is to provide the Mayor and City Commission with an update on the Deauville Hotel.

On the morning of Wednesday, February 26, 2020, City staff confirmed that pieces of concrete were falling from the Deauville Hotel, located 6701 Collins Avenue. As a matter of public safety, City staff closed a portion of the Beachwalk at 67<sup>th</sup> Street, including the perimeter directly behind the Deauville Hotel. The Property Management Department secured the area.

The Building Department issued a violation US2020-03373 to the Deauville Hotel requiring a remedy to provide pedestrian protection by Friday morning February 28, 2020 to safely secure the premises in order to reopen the Beachwalk. The Deauville did not comply. The Deauville applied for a permit to construct a fabric wrap along the east face of the tower, the permit was issued, to date that permit has not been finalized.

Property Management and the Building Departments worked to secure a contractor in order to safeguard the area. Public Works assisted in permitting the 120' long structure. On March 27<sup>th</sup> the Beachwalk was reopened to pedestrians. The City Manager and City Attorneys have been in contact with ownership at the Deauville Hotel but still no progress has been made towards resolving the issues with the building.





LTC: Update Regarding Deauville Hotel



JLM/EC/SR/AM/AMS/

# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach FL 33139

LTC#

**110-2020**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 26, 2020

SUBJECT: **BEACHWALK CLOSURE BEHIND DEAUVILLE HOTEL**

The purpose of this Letter to Commission is to provide the Mayor and City Commission with an update on the closure of the Beachwalk behind the Deauville Hotel.

On the morning of Wednesday, February 26, 2020, City staff confirmed that pieces of concrete were falling from the Deauville Hotel, located 6701 Collins Avenue.

As a matter of public safety, City staff have closed a portion of the Beachwalk at 67<sup>th</sup> Street, including the perimeter directly behind the Deauville Hotel until further notice.

The Property Management Department is working on securing the area and closing the beachwalk. The Building Department has issued a violation US2020-03373 to the Deauville Hotel requiring a remedy to provide pedestrian protection by Friday morning to safely secure the premises in order to reopen the Beachwalk. Should the Deauville not comply, the Building Department will secure contractors to safeguard the area. The City Manager and City Attorneys have been in contact with ownership at the Deauville Hotel.



LTC: Beachwalk Closure Behind Deauville Hotel



  
JLM/MT/AM/SS



# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY


**140-2019**

LTC No. \_\_\_\_

## LETTER TO COMMISSION

TO: Mayor Dan Gelber  
Members of the City Commission  
Jimmy Morales, City Manager

FROM: Raul J. Aguila, City Attorney



DATE: March 13, 2019

SUBJECT: Deauville Beach Resort

The purpose of this Letter to Commission is to provide the Mayor and City Commission with the current status regarding the Deauville Beach Resort litigation, and the City's efforts to ensure that the Premises is secure from any further criminal activity or damage.

In response to a series of criminal trespass violations and two (2) separate fires that occurred at the vacant Deauville Beach Resort on March 6, 2019, the City Attorney's Office immediately filed its Emergency Motion for Appointment of Receiver, Temporary Injunction and Memorandum of Law in Support (hereinafter identified as the "Emergency Motion") on March 7, 2019. The Emergency Motion requested that the Court enter an Order requiring the Deauville Beach Resort ownership entities to immediately and adequately secure the Property for the purpose of ensuring the safety of the general public, the City's first responders, and other City employees.

On March 13, 2019, the Court entered an Order on the City's Emergency Motion, mandating that the Deauville Beach Resort ownership entities: (1) hire three (3) security guards to monitor the property during the hours of 7:00 pm to 7:00 am, one of whom must be certified for "fire watch" services; (2) install three (3) points of ingress and egress in order to allow MBPD and MBFD access to the property in case of an emergency; and (3) apply for a fencing permit on the beach side (east) of the Property in order to increase the height of the security fence to deter trespassers. A copy of the March 7, 2019 Emergency Motion and the March 13, 2019 Court Order is attached.

The City shall continue to pursue its efforts to appoint a Receiver for the Property in order to ensure that, and to prevent any further deterioration of the Deauville Beach Resort.

RJA/AB/sc  
Attachment

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*We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.*

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT, IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

THE CITY OF MIAMI BEACH, FLORIDA, a  
Florida municipal corporation,

CASE NO.: 19-03653 CA 32

Plaintiff,

v.

DEAUVILLE ASSOCIATES, LLC, a Florida limited  
liability company, DEAUVILLE HOTEL  
PROPERTY, LLC, a Florida limited liability  
company, DEAUVILLE HOTEL HOLDINGS, LLC,  
a Florida limited liability company, and OCEAN  
BANK, a Florida banking corporation,

Defendants.

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**THE CITY OF MIAMI BEACH, FLORIDA'S EMERGENCY MOTION FOR  
APPOINTMENT OF RECIEVER, TEMPORARY INJUNCTION AND  
MEMORANDUM OF LAW IN SUPPORT**

Plaintiff, the City of Miami Beach, Florida (the "Plaintiff" or "City"), by and through undersigned counsel and pursuant Fla. R. Civ. P. 1.620 and 1.610, moves this Court for the appointment of a receiver to take control of the Deauville Beach Resort Property, and for a temporary injunction requiring Deauville Associates, LLC, Deauville Hotel Property, LLC, and Deauville Hotel Holdings, LLC (collectively, the "Deauville") to immediately protect and secure the Deauville Beach Resort Property for the purpose of ensuring the safety of the public, City first responders and employees, the surrounding buildings, and the historic Deauville Beach Resort Property. In support of this Emergency Motion, the City incorporates its Complaint and Memorandum of Law herein and further submits the following:

**INTRODUCTION**

On February 5, 2019, the City filed its Complaint for Injunctive Relief, Damages and the Appointment of a Receiver related to the Deauville Beach Resort's protracted state of disrepair

and fear that the owners of the Deauville Beach Resort are intentionally neglecting to maintain the property in accordance with the City Code and Florida law which will eventually lead to the deterioration beyond repair of the historic structure. The Deauville Beach Resort was closed on July 2017 due to extensive damages caused by an electrical fire at the Property, forcing Deauville to close the Deauville Beach Resort. Approximately two months after the electrical fire, the Property sustained wind and water damage caused by Hurricane Irma, which damages were later amplified by certain illegal work performed on the Property without a permit. The Property has not re-opened since its closing in July 2017.

Coincidentally, on the very same day Deauville was required to respond to the City's Complaint<sup>1</sup>, multiple fires broke out in the Deauville Beach Resort. A copy of the Miami Beach Police Department ("MBPD") Report is attached hereto as Exhibit "A". Two active fires were located by law enforcement, one in the main lobby and the other in the reservation office. The Miami Beach Fire Department ("MBFD") extinguished both fires. Additionally, MDPD responded and noticed several convincing signs of ongoing homeless activity within the structure. The main fire occurred in the main lobby of the building and the origin was located in a small portion of the wall just south of the front desk. The second fire occurred in the reservation office and the origin was located in the file room just in front of a file cabinet. Both fires were incendiary, as a pile of hotel paper was likely the source of the fire. Due to the building having no electricity, their CCTV is not functioning.

It is strongly suggested that this fire was caused by a trespasser or trespassers at the closed Deauville Beach Resort – which trespassing Deauville has permitted due to its failure to adequately secure the property. See Exhibit A. Deauville is responsible for the on-going security of the Deauville Beach Resort which was made clear in the Miami-Dade County Unsafe Structures Board

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<sup>1</sup> The three Deauville entities were served on February 12, 2019.

Order requiring Deauville to “maintain secure” the property. *See* Exhibit F to Plaintiff’s Complaint.

Luckily, the damage caused by the fires were isolated to the main lobby and file room. However, the Deauville’s perpetual disregard for securing the property invites the real possibility of a larger fire endangering the community at large, surrounding structures and Miami Beach first responders and employees. The Deauville’s ongoing failure to repair and maintain the property in accordance with the City Code, and its failures to adequately secure the property are genuine matters of public concern requiring the immediate and urgent need for: (1) a temporary injunction requiring the Deauville to adequately secure the property; and (2) the appointment of a receiver due to Deauville’s ongoing and intentional failures to comply with the Miami-Dade County Unsafe Structures Board Order, City Code and Florida law.

### **FACTS**

1. The Deauville Beach Resort is a 538-room ocean front hotel located at 6701 Collins Avenue, Miami Beach, Florida owned by Deauville Associates, LLC, and is operated by Deauville Associates, LLC, Deauville Hotel Property LLC, Deauville Hotel Holdings, LLC. The Deauville Beach Resort is a “Contributing” structure located within the North Beach Resort Local Historic District, and the Property falls under the jurisdiction of the City’s Historic Preservation Board. City of Miami Beach Code of Ordinances No. 2004-3438.
2. In or around July 2017, the Property was rendered uninhabitable due to extensive damages caused by an electrical fire at the Property, forcing Deauville to close the Deauville Beach Resort. Approximately two months after the electrical fire, the Property sustained wind and water damage caused by Hurricane Irma, which damages were later amplified by certain illegal work performed on the Property without a permit. The Property has not re-opened since its closing in July 2017.

3. Following an inspection performed by the City on July 25, 2017, the City issued Violation US2017-01686 against Deauville Hotel Property LLC, deeming the structure an “Unsafe Structure”, and providing Deauville Hotel Property LLC fifteen (15) days to: (1) submit an engineering report signed and sealed by electrical engineer to evaluate the cause of the fire, the extent of the damages and methods of repair; (2) obtain approved final inspection to reconnect power to the building; and (3) obtain approved permits for the required repairs. A copy of Violation US2017-01686 is attached as Exhibit “B” to Plaintiff’s Complaint. Deauville failed to timely comply with the City’s Violation US2017-0168.

4. At its meeting on December 12, 2018 regarding the Unsafe Structures Case, the Miami-Dade County Unsafe Structures Board upheld the recommendation of the City’s Building Official and entered the following ruling:

- a) The structure(s) are to be **maintained secure**, clean and sanitary, free of debris, overgrown grass or weeds and free of discoloration or graffiti.
- b) A temporary electrical power permit must be applied for within thirty (30) days of the date of the ruling. The temporary electrical permit shall be obtained within sixty (60) days from the date of the ruling. The building permit(s) to repair windows and for concrete spalding must be applied for within sixty (60) days after obtaining the temporary electrical permit, with the understanding that no work can be performed until the temporary power permit is issued.
- c) A 40-Year Recertification Report shall be submitted within one hundred twenty (12) days from obtaining the temporary electrical permit to the City of Miami Beach Building Official as required in standard form signed and sealed by a structural and electrical engineer and to obtain all necessary permits to repair and restore said structure.

5. In addition to Miami-Dade County and Florida state guidelines, the City requires that buildings located within local historic districts be properly maintained, and that contributing structures within the local district are required to properly maintain and preserve the structure in accordance with standards set forth in the applicable City Code, Florida Building Code, and the City's Certificate of Appropriateness criteria. Section 118-532(g) of the City Code.

6. On September 19, 2018, the City of Miami Beach Planning Director and the City's Building Official determined that the Property had fallen into a state of disrepair that jeopardizes the structural and architectural integrity of the Property, which decision was based upon several visual inspections of the exterior of the premises, the numerous building permits that have not been issued or finalized, the inability to occupy the structure, the fact that the Deauville's contractor had placed the City on notice of his intent to withdraw as the Contractor of Record, and the fact that the City issued an Unsafe Structure Board filing with Miami-Dade County with regard to the Property.

7. Based upon the Planning Director's and the Building Director's findings, in accordance with Section 118-532(g)(1)(b) of the City Code, the City issued its "48 Hour Prior Notice Of Intent To Inspect Pursuant To The City's Demolition By Neglect Procedures", intending to inspect the interior and exterior of the Property. The 48 Hour Prior Notice of Intent is attached as Exhibit "C" to Plaintiff's Complaint.

8. To date, Deauville has failed to perform any substantial work at the Property which would be required in order to place the Property in compliance with Section 118-532(g) of the City Code. Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic Property, a "Contributing" structure located in the North Beach Resort Local Historic District.

9. The Deauville has no intention of voluntarily undertaking the repairs necessary to bring the Property into compliance with the City Code and the City's Historic Preservation Board, and Deauville is hedging its bets that the City will eventually allow the demolition of the structure: "It would be a favor that they demolish the [Property] and I get rid of this nightmare that I have. That's the truth." Unsafe Structures Case Hearing Transcript, P. 38, 7- 10, December 12, 2018, attached to the Complaint as Exhibit "H". "So, the building is full of water, full of mold and mildew. We have no power. I mean, what do we do? We have no money. *Id* at P. 33, 13-16.

10. Incredibly, the only work that the Deauville has performed on the Property since the Deauville Beach Resort closed its doors to the public was the illegal work Deauville performed on the roof without any construction permit, which Deauville officials freely admitted under oath at the Unsafe Structures Case hearing before the Unsafe Structures Board. *See* Exhibit "H" to Plaintiff's Complaint, Pages 41-42; 19-25, 1-0; Pages 53-54; 20-25, 1-3.

11. To further demonstrate Deauville's neglect of the Deauville Beach Resort and blatant disregard for the City Code and the Miami Dade County Unsafe Structures Board Order, two (2) fires occurred at the property on March 6, 2019 which MBPD suspects was caused by trespassers to the Deauville Beach Resort, and this is all a direct result of Deauville's failure to adequately secure and protect the property.

12. In addition to the fires on March 6, 2019, MBPD and MBFD have identified numerous incidents involving trespassers and the public gaining access to the structure due to Deauville's failure to secure the property. *See* Exhibit "B" attached hereto.

#### **MEMORANDUM OF LAW**

##### **A. The Appointment of a Receiver is Appropriate**

Equitable receiverships are a creation of common law, which the Supreme Court of Florida has declared should be reserved for cases involving fraud, self-dealing, or waste. *Granada Lakes*

*Villas Condominium Ass'n, Inc. v. Metro-Dade Investments Co.*, 125 So. 3d 756 (Fla. 2013). The appointment of a receiver is appropriate to prevent fraud, self-dealing, or the destruction or loss of property. See *McAllister Hotel v. Schatzberg*, 40 So. 2d 201, 202-03 (Fla. 1949). The power to appoint a receiver has long been recognized as one that is inherent in a court of equity, which "lies in the sound discretion of the chancellor to be granted ... according to the facts and circumstances of the particular case." *Ins. Mgmt. Inc. v. McLeod*, 194 So. 2d 16, 17 (Fla. 3d DCA 1966). "To authorize the appointment of a receiver, the petitioner must show clear legal right to the property in controversy, or that he has some lien upon property or right in it, or that it constitutes a special fund out of which he is entitled to satisfaction of his demand. While the appointment of a receiver does not involve the determination of any right, or affect the title of either party in any manner whatever, an appointment of a receiver should be made only at the instance of those who have an acknowledged interest, or at least a probable right or interest, in or to the property, fund, or assets over which he seeks to have a receiver appointed, and where there is a strong reason to believe that the party asking for a receiver will recover." *Appalachia Northern R. Co. v. Sommers*, 79 Fla. 816 (Fla. 1920); see also *Plaza v. Plaza*, 78 So. 3d 4, 6 (Fla. 3d DCA 2011) (holding that to be entitled to the appointment of a receiver, a movant must show that the property is subject to a serious loss and that the movant has a clear legal right to the property).

The allegations of Plaintiff's Complaint, including the documents and exhibits thereto, establish that Plaintiff has a clear legal right in the property because the Deauville Beach Resort is a "Contributing" structure located within the North Beach Resort Local Historic District, and the Property falls under the jurisdiction of the City's Historic Preservation Board. City of Miami Beach Code of Ordinances No. 2004-3438. Accordingly, the Deauville Beach Resort is required to meet the minimum maintenance and repair standards set forth in § 118-532(g)(1)(a) of the City Code and comply with Florida law. Additionally, the failure to comply with § 118-532(g)(1)(a) of the



City Code and the Miami Dade County Unsafe Structures Board is resulting in the ongoing deterioration of the structure which without a question is a clear waste of the historic structure. The City has a clear interest in maintaining its inventory of historic structures, including the Deauville Beach Resort. "The preservation and conservation of properties of historical, architectural and archaeological merit in the [C]ity is a public policy of the [C]ity and is in the interest of the [C]ity's future prosperity." § 118-501 of the City Code.

The Deauville Beach Resort remains closed with no opening in sight as a result of the Deauville's mismanagement of the property and disregard for the historic structure. Moreover, the appointment of a receiver is needed to the self-dealing of the Deauville and breakdown of trust and communication between the City and Deauville.

**B. Plaintiff is entitled to have a temporary injunction issued against Deauville**

A trial court "is afforded broad discretion in granting, denying, dissolving or modifying injunctions..." *Sacred Family Investments, Inc. v. Doral Supermarket, Inc.*, 20 So. 3d 412 (Fla. 3d DCA 2009); *Carricarte v. Carricarte*, 961 so. 2d 1019 (Fla. 3d DCA 2007). The following factors support this Court's granting of the injunction: (i) the likelihood of irreparable harm; (ii) the unavailability of inadequate remedy at law; (iii) the substantial likelihood of success on the merits; (iv) the threatened injury to the petitioner outweighs any possible harm to the respondent; and (v) the granting of a preliminary injunction will not disserve the public interest. *Mati-Dade County v. Fernandez*, 905 So. 2d 213, 215 (Fla. 3d DCA 2005); *see Naegele Outdoor Advertising Co., Inc. v. City of Jacksonville*, 659 So. 2d 1046, 1047 (Fla. 1995); *LaRose v. A.K.*, 37 So. 3d 265, 266 (Fla. 2d DCA 2009). Florida Courts have also held that a plaintiff must possess a "clear legal right to the relief sought." *See Wilson v. Sandstrom*, 317 So. 2d 732, 736 (Fla. 1975). Establishing this "right" equates to demonstrating Plaintiffs substantial likelihood of success on the merits. *Hall v.*

*City of Orlando*, 555 So. 2d 963, n.1 (Fla. 5th DCA 1990) (citing *Langford v. Rotech Oxygen and Med. Equip., Inc.*, 541 So. 2d 1267, 1268, n.2 (Fla. 5th DCA 1989)).

Plaintiff's Complaint, and the instant Emergency Motion, including the documents and exhibits attached thereto, establishes that the City will suffer irreparable harm, that no adequate remedy at law exists, and the City's likelihood of success on the merits. The same also demonstrates that Plaintiff is entitled to injunctive relief in light of Deauville's self-dealing conduct and the extreme damage and harm to the community at large and the City's first responders (MBPD and MBFD) that may result if Deauville's conduct is not required to be altered by Court order. As such, the Plaintiff requests that the Court enjoin Deauville, requiring Deauville to immediately provide adequate and necessary security for the property.

I. It is Substantially Likely that the City Will Suffer Irreparable Harm

Irreparable harm exists where the harm cannot be adequately compensated for by a monetary award. *Supreme Service Station Corp. v. Telecredit Service Center, Inc.*, 424 So. 2d 844 (Fla. 1982); *City of Miami Springs v. Steffon*, 423 So. 2d 930 (Fla. 1982). The showing that the agreement in question is being directly violated and that "from the nature of the act of the circumstances (the breach) cannot be readily, adequately, and completely compensated for with money,..." is sufficient to support the finding of irreparable injury. *Puga v. Suave Shoe Corp.*, 374 So. 2d 552 (Fla. 3d DCA 1979). Injunctive relief is appropriate to prevent the dissipation of funds and removal of assets. See e.g., *Blecher v. Dreyfus Brokerage Servs., Inc.*, 770 So. 2d 1276 (Fla. 3d DCA 2000); *Gruder v. Gruder*, 433 So. 2d 2g (Fla. 4th DCA 1983). The purpose of a temporary injunction is to maintain the status quo pending determination of the suit. *North Dade Water Co. v. Adken Land Co.*, 114 So. 2d 347 (Fla. 3d DCA 1959).

The City has no way to determine the amount of damages that have been inflicted upon the City by Deauville as the City's desire to demand a safe environment for its citizens and visitors and maintain historic properties within the City cannot be quantified. Additionally, the potential damage that could be

sustained to human life and the structures surrounding the Deauville Beach Resort due to Deauville's failure to simply secure the property cannot be quantified at this time.

Further, there exists no adequate remedy at law because the City does not own the subject property and is not in possession or control of the structure.

II. Plaintiff has Established a Substantial Likelihood of Success on the Merits and/or a Clear Legal Right to the Requested Relief

The City, through its underlying Complaint, is seeking: (1) injunctive relief pursuant to § 118-532(g) of the City Code; (2) breach of fiduciary duty against Deauville Associates, LLC for failure to remit resort taxes to the City of Miami Beach pursuant to § 102-307 of the City Code; and (3) the appointment of a receiver.

It is clear that Deauville has failed to maintain the Deauville Beach Resort consistent with the minimum maintenance standards set forth in § 118-532(g) of the City Code as demonstrated by the fact that the Deauville Beach Resort remains closed and the inspection performed by the City evidenced a deterioration of the structure and property. Further, resort tax obligations remain unpaid by the Deauville. Due to all the forgoing, the City has demonstrated a substantial likelihood of success on the merits of its claims and that the City possesses a "clear legal right" to the requested relief.

**C. The Injury to the City will Outweigh Any Possible Harm to Deauville**

The City's demand is simple, to adequately secure the Deauville Beach Resort. Deauville is already required to secure the property according to the Miami-Dade County Unsafe Structures Board Order and has failed to do so. The property is in an absolute state of disrepair while there have been numerous incidents of trespasses and fires at the subject property. *See* Exhibits A, B. If the Deauville is allowed to disregard its obligation to secure the property then the harm to the City, its residents, tourists, and structures surrounding the Deauville Beach resort will be immeasurable. The potential loss of life and property clearly outweighs any possible harm to the Deauville. Frankly, we are lucky that the multiple fires and trespasses at the Deauville have not already caused the loss of life and property.

**D. Entry of a Temporary Injunction Will Not Disserve the Public Interest**

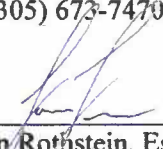
It is in the public interest for the subject property to remain secured due to the potential loss of life and property that may result if Deauville is allowed to continually forgo its obligations to secure the structure and the Deauville Beach Resort.

**E. The City Will Post an Appropriate Bond**

The City will post a bond in an amount the Court deems proper, as required by Fla. R. Civ. P. 1.610(b); however, only a nominal bond, if any, should be required.

**WHEREFORE**, Plaintiff, The City of Miami Beach, respectfully request that this Honorable Court appoint a receiver that takes any and all necessary action required to: (1) ensure the collection of all resort taxes owed to the City by Deauville Associates, LLC; (2) manage the Property; (3) oversee all remediation and repair work required for the Property to comply with § 118- 532 of the City Code; (4) take all required measures to rectify all outstanding violations related to the Property; (5) collect and remit all outstanding taxes related to the Property; and (6) collect and remit to the City all civil penalties or fines against the Property or Deauville pursuant to the applicable sections of the City Code; and that the Court issue a temporary injunction requiring the Deauville secure the Deauville Beach Resort, together with such further relief deemed necessary and appropriate under the circumstances.

Respectfully submitted,  
RAUL J. AGUILA, CITY ATTORNEY  
CITY OF MIAMI BEACH  
1700 Convention Center Drive, 4<sup>th</sup> Floor  
Miami Beach, Florida 33139  
Tel: (305) 673-7470 / Fax:(305) 673-7002

By:   
Steven Rothstein, Esq,  
Deputy City Attorney  
Florida Bar No. 727547  
Jason Jacobson, Esq,  
Assistant City Attorney II  
Florida Bar No. 118276

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the Florida Courts e-Filing Portal and served upon all interested parties via electronic service generated by the e-Portal system, this 8<sup>th</sup> day of March, 2018.

## EXHIBIT A



### SPECIAL INCIDENT NOTIFICATION OPERATIONS DIVISION

<b>INCIDENT:</b>	Building Fire (Area 3)
<b>DATE:</b>	March 6, 2019
<b>TIME:</b>	2100 Hrs.
<b>CASE:</b>	2019-21254
<b>LOCATION:</b>	6701 Collins Avenue
<b>COMMANDER:</b>	Lt. Paul Ozaeta
<b>SUPERVISOR:</b>	Sgt. Janelle Delgado
<b>LEAD OFFICER:</b>	Ofc. Brian Rhodes
<b>LEAD DETECTIVE:</b>	Sgt. Javier Fernandez

**WHO WAS NOTIFIED:** Captain Doce was notified by phone. The remaining Police Command Staff and PIO were notified via this document.

**DESCRIPTION OF INCIDENT:** Fire Department responded to a report of a fire at the Deauville Hotel, which is currently under construction. Two separate trash fires were extinguished upon their arrival. Fire Department cleared building while police units shut down Collins Avenue for approximately one hour. The fire may have possibly been caused by four juveniles that had been arrested for trespassing inside the building approximately three hours earlier. No injuries reported. Case is currently under investigation.

**Subject(s):** TBD

**Charge(s):** TBD

**Media Inquiries:** Freelance videographers observed at scene.

## CASE SEARCH

Print Date/Time: 3/7/2019 2:07:15 PM

Lock	Case Number	Reported Date/Time	Reporting Officer	Occurred Incident Type	Location	Assigned
Bureau	Current Review Level	Current Review Type	Case Status	Case Status Date	Disposition	Jurisdiction
False	2019-00021254	03/06/2019 21:00:17	Rhodes, Brian	FIRE INVESTIGATION	6701 COLLINS AVE, Miami Beach	PROPERTY
CRIMES	0	Merged Report	OPEN	03/06/2019		0130700
False	2019-00016529	02/21/2019 14:53:42	Llamoca, Ysidro	FIELD INTERVIEW	6701 COLLINS AVE, Miami Beach	
0		Merged Report	PENDING	02/22/2019		0130700
False	2019-00014103	02/13/2019 18:04:11	Gonzalez, Adrian	TRESPASS	6701 COLLINS AVE, Miami Beach	
0		Merged Report	PENDING	02/13/2019		0130700
False	2019-00014061	02/13/2019 15:17:03	Pagan, Erick	BURGLARY OTHER	6701 COLLINS AVE, Miami Beach	BURGLARY
0		Merged Report	1 - CLOSED N/A	02/18/2019	CBA-PATROL 02/18/2019	0130700
False	2019-00010099	02/01/2019 12:01:47	De Las Salas, Sergio	THEFT/OTHER	6701 COLLINS AVE, Miami Beach	PROPERTY
CRIMES	3	ROR Report Reviewed by D/E	1 - CLOSED N/A	02/01/2019	1- NOT ASSIGNED 02/05/2019	0130700
False	2019-00007087	01/22/2019 16:38:39	Pagan, Erick	INCIDENT	6701 COLLINS AVE, Miami Beach	BURGLARY
3		ROR Report Reviewed by D/E	1 - CLOSED N/A	02/01/2019	1- NOT ASSIGNED 02/01/2019	0130700
False	2018-00114408	11/28/2018 09:25:17	Casas, Reinaldo	BURGLARY OTHER	6701 COLLINS AVE, Miami Beach	BURGLARY
3		ROR Report Reviewed by D/E	1 - CLOSED N/A	12/10/2018	1- NOT ASSIGNED 12/10/2018	0130700
False	2018-00111117	11/16/2018 05:37:46	Rivera, Brian	SUSPICIOUS VEHICLE	6700 COLLINS AVE PARKING LOT, Miami Beach	CAU 2
3		ROR Report Reviewed by D/E	PENDING	11/16/2018	CBA-PATROL 11/16/2018	0130700
False	2018-00107887	11/05/2018 15:10:14	Taylor, Garfiled	TRESPASS WARNING	6701 COLLINS AVE, Miami Beach	
3		ROR Report Reviewed by D/E	PENDING	11/12/2018		0130700

Total Rows: 8

EXHIBIT B

IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION  
CASE NO:

The City of Miami Beach

Plaintiff(s),

vs.

Dawville Associates, LLC et al.

Defendant(s),

Agreed  
ORDER  
GRANTING/DENYING  
PLAINTIFF'S/DEFENDANT'S

THIS CAUSE having come on to be heard on The City of Miami Beach's  
on Plaintiff's/Defendant's Motion

Emergency Motion for Appointment of Receiver, Temporary Injunction, and Memorandum of Law in  
Support, filed on 3/8/2019.

and the Court having heard arguments of counsel, and being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED that said Motion be, and the same is hereby

Agreed by the parties, The Dawville Entities (Dawville Associates LLC, Dawville Profit Holding LLC and  
Dawville Hotel Holding LLC) shall: (1) have three (3) security guards from 7:30 PM - 7:30 AM, at  
least one (1) shall be on the beach side (east) during the 12-hour period; Dawville Entities shall have  
one (1) designated as "fire watch" with credentials; and Dawville Entities shall have a "fire watch" at the property  
within fifteen (15) days of this order; (2) there shall be a total of three (3) points of ingress and egress at the  
property with keys provided to CMS Police and Fire Departments; (3) the Dawville Entities shall apply for a security permit  
on the beach side of the property (east) to increase the fence height; (4) the appointment of receiver issue shall be settled  
DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 13<sup>th</sup>

day of

March

CONFORMED COPY

2019

MAR 13 '19

Maria de Jesus Santovenia  
CIRCUIT COURT JUDGE

Maria de Jesus Santovenia  
CIRCUIT COURT JUDGE

Copies furnished to: Counsel of Record

117\_01-554 3/11

G DORTA = Defs  
M DORTA = Defs.

Martha R. Moran, Defendant  
Ocean Bank  
Jason Jacobson, City of Miami Beach



# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

LETTER TO COMMISSION

**064-2019**

LTC No.

TO: Mayor Dan Gelber  
Members of the City Commission  
City Manager Jimmy L. Morales

FROM: City Attorney Raul J. Aguila 

DATE: February 5, 2019

SUBJECT: **Deauville Beach Resort**

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The purpose of this Letter to Commission is to provide the Mayor and City Commission with an update regarding the Deauville Beach Resort.

At the direction of the Mayor and City Commission, the City Attorney's Office filed a lawsuit against the Deauville Beach Resort entities on February 5, 2019 for an injunction to avoid demolition by neglect (in accordance with Section 118-532(g) of the Code of the City of Miami Beach), the appointment of a receiver, and breach of fiduciary duty for the failure to remit resort taxes due and owing to the City. The Complaint is attached to this Letter to Commission as Exhibit "A".

Should you have any questions or concerns about any of the foregoing, please don't hesitate to contact me.

**EXHIBIT "A"**

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT, IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

THE CITY OF MIAMI BEACH, FLORIDA, a  
Florida municipal corporation,

CASE NO.:

Plaintiff,

v.

DEAUVILLE ASSOCIATES, LLC, a Florida limited  
liability company, DEAUVILLE HOTEL  
PROPERTY, LLC, a Florida limited liability  
company, DEAUVILLE HOTEL HOLDINGS, LLC,  
a Florida limited liability company, and OCEAN  
BANK, a Florida banking corporation,

Defendants.

**THE CITY OF MIAMI BEACH, FLORIDA'S COMPLAINT  
FOR INJUNCTIVE RELIEF, DAMAGES, AND APPOINTMENT OF RECIEVER**

Plaintiff, the City of Miami Beach, Florida (the "City"), sues Deauville Associates, LLC,  
Deauville Hotel Property LLC, Deauville Hotel Holdings, LLC, and Ocean Bank, and alleges as  
follows:

**JURISDICTION, VENUE AND IDENTIFICATION OF PARTIES**

1. This is an action for an injunction to avoid demolition by neglect, in accordance  
with the Section 118-532(g) of the Code of the City of Miami Beach, Florid, ("City Code"), for  
damages in excess of \$15,000.00, and for the appointment of a receiver, and is within the  
jurisdiction of this Court.

2. The City is a political sub-division of the State of Florida.

3. At all times material hereto, Deauville Associates, LLC is a Florida limited liability  
company with its principal office located in Miami-Dade County, Florida, and is doing business  
in Miami-Dade County, Florida.

4. At all times material hereto, Deauville Hotel Property, LLC is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida and is doing business in Miami-Dade County, Florida.

5. At all times material hereto, Deauville Hotel Holdings, LLC is a Florida limited liability company with its principal place of business in Miami-Dade County, Florida and is doing business in Miami-Dade County, Florida.

6. Ocean Bank is a Florida banking corporation with its principal place of business located in Miami-Dade County, Florida. At all times material hereto, it was doing business in Miami-Dade County, Florida.

7. Ocean Bank ("Lender") has an interest in this action as the holder of a Promissory Note and holder of the Amended and Restated Mortgage and Security Agreement executed as of July 8, 2005, by Deauville Associates, LLC, Deauville Hotel Property, LLC, and Deauville Hotel Holdings, LLC, in favor of Lender and recorded in Official Records Book 23592, Page 1827, of the public records of Miami-Dade County, Florida, as modified by that certain Extension and Modification of Note and Mortgage Agreement executed as of September 23, 2008, by Deauville Associates, LLC, Deauville Hotel Property, LLC, and Deauville Hotel Holdings, LLC, in favor of Lender, and as is further modified by that Certain Modification of Mortgage and Other Loan Documents, executed May 17, 2011, by Deauville Associates, LLC, Deauville Hotel Property, LLC, and Deauville Hotel Holdings, LLC, in favor of Lender and recorded in Official Records Book 27713, Page 4188, of the public records of Miami-Dade County, Florida, and encumbers the real property located at 6701 Collins Avenue, Miami Beach, Florida (the "Property").

8. Venue is proper in this Court because the Property which is the subject matter of this action and the causes of action alleged herein accrued in Miami-Dade County.

9. All conditions precedent to bringing this action have occurred, been performed or excused.

**GENERAL FACTUAL ALLEGATIONS**  
**THE HISTORIC DEAUVILLE BEACH RESORT**

10. The Deauville Beach Resort is a 538-room ocean front hotel located at 6701 Collins Avenue, Miami Beach, Florida owned by Deauville Associates, LLC, and is operated by Deauville Associates, LLC, Deauville Hotel Property LLC, Deauville Hotel Holdings, LLC. (collectively referred to as “Deauville”).

11. The Deauville Beach Resort was designed by the noted architect Melvin Grossman and constructed in 1957, and upon opening, the Deauville was named “Hotel of the Year.” *Deauville History*, <https://deauvillebeachresortmiami.com/home/deauville-history/>, attached hereto as Exhibit “A”.

12. The Deauville Beach Resort’s iconic design is described as “Post War Modern” and, more recently, “Miami Modern” (MiMo), a style that picked up where Art Deco left off with the added influences of a booming post World War 2 economy, new technologies, the prevalence of the redesigned automobile, and a feeling of national optimism. *Id.*; *North Beach Resort Historic District Designation Report*, City of Miami Beach Planning Department (March 17, 2004).

13. The Deauville Beach Resort was a favored venue for many notable entertainers of the 1950s and 1960s, including Frank Sinatra, Sammy Davis, Jr., Dean Martin, Joey Bishop, Tony Bennett, Bing Crosby, Judy Garland, Sophie Tucker, Henny Youngman, Milton Berle and Jerry Lewis. *See* Exhibit “A”.

14. Notably, the Deauville Beach Resort is iconic for hosting one of the most significant events in the history of popular music: The Beatles’ performance on The Ed Sullivan Show on February 16, 1964. *Id.*

### Historic Preservation in Miami Beach

15. The City Commission has declared that “the preservation and conservation of properties of historical, architectural and archaeological merit in the [C]ity is a public policy of the [C]ity and is in the interest of the [C]ity’s future prosperity.” Section § 118-501 of the City Code. As adopted by the Mayor and City Commission, the goals of the City’s historic preservation regulations include:

**[t]he protection of historic sites and districts to combat urban blight, promote tourism, foster civic pride, and maintain physical evidence of the [C]ity’s heritage; . . .**

[t]he encouragement and promotion of restoration, preservation, rehabilitation and reuse of historic sites and districts by providing technical assistance, investment incentives, and facilitating the development review process; . . .

[t]he promotion of excellence in urban design by assuring the compatibility of restored, rehabilitated or replaced structures within designated historic districts; and . . .

**[t]he protection of all existing buildings and structures in the [C]ity’s designated historic districts or on designated historic sites from unlawful demolition, demolition by neglect and the failure of property owners to maintain and preserve the structures.**

Section § 118-502 of the City Code (emphasis added).

16. The City Code requires Historic Preservation Board review of “all applications involving demolition, new construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118- 593, or located within an historic district.” Section § 118-563 of the City Code.

17. The Deauville Beach Resort is a “Contributing” structure located within the North Beach Resort Local Historic District, and the Property falls under the jurisdiction of the City’s Historic Preservation Board. City of Miami Beach Code of Ordinances No. 2004-3438.

**DEMOLITION BY NEGLECT – THE DEAUVILLE BEACH RESORT**

18. In or around July 2017, the Property was rendered uninhabitable due to extensive damages caused by an electrical fire at the Property, forcing Deauville to close the Deauville Beach Resort. Approximately two months after the electrical fire, the Property sustained wind and water damage caused by Hurricane Irma, which damages were later amplified by certain illegal work performed on the Property without a permit.

19. The Property has not re-opened since its closing in July 2017.

20. Since the Property's closing in July 2017, the Deauville has not undertaken any substantial remedial measures at the Property, causing the Property to deteriorate which is jeopardizing the structural integrity of the historic "Contributing" structure.

21. Following an inspection performed by the City on July 25, 2017, the City issued Violation US2017-01686 against Deauville Hotel Property LLC, deeming the structure an "Unsafe Structure", and providing Deauville Hotel Property LLC fifteen (15) days to: (1) submit an engineering report signed and sealed by electrical engineer to evaluate the cause of the fire, the extent of the damages and methods of repair; (2) obtain approved final inspection to reconnect power to the building; and (3) obtain approved permits for the required repairs. A copy of Violation US2017-01686 is attached hereto as Exhibit "B".

22. Deauville failed to timely comply with the City's Violation US2017-0168.

23. In accordance with Section 118-532(g) of the City Code, pertaining to the "Maintenance of Designated Properties and demolition by neglect", the City requires that buildings located within local historic districts be properly maintained, and contributing structures within the local district are required to properly maintain and preserve the structure in accordance with standards set forth in the applicable City Code, Florida Building Code, and the City's Certificate of Appropriateness criteria.

24. The City has defined "demolition by neglect" as any failure to comply with the minimum required maintenance standards of City Code Section 118-532, whether deliberately or inadvertently and Section 118- 532(g)(1)(a) of the City Code outlines required minimum maintenance standards in order to preserve from deliberate or inadvertent neglect, the interior, exterior, structural stability and historic and architectural integrity of any building located within a local historic district. Such defects shall include, but are not limited to the following:

- a) Deteriorated or decayed facades or facade elements, including, but not limited to, facades which may structurally fail and collapse entirely or partially;
- b) Deteriorated or inadequate foundations;
- c) Defective or deteriorated flooring or floor supports or any structural members of insufficient size or strength to carry imposed loads with safety;
- d) Deteriorated walls or other vertical structural supports, or members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
- e) Structural members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- f) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or
- g) floors, including broken or missing windows or doors;
- h) Defective or insufficient weather protection which jeopardizes the integrity of exterior or interior walls, roofs or foundation, including lack of paint or weathering due to lack of paint or other protective covering; any structure which is not properly secured and is accessible to the general public; or any fault or defect in the property that renders it structurally unsafe or not properly watertight;
- i) The spalling of the concrete of any portion of the interior or exterior of the building.

25. Pursuant to Section 118-532(g)(1)(b) of the City Code, pertaining to "Notice administrative enforcement and remedial action", if any building located within a local historic district, in the opinion of the historic preservation board, Planning Director or designee, or the City's Building Official or designee, falls into a state of disrepair so as to potentially jeopardize its structural stability and/or architectural integrity, and/or the safety of the public and surrounding structures, or fails to satisfy any of the required minimum maintenance standards above, the Planning Director or designee, or the City's Building Official or designee shall have right of entry

onto the subject property and may inspect the subject property after 48 hours' notice to the owner of intent to inspect.

26. On September 19, 2018, the City of Miami Beach Planning Director and the City's Building Official determined that the Property had fallen into a state of disrepair that jeopardizes the structural and architectural integrity of the Property, which decision was based upon several visual inspections of the exterior of the premises, the numerous building permits that have not been issued or finalized, the inability to occupy the structure, the fact that the Deauville's contractor had placed the City on notice of his intent to withdraw as the Contractor of Record, and the fact that the City issued an Unsafe Structure Board filing with Miami-Dade County with regard to the Property.

27. More specifically, the Planning Director and Building Official determined that the Property did not meet the required minimum maintenance standards established in 118-532(g)(1)(a) which include, *inter alia*, deteriorated or decayed facades or facade elements, including, but not limited to, facades which may structurally fail and collapse entirely or partially; deteriorated or inadequate foundations; deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or missing windows or doors; defective or insufficient weather protection which jeopardizes the integrity of exterior or interior walls, roofs or foundation, including lack of paint or weathering due to lack of paint or other protective covering; any structure which is not properly secured and is accessible to the general public; any fault or defect in the property that renders it structurally unsafe or not properly watertight; the spalling of the concrete of any portion of the interior or exterior of the building.

28. Based upon the Planning Director's and the Building Director's findings, in accordance with Section 118-532(g)(1)(b) of the City Code, the City issued its "48 Hour Prior Notice Of Intent To Inspect Pursuant To The City's Demolition By Neglect Procedures", intending



to inspect the interior and exterior of the Property. The 48 Hour Prior Notice of Intent is attached hereto as Exhibit "C".

29. On or about October 8, 2018, the City and Deauville held an inspection at the Property pursuant to the 48 Hour Prior Notice Of Intent to Inspect Pursuant to the City's Demolition by Neglect Procedures.

30. At the October 8, 2018 inspection, the City confirmed that the Property did not meet the required maintenance standard performed set forth in City Code Section 118-532(g). The inspection photos are attached hereto as Composite Exhibit "D".

31. The City notified the Deauville on October 11, 2018 that the inspection confirmed that the Property did meet the minimum required maintenance standard set forth in City Code Section 118-532(g), and that the City would institute an action to avoid demolition by neglect claim unless the Deauville undertook meaningful action to place the Property in compliance with the established maintenance standard, attached hereto as Exhibit "E".

32. To date, Deauville has failed to perform any substantial work at the Property which would be required in order to place the Property in compliance with Section 118-532(g) of the City Code.

33. Deauville's continuing failures to perform the required repair and remediation work to the Property is resulting in the ongoing deterioration of the structure, which unless resolved, will deteriorate beyond repair requiring the demolition of the historic Property, a "Contributing" structure located in the North Beach Resort Local Historic District.

34. A case is currently pending before Miami-Dade County Unsafe Structures Board, Case No. US2017-0168 ("Unsafe Structures Case") related to Violation US2017-0168 issued by the City. *Supra* at 21-22.

35. At its meeting on December 12, 2018 regarding the Unsafe Structures Case, the Miami-Dade County Unsafe Structures Board upheld the recommendation of the City's Building Official and entered the following ruling:

- a) The structure(s) are to be maintained secure, clean and sanitary, free of debris, overgrown grass or weeds and free of discoloration or graffiti.
- b) A temporary electrical power permit must be applied for within thirty (30) days of the date of the ruling. The temporary electrical permit shall be obtained within sixty (60) days from the date of the ruling. The building permit(s) to repair windows and for concrete spalling must be applied for within sixty (60) days after obtaining the temporary electrical permit, with the understanding that no work can be performed until the temporary power permit is issued.
- c) A 40-Year Recertification Report shall be submitted within one hundred twenty (12) days from obtaining the temporary electrical permit to the City of Miami Beach Building Official as required in standard form signed and sealed by a structural and electrical engineer and to obtain all necessary permits to repair and restore said structure.

Unsafe Structures Board Order, attached hereto as Exhibit "F".

36. The Deauville has not applied for temporary power within thirty (30) days of the Unsafe Structures Case ruling, and the Deauville has not undertaken any meaningful steps necessary to comply with any other ruling from the Unsafe Structures Board Order.

37. On January 24, 2018, the City issued Violation ZV2019-02352 to Deauville Associates LLC based on the failure to comply with the minimum required maintenance standards established in Section 118-532(g) of the City Code. A copy of Violation ZV2019-02352 is attached hereto as Exhibit "G".

38. In fact, it is clear that the Deauville has no intention on voluntarily undertaking the repairs necessary to bring the Property into compliance with the City Code and the City's Historic Preservation Board, and Deauville is hedging its bets that the City will eventually allow the demolition of the structure: "It would be a favor that they demolish the [Property] and I get rid of this nightmare that I have. That's the truth." Unsafe Structures Case Hearing Transcript, P. 38, 7-10, December 12, 2018, attached hereto as Exhibit "H". "So, the building is full of water, full of

mold and mildew. We have no power. I mean, what do we do? We have no money. *Id* at P. 33, 13-16.

39. Incredibly, the only work that the Deauville has performed on the Property since the Deauville Beach Resort closed its doors to the public was the illegal work Deauville performed on the roof without any construction permit, which Deauville officials freely admitted under oath at the Unsafe Structures Case hearing. *See* Exhibit "H", Pages 41-42; 19-25, 1-0; Pages 53-54; 20-25, 1-3.

**COUNT I**  
**INJUNCTION PURSUANT TO SECTION 118-532(g) OF THE CITY CODE**  
**TO AVOID DEMOLITION BY NEGLECT**

40. The City re-alleges and reincorporates Paragraphs 1 through 39 as if fully set forth herein.

41. This is an action for injunctive relief pursuant to Section 118-532(g) of the City Code.

42. The Property is located within the City's North Beach Resort Local Historic District and is classified as a "Contributing" structure.

43. Section 118-532(g) of the City Code requires that the owner of any building, structure, improvement, landscape feature, public interior located within a historic district to properly maintain and preserve such building or structure in accordance with the Florida Building Code and Section 118-532(g) of the City Code.

44. The City sent Deauville a 48 Hour Prior Notice Of Intent To Inspect Pursuant To The City's Demolition By Neglect Procedures. *See* Exhibit "C".

45. On or about October 8, 2018, the City met with the Deauville at the Property pursuant to the 48 Hour Prior Notice Of Intent to Inspect Pursuant to the City's Demolition by Neglect Procedures.

46. The inspection performed on October 8, 2018 confirmed that the Property did not meet the required minimum maintenance standards as set forth in Section 118-532(g) of the City Code. *See* Composite Exhibit “D”; *see also* Exhibit “E”.

47. To date, Deauville has failed to perform work required to put the Property within the required minimum maintenance standards set forth in by Section 118-532(g) of the City Code.

48. The City is entitled to an injunction requiring the Deauville to take the remedial and corrective action necessary to restore the Property’s compliance with the required minimum maintenance standards set forth in by Section 118-532(g) of the City Code. Section 118-532(g)(1)(c) of the City Code.

49. The Property is a “Contributing” structure located in the North Beach Resort Local Historic District, subject to the City’s zoning regulations pertaining to historic properties, and the City will suffer irreparable harm unless the Property is brought into compliance with City Code Section 118-532(g) because Deauville’s continuing failures to perform the required repair and remediation work to the Property will result in the ongoing structural and architectural deterioration of an iconic Miami Beach property, and, unless resolved, will ultimately result in the Property’s deterioration beyond repair requiring the demolition of the Property.

50. There is no other adequate remedy at law to the City.

51. The public interest supports the entry of an injunction pursuant City Code Section 118-532(g) because the public has an interest in the maintaining of historical properties and structures located within the City.

**WHEREFORE**, the Plaintiff, the City of Miami Beach, respectfully requests that that this Court enter an injunction in its favor against Deauville, requiring Deauville to take the remedial and corrective action necessary to restore the Property’s compliance with the required minimum maintenance standards set forth City Code Section 118-532(g), together with the City of Miami

Beach's reasonable attorney's fees and costs pursuant to City Code Section 118-532(g)(5), together with such further relief that this Court deem just and proper.

**COUNT II**  
**BREACH OF FIDUCIARY DUTY TO REMIT RESORT TAXES**  
**AGAINST DEAUVILLE ASSOCIATES LLC**

52. The City re-alleges and incorporates paragraphs 1 through 39 as if fully set forth herein.

53. This is an action for breach of fiduciary duty against Deauville Associates, LLC for failure to remit resort taxes to the City of Miami Beach pursuant to Section 102-307 of the City Code.

54. The City levies a tax of four percent (4%) on the rent of every occupancy of a room or rooms in any hotel, motel, rooming house, or apartment house in the city, and two percent upon the total sales price of all items of food, beverages, alcoholic beverages or wine sold at retail of any restaurant. Section 102-307(a) of the City Code.

55. Such tax constitutes a debt owed by the occupant or guest to the City. Section 102-307(b) of the City Code.

56. The Deauville Associates, LLC owes a duty to the City to remit all resort taxes collected from the Deauville Beach Resort's occupants or guests to the City.

57. The City performed an audit of the Property and Deauville Associates, LLC regarding the Deauville Associates, LLC's resort tax obligation to the City, identifying that the Deauville Associates, LLC owes in excess of \$91,2120.48 to the City for its resort tax obligations. A copy of the Audit is attached hereto as Exhibit "I".

58. On September 19, 2018, the City recorded a claim of lien for unpaid resort taxes in official records Book 31146, Page 3912 of the Public Records in and for Miami-Dade County, Florida. A copy of the claim of lien is attached hereto as Exhibit "J".

59. Deauville Associates, LLC has knowingly, willfully, and recklessly breached the fiduciary duties of good faith, loyalty and due care owed to the City to remit resort taxes.

60. The City has been damaged in excess of \$91,2120.48 for Deauville Associates, LLC's breach of fiduciary duty remit resort taxes to the City.

**WHEREFORE**, the Plaintiff, the City of Miami Beach, respectfully requests that that this Court enter judgment in its favor against Deauville Associates, LLC, awarding the City damages in excess of \$15,000.00 plus interest, fees, reasonable attorney's fees, costs, and any other relief that this Court deem just and proper.

**COUNT III**  
**APPOINTMENT OF RECIEVER**

61. The City re-alleges and incorporates paragraphs 1 through 39, 42 through 51, and 54 through 60 as if fully set forth herein.

62. The City seeks the appointment of a receiver to: (1) ensure the collection of all resort taxes owed to the City by Deauville Associates, LLC; (2) manage the Property; (3) oversee all repair and remediation work required for the Property to comply with Section 118-532 of the City Code; (4) take all required measures to rectify all outstanding City violations related to the Property; (5) collect and remit all outstanding taxes related to the Property; and (6) collect and remit to the City all civil penalties or fines against the Property or Deauville pursuant to the applicable sections of the City Code.

63. The City has a clear right and entitlement to: (1) collect Deauville Associates, LLC's resort tax obligations to the City; (2) to require Deauville to manage and maintain the Property subject to the minimum maintenance standards set forth in City Code Section 118-532(g)(5); (3) cause Deauville to undertake repair and remediation work required for the Property to comply with Section 118-532 of the City Code; (4) require that Deauville rectify all outstanding

City violations related to the Property; and (5) collect civil penalties and fines against the Property or Deauville pursuant to the applicable sections of the City Code.

64. As such, the City has a strong likelihood of success on the merits.

65. The Property has remained closed since July 2017, and Deauville has failed to perform any significant remedial or repair efforts that would place the Property in compliance with City Code Section 118-532(g)(5).

66. The Deauville has indicated that it has no intention of performing the work required to place the Property within compliance with the City's Land Development Regulations and City Code Section 118-532(g)(5). *Supra* at 38.

67. Deauville Associates LLC has failed to remit resort taxes due and owing to the City in excess of \$15,000.00.

68. The Property is in a state of disrepair and is being wasted all while Deauville is not taking any significant steps towards performing any work necessary to restore the historic Property and re-open the Deauville Beach Resort.

69. There is good cause to believe that immediate and irreparable harm to the City's interests in maintaining the historical status of the Property will occur from Deauville's and the Property's ongoing violations, tax obligations and failure to maintain and repair the Property without the appointment of a receiver.

70. There is no other adequate remedy at law to protect the Property from the ongoing waste, deterioration, accruing fines, liens, and violations, and as such the immediate appointment of a receiver over the Property is necessary to protect the City's interest in the Property.

**WHEREFORE**, the Plaintiff, the City of Miami Beach, respectfully requests that that this Court appoint a receiver and order that the receiver takes any and all necessary action required to:

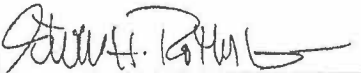
- (1) ensure the collection of all resort taxes owed to the City by Deauville Associates, LLC;
- (2) manage the Property;

CASE NO.:

- (3) oversee all remediation and repair work required for the Property to comply with Section 118-532 of the City Code;
- (4) take all required measures to rectify all outstanding violations related to the Property;
- (5) collect and remit all outstanding taxes related to the property; and
- (6) collect and remit to the City all civil penalties or fines against the Property or Deauville pursuant to the applicable sections of the City Code.

DATED this 4th day of February, 2019.

Respectfully submitted,  
RAUL J. AGUILA, CITY ATTORNEY  
CITY OF MIAMI BEACH  
1700 Convention Center Drive, 4<sup>th</sup> Floor  
Miami Beach, Florida 33139  
Tel: (305) 673-7470 / Fax: (305) 673-7002

By:   
Steven Rothstein, Esq,  
Deputy City Attorney  
Florida Bar No. 727547  
Jason Jacobson, Esq,  
Assistant City Attorney II  
Florida Bar No. 118276



# MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC# **638-2018**

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: December 13<sup>th</sup> 2018

SUBJECT: Building Department Deauville Hotel Unsafe Structure Case Update

This memorandum is an update of the Deauville Hotel repairs and recertification process. The city's goal is to prevent the demolition of the building by owner neglect and to ensure that the owner undertakes the required repairs.

The city's case against the Deauville was taken to the Miami-Dade County Unsafe Structures Board on Dec. 12, 2018. The Building Department presented the following issues:

- The 40 year recertification report was due on April 28<sup>th</sup> 2017
  - Extensions were requested
  - No action was taken to submit a report certifying the buildings structural and electrical system
  - City referred to the Unsafe Board in October 2018
- An electrical fire forced an evacuation of the building on July 25, 2017
  - The permit for replacement of the damaged items was:
    - Applied for on October 13, 2017
    - Issued on April 2, 2018
    - Finalized without energizing on July 6, 2018
- FPL vault issue
  - Meeting on June 7, 2018
  - No action was taken to obtain a permit

The Building Department presented a recommendation request to the unsafe structures board as follows:

- 30 days to apply for the temporary power permit
- 60 days to obtain the temporary power and work on obtaining the permits to repair the windows and the permit for concrete restoration, with the understanding that no work can commence until the temporary electrical permit is issued, installed and inspected.
- 120 days to submit the preliminary 40-year recertification report to the Building Department.

The Planning Department presented the historic nature of the structure and the city's unwillingness to allow the buildings disrepair and deterioration to continue.

Ownership of the Deauville indicated that the City had limited use of generators to 12 hours per day; their Insurance carriers have not provided additional funding for the FPL vault relocation; that they have spent over \$4 million dollars on repairs and they have repaired portions of the roof

The Unsafe Structures Board voted unanimously to pass the Building Department's recommendation as submitted. We will continue to provide periodic updates.

JLM/SMT/AS

# MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC#

608-2018

LETTER TO COMMISSION

TO: Mayor Dan Gelber  
Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: November 15, 2018

SUBJECT: Building Department Deauville Hotel Unsafe Structure Case Update

This memorandum is an update of the Deauville Hotel repairs and recertification process. The goal is to prevent the demolition, by owner neglect, of the building, and to ensure that the owner undertakes the required repairs. The case against the Deauville was taken to the Miami-Dade County unsafe structures board. After many months of extensions and anticipating progress towards essential building repairs, the City of Miami Beach Building Department was scheduled to present the case on November 14<sup>th</sup> to the Unsafe Structures Board. The item was continued to the December meeting, due to lack of quorum. On December 12<sup>th</sup> 2018, the Building Department will be presenting the following issues:

- The 40 year recertification report was due on April 28<sup>th</sup> 2017 40YR1700676
  - Extensions were requested
  - No action taken
  - City referred to the Unsafe Board in October 2018
- An electrical fire forced an evacuation of the building on July 25<sup>th</sup> 2017
  - The permit for replacement of the damaged items was:
    - Applied for on October 13<sup>th</sup> 2017
    - Issued on April 2<sup>nd</sup> 2018
    - Finalized without energizing on July 6<sup>th</sup> 2018
- FPL vault issue
  - Meeting on June 7<sup>th</sup> 2018
  - No action taken

In order to recertify the building electrically and structurally, the electrical vault would require relocation. FPL will not allow energizing the original vault due to unsafe conditions, and concrete restoration work would need to be performed on the exterior spalling concrete.

Staff will provide an update after the December 12<sup>th</sup> meeting.

JLM/SMT/AS

# MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC #

090-2018

## LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 21, 2018

SUBJECT: **North Beach Community Update**

The purpose of this Letter to Commission is to provide you with an update on activity and progress made in the North Beach community, specifically in regards to supporting small and local businesses.

The City, in partnership with the Greater Miami Visitors Bureau, extended an invitation for all North Beach restaurants and commercial businesses to participate in their Romance Month special offers and events during the month of February. This offering is typically only extended to GMCVB members, but in this case – and particularly with the intention to support local businesses while the Deauville Hotel remains closed – the offer was extended to all North Beach restaurants and businesses. This opportunity allows for North Beach establishments to solicit and extend unique and exciting offerings during the month of February. Staff will continue to partner with the GMCVB to determine additional ways to better support and highlight North Beach through creative marketing and promotions.

Additionally, Staff has retained Street Plans, an urban planning and design firm, to complete the Rue Vendome street closure. Street Plans, along with members of City staff, met on February 5, 2018, to begin the planning process. The proposed date for completion is March 2, 2018, allowing for the official street closure unveil to be held during the North Beach First Friday event. The proposed date is subject to change depending on the purchasing and shipment of supplies.

JLM/KGB/ES/mh

C: Eva Silverstein, Director, Tourism, Culture and Economic Development  
Kathie Brooks, Assistant City Manager

# MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

Raul J. Aguila, City Attorney

DATE: June 6, 2018

SUBJECT: **DISCUSSION: THE DEAUVILLE BEACH RESORT**

### HISTORY

On March 7, 2018, at the request of Commissioner Kristen Rosen Gonzalez, the City Commission referred the subject item to the Land Use and Development Committee for discussion (Item R9K).

On March 14, 2018 the item was continued to the April 4, 2018 LUDC meeting. On April 4, 2018 the LUDC discussed the item and continued it to a date certain of May 23, 2018.

On May 23, 2018 the LUDC discussed the item and referred it to the full City Commission for discussion and to consider all available and aggressive action to compel compliance with all applicable regulations by the Deauville. A copy of the LUDC minutes summary is attached as Exhibit 1 to this memorandum.

### ANALYSIS

The Deauville Hotel, located at 6701 Collins Avenue was constructed in 1957 and designed by noted local architect Melvin Grossman. The subject structure is an excellent example of the Post War Modern (MiMo) style of architecture and is classified as a contributing building within the North Beach Resort Local Historic District.

The hotel is currently vacant and not operating due to a fire in July, 2017. While permits have been applied for, no serious building activity is taking place.

### Maintenance of Designated Properties and Demolition by Neglect

Section 118-532(g) of the City Code provides a mechanism for the City to initiate the demolition by neglect process for a designated property. Such process may be initiated if it is determined by the Historic Preservation Board, Planning Director, or Building Official that a designated property has fallen into one or more of the following categories:

- A state of disrepair so as to potentially jeopardize its structural stability and/or architectural integrity;

- A state of disrepair, so as to potentially jeopardize the safety of the public and surrounding structures;
- A state of disrepair that results in the property failing to meet the minimum maintenance standards.

The following is a summary of the demolition by neglect process:

1. After 48 hours' notice to the owner of intent to inspect, the City may enter and inspect the property.
2. Upon completion of the inspection, a report delineating the findings of the inspection, as well as any remedial action required to address any violation of the required minimum maintenance standards, shall be immediately transmitted to the property owner. The City may require that the property owner retain a professional structural engineer to complete a structural evaluation report to be submitted to the City.
3. Upon receipt of such report, the property owner shall substantially complete any remedial or corrective action within 30 days of receipt of the report, or within such time as deemed appropriate by the Building Official, in consultation with the Planning Director. Such time may be extended at the discretion of the City's Building Official.

If the property owner refuses access to the property, and/or fails to undertake and substantially complete the required action noted above, within the specified time frame, the City may, at the expense of the owner, file an action seeking an injunction ordering the property owner to allow access to the property and/or take the required remedial and corrective action to restore the building's compliance with minimum maintenance standards. Additionally, the City may seek civil penalties (up to \$5,000 per day), for each day that the remedial and corrective action is not taken).

#### **UPDATE**

On May 8, 2018 the Historic Preservation Board discussed the Deauville Hotel, including a status report provided by the City Attorney. The Board concluded the item with no recommendation.

Building Permits for building repair were issued on April 2, 2018, and an inspection was performed on April 13, 2018. Also, the 40 year recertification was extended and will now expire on June 7, 2018. Additionally, the Building Official has been in contact with the Owner/Contractor, Engineer, and Owners Representative regarding the Deauville project, and has advised that additional access and inspections for some concealed work are still needed.

Possible violations due to Building Department knowledge or exterior inspection:

- 40 year recertification (no knowledge of roof, or individual room status)
- Upgrade electrical work
- Rebar issues/structural issues (part of the 40 year recertification)
- Fire repairs (electrical fire from November 2017)
- Mold issues (no a/c for over 8 months)

- minimal building maintenance standards
- Window and door replacement.

A "demolition by neglect" cause of action in the state of Florida appears to be a case of first impression for the Court system. Those communities (Coral Gables, St. Augustine, and Tampa) that have Historic Preservation ordinances have not created precedent for the implementation of demolition by neglect. Cities like New Orleans and New York have precedent, but, they also appear to have a funding source for conducting the repairs to private property.

To seek demolition by neglect the City will need to meet the criteria for injunctive relief: The proper issuance of a temporary injunction requires a showing of four elements: "(1) irreparable harm; (2) a clear legal right; (3) an inadequate remedy at law; and (4) that the public interest will be served." *Weinstein v. Aisenberg*, 758 So. 2d 705, 706 (Fla. 4th DCA 2000). A municipality does not have to post a bond, but, if it doesn't, the municipality may be exposed to unlimited damages. As such litigation would be a case of first impression in the state, whether preserving a private property owner's structure, is sufficient reason for an injunction<sup>1</sup>, that the City does not have an adequate remedy at law (require reconstruction). Furthermore, if the City is successful with the injunction claim, the City would need to identify a funding source to do the work. The City ordinarily needs to bid out work, publicly procure services, execute contract via City Commission authorization for work over \$50,000, and then enter the premises, assess the damage, and start the repairs. The City currently has no cost estimate to ensure that the building is brought up to a standard that would ensure that the building is not "demolished by neglect." Moreover, it is unclear whether the scope of work would require a Historic Preservation Board public hearing, and development order.

The Administration is quite wary of taking on any obligation with respect to this building beyond the regulatory function we now perform. This is a very large, historic building. The costs of even minimal remediation could be extensive, perhaps even into the millions of dollars. Even if we had a funding source, there is no way to ensure that the owners have the financial wherewithal to reimburse the City for any work we might perform. So long as the building remains vacant, it does not pose a hazard to anyone. I think we should fully explore all other alternatives before even seriously considering taking on the financial and logistical obligation of renovating the Deauville.

### **CONCLUSION**

The Administration recommends that the City Commission discuss the item and provide appropriate policy direction.

JLM/SMT/TRM

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<sup>1</sup> Please note, that the City's Historic Preservation Board could require reconstruction of the exact same structure, if it deems the building to have been deteriorated without good cause.

## Item 2. Discussion regarding the Deauville Beach resort

### Commissioner Ms. Aleman:

Now I know that this one is being monitored, now and on an ongoing basis in front of the preservation board but I wanted to hear from the sponsor to see if there's anything she wants us to take action on.

### Commissioner Kristen Rosen Gonzalez:

I mean, I would like to take action on the fact that there is no action. Hahah

When you read the history, (gets interrupted)

### Commissioner Aleman:

Let's hear from the gentleman and then I can fill you in

### Commissioner Ms. Aleman:

Would you like to address Committee on this item?

Please when you come up state your name for the record:

### Blake Young

My name is Blake Young and I am the President of the Regatta Condominium Association at 6580 Indian Creek Drive.

I've watch, ahh, I lived on 14<sup>th</sup> Avenue, I've heard all the discussions here and I appreciate your attention to all that and I agree something needs to be done with that. I now live up in North Beach and that was a nice Hotel and of course it went down. About a year ago this time, with an electrical fire and it's been compounded. Hum, I've surveyed some of the vendors, the people in the different locations, the new businesses that have opened there, and talk with them about how they feel about it.

Many of them have said that they wouldn't have opened with knowing that that hotel was going to be in that state. That makes me kind of concerned as a resident of that area, because it makes me feel like the area is kind of dying behind that.

And I've heard that sentiment because I've reviewed all the different meetings you guys have had. And what I'm concerned about is, we've talked about all these incentives to help with these buildings behind here, I want to, I'm not sure, the



word on the street is, that the fines are so drastic right now, and the violations so high, that's what the residents are saying and I've heard the meetings and it seems to be to the contrary. But I'm concerned that, this is like the clash of the Titans and meanwhile the people below are going to suffer the most. Etc... And the game that may be played and they may be doing is dragging their feet so it has to be demolished. That's just going to destroy that business right there, that amount of dust and construction. I'm sorry go ahead....

Commissioner Kristen Rosen Gonzalez:

No, no go ahead and finish...

Blake Young:

It is imperative that we get that building up and running. I've talked to other building people who are pretty proficient in that, and we may be getting to a point of no return. Due to the fact that, that's been un-air conditioner since December, the amount of remediation. The cost that is going to be involved to bring that building back to standard. To safe standards.

It's time to act, it's time to do something, we could maybe offer them some incentives or do something to bring them along. It's a Historic Monument, it's a key point, we're talking about the North Beach overlay. So, we have a beautiful landmark there that is at the point of crumbling and that's definitely going to affect the North Beach Development Project because it's not where you guys are talking, it's right on the edge.

Commissioner Kristen Rosen Gonzalez:

So I would like to say something to John;

It's been more than a year that we've had it on the agenda now for 6 months and we have done nothing. I would like to make a motion to direct staff to do whatever you need to do, to possibly be most aggressive to avoid losing the Deauville to a Demolition Process, which is what we are allowing to happen. Right now with the current inaction. (Interrupted) Wait, wait. When you go into the lobby, I mean that is one of our greatest historic resources. It should be top priority. Let it roll over month to month as not just the hotel but the neighborhood deteriorates around it. And we are a party to it because we are not doing anything.

My motion is to progressively pursue some action against the Deauville beyond what we are currently doing.

Eve Boutsis:

If I may speak, I hope there isn't any disagreement from administration nor from myself or from anyone else. Since you brought it on about two months ago, as far as land use and HPB Item, we have actually had a meeting with the Planning Department, and Code. Each one of those disciplines IS taking action okay.

Now, the normal process that we have is, once they starting taking action, there is a Special Master. I'm just going to lay it out. There are often delays, because the Special Master has Independents, they are Quasi-Judicial, they can sometimes give extensions of time for compliance you also have, you know, the violations from the building department which can lead to unsafe structure process, which we all know which ultimately means that if they don't want to fix, it's gets a Demolition Order. And that's what we are all trying to prevent. So what I have asked for is enforcement from the various department so that, can I finish, I'm sorry... I'd like to then go with the direction of the Commission, once we have a record to do what is in our CODE, for this Demolition by neglect, which is in this agenda. The problem is that without that record, and saying that we've tried the different efforts to get an injunction, of course going to say what have you done? Why are you coming to me? why are you changing the process now? We've never used that process. I wanted to clear the record before going in, to say, look we've tried. We've tried to work the property owner; we have these various violations. If I take it the normal route and go to unsafe structure at that point, I will lose the building. But then you have to commit to funding, we have to go in and actually do the assessment because if they are not going to do it, then we have too.

And there's going to be a need for a financial commitment and that is what I'd have to come to you all for.

Commissioner Kristen Rosen Gonzalez:

So if you wanted extra information, I can show you several emails that I sent to the owner that went unanswered and phone calls that I had with the City Manager. I think it has been on the agenda for longer than just two months. At least four to six months, and HPB too.

I think we have an established recorded here.

Commissioner Ms. Aleman:

We need to have this meeting organized and just casual conversations.

Eve Boutsis:

I'm sorry the only thing I would just like to get in a couple of violations adjudicated, so that I have a record to take to court that can substantiate the actions we are trying to take for the first time.

Commissioner Ms. Aleman:

It sounds like Commissioner Gonzalez is considering in her mind considering to pursue demolition by neglect process. Who would take that action? Land Use Committee, HPB?

Eve Boutsis:

City Commission, I'm sorry there's an HPB part to it, then the City Commission for the authorization of funds.

Commissioner Kristen Rosen Gonzalez:

I want to file a lawsuit against the Deauville. What? Why are you looking at me like that?

Eve Boutsis:

I'm not, I'm just thinking ma'am. I'm trying to give you a look.

Commissioner Kristen Rosen Gonzalez:

We need to proceed with BOTH, lawsuit and demolition. This had been going on for a year.

Commissioner Mr. Gongora:

They are playing games with the city, keep permits open, do the bare minimum, etc.

We can do something more drastic, it's declared an unsafe structure. We can fix it and lien them, but we don't want to spend city money, it's their responsibility. So the original motion is perfect, take aggressive action to force them into compliance.

Commissioner Ms. Aleman:

We're not asking the lawsuit to be triggered at this moment.

Commissioner Kristen Rosen Gonzalez:

We are leaving that up to Eve to decide what that is, etc... She'll come back to us.

Commissioner Ms. Aleman:

But Eve can't decide to file a lawsuit.

At our next land use meeting, we can discuss. What are our most aggressive options?

Eve Boutsis:

The only other option is that the Manager can make a recommendation to the city Commission at the next meeting of the City Commission whether he wants to do that or not. That above my pay grade.

Commissioner Ms. Aleman:

So the motion is that the City Manager come back with the most aggressive action plan.

Mr. Mooney

It will be on the Agenda as an R9 Discussion Item.

Commissioner Ms. Aleman:

Mr. Cohen, do you have a comment?

Mr. Cohen

Different perspective to this, the Deauville is an important asset for North Beach. It has a historical importance and financial importance. Shows how fragile our area is. The amount of money is like starting from scratch.

I spoke to the owners... myself and Daniel Veitia and we had a meeting with them and they were very frustrated. Things just started to snowball... The city and the City manager to meet with these owners and find a way to get this hotel back online...

So we can do this quickly and give them as much assistance as we can.

Commissioner Ms. Aleman:

I agree. So maybe we can hand holding and assist them. Make an amendment to the Motion, etc.

Mr. Mooney:

The Building Official has been meeting with their engineering team

Commissioner Kristen Rosen Gonzalez:

The property is on the market right now, right?

Eve Boutsis:

Yes, I understand that for a very large price on the market for sale, yes.

Commissioner Kristen Rosen Gonzalez:

We were here last month with the owners, correct?

Eve Boutsis:

Yes, they were here.

Commissioner Kristen Rosen Gonzalez:

Yes, they were here and Ana Salgueiro, Building Director. They were giving them the temporary permit for the electric. And they are not doing the work that they could. My fear is a head on demolition and the Deauville is gone.

Commissioner Ms. Aleman:

Okay, I think we're done.

We got our motion.

By acclimation. This concludes our agenda.

The May 23<sup>rd</sup>, Land Use Meeting is adjourned.

Note:

Only Blake Young's and Eve's testimony is verbatim.

Typed by: Emily Ana Fuentes

Done on: 5/30/2018

with the rating agencies and keeping them apprised of the plan as well as tweaking with upcoming new technology is a strength.

Commissioner Alemán inquired if it is a benefit or helpful to the City to have outside organization experts from Harvard and the Urban Land Institute come in and weigh in on what they are doing.

Ms. Santamaria stated that having the experts weigh in is helpful to show that the City has the outside and independence expertise, and having Columbia University offering to come in is an added value.

Commissioner Samuelian inquired if Ms. Santamaria knows what percentage of cities have higher credit ratings than Miami Beach.

Ms. Santamaria stated that there are very few that have AAA ratings such as Pittsburgh County, Palm Beach County and maybe Boca Raton, but it is rare; however, the State of Florida is rated AA by the one of the three rating agencies, so it does not have AAA from all three rating agencies.

Commissioner Samuelian added that the residents of Miami Beach should feel good about the credit ratings. In regards to feedback, resilience seems to be the topic of interest. He asked Ms. Santamaria what types of questions the credit agencies are asking.

Ms. Santamaria answered that they are asking about the City's commitment, the size of the capital plan, what the results have been, and they have had conversations with Standard & Poor's where Assistant City Manager Eric Carpenter was able to provide the actual results in terms of the numbers of the reduced stormwater after certain projects were implemented thus far, and that was very positive. She advised the City to continue communicating with them, make edits as they go along and have new technology and experts coming to help is a good story for the rating agencies.

Vice-Mayor Steinberg thanked Ms. Santamaria for her verbal presentation and recognized Commissioner Alemán for placing the item on the Agenda.

10:15:07 a.m.

**SUPPLEMENTAL MATERIAL 1: MEMORANDUM**

**R9 S DISCUSSION REGARDING THE DEAUVILLE BEACH RESORT.**

Planning/Office of the City Attorney  
Commissioner Kristen Rosen Gonzalez

**ACTION:** Discussion held. **Ana Salgueiro and Thomas Mooney to handle.**

Commissioner Rosen Gonzalez stated that since Hurricane Irma, the Deauville was closed and the City is very sorry for the loss. The entire commercial zone around the Deauville is suffering due to this. She knows that the Deauville had problems getting their electrical permits back, but the Commission needs some reassurance that the Deauville will be restored, as it is one of the City's greatest historic resources. The Beatles famously played at the Deauville, and the entire community is upset over its closure. She received a PowerPoint from the condominium adjacent to the Deauville and the area has become dangerous, the gates in the back of the Deauville are open, people can get in, but most importantly, the City wants to help the Deauville in any way. The

Neighborhood/Community Affairs Committee passed a motion for the City to do anything possible to make sure that the Deauville is preserved and up and running again.

Melisa Meruelo, on behalf of the Deauville Hotel, wanted to correct some statements that were made at the last meeting. First, the Deauville was called "neglectful" for not answering emails, and she wants to set the record straight. She received one email on January 3, 2018, and since then they have spoken at meetings before the City Commission. Her father has not received any emails and she checks her grandmother's emails and nothing was received. Since the property closed on July 25, they have been working five days a week diligently without taking a week off. At times, there can be five to 15 workers on the Deauville payroll working towards getting electrical power restored. They have been working closely with Ana Salgueiro, who has been collaborating with them, and so far, the Deauville has pulled several permits and has complied with all the inspections. They met yesterday with City Manager Morales, and although there has not been further action, there have been more occurrences of progress. For example, FPL just informed the Deauville that they needed to rebuild their electrical vault. To get full power, it could be a 9 to 12-month process. Building Director Salgueiro has generously offered her time tomorrow morning to meet with the Deauville and FPL, and that is where they stand as of now. At the last meeting, many statements were made that the Deauville was not doing all the work they could do, but she does not know what more work they can do without full power.

Ana Salgueiro, Building Director/Building Official, explained that they met yesterday with Melissa Meruelo, her family, her lawyers, engineers, and architects, and they do have the electrical permit and a building permit that is associated to properly run the electrical wires and protect the electrical equipment. The way the building is set up now, to have the wires come in and go into the electrical room they need to build a protective case, which requires a building permit. Also needed are is an electrical permit, to do the repairs. Because of this, the pump had to be moved outside, so the Deauville also had to get a permit to move the fire pump to the exterior and then the fire pump needs to be outside of what was the electrical vault room. It has been a process; the Deauville currently has a permit for the backup emergency generator. They also have a permit for the electrical to repair as well as a building permit associated with the electrical work. As Ms. Meruelo said, what happened was that about a month and a half ago, FPL indicated that the Deauville needed to move the vault room and make the vault comply with current Code, which means the vault needs to be raised above street level. Currently the vault is at the ground floor below ground grade level. FPL has asked the Deauville to upgrade and redo the vault. There is a meeting tomorrow with FPL and she told the Deauville that will attend the meeting either in person or by telephone to try to get some sort of partial power if they cannot restore full power, and if there is a commitment from the hotel to work on restoring the vault, so that they can at least have the power to do the repairs. To do the structural repairs to the eyebrows and to the exterior of the building, and even assess everything in the building, they will need some power to get equipment on elevators and move things within the building in an effective manner. She also spoke with the Deauville specifically about securing the pool level, as they need something permanent to secure it from the exterior from the beach to make sure no one can easily come in and come through the back. The Deauville would like to be able to have some exterior lighting, once the power is restored, to improve security in the area. The Deauville has plans to make some major renovations to the building and those will take longer, but this is temporary, to get things up and running. The hotel may not be open for a while, but if they do not take care of the emergency things, since the building was not in the best shape when they had the fire, if it

continues to be uncared for it declines further. Anything she can do to help the Deauville restore the power she will do so that they can continue working.

Ms. Meruelo added that they cannot obviously enter the building to assess the safety of the structure without full power, and that will determine the extent of the development plans. In addition, to get the Certificate of Occupancy, they need to order a back-up generator, which is arriving early next week. All the electrical work has been done to be able to power the generator upon arrival. In addition, they started working with architect Kobi Karp who was involved with the Deauville plans originally. Residents have asked the City to help the Deauville – Ms. Meruelo asked the Commissioners for the City to offer incentives instead of pursuing aggressive action. The City should work with the owners rather than against them, and pursue collaborative action to reopen the Deauville as soon as possible.

Discussion held regarding incentives the City could offer.

Jimmy L. Morales, City Manager, stated that the City does not have incentive packages for private property owners to fix their properties. They have liens on the property, but the best they can do is work cooperatively, try to understand the problem, gain access to the property so the City can do inspections. The challenge in North Beach is the economic impact on small business, but the Deauville has an elaborate redevelopment plan, but even without that plan, they have a building that has been closed for months, it has rained, there is molding, broken windows, and this is a repair job that is probably a two-year endeavor to reopen. The City will try to work with the Deauville and expedite the process, but the reopening of the building anytime soon is highly unlikely. Most importantly, they can make sure the property is clean, that the fences are up and that the property is safe for the outside public.

Commissioner Rosen Gonzalez apologized that Ms. Meruelo found her action aggressive, but her only intention was to answer all the residents in surrounding condominiums and businesses that are suffering because of the closure of the Deauville. Neighbors are very upset at the closure of this iconic hotel, and they were trying to reach out to her without response. Commissioner Rosen Gonzalez is happy to know that the Deauville has retained an architect and that their intention is to renovate the hotel, which Commissioner Rosen Gonzalez thinks would be a very successful project.

Ms. Meruelo stated that they take pride in owning the hotel, and no one is suffering financially more than they have. They had over 300 employees, some of which have been with the Deauville for over 20 years, and it is their priority to get back up and running.

Commissioner Arriola thanked Commissioner Rosen Gonzalez for bringing this item, as it highlights an important issue in the City that he wanted to address. Having Miami Beach be strategic in how they approach certain catalytic businesses, whether it is the Deauville or other businesses and areas in the community that have an important effect on the City's ecosystem. This highlights the issue that a major driver such as the Deauville when they shut down it affects the quality of life of neighborhoods, neighbors, and small businesses since the tourist that normally stay at their hotel are not there. He wants them to talk at future meetings about what the City can be doing to be strategic in their approach in helping both small and catalytic businesses such as the Deauville. In this case, he suggested having a point person that the Deauville can work with for the next six months to help expedite all the things they are facing to get them back up and running. Whether the City has a department within the organization that can help small businesses open



more quickly, also target certain areas and businesses in town that are important strategically to our City and help cut the red tape. There are homeowners who still have not made repairs from the aftermath of Hurricane Irma, and anything the City can do to help; they are committed to do that.

R9 T DISCUSS THE FOURTH OF JULY FIREWORKS.

Commissioner Michael Góngora

**ACTION:** Item withdrawn by the sponsor.

10:31:58 a.m.

11:23:08 a.m.

R9 U DISCUSSION REGARDING THE CITY'S STORMWATER MASTER PLAN.

Commissioner Michael Góngora

**ACTION:** Discussion held. See action with R9 M. Item heard in conjunction with Items C4 M, R9 L, R9 R, and R9 W. **Roy Coley to handle.**

3:29:38 p.m.

R9 V DISCUSSION REGARDING ESTABLISHING A PROGRAM SIMILAR TO THE CORAL GABLES CRIME INTELLIGENCE CENTER.

Commissioner Michael Góngora

**ACTION:** Discussion held. **Chief Oates to handle.**

Commissioner Góngora explained that he read an article about the Coral Gables Crime Intelligence Center, and it appears to him that they are incorporating elements of that already in the City of Miami Beach, but wonders if there is any of that technology that would benefit Miami Beach.

Chief Oates stated that the Miami Beach Police Department has not called a Real Time Crime Center or made the public push that Coral Gables has, but they have what the City of Coral Gables has, with the exception that Miami Beach Police Department does not have someone monitoring their cameras, and Coral Gables has one full-time person monitoring the cameras for a 40-hour work week. He suggested that the City Commission visit the Miami Beach Police center within their building, which has been set up in the last two years. They have approximately 60 cameras around the City, between the ones they put up and the ones available through the Transportation Department. They staff it during every rush hour evening for traffic flow purposes; they have someone sitting there speaking to the Police Officers directing traffic to try to move traffic along as best as they can. They staff it during high impact weekends involving Lummus Park and Ocean Drive, as there are real time deployment decisions to be made during those weekends about Police Officers and occasionally can be helpful following suspicious behavior. Some of the effects of the cameras have been noted, with the terrible event during the Gay Pride Parade that was captured on the high-definition high-end cameras along Ocean Drive. Those cameras are very effective for large-scale events. Chief Oates does not believe it is particularly useful to monitor the cameras 24 hours per day, as does Coral Gables. He added that the narcotic Police Officers use those cameras when useful to do so as well. It is part of the wave of technology that is changing policing. In the G.O. Bond, they are asking for additional technology, all of which will be license plate readers and cameras to

**SUPPLEMENTAL MATERIAL 1: MEMORANDUM**

C6 B REPORT OF THE MAY 23, 2018 LAND USE AND DEVELOPMENT COMMITTEE MEETING: 1. DISCUSSION REGARDING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR EMPLOYEE TRANSPORTATION PLANS. 2. DISCUSSION REGARDING THE DEAUVILLE BEACH RESORT. 3. DISCUSSION RELATING TO THE ADOPTION OF ORDINANCES TO INCREASE THE MAXIMUM HEIGHT FOR THE COMMERCIAL, MEDIUM INTENSITY DISTRICT (CD-2), AND THE COMMERCIAL, PERFORMANCE STANDARD, GENERAL MIXED-USE DISTRICT (CPS-2) FOR 5TH THROUGH 7TH STREETS, BETWEEN WEST AVENUE AND ALTON ROAD; AND FOR THE PROVISION OF A PUBLIC BENEFIT. 4. DISCUSSION PERTAINING TO ANTICIPATED INCREASES IN EXTREME HEAT AND THE IMPACT ON BUILDING AND SITE PLAN DESIGN. 5. DISCUSSION: A. NORTH BEACH MASTER PLAN RECOMMENDATIONS FOR THE TOWN CENTER (TC) ZONING DISTRICTS. B. PROPOSED FLOOR AREA RATIO ("FAR") INCREASE FOR THE TOWN CENTER ZONING DISTRICTS. 6. DISCUSSION REGARDING CONSIDERING THE ATTACHED ORDINANCE, WHICH WILL CLARIFY WHO MAY SUBMIT AN APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN/FUTURE LAND USE ELEMENT OR MAP, AND/OR THE CITY'S LAND DEVELOPMENT REGULATIONS. 7. DISCUSSION TO EXPLORE POTENTIAL PUBLIC BENEFITS TIED WITH MAJOR ZONING CHANGES. 8. DISCUSSION TO REVIEW THE ROLE OF LAND USE BOARDS IN NEIGHBORHOOD IMPROVEMENT PROJECTS. 9. DISCUSSION REGARDING ESTABLISHING A HISTORIC PRESERVATION FUND.

**ACTION:**

1. RECOMMENDATION OF THE NCAC TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR EMPLOYEE TRANSPORTATION PLANS.

**MOTION: Deferred to June 13, 2018.**

2. DISCUSSION REGARDING THE DEAUVILLE BEACH RESORT.

**MOTION: KRG/MG (3-0)**

**Refer the item to the full the City Commission (R9 Item with a time certain) for discussion and to consider all available and aggressive action to compel compliance with all applicable regulations by the Deauville.**

3. ADOPTION OF ORDINANCES TO INCREASE THE MAXIMUM HEIGHT FOR COMMERCIAL, MEDIUM INTENSITY DISTRICT (CD-2), & COMMERCIAL, PERFORMANCE STANDARD, GENERAL MIXED-USE DISTRICT (CPS-2).

**MOTION: By Acclamation: Continue the Item to June 13, 2018 LUDC Meeting, with the following direction to staff:**

1. Continue dialogue with Gateway Alliance and Crescent Heights on developing consensus for a proposed development on the 500-700 blocks.
2. Further analyze the proposal by Crescent Heights
3. Study the potential for purchasing the 600 block, including price estimations.

4. ANTICIPATED INCREASES IN EXTREME HEAT & IMPACT ON BUILDING AND SITE PLAN DESIGN.

**MOTION: Deferred to June 13, 2018.**

Commission Committee Reports - C6 B

## MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Jimmy L. Morales, City Manager  
DATE: June 6, 2018

SUBJECT: REPORT OF THE MAY 23, 2018 LAND USE AND DEVELOPMENT COMMITTEE MEETING: 1. DISCUSSION REGARDING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO ESTABLISH MORE AGGRESSIVE REQUIREMENTS FOR EMPLOYEE TRANSPORTATION PLANS. 2. DISCUSSION REGARDING THE DEAUVILLE BEACH RESORT. 3. DISCUSSION RELATING TO THE ADOPTION OF ORDINANCES TO INCREASE THE MAXIMUM HEIGHT FOR THE COMMERCIAL, MEDIUM INTENSITY DISTRICT (CD-2), AND THE COMMERCIAL, PERFORMANCE STANDARD, GENERAL MIXED USE DISTRICT (CPS-2) FOR 5TH THROUGH 7TH STREETS, BETWEEN WEST AVENUE AND ALTON ROAD; AND FOR THE PROVISION OF A PUBLIC BENEFIT. 4. DISCUSSION PERTAINING TO ANTICIPATED INCREASES IN EXTREME HEAT AND THE IMPACT ON BUILDING AND SITE PLAN DESIGN. 5. DISCUSSION: A. NORTH BEACH MASTER PLAN RECOMMENDATIONS FOR THE TOWN CENTER (TC) ZONING DISTRICTS. B. PROPOSED FLOOR AREA RATIO ("FAR") INCREASE FOR THE TOWN CENTER ZONING DISTRICTS. 6. DISCUSSION REGARDING CONSIDERING THE ATTACHED ORDINANCE, WHICH WILL CLARIFY WHO MAY SUBMIT AN APPLICATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN/FUTURE LAND USE ELEMENT OR MAP, AND/OR THE CITY'S LAND DEVELOPMENT REGULATIONS. 7. DISCUSSION TO EXPLORE POTENTIAL PUBLIC BENEFITS TIED WITH MAJOR ZONING CHANGES. 8. DISCUSSION TO REVIEW THE ROLE OF LAND USE BOARDS IN NEIGHBORHOOD IMPROVEMENT PROJECTS. 9. DISCUSSION REGARDING ESTABLISHING A HISTORIC PRESERVATION FUND.

**Legislative Tracking**  
Planning

**ATTACHMENTS:**

	Description
D	<a href="#">Memorandum</a>