

# MIAMI BEACH

PLANNING DEPARTMENT, 1700 CONVENTION CENTER DRIVE, 2<sup>ND</sup> FLOOR  
MIAMI BEACH, FLORIDA 33139, WWW.MIAMIBEACHFL.GOV  
305-673-7550

## LAND USE BOARD HEARING APPLICATION

THE FOLLOWING APPLICATION IS SUBMITTED FOR REVIEW AND CONSIDERATION OF THE PROJECT DESCRIBED HEREIN BY THE LAND USE BOARD SELECTED BELOW. A SEPARATE APPLICATION MUST BE COMPLETED FOR EACH BOARD REVIEWING THE PROPOSED PROJECT.

☒ BOARD OF ADJUSTMENT

- ☒ VARIANCE FROM A PROVISION OF THE LAND DEVELOPMENT REGULATIONS
- ☐ APPEAL OF AN ADMINISTRATIVE DECISION

☐ DESIGN REVIEW BOARD

- ☐ DESIGN REVIEW APPROVAL
- ☐ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY DRB.

☐ HISTORIC PRESERVATION BOARD

- ☐ CERTIFICATE OF APPROPRIATENESS FOR DESIGN
- ☐ CERTIFICATE OF APPROPRIATENESS TO DEMOLISH A STRUCTURE
- ☐ HISTORIC DISTRICT / SITE DESIGNATION
- ☐ VARIANCE RELATED TO PROJECT BEING CONSIDERED OR APPROVED BY HPB.

☐ PLANNING BOARD

- ☐ CONDITIONAL USE PERMIT
- ☐ LOT SPLIT APPROVAL
- ☐ AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS OR ZONING MAP
- ☐ AMENDMENT TO THE COMPREHENSIVE PLAN OR FUTURE LAND USE MAP

☐ FLOOD PLAIN MANAGEMENT BOARD

- ☐ FLOOD PLAIN WAIVER

☐ OTHER \_\_\_\_\_

SUBJECT PROPERTY ADDRESS: **1340 BAY DRIVE**  
**MIAMI BEACH, FL 33141**

LEGAL DESCRIPTION: PLEASE ATTACH LEGAL DESCRIPTION AS "EXHIBIT A" **SEE ATTACHED**

FOLIO NUMBER (S) **02-3210-013-2260**

1. APPLICANT: ☒ OWNER OF THE SUBJECT PROPERTY ☐ TENANT ☐ ARCHITECT ☐ LANDSCAPE ARCHITECT  
☐ ENGINEER ☐ CONTRACTOR ☐ OTHER \_\_\_\_\_

NAME **DAVID AND CINDY EISENBERG**  
ADDRESS **1340 BAY DRIVE, MIAMI BEACH, FL 33141**  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE **(917) 992-4664**  
E-MAIL ADDRESS **DEisenberg@WhartonCompanies.com**

OWNER IF DIFFERENT THAN APPLICANT:

NAME **N/A**  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

2. AUTHORIZED REPRESENTATIVE(S):

☒ ATTORNEY: **NEISEN KASDIN, AKERMAN LLP**  
NAME \_\_\_\_\_  
ADDRESS **98 SE 7TH ST, SUITE 1100, MIAMI, FL 33131**  
BUSINESS PHONE **(305) 982-5629** CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS **neisen.kasdin@akerman.com**

☐ AGENT:

NAME **N/A**  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

☐ CONTACT:

NAME **N/A**  
ADDRESS \_\_\_\_\_  
BUSINESS PHONE \_\_\_\_\_ CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS \_\_\_\_\_

3. PARTY RESPONSIBLE FOR PROJECT DESIGN:

☒ ARCHITECT ☐ LANDSCAPE ARCHITECT ☐ ENGINEER ☐ CONTRACTOR ☐ OTHER: \_\_\_\_\_  
NAME **STRANG ARCHITECTURE, INC.**  
ADDRESS **3326 MARY ST., 3RD FLOOR, MIAMI, FL 33133**  
BUSINESS PHONE **(305) 373-4990** CELL PHONE \_\_\_\_\_  
E-MAIL ADDRESS **Elizabeth@strangarchitecture.com**

FILE NO. \_\_\_\_\_



## 4. SUMMARY OF APPLICATION – PROVIDE BRIEF SCOPE OF PROJECT:

**REQUEST FOR APPROVAL OF FIVE VARIANCES RELATED TO  
CONSTRUCTION OF SINGLE FAMILY HOME (SEE ATTACHED LOI)**

- 4A. IS THERE AN EXISTING BUILDING(S) ON THE SITE ☒ YES ☐ NO
- 4B. DOES THE PROJECT INCLUDE INTERIOR OR EXTERIOR DEMOLITION ☒ YES ☐ NO
- 4C. PROVIDE THE TOTAL FLOOR AREA OF THE NEW BUILDING (IF APPLICABLE) 5,327 SQ. FT.
- 4D. PROVIDE THE TOTAL GROSS FLOOR AREA OF THE NEW BUILDING (INCLUDING REQUIRED PARKING AND ALL USEABLE FLOOR SPACE). 5,327 SQ. FT.

5. APPLICATION FEE (TO BE COMPLETED BY PLANNING STAFF) \$ \_\_\_\_\_

- A SEPARATE DISCLOSURE OF INTEREST FORM MUST BE SUBMITTED WITH THIS APPLICATION IF THE APPLICANT OR OWNER IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR TRUSTEE.
- ALL APPLICABLE AFFIDAVITS MUST BE COMPLETED AND THE PROPERTY OWNER MUST COMPLETE AND SIGN THE "POWER OF ATTORNEY" PORTION OF THE AFFIDAVIT IF THEY WILL NOT BE PRESENT AT THE HEARING, OR IF OTHER PERSONS ARE SPEAKING ON THEIR BEHALF.
- TO REQUEST THIS MATERIAL IN ALTERNATE FORMAT, SIGN LANGUAGE INTERPRETER (FIVE-DAY NOTICE IS REQUIRED), INFORMATION ON ACCESS FOR PERSONS WITH DISABILITIES, AND ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDINGS, CALL 305.604.2489 AND SELECT (1) FOR ENGLISH OR (2) FOR SPANISH, THEN OPTION 6; TTY USERS MAY CALL VIA 711 (FLORIDA RELAY SERVICE).

## PLEASE READ THE FOLLOWING AND ACKNOWLEDGE BELOW:

- APPLICATIONS FOR ANY BOARD HEARING(S) WILL NOT BE ACCEPTED WITHOUT PAYMENT OF THE REQUIRED FEE. ALL CHECKS ARE TO BE MADE PAYABLE TO THE "CITY OF MIAMI BEACH".
- PUBLIC RECORDS NOTICE – ALL DOCUMENTATION, SUBMITTED FOR THIS APPLICATION IS CONSIDERED A PUBLIC RECORD SUBJECT TO CHAPTER 119 OF THE FLORIDA STATUTES AND SHALL BE DISCLOSED UPON REQUEST.
- IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 2-482 OF THE CODE OF THE CITY OF MIAMI BEACH, ANY INDIVIDUAL OR GROUP THAT WILL BE COMPENSATED TO SPEAK OR REFRAIN FROM SPEAKING IN FAVOR OR AGAINST A PROJECT BEING PRESENTED BEFORE ANY OF THE CITY'S LAND USE BOARDS, SHALL FULLY DISCLOSE, PRIOR TO THE PUBLIC HEARING, THAT THEY HAVE BEEN, OR WILL BE COMPENSATED. SUCH PARTIES INCLUDE: ARCHITECTS, LANDSCAPE ARCHITECTS, ENGINEERS, CONTRACTORS, OR OTHER PERSONS RESPONSIBLE FOR PROJECT DESIGN, AS WELL AS AUTHORIZED REPRESENTATIVES ATTORNEYS OR AGENTS AND CONTACT PERSONS WHO ARE REPRESENTING OR APPEARING ON BEHALF OF A THIRD PARTY; SUCH INDIVIDUALS MUST REGISTER WITH THE CITY CLERK PRIOR TO THE HEARING.

FILE NO. \_\_\_\_\_

- IN ACCORDANCE WITH SEC.118-31. - DISCLOSURE REQUIREMENT. EACH PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION FROM THE PLANNING BOARD, DESIGN REVIEW BOARD, HISTORIC PRESERVATION BOARD (INCLUDING THE JOINT DESIGN REVIEW BOARD/HISTORIC PRESERVATION BOARD), OR THE BOARD OF ADJUSTMENT SHALL DISCLOSE, AT THE COMMENCEMENT (OR CONTINUANCE) OF THE PUBLIC HEARING(S), ANY CONSIDERATION PROVIDED OR COMMITTED, DIRECTLY OR ON ITS BEHALF, FOR AN AGREEMENT TO SUPPORT OR WITHHOLD OBJECTION TO THE REQUESTED APPROVAL, RELIEF OR ACTION, EXCLUDING FROM THIS REQUIREMENT CONSIDERATION FOR LEGAL OR DESIGN PROFESSIONAL SERVICES RENDERED OR TO BE RENDERED. THE DISCLOSURE SHALL; (i) BE IN WRITING, (ii) INDICATE TO WHOM THE CONSIDERATION HAS BEEN PROVIDED OR COMMITTED, (iii) GENERALLY DESCRIBE THE NATURE OF THE CONSIDERATION, AND (iv) BE READ INTO THE RECORD BY THE REQUESTING PERSON OR ENTITY PRIOR TO SUBMISSION TO THE SECRETARY/CLERK OF THE RESPECTIVE BOARD. UPON DETERMINATION BY THE APPLICABLE BOARD THAT THE FOREGOING DISCLOSURE REQUIREMENT WAS NOT TIMELY SATISFIED BY THE PERSON OR ENTITY REQUESTING APPROVAL, RELIEF OR OTHER ACTION AS PROVIDED ABOVE, THEN (i) THE APPLICATION OR ORDER, AS APPLICABLE, SHALL IMMEDIATELY BE DEEMED NULL AND VOID WITHOUT FURTHER FORCE OR EFFECT, AND (ii) NO APPLICATION FROM SAID PERSON OR ENTITY FOR THE SUBJECT PROPERTY SHALL BE REVIEWED OR CONSIDERED BY THE APPLICABLE BOARD(S) UNTIL EXPIRATION OF A PERIOD OF ONE YEAR AFTER THE NULLIFICATION OF THE APPLICATION OR ORDER. IT SHALL BE UNLAWFUL TO EMPLOY ANY DEVICE, SCHEME OR ARTIFICE TO CIRCUMVENT THE DISCLOSURE REQUIREMENTS OF THIS SECTION AND SUCH CIRCUMVENTION SHALL BE DEEMED A VIOLATION OF THE DISCLOSURE REQUIREMENTS OF THIS SECTION.
- WHEN THE APPLICABLE BOARD REACHES A DECISION A FINAL ORDER WILL BE ISSUED STATING THE BOARD'S DECISION AND ANY CONDITIONS IMPOSED THEREIN. THE FINAL ORDER WILL BE RECORDED WITH THE MIAMI-DADE CLERK OF COURTS. THE ORIGINAL BOARD ORDER SHALL REMAIN ON FILE WITH THE CITY OF MIAMI BEACH PLANNING DEPARTMENT. UNDER NO CIRCUMSTANCES WILL A BUILDING PERMIT BE ISSUED BY THE CITY OF MIAMI BEACH WITHOUT A COPY OF THE RECORDED FINAL ORDER BEING INCLUDED AND MADE A PART OF THE PLANS SUBMITTED FOR A BUILDING PERMIT.

THE AFOREMENTIONED IS ACKNOWLEDGED BY: ☐ OWNER OF THE SUBJECT PROPERTY

☒ AUTHORIZED REPRESENTATIVE

SIGNATURE:  \_\_\_\_\_

PRINT NAME: Neisen Kasdin

FILE NO. \_\_\_\_\_



OWNER AFFIDAVIT FOR INDIVIDUAL OWNER

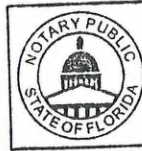
STATE OF  
COUNTY OF

I, DAVID EISENBERG, being first duly sworn, depose and certify as follows: (1) I am the owner of the property that is the subject of this application. (2) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (3) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (4) I also hereby authorize the City of Miami Beach to enter my property for the sole purpose of posting a Notice of Public Hearing on my property, as required by law. (5) I am responsible for removing this notice after the date of the hearing.

David Eisenberg  
SIGNATURE

Sworn to and subscribed before me this 3rd day of August, 2016. The foregoing instrument was acknowledged before me by David Eisenberg, who has produced \_\_\_\_\_ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP



Denise Ramos  
Notary Public - State of Flori.  
Commission #FF 954225  
Expires 01/26/2020

Denise Ramos  
NOTARY PUBLIC  
PRINT NAME

My Commission Expires:

ALTERNATE OWNER AFFIDAVIT FOR  
CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY  
(Circle one)

STATE OF  
COUNTY OF

I, N/A, being duly sworn, depose and certify as follows: (1) I am the \_\_\_\_\_ (print title) of \_\_\_\_\_ (print name of corporate entity). (2) I am authorized to file this application on behalf of such entity. (3) This application and all information submitted in support of this application, including sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief. (4) The corporate entity named herein is the owner or tenant of the property that is the subject of this application. (5) I acknowledge and agree that, before this application may be publicly noticed and heard by a land development board, the application must be complete and all information submitted in support thereof must be accurate. (6) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (7) I am responsible for removing this notice after the date of the hearing.

\_\_\_\_\_  
SIGNATURE

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The foregoing instrument was acknowledged before me by \_\_\_\_\_ of \_\_\_\_\_, on behalf of such entity, who has produced \_\_\_\_\_ as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP:

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_  
PRINT NAME

FILE NO. \_\_\_\_\_

POWER OF ATTORNEY AFFIDAVIT

STATE OF  
COUNTY OF

I, DAVID EISENBERG, being duly sworn and deposed, certify as follows: (1) I am the owner or representative of the owner of the real property that is the subject of this application. (2) I hereby authorize Neisen Kasdin to be my representative before the BOA Board. (3) I also hereby authorize the City of Miami Beach to enter the subject property for the sole purpose of posting a Notice of Public Hearing on the property, as required by law. (4) I am responsible for removing this notice after the date of the hearing.

DAVID EISENBERG

PRINT NAME (and Title, if applicable)

David E. Eisenberg

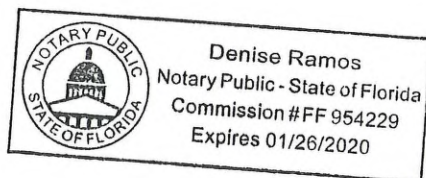
SIGNATURE

Sworn to and subscribed before me this 3rd day of August, 20 16. The foregoing instrument was acknowledged before me by David Eisenberg owner of 1340 Bay Drive who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires

01/26/2020



Denise Ramos  
NOTARY PUBLIC  
Denise Ramos  
PRINT NAME

CONTRACT FOR PURCHASE

If the applicant is not the owner of the property, but the applicant is a party to a contract to purchase the property, whether or not such contract is contingent on this application, the applicant shall list the names of the contract purchasers below, including any and all principal officers, stockholders, beneficiaries, or partners. If any of the contract purchasers are corporations, partnerships, limited liability companies, trusts, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity. If any contingency clause or contract terms involve additional individuals, corporations, partnerships, limited liability companies, trusts, or other corporate entities, list all individuals and/or corporate entities.\*

N/A

N/A

NAME

DATE OF CONTRACT

NAME, ADDRESS, AND OFFICE

% OF STOCK

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\_\_\_\_\_  
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In the event of any changes of ownership or changes in contracts for purchase, subsequent to the date that this application is filed, but prior to the date of a final public hearing, the applicant shall file a supplemental disclosure of interest.

FILE NO. \_\_\_\_\_



CITY OF MIAMI BEACH  
DEVELOPMENT REVIEW BOARD APPLICATION

DISCLOSURE OF INTEREST

**1. CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY**

If the property that is the subject of the application is owned or leased by a corporation, partnership, or limited liability company, list ALL of the owners, shareholders, partners, managers, and/or members, and the percentage of ownership held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.\*

N/A

NAME OF CORPORATE ENTITY

NAME AND ADDRESS

% OF OWNERSHIP

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NAME OF CORPORATE ENTITY

NAME AND ADDRESS

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*IF THERE ARE ADDITIONAL CORPORATE OWNERS, LIST ALL SUCH OWNERS, INCLUDING CORPORATE NAMES AND THE NAME, ADDRESS, AND PERCENTAGE OF OWNERSHIP OF EACH ADDITIONAL OWNER, ON A SEPARATE PAGE.*

*NOTE: Notarized signature required on page 9*

FILE NO. \_\_\_\_\_

CITY OF MIAMI BEACH  
DEVELOPMENT REVIEW BOARD APPLICATION  
DISCLOSURE OF INTEREST

**2. TRUSTEE**

If the property that is the subject of this application is owned or leased by a trust, list any and all trustees and beneficiaries of the trust, and the percentage of interest held by each. If the owners consist of one or more corporations, partnerships, trusts, partnerships, or other corporate entities, the applicant shall further disclose the identity of the individual(s) (natural persons) having the ultimate ownership interest in the entity.\*

TRUST NAME

NAME AND ADDRESS

% INTEREST

N/A

N/A

*NOTE: Notarized signature required on page 9*

FILE NO. \_\_\_\_\_



**3. COMPENSATED LOBBYIST:**

Pursuant to Section 2-482 of the Miami Beach City Code, all lobbyists shall, before engaging in any lobbying activities, register with the City Clerk. Please list below any and all persons or entities retained by the applicant to lobby City staff or any of the City's land development boards in support of this application.

|    | NAME                       | ADDRESS                     | PHONE #        |
|----|----------------------------|-----------------------------|----------------|
| a. | Neisen Kasdin, AKERMAN LLP | 98 SE 7 ST, MIAMI, FL 33131 | (305) 982-5538 |
| b. |                            |                             |                |
| c. |                            |                             |                |

Additional names can be placed on a separate page attached to this form.

\*Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country, or of any entity, the ownership interests of which are held in a limited partnership or other entity, consisting of more than 5,000 separate interests, where no one person or entity holds more than a total of 5% of the ownership interests in the entity.

APPLICANT HEREBY ACKNOWLEDGES AND AGREES THAT (1) ANY APPROVAL GRANTED BY A LAND DEVELOPMENT BOARD OF THE CITY SHALL BE SUBJECT TO ANY AND ALL CONDITIONS IMPOSED BY SUCH BOARD AND BY ANY OTHER BOARD HAVING JURISDICTION, AND (2) APPLICANT'S PROJECT SHALL COMPLY WITH THE CODE OF THE CITY OF MIAMI BEACH AND ALL OTHER APPLICABLE CITY, STATE, AND FEDERAL LAWS.

**APPLICANT AFFIDAVIT**

STATE OF  
COUNTY OF

I, NEISEN KASDIN, being first duly sworn, depose and certify as follows: (1) I am the applicant, or the representative of the applicant. (2) This application and all information submitted in support of this application, including disclosures, sketches, data, and other supplementary materials, are true and correct to the best of my knowledge and belief.

SIGNATURE

Sworn to and subscribed before me this 4 day of AUGUST, 2016. The foregoing instrument was acknowledged before me by, who has produced as identification and/or is personally known to me and who did/did not take an oath.

NOTARY SEAL OR STAMP

My Commission Expires:



Diana Perez-Gata  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF233833  
Expires 6/8/2019

NOTARY PUBLIC

Diana Perez Gata

PRINT NAME

FILE NO. \_\_\_\_\_

# Exhibit A



## PARCEL A

All of Lot 8 and the East 1/2 of Lot 7, Block 14, of OCEAN SIDE SECTION OF THE ISLE OF NORMANDY, as recorded in Plat Book 25, Page 60, of the Public Records of Miami-Dade County, Florida; said East 1/2 of said Lot 7, Block 14, being more particularly described as follows:

Beginning at the intersection of the dividing line between Lots 7 and 8, Block 14, with the southerly line of Bay Drive as shown on the Plat entitled OCEAN SIDE SECTION OF THE ISLE OF NORMANDY, as recorded in Plat Book 25, Page 60, of the Public Records of Miami-Dade County, Florida; run in a southeasterly direction along the dividing line between said Lot 7 and 8, Block 14, a distance of 170 feet to a point on the northerly shore of Biscayne Bay, thence run along the arc of a circular curve deflecting to the left having for its elements a central angle of  $1^{\circ} 35' 19.88''$  a radius of 1803.05 feet, a distance of 25 feet to the center point of said Lot 7, (chord of said curve deflecting to the right  $89^{\circ} 12' 20.06''$  a distance of 24.998 feet); thence run in a northwesterly direction along the center line of Lot 7, Block 14, along a line deflecting to the right  $90^{\circ} 47' 39.94''$  from the chord of the last mentioned curve, a distance of 170 feet to a point on the southerly line of Bay Drive; thence run in a northeasterly direction along the southerly line of Bay Drive along the arc of a circular curve deflecting to the right, having for its elements a central angle of  $1^{\circ} 35' 19.88''$  a radius of 1973.05 feet, a distance of 27.357 feet, (chord of said curve deflecting  $90^{\circ} 47' 39.94''$  to the right, a distance of 27.355 feet) to the Point of Beginning.

## PARCEL B

The West 10 feet of Lot 9, Block 14, of OCEAN SIDE SECTION OF THE ISLE OF NORMANDY, as recorded in Plat Book 25, Page 60, of the Public Records of Miami-Dade County, Florida.

05 -



Neisen O. Kasdin

Akerman LLP  
Three Brickell City Centre  
98 Southeast Seventh Street  
Suite 1100  
Miami, FL 33131  
Tel: 305.982.5629  
[neisen.kasdin@akerman.com](mailto:neisen.kasdin@akerman.com)

August 25, 2016

Chair and Members of the Board of Adjustment  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

Re: Letter of Intent/Hardship Criteria for Board of Adjustment ("BOA") Application  
1340 Bay Drive, Miami Beach, FL 33141

Dear Chair and Members of the Board,

We represent David and Cindy Eisenberg (the "Applicants"), who are the owners of the property located at 1340 Bay Drive, Miami Beach, FL 33141 (the "Property"). At the Property, the Applicants are excited to be moving forward with a proposal to develop a new one-story single-family home, plus a loft, that will serve as the Applicants' personal residence (the "Project").

Enclosed you will find the plans and context images for the Project, prepared by Strang Architecture, Inc. and dated August 25, 2016. Plans for the Project call for the replacement of an existing one-story home on the Property built in 1950 with a new modern design. As discussed in the architect's letter to the BOA (see attached Exhibit A), this home's design evolved as a result of the Applicants' desire for a "cozy" residence with as much outdoor open space as possible.

The Applicants are requesting the approval of five (5) variances associated with the Project. As explained below, these variances are all minor and plans for the Applicants' new residence are sensitive to the surrounding properties, maintain the massing and scale of the neighborhood, and satisfy applicable variance criteria under Section 118-353(d) of the City of Miami Beach Code of Ordinances (the "Code"). Thus, we are respectfully requesting that the BOA approve these variances in connection with the design of the Project.

#### A. Design of New Home

The Project is an attractive, modern one-story home with an attached garage and a small guest loft space. The exterior of the home is designed to include significant new landscaping and extensive covered patio space in the rear yard. The home is pulled back far from the street and the garage portion is designed to be further from the street than that of the existing home.

[akerman.com](http://akerman.com)



In an attempt to accommodate a reasonably sized, well laid-out floor plan without having to maximize lot coverage or build a second story, the Project cannot fully adhere to front and side yard setback requirements under Code Section 142-106. According to the Project architect, further compressing the width of the home would cause serious impacts to the proper flow of the floor plan and reduce the front yard courtyard and the rear yard open patio, which are considered focal points in the design of this outdoor-oriented home. The requested variances, as discussed below, will lead to a design more beneficial to this neighborhood than if the Applicants re-designed this home to include two-stories or minimal greenery at the front and rear outdoor spaces.

Similarly, the total length associated with the guest loft space, which also requires a variance, is necessary to keep the Applicants residence as a one-story structure sensitive to the height and scale of surrounding properties. The mass of the loft space represents only 3.7% of total lot coverage of the home, which allows the residence to keep the look and feel of a one-story home while providing additional floor area. The walls associated with the stairway to this guest loft have been pushed back from the side setback to further reduce the portion visible from the street.

### B. Variances Required

The Applicant seeks minimal variances that will facilitate a one-story home design more appropriate for this area than a taller, bulkier structure. Below is a list of the five (5) variances requested in connection with the Project design and the relevant Code Section for each:

- 1) Code Section 142-106(2)(c): a variance to reduce the minimum interior side yard setback by 2'-6" on the east side of the Property (10' required and 7'-6" provided).
- 2) Code Section 142-106(2)(c): a variance to reduce the minimum interior side yard setback by 2'-6" on the west side of the Property (10' required and 7'-6" provided).
- 3) Code Section 142-106(2)(a): a variance to reduce the minimum total sum of the required side yards by 7'-9" (15' provided and 22'-9" required).
- 4) Code Section 142-106(1)(a): a variance to reduce the minimum front yard setback by 2' for the garage portion of the Project (20' required and 18' provided).
- 5) Code Section 142-105(5): a variance to extend the maximum allowable length of wall associated with higher height portion of one-story structure by 10'-2" (25' required and 35' -2" provided).

### C. Hardship Criteria

As explained below, special conditions related to the size and configuration of the property necessitate granting the requested variances, which will keep the Applicant's new residence more in harmony with the scale of the surrounding neighborhood and reduce some existing nonconformities with front and side yard setback requirements. Code Section 118-353(d) establishes seven criteria by which requests for variances are evaluated. These criteria are listed below in bold text, with our response following each following in plain text.

Furthermore, the City Charter, Subpart B, Article I, Sec. 2 says, "*Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of said Zoning Ordinance, the Board of Adjustment shall have the power in passing upon appeals, to vary or modify any regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Zoning Ordinance shall be observed, public safety and welfare secured, and substantial justice done.*" We believe our responses below indicate there are both practical difficulties and unnecessary hardships associated with the Applicants' request for variances in connection with the Project.

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

Special circumstances exist for this Property that are not applicable to other properties in the RS-4 zoning district, particularly along the stretch of Bay Drive on which the Property lies. Please find attached as Exhibit B an analysis we have prepared of 109 lots in this neighborhood, demonstrating that 63% of the lots along Bay Drive have a width of 60 feet or less. Consequently, these lots are permitted to have interior side yard setbacks of 7'-6", which are the same proposed by Applicant. However, because the Applicant's lot is larger, setback requirements are increased. The Applicant's lot is over twice the minimum lot area for the RS-4 district, but the Applicant is trying to keep the design sensitive to the surrounding low-scale neighborhood. To realize the Applicant's investment-backed expectations for this lot, the Project must encroach into these setback regulations and utilize additional height in the loft to avoid further encroachments.

Furthermore, the existing home at the Property is nonconforming with respect to front and west interior side yard setback requirements. Applicant is proposing to reduce these existing nonconformities, increasing the front yard setback by approximately 3' (15' existing, 18' proposed) and increasing the west side yard setback by approximately 2' (5' existing, 7'-6" proposed).

(2) The special conditions and circumstances do not result from the action of the applicant;

The narrow size and configuration of the Property which leaves less space in the rear than the front, as well as the City's policy decision to require increased setbacks for lots over 60 feet in width (regardless of the single-family zoning district in which they are located or surrounding lot sizes), are not the result of any action taken by Applicant. Additionally, the existing nonconformities with respect to front and side yard setbacks are not the result of any action by Applicant.

(3) Granting the variance requested will not confer on the Applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district;

Granting these variances would not permit the Applicant to construct a home that vastly exceeds scale and massing requirements for the RS-4 zoning district. Rather, the Applicant is requesting these variances to provide a design more in harmony with the low-scale character of this neighborhood. The Applicant is proposing a lot coverage of only 37.1%, where 50% is allowable in this zoning district, and a height of one story plus a loft, where two stories are permissible. Finally the Applicant is proposing interior side yard setbacks of 7'-6", which are



permissible for lots under 60 feet wide in the RS-4 district. These variances will not confer on the Applicant any special privileges that is denied to others in the RS-4 district.

(4) Literal interpretation of the provisions of these land development regulations would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant;

Literal interpretation of this provision would deprive the Applicant of their property rights to realize the investment-backed expectations for this prime waterfront lot in Miami Beach. The proposed home and garage are as narrow as possible so as not to interfere with a workable one-story floorplan and adequate room sizes. The proposed variances are minor and all relate to this narrow lot size. Based on our analysis, 63% of the lots along Bay Drive in this neighborhood have a width of 60 feet or less and are permitted to have interior side yard setbacks of 7'-6", which is that the Applicant is requesting. Literal enforcement of these setback requirements would work an unnecessary hardship on the Applicant.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

Further compressing the width of the home and the length of the garage, and removing the height of the loft, would cause serious impacts to the proper flow of the floorplan and reduce the front courtyard and the rear patio, which are focal points for this outdoor-oriented home. The requested variances will allow the Applicant to realize their investment-back expectations for this lot while providing the maximum possible setbacks. The interior side yard setbacks provided in the Project, at 7'-6", are permissible under the Code for many lots in this neighborhood, and the front yard setback will be greater than what exists for the existing home at the Property.

(6) The granting of the variance will be in harmony with the general intent and purpose of these land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

These variances are minor and plans for the Applicants' new residence are sensitive to the surrounding properties, maintain the massing and scale of the neighborhood, and satisfy applicable variance criteria under Section 118-353(d). Granting of the requested variances would be in harmony with the general intent and purpose of the City's land development regulations when strict compliance with the regulations is not possible. Plans for the Project are well under maximum size thresholds for a lot of this size (for example, lot coverage is 37.1%, where 50% is allowable) and granting of these variances will not be injurious to the surrounding area or detrimental to the public welfare. In fact, granting the requested variances will permit the Applicant to reduce existing nonconformities of the setbacks on front garage and west side of the home.

(7) The granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

Granting these variance requests is consistent with the comprehensive plan's future land use designation of this property (*RS-Single-Family Residential*) and the goals, objectives, and policies of the plan. According to Future Land Use Element Policy 1.2, a purpose of the RS

designation is to enhance the desirability and quality of existing and new single-family residential development. The Applicant's residence will enhance the desirability of this neighborhood while providing a new home that maintains the scale of surrounding properties and reduces existing nonconformities. Furthermore, the Project does not affect or reduce levels of service as set forth in the comprehensive plan.

D. Request for Approval

We submit to the BOA that the Project is very appropriate for this low-scale single-family residential neighborhood. The Project meets the City's land development regulations with the exception of the variances requested, and permitting construction of the Applicant's residence will enhance the desirability of this neighborhood. Additionally, the proposed variances will not have any negative effect on the City, the public welfare or neighboring properties. Instead, literal interpretation of these Code provisions would cause the Applicant practical difficulties and unnecessary hardships. For all reasons above, we respectfully request the BOA approve the variances and permit the Applicant to move forward with construction of their new home.

Sincerely,



Neisen O. Kasdin

Enclosures

cc: Irina Villegas



# Exhibit A

[STRANG]

To: City of Miami Beach Board of Adjustment

Re: Letter of Intent

Date: August 025, 2016

To the Board of Adjustment,

We have designed a single family residence at 1340 Bay Drive and are requesting your approval of setback variances associated with the design of the proposed one story single family home.

The proposed single family residence is much more consistent with the as-built character of the neighborhood than the majority of the new larger two story homes. The design evolved as a result of the Owner's request for a program that would meet their needs while maintaining adequate proportions of spaces for a "cozy" feel, in addition to maximize outdoor open areas. The house is located further back from the rear and front setbacks and is also only 37.1% of lot coverage, well below the allowed 50%. The design also represents a great benefit to the neighborhood by providing additional open space and greenery at the front façade.

We are asking for approval of five variances:

- East side setback to be at 7'-6" (10' Min. for lots wider than 60' required per code)
- West side setback to be at 7'-6" (10' Min. for lots wider than 60' required per code)
- Total side setback sum 15' (22'-10" Min. – 25% of lot width at front setback line required per code due to lot reduces width towards the rear)
- Total width of mass length associated with the Guest Loft to be 35'-2" (25' Max required per code)
- Front setback to be at 18' (20' Min. required per code)

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Miami, Florida 33133  
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The three side setback variances result from our attempt to accommodate a reasonable size and well laid out floor plan without having to maximize lot coverage or having to build a second story in order to accommodate the program. If we reconfigure the layout, the front yard courtyard and the rear yard open patio will reduce in size. The proposed one story volume and front garden is complementary to the scale of other homes in the neighborhood.

In addition, the total length associated with the Guest Loft mass variance is necessary to keep the residence as a one story structure. This mass represents only 3.7% of total lot coverage which allows the residence to keep the look and feel of a one story home. Furthermore, even though the total length of mass is larger than 25', no actual wall represents the total mass length, as we have located the walls associated with the stair area further back in order to reduce the mass that will be visible from the street view.

The 18' front setback is being requested in order to accommodate for a large rear yard and pool deck area without affecting the living spaces. It is important to note that only a 23'-6" wall is located at the setback, while the majority of the remaining house volume is setback 43'-2".

The Applicant seeks minimal variances that will facilitate a design that enhances neighborhood. The granting of the requested variances will be in harmony with the intent and purpose of the City of Miami Beach Code, will not be injurious to the neighborhood or otherwise detrimental to the public welfare. We look forward to your favorable recommendation.

Best Regards,

A handwritten signature in black ink, appearing to read 'MSTRANG'.

Max Strang, Principal

# Exhibit B



**Analysis of Lot Widths  
Bay Drive, Miami Beach  
Normandy Isle**

| <u>Lot #</u> | <u>Address</u>                 | <u>Width</u> | <u>Length</u> | <u>Lots of 60 ft. or less</u> |
|--------------|--------------------------------|--------------|---------------|-------------------------------|
| 1            | <a href="#">1870 Bay Drive</a> | 67 ft        | 170 ft        |                               |
| 2            | <a href="#">1860 Bay Drive</a> | 62 ft        | 170 ft        |                               |
| 3            | <a href="#">1850 Bay Drive</a> | 52.04 ft     | 170 ft        | 1                             |
| 4            | <a href="#">1840 Bay Drive</a> | 52.04 ft     | 170 ft        | 1                             |
| 5            | <a href="#">1830 Bay Drive</a> | 52.04 ft     | 170 ft        | 1                             |
| 6            | <a href="#">1820 Bay Drive</a> | 50 ft        | 170 ft        | 1                             |
| 7            | <a href="#">1814 Bay Drive</a> | 104 ft       | 170 ft        |                               |
| 8            | <a href="#">1800 Bay Drive</a> | 60 ft        | 170 ft        | 1                             |
| 9            | <a href="#">1790 Bay Drive</a> | 60 ft        | 170 ft        | 1                             |
| 10           | <a href="#">1776 Bay Drive</a> | 82 ft        | 170 ft        |                               |
| 11           | <a href="#">1760 Bay Drive</a> | 102 ft       | 170 ft        |                               |
| 12           | <a href="#">1750 Bay Drive</a> | 102 ft       | 170 ft        |                               |
| 13           | <a href="#">1730 Bay Drive</a> | 102 ft       | 170 ft        |                               |
| 14           | <a href="#">1720 Bay Drive</a> | 52 ft        | 170 ft        | 1                             |
| 15           | <a href="#">1710 Bay Drive</a> | 52 ft        | 170 ft        | 1                             |
| 16           | <a href="#">1700 Bay Drive</a> | 73 ft        | 170 ft        |                               |
| 17           | <a href="#">1690 Bay Drive</a> | 62.63 ft     | 170 ft        |                               |
| 18           | <a href="#">1670 Bay Drive</a> | 51.59 ft     | 170 ft        | 1                             |
| 19           | <a href="#">1666 Bay Drive</a> | 51.59 ft     | 170 ft        | 1                             |
| 20           | <a href="#">1660 Bay Drive</a> | 51.69 ft     | 170 ft        | 1                             |
| 21           | <a href="#">1650 Bay Drive</a> | 51.69 ft     | 170 ft        | 1                             |
| 22           | <a href="#">1640 Bay Drive</a> | 51.59 ft     | 175 ft        | 1                             |
| 23           | <a href="#">1630 Bay Drive</a> | 51.51 ft     | 175 ft        | 1                             |
| 24           | <a href="#">Bay Drive</a>      | 51.59 ft     | 175 ft        | 1                             |
| 25           | <a href="#">1610 Bay Drive</a> | 77.39 ft     | 175 ft        |                               |
| 26           | <a href="#">1600 Bay Drive</a> | 77.39 ft     | 175 ft        |                               |
| 27           | <a href="#">1590 Bay Drive</a> | 61.09 ft     | 175 ft        |                               |
| 28           | <a href="#">1580 Bay Drive</a> | 53 ft        | 170 ft        | 1                             |
| 29           | <a href="#">1570 Bay Drive</a> | 92.27 ft     | 170 ft        |                               |
| 30           | <a href="#">1560 Bay Drive</a> | 51.59 ft     | 170 ft        | 1                             |
| 31           | <a href="#">1550 Bay Drive</a> | 77.38 ft     | 170 ft        |                               |
| 32           | <a href="#">1530 Bay Drive</a> | 103.18 ft    | 170 ft        |                               |
| 33           | <a href="#">1520 Bay Drive</a> | 77.38 ft     | 170 ft        |                               |
| 34           | <a href="#">1510 Bay Drive</a> | 51.59 ft     | 170 ft        | 1                             |
| 35           | <a href="#">1500 Bay Drive</a> | 62.77 ft     | 170 ft        |                               |
| 36           | <a href="#">1398 Bay Drive</a> | 64 ft        | 170 ft        |                               |
| 37           | <a href="#">1396 Bay Drive</a> | 52 ft        | 170 ft        | 1                             |
| 38           | <a href="#">1390 Bay Drive</a> | 52 ft        | 170 ft        | 1                             |
| 39           | <a href="#">1370 Bay Drive</a> | 70.71 ft     | 170 ft        |                               |

|    |                                |           |        |   |
|----|--------------------------------|-----------|--------|---|
| 40 | <a href="#">1354 Bay Drive</a> | 109.42 ft | 170 ft |   |
| 41 | <a href="#">1340 Bay Drive</a> | 85 ft     | 170 ft |   |
| 42 | <a href="#">1330 Bay Drive</a> | 70 ft     | 170 ft |   |
| 43 | <a href="#">1310 Bay Drive</a> | 128.50 ft | 170 ft |   |
| 44 | <a href="#">1200 Bay Drive</a> | 85 ft     | 170 ft |   |
| 45 | <a href="#">1190 Bay Drive</a> | 72.85 ft  | 170 ft |   |
| 46 | <a href="#">1180 Bay Drive</a> | 82.06 ft  | 170 ft |   |
| 47 | <a href="#">1166 Bay Drive</a> | 77.35 ft  | 170 ft |   |
| 48 | <a href="#">1150 Bay Drive</a> | 104.70 ft | 170 ft |   |
| 49 | <a href="#">1120 Bay Drive</a> | 157.05 ft | 170 ft |   |
| 50 | <a href="#">1100 Bay Drive</a> | 57.65 ft  | 170 ft | 1 |
| 51 | <a href="#">1845 Bay Drive</a> | 70 ft     | 140 ft |   |
| 52 | <a href="#">1835 Bay Drive</a> | 55 ft     | 140 ft | 1 |
| 53 | <a href="#">1831 Bay Drive</a> | 55 ft     | 140 ft | 1 |
| 54 | <a href="#">1825 Bay Drive</a> | 55 ft     | 140 ft | 1 |
| 55 | <a href="#">1815 Bay Drive</a> | 110 ft    | 140 ft |   |
| 56 | <a href="#">1799 Bay Drive</a> | 53 ft     | 140 ft | 1 |
| 57 | <a href="#">1791 Bay Drive</a> | 51 ft     | 140 ft | 1 |
| 58 | <a href="#">1785 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 59 | <a href="#">1773 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 60 | <a href="#">1765 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 61 | <a href="#">1761 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 62 | <a href="#">1749 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 63 | <a href="#">1741 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 64 | <a href="#">1735 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 65 | <a href="#">1725 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 66 | <a href="#">1711 Bay Drive</a> | 65 ft     | 105 ft |   |
| 67 | <a href="#">1701 Bay Drive</a> | 82 ft     | 105 ft |   |
| 68 | <a href="#">1681 Bay Drive</a> | 55 ft     | 147 ft | 1 |
| 69 | <a href="#">1655 Bay Drive</a> | 56.34 ft  | 140 ft | 1 |
| 70 | <a href="#">1649 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 71 | <a href="#">1635 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 72 | <a href="#">1631 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 73 | <a href="#">1625 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 74 | <a href="#">1615 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 75 | <a href="#">1605 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 76 | <a href="#">1595 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 77 | <a href="#">1585 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 78 | <a href="#">1575 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 79 | <a href="#">1567 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 80 | <a href="#">1553 Bay Drive</a> | 54 ft     | 140 ft | 1 |
| 81 | <a href="#">1545 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 82 | <a href="#">1535 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 83 | <a href="#">1529 Bay Drive</a> | 54.18 ft  | 140 ft | 1 |
| 84 | <a href="#">1515 Bay Drive</a> | 59.59 ft  | 140 ft | 1 |

|   |                                |          |        |        |
|---|--------------------------------|----------|--------|--------|
| 85  | <a href="#">1501 Bay Drive</a> | 60 ft    | 150 ft | 1      |
| 86  | <a href="#">1405 Bay Drive</a> | 71.44 ft | 140 ft |        |
| 87  | <a href="#">1395 Bay Drive</a> | 51.71 ft | 140 ft | 1      |
| 88  | <a href="#">1389 Bay Drive</a> | 51.71 ft | 140 ft | 1      |
| 89  | <a href="#">1379 Bay Drive</a> | 51.71 ft | 140 ft | 1      |
| 90  | <a href="#">1375 Bay Drive</a> | 51.71 ft | 140 ft | 1      |
| 91  | <a href="#">1365 Bay Drive</a> | 51.71 ft | 140 ft | 1      |
| 92  | <a href="#">1355 Bay Drive</a> | 51.71 ft | 140 ft | 1      |
| 93  | <a href="#">1345 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 94  | <a href="#">1341 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 95  | <a href="#">1331 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 96  | <a href="#">1325 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 97  | <a href="#">Bay Drive</a>      | 50.00 ft | 140 ft | 1      |
| 98  | <a href="#">1301 Bay Drive</a> | 72 ft    | 140 ft |        |
| 99  | <a href="#">1199 Bay Drive</a> | 68 ft    | 140 ft |        |
| 100   | <a href="#">1195 Bay Drive</a> | 81.70 ft | 140 ft |        |
| 101   | <a href="#">1179 Bay Drive</a> | 71.70 ft | 140 ft |        |
| 102   | <a href="#">1171 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 103   | <a href="#">1161 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 104   | <a href="#">1155 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 105   | <a href="#">1145 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 106   | <a href="#">1135 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 107   | <a href="#">1133 Bay Drive</a> | 51.70 ft | 140 ft | 1      |
| 108   | <a href="#">1123 Bay Drive</a> | 71.70 ft | 140 ft |        |
| 109   | <a href="#">1101 Bay Drive</a> | 75 ft    | 96 ft  |        |
| Total lots on Bay Drive that are 60 ft or less: |                                |          |        | 69     |
| % of lots on Bay Drive that are 60 ft or less:  |                                |          |        | 63.30% |



