



April 28, 2017

Admiral Paul Zukunft  
Commandant of the U.S. Coast Guard-CG00  
2700 Martin Luther King Boulevard, Jr. Avenue, S.E.  
STOP 7000  
Washington, D.C. 20593-7000

Dear Admiral Zukunft,

I recently have had the pleasure of working with the U.S. Coast Guard again on a development project in Miami Beach. When I was the Secretary of Homeland Security, I took great pride in being the Secretary of the U.S. Coast Guard, the service I considered to be the top operating agency in the Department. My recent engagement with your people has only confirmed that the Coast Guard continues on its path of excellence.

The project in Miami Beach is helping a well-respected developer to add residential zoning to a property adjacent to U.S. Coast Guard Base Miami Beach which is currently zoned *light industrial*. The developer wishes to build an improved facility for the existing City of Miami Beach public works depot, a multi-level parking garage and a high-rise condominium. Their plan greatly improves the property over its most recent use as a small but active bulk and container shipping terminal. The developer has just started a lengthy process of obtaining the required zoning change, which must be approved at the local and state level. If the property is approved for residential use, they will then start a process of building design and permitting which will include a lengthy public input process.

The Coast Guard has submitted a strong objection to the residential zoning addition. On the surface, I understand why the Coast Guard would oppose having residential development “encroach” on its operational and industrial activities. All military services are having to deal with this “encroachment” as residential areas expand around military installations. As a matter of national policy, it makes clear sense to oppose this “encroachment”.

In this case however, special circumstances warrant an exception to national policy. With help from retired Vice Admiral Brian Peterman and my staff property experts, I’ve taken an in depth look at the Coast Guard’s concerns and the developer’s proposals to mitigate those concerns. My conclusion is the Coast Guard can actually benefit from allowing residential development on the property adjacent to Base Miami Beach. I hope I can help you reach that same conclusion.

Since the initial filing of the zoning change request, the developers have had an open dialogue with Captain Brian Keffer, Commanding Officer Base Miami Beach, regarding Coast Guard concerns. The developers have great respect for the Coast Guard and are willing to do whatever is necessary to mitigate Coast Guard concerns about potential law suits from condominium owners as well as impacts on Coast Guard operations and industrial activities. The developers have proposed requiring all condominium purchasers to execute a contract which waives their right to sue the Coast Guard.

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The model for this contract is currently being used for residential properties built near airports in Florida and it applies equally to this situation. Draft language of an owner's waiver contract has been presented to Mr. Miguel Padilla of your real property office for consideration. The owners and their attorneys are most willing to work with your lawyers to make safeguards for the Coast Guard as strong as possible. These safeguards offered by the developer, which only comes with residential development on the Miami Beach property, is what makes this residential development a benefit rather than a problem for Base Miami Beach. The residential development with waivers protects Coast Guard interests better than light industrial development without waivers.

The developer desires to build a mixed industrial and residential facility on the Miami Beach property but if residential zoning is not approved because of Coast Guard objection he will develop the site as light industrial. The developer has no incentive at that point to require waivers to protect Coast Guard interests under existing light industrial use and is not expected to do so. Many envision a return to the marine cargo terminal which the Coast Guard has become accustomed, but the developer has different plans. Under light industrial zoning, the developer may build a facility of equal square footage to the envisioned condominium building and may, for example, sell office space rather than residences. In this case, there will be no safeguards against law suits for Coast Guard industrial and operational environmental impacts. Each individual office owner will be open to take the Coast Guard to court for interruptions to their businesses. (See enclosure X for a list of possible land uses under light industrial.)

As an old Army sergeant, I have great respect for the chain of command which was only reinforced when I was Secretary of the Coast Guard. The Coast Guard leaders we have dealt with on this matter have been very professional and engaging as ideas were exchange. But it is clear they are diligently supporting national policy designed to oppose residential development near Coast Guard facilities. That's why I believe a waiver of national policy given these unique circumstances is appropriate and warranted. Residential development near Base Miami Beach actually provide protections against nuisance litigation that would not be provided under light industrial development. I've attached a table to this letter that outlines expressed Coast Guard concerns and how these concerns play out in residential development and light industrial scenarios. I hope you concur that residential development with contractual safeguards for the Coast Guard is clearly the preferred option.

Very respectfully,

A handwritten signature in blue ink that reads "Tom Ridge". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tom Ridge  
First Secretary, U.S. Department of Homeland Security  
Former Governor of Pennsylvania

Cc: Rear Admiral James Heinz  
Rear Admiral Scott A. Buschman  
Captain Brian Keffer, USCG

Enclosures

## Residential/Light Industrial vs. Light Industrial Comparison

Coast Guard Concerns (1)	Mixed Light Industrial and Residential Development with Coast Guard safeguards (2)	Light Industrial Development without Coast Guard safeguards Status Quo (3)
<b>Operational Concerns</b> (1) Residential building height facilitate Base surveillance.  (2) Moored yachts threaten restricted zone around Base and hamper CG cutter movement.  (3) CG vehicle ingress/egress from Base.  (4) Tall building will interfere with CG communications.  (5) Public address systems are loud and used 24/7.	(1) Fixed group of residents will be known and controlled. Surveillance also available from approved Fisher Is. parking garage. (2) Only yachts with professional crews and long term moorage will be moored. Smaller vessels give more room to CG vessels for maneuvering. (3) Relatively fixed number of known residents, staff and workers using parking garage. Complete traffic study will be done for the city. (4) Owners will allow communication and surveillance equipment to be placed on their roof top with unfettered access. (5) Building design will mitigate sound attenuation. Safeguards will protect against suits.	(1) Forty-foot-tall building can be built which provides equal surveillance opportunity with no control of residents.  (2) Large, transient cargo ships with wider beam can be moored with foreign crews increasing surveillance and forcing ferry closer to security zone. Less room for CG cutter maneuvering. (3) Owner temporarily ended marine terminal use of property which greatly reduced large truck traffic. This could return if not residential. More traffic with office workers, customers etc. (4) Maximum forty-foot-tall building should not interfere but there is no promise of allowing CG roof space or access if needed. (5) Building design will mitigate sound attenuation. No safeguard against suits.
<b>Litigation Risk</b> (1) Nuisance complaints for operational and industrial activities.  (2) Exposure to noise and toxic chemicals.  (3) Exposure to explosive blast zone.	(1) Condo owners and developer will contract not to sue the CG for activities. Requirement for contract will be part of deed and exist in perpetuity. (2) Building designed to mitigate these issues. Contracts will protect CG from suit. (3) Building will be designed to mitigate this risk. CG barracks building lies	(1) Business owners will be subjected to same nuisances but not required to sign no-suit contract protecting the CG.  (2) Building may or may not be designed to mitigate these issues. No contracts to protect the CG from suit.  (3) Building may or may not be designed to mitigate this risk.

	within same distance as the residential property. Risk is considered low. Contracts will protect CG from suit.	No contracts to protect the CG from suit.
(4) Mega yacht owners will be inconvenienced during heightened security.	(4) Megayachts can moor at Terminal Is under existing zoning, making this moot.	(4) Large, foreign flag vessels may moor at the facility. More of a threat than yachts.
(5) Residential zoning will require the CG Base to meet higher environmental and public safety/health standards.	(5) CG Base already exists close to an urban area with great waterway use. Standards are already high. Building design will mitigate these issues. Contracts will protect CG from suit.	(5) Building design may or may not mitigate these issues. Larger, transient population will increase exposure risk. No contracts to protect the CG from suit.
(6) Decreased potential for future growth.	(6) Any development on Terminal Is. will impact growth on and around the CG Base.	(6) Any development on Terminal Is. will impact growth on and around the CG Base.

Notes:

- (1) Coast Guard concerns taken from Captain Keffer's letter to the City of Miami Beach Planning and Zoning Department dated 10 April 2017.
- (2) Development on the Terminal Island property would include an improved maintenance facility for the City of Miami Beach, a parking garage, and approximately 90 condominium residences. The buildings would be designed with Coast Guard input to minimize exposure of residence to noise, light and other environmental factors. A condition of condo purchase would be to sign a contract that prevents owners from suing the Coast Guard for operational and industrial impacts. The property owner would sign the same contract which would be filled with the deed and exist in perpetuity. In addition, the owners would provide space and access on their property for Coast Guard communications and surveillance equipment. Traffic would be limited to residents, maintenance staff and moorage customers.
- (3) Light industrial development on Terminal Island can be done under existing zoning and can include a building with the same square footage as the residential building with offices, restaurants, churches, some industrial work and more (see attachment for comprehensive list). This option would bring more people on the property with less control of their activities and identification. Traffic would increase as customers, workers and staff enter and leave. A 70-foot easement is included around the property for moorage of deep draft vessels. No Coast Guard input is required for this development and no safeguards against suit will be in place to protect the Coast Guard from suit.