

DECLARATION OF MORRIS SUNSHINE, Ph.D.

After I retired from teaching in Albany, New York, my wife and I moved to Miami Beach in the early 90s, specifically to the Royal Atlantic condo building at 465 Ocean Drive. About four months after we settled in, I was surprised to be asked to run for office of president of the condominium association. Being naïve, I agreed to do that. After I was elected, I found out the awful truth: The members of the association, taking into account my experience as a university lecturer, were not looking for someone with good management skills--they wanted someone to go to city hall and talk for them about the excessive noise, rowdiness and traffic which was dragging down their quality of life, and possibly, their property values. That's when really I started to look around. (It didn't take long for me to decide to take noisecontrol@the-beach.net as my email address.)

Currently, the intersection at Fifth and Ocean is one of the busiest in the city. Four zoning districts meet there: MXE, GU (Lummus Park), RPS-3, and RPS-4, which is where the Royal Atlantic is located. RPS-4 is a residential district that stretches from that intersection, south on Ocean Drive to South Pointe Drive or thereabouts. It houses about four large apartment buildings, several smaller condos and three hotels, all of which have frontage on the beach. The west side of Ocean Drive, RPS-3, also contains hotels, small apartment buildings as well as restaurants with outdoor cafes. North of Fifth is MXE, the so-called "Entertainment District" and Lummus Park. My quality of life is shaped by my building's adjacency to businesses in three of these zoning districts.

Let's start with the Entertainment District, i.e., Washington Ave., Collins Ave. and Ocean Drive from Fifth to Fifteenth streets. Traffic jams in the district on weekends, actually starting on Friday afternoon, are quite common: these are the streets of choice for "cruising." Some daytime traffic jams on Ocean Drive are directly attributable to entertainment offered by hotel restaurants. For example, several years ago, a hotel restaurant in the 600-block featured a Hooter's-type wait staff, i.e., scantily-clad girls, who stood in the southbound traffic lane causing drivers to brake and gawk. Further north, the Breakwater Hotel once featured an acoustical guitarist, whose music was actually audible by residents of my building, five blocks away. Then, there is the famous--or infamous--traffic stopper, the drag show which was put on every afternoon by the Palace Hotel, just north of 10th Street, on Ocean Drive. Pedestrians, including my wife, were forced to walk in the street against on-coming traffic, facing drivers distracted by the loud music and dancers on the sidewalk. Lastly, there was the Bentley Hotel that's diagonally across the street from my building, which, for a time, featured afternoon and evening rooftop concerts for guests and non-guests.

One of the social effects of an entertainment district is that it attracts criminal youth gangs. About a month ago, two rival gangs fought at the intersection of Fifth Street and Ocean Drive. My condo building was hit by at least three bullets, one of which smashed through the patio door of the current condo president. (He and his partner escaped injury by immediately falling to the floor.) Of course, the police know that entertainment attracts criminals. Recently, the Miami Beach Police Department was forced to create a special administrative structure to better protect visitors to the

Entertainment District and added about nine more police officers to the district police force, at great expense to the city. Of course, traffic and parking problems are another collateral effect of entertainment.

Turning to RPS-4, my first duty as the new president of my condo association was to tackle excessive noise coming from our next door hotel. The main source was entertainment provided by its supper club. The crowd, entering or leaving, blocked the public right-of-way. Taxis picking up and discharging passengers caused horn blowing and traffic jams. A related issue was the hotel's daytime and early evening social events. It regularly filled its courtyard with visiting business people. The amplified music and the conversation that got louder and louder as more and more liquor was consumed, forced us to close our windows. Who moves to Florida to live with closed windows! Fortunately, the hotel was sold and the new owner decided to minimize his hotel's accessory uses.

At the nearby intersection of Fourth and Ocean Drive in RPS-3, there is a hotel which was encouraging noisy parties--night and day--on its rooftop. The noise affected residents in two large apartment buildings. When the city passed an ordinance in 2009 regulating the commercial use of rooftops in SOFI, the problem was mitigated.

Even without considering the noise issue, entertainment has negative collateral effects on residential quality of life. Take the cases of Nikki Beach Club on south Ocean Drive and the Story nightclub in the 100 block of Collins Ave. Large, inebriated crowds make their way through our residential neighborhood to local parking lots, causing major commotion and brawls as everyone tries to drive out of the lot. It is not uncommon to hear residents complain about inebriated club-goers urinating on their property. For a time, one Miami Beach police supervisor instructed his officers to walk along with the departing crowds to suppress indecent activities.

The city commission concluded in 2004 that only by relying on its zoning code, could it establish effective quality-of-life standards for the residents of the SOFI neighborhood. This has been effective. For businesses, zoning has established a level playing field; for newcomers investing in housing, it provides assurances of tranquility. Even developers selling apartments in our neighborhood, boast that the South of Fifth neighborhood is an oasis of peace and tranquility and that exciting entertainment is within easy walking distance. In fact, SOFI's zoning has become a model for other residential neighborhoods struggling with the negative effects of entertainment.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

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/s/
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