

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: October 13, 2015

FROM: Thomas R. Mooney, AICP 
Planning Director

SUBJECT: **HPB File No. 7515. 1901 Collins Avenue – Shore Club Hotel**

The re-hearing applicant, G200 Exchange, LLC, is requesting a re-hearing of the July 14, 2015 decision of the Historic Preservation Board wherein it approved a Supplemental Order granting a Certificate of Appropriateness for the structural alteration and partial demolition of the Cromwell Hotel structure located along 20th Street. If the request for a re-hearing is granted, the matter may be heard immediately.

STAFF RECOMMENDATION

Denial of Re-hearing request

EXISTING STRUCTURES

Local Historic District:

Ocean Drive / Collins Avenue

Classification:

Contributing

LEGAL

Legal Description:

All of Lot 1 and a portion of Lots 2 and 3, Block B, of the OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, According to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida and all of Lots 5, 6, 8, 9 and 10 and a portion of Lots 4 and 7, Block 1, FISHER'S FIRST SUBDIVISION OF ALTION BEACH, According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, of the Public Records of Miami-Dade County, Florida; and a portion of land lying East of and contiguous to the East line of said Blocks B and 1.

BACKGROUND

On February 11, 2015, the City Commission adopted an ordinance which allows for projecting balconies and balconies supported by columns to extend up to 30 feet from an existing building wall up to the highest habitable floor of the non-conforming building and not be considered a ground floor addition.

On March 10, 2015, the Board continued the application to the April 14, 2015 meeting.

On April 14, 2015, the Board continued the application to the May 12, 2015 meeting.

On May 12, 2015, the Board reviewed and approved a Certificate of Appropriateness for the partial demolition and renovation of the existing 'Contributing' structures on the site, total demolition of the existing 2-story cabana structure, the construction of two 2-story ground level cabana structures, modifications to the existing 22-story 'Non-Contributing' structure and landscape and hardscape modifications, with the exception of the demolition plan for the Cromwell Hotel structure fronting on 20th Street. The Board continued the demolition plan for the Cromwell building to a date certain of July 14, 2015.

The following portions of the application were approved on May 12, 2015:

- **Restoration and renovation of the existing Shore Club Hotel structure including the conversion of the entire south wing to accessory restaurant and commercial use.**
- **Conversion of the existing hotel units located within the 20-story north tower addition into 50 residential units.**
- **Design modifications to the existing 20-story tower addition including the introduction of expansive wrap around exterior terraces and expansion of existing window openings.**
- **Renovation of the pool deck area including the construction of a new pool and pool deck.**
- **Demolition of the existing 2-story cabana structure located at the rear of the property along the south property line and the construction of two 2-story cabanas within the rear yard, along the north and south property lines.**
- **A new landscape plan for the site.**
- **Construction of a new 5-story structure to the north of the Cromwell Hotel within the area currently containing a 2-level parking garage.**

On July 14, 2015, the Board approved the demolition plan for the Cromwell Hotel.

On July 20, 2015, a 'Petition for Rehearing' of the May 12, 2015 decision of the Board was filed by G200 Exchange, LLC.

On August 5, 2015, a 'Petition for Rehearing' for the July 14, 2015 decision of the Board was filed by G200 Exchange, LLC.

On September 8, 2015, the Board reviewed and denied the 'Petition for Rehearing' of the May 12th decision of the Board, submitted by G200 Exchange LLC.

Section 118-537 of the Miami Beach City Code specifies that the historic preservation board may consider a petition for rehearing by the applicant, the owner(s) of the subject property, the city manager, an affected person, Miami Design Preservation League, or Dade Heritage Trust. For purposes of this section, "affected person" shall mean either a person owning property within 375 feet of the applicant's project reviewed by the board, or a person that appeared before the board (directly or represented by counsel), and whose appearance is confirmed in the record of the board's public hearing(s) for such project. The petition for rehearing must demonstrate to the board that:

- a. There is newly discovered evidence which is likely to be relevant to the decision of the board;
- b. The board has overlooked or failed to consider something which renders the decision issued erroneous; or
- c. The board's action or order:
 1. Took place after May 11, 1995 and is actionable under the Bert J. Harris, Jr. Private Property Rights Protection Act, F.S. § 70.001 et seq., (referred to herein as the "Harris Act"); and
 2. Inordinately burdens an existing use of the applicant's real property or a vested right to a specific use of the applicant's real property (referred to herein as a "Harris Act claim").

The basis for the attached re-hearing petition submitted by the applicant is that there is newly discovered evidence which is likely to be relevant to the decision of the board and that the board overlooked or failed to consider something that makes the decision erroneous.

ANALYSIS

Staff analysis is outlined in the *Memorandum of Law in Opposition to the Petition for Rehearing*, attached.

RECOMMENDATION

Given the fact that the findings and conclusions of the appellant do not satisfy the re-hearing criteria in Section 118-537 of the City Code, staff would recommend that the request for a re-hearing be DENIED.

RECEIVED

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CMB PLANNING DEPT

BEFORE THE HISTORIC PRESERVATION
BOARD OF THE CITY OF MIAMI BEACH,
FLORIDA

HISTORIC PRESERVATION BOARD
FILE NO. 7515

IN RE: **SHORE CLUB PROPERTY OWNER, LLC**
1901 COLLINS AVENUE, MIAMI BEACH, FL

**CITY OF MIAMI BEACH'S MEMORANDUM OF LAW
IN OPPOSITION TO THE SECOND PETITION FOR REHEARING
OF G200 EXCHANGE LLC**

The City of Miami Beach (the "City") hereby submits this Memorandum of Law in Opposition to the second Petition for Rehearing filed with the Historic Preservation Board (the "Board") by Petitioner G200 Exchange LLC ("G200" or "Petitioner"). The subject of the Petition for Rehearing is the application of Shore Club Property Owner, LLC ("Shore Club" or "Applicant") to the Board for a Certificate of Appropriateness for a redevelopment project (the "Project") at 1901 Collins Avenue, Miami Beach, Florida. The Project is located within the Ocean Drive/Collins Avenue Local Historic District.

The Board first heard the Shore Club application on April 14, 2015 and May 12, 2015, and issued a Certificate of Appropriateness, with conditions, on May 18,

2015 (the "May Order").¹ The Board continued the portion of the application proposing the demolition of the Cromwell/Sharalton building located along 20th Street, until its meeting on July 14, 2015. Following the July 14 hearing, the Board issued a Certificate of Appropriateness approving the demolition, with conditions, in a Supplemental Order, dated July 21, 2015 (the "Supplemental Order").

The City respectfully requests that the Board deny the Petition for Rehearing, because Petitioner has failed to meet the standard for a rehearing set forth in the City Code. Additionally, Petitioner's arguments are immaterial to a petition for rehearing, and would be more appropriately asserted in an appeal to the special master, or in a petition to the circuit court for certiorari review.

I. Procedural history.

A. The Shore Club Application.

The Shore Club applied to the Board for a Certificate of Appropriateness for the partial demolition and renovation of existing contributing structures, total demolition of the existing two-story cabana structure, the construction of two two-story ground level cabana structures, the construction of a five-story amenities building, modifications to the existing 22-story non-contributing structure, and landscape and hardscape modifications. HPB File No. 7515, Staff Report & Recommendation, dated April 14, 2015, at 1, 9-12. The Board first considered the

¹ G200 states, in its Petition for Rehearing, that the May Order was rendered on May 19, 2015. In fact, the May Order was signed on May 18, 2015, and filed with the Clerk of the Historic Preservation Board on May 19, 2015.

Shore Club's application at its meeting on April 14, 2015. At the conclusion of the April hearing, the Board continued the Shore Club's application until May 12, 2015. At the conclusion of the May 12, 2015 hearing, the Board approved the Project with conditions, and issued a Certificate of Appropriateness on May 18, 2015. The Board continued the portion of the application relating to the demolition of the Cromwell/Sharalton building until its meeting in July. The Board heard the demolition portion of the Shore Club's application on July 14, 2015, and issued a Certificate of Appropriateness approving the demolition, with conditions, in a Supplemental Order, dated July 21, 2015.

At the hearing in July, the Board considered the Shore Club's application and all related plans, documents, expert testimony, and other submissions; the Planning Department's staff reports and testimony; and argument and testimony presented by Petitioner.

Petitioner is an "affected person" pursuant to Section 118-537 of the City Code, and therefore has standing to petition the Board for rehearing.

B. Prior petitions for rehearing of the Shore Club application.

The May Order was the subject of a rehearing petition filed on June 3, 2015 by Setai Resort and Residences Condominium Association, Inc., Dr. Stephen Soloway, and Setai Hotel Acquisition, LLC (collectively, the "Setai Parties"), and a rehearing petition filed on July 20, 2015 by G200. The Board, having heard

argument of counsel, and having reviewed the petitioners' briefs, the City's briefs in opposition to the rehearing, and the Shore Club's briefs in opposition to the rehearing, denied both petitions.

II. The Standard of Review for a Petition for Rehearing by the Historic Preservation Board.

A petition for rehearing must demonstrate to the Board that "[t]here is newly discovered evidence which is likely to be relevant to the decision of the board" or "[t]he board has overlooked or failed to consider something which renders the decision issued erroneous." City Code Section 118-537(a)(1)(a)-(b).

III. To the extent that Petitioner seeks a rehearing as to the May Order, the Petition for Rehearing must be denied.

Petitioner "seeks rehearing and requests that the Board issue a new decision vacating its Supplemental Order (together with the Order rendered May 19, 2015)." Pet'r's Br. 2. Petitioner argues, "[b]ecause the Supplemental Order [...] references, seeks to ratify, and otherwise incorporates the May 19, 2015 Order, Petitioner attaches and incorporates by reference the pending Petitions for Rehearing." Pet'r's Br. 2-3. The Petition for Rehearing improperly seeks a rehearing of the May Order. The Board heard and denied all petitions for rehearing of the May Order on September 8, 2015.

Additionally, the Supplemental Order, at paragraph III.J, provides that “[t]he previous Final Order dated May 12, 2005² [sic] shall remain in full force and effect, except to the extent modified herein.” Supplemental Order 6. The May Order and the Supplemental Order are separate orders. The Supplemental Order merely amends the May Order to approve, with conditions, the application for demolition of the Cromwell/Sharalton building. Whether or not the Board grants the Petition for Rehearing has no bearing on the Board’s conditional approval in May of the majority of the Shore Club application. Instead, the Board may only review the Petition for Rehearing as it relates to the demolition of the Cromwell/Sharalton building, which was that portion of the Project approved by the Board in July. The Board heard and denied all petitions for rehearing of that portion of the Project approved in the May Order.

IV. Petitioner’s argument that the Shore Club application was incomplete and improperly before the Board is both time-barred and outside the scope of a rehearing petition.

Petitioner argues that the portion of Shore Club’s application that relates to the demolition of the Cromwell/Sharalton hotel was incomplete, on the basis that the application failed to include “a structural evaluation and corrective action report prepared by a professional (structural) engineer” that meets the criteria set

² The Supplemental Order, at paragraph III.J, incorrectly states the date of the May Order as May 12, 2005, rather than May 18, 2015. As G200 recognizes in the Petition for Rehearing, this is a scrivener’s error. The Board first approved the Shore Club application at a hearing on May 12, 2015, and the May Order was signed on May 18, 2015 and filed with the Clerk of the Board on May 19, 2015.

forth in Section 118-562(b)(7) of the City Code. *See* Pet'r's Br. 4-8. To the extent that Petitioner argues that the application was incomplete and therefore not properly before the Board, Petitioner's argument is time-barred. The City Code, at Sections 118-351 and 118-352, provides a vehicle for challenging the administrative determination by the City that an application is complete and properly before the Board: an appeal to the City's Board of Adjustment. However, the City Code requires that such "an appeal from an administrative decision shall be filed within 30 days from the date of the . . . ruling, decision, or determination of . . . [the] administrative official." City Code Section 118-352. City staff determined that the Shore Club application was complete, and advertised the first scheduled hearing, in December 2014. Because Petitioner failed to appeal the City's determination that the application was complete within 30 days, the argument that the Shore Club application failed to include any of the analysis required by Section 118-562(b)(7) of the City Code is time-barred.³

To the extent that Petitioner argues that the completeness of the application is an issue of competent substantial evidence, Petitioner's argument is irrelevant to the Board's review of a petition for rehearing. A rehearing petition may not be used to request that the Board re-weigh the evidence; the standard of review is

³ Previously, the Setai Parties sought to appeal the City's administrative determination that the Shore Club application was complete and properly before the Board. On May 12, 2015, the City rejected such appeal as untimely, pursuant to City Code Section 118-532. *See* Email of Eve Boutsis, Deputy City Att'y, Miami Beach, Fla., to Kent Harrison Robbins (May 12, 2015, 13:45 PM EDT), attached as Exhibit "A".

narrow. Instead, the proper vehicle to argue that the Board's decision was unsupported by competent substantial evidence is to appeal the Board's decision.

V. Petitioner has failed to meet the standard for a rehearing set forth in the City Code.

In its Petition for Rehearing, Petitioner claims that "there is newly discovered evidence that is likely to be relevant to the decision of the board' and that 'the board overlooked or failed to consider something that makes the decision erroneous.'" Pet'r's Br. 3-4. Petitioner's mere assertion that it has met the standard for rehearing, without legal or factual support, is insufficient. The Board should therefore deny the Petition for Rehearing.

A. Petitioner is unable to point to any newly discovered evidence that would entitle Petitioner to rehearing by the Board.

As in its previous petition for rehearing, Petitioner fails to point to even a scintilla of "newly discovered evidence." The City's rehearing standard is modeled after the rehearing standard a trial court would use. To obtain a trial court rehearing based on newly discovered evidence a petitioner must establish the following:

(1) it appears that the [new] evidence is such that it will probably change the result if a new trial is granted, (2) the evidence has been discovered since the trial, (3) the evidence could not have been discovered before the trial by the exercise of due diligence, (4) the evidence is material to the issue, and (5) the evidence is not merely cumulative or impeaching.

Resort of Indian Spring, Inc. v. Indian Spring Country Club, Inc., 747 So. 2d 974, 978 (Fla. 4th DCA 1999) (applying to a rehearing petition the standard of review for a motion for new trial) (citing *Bray v. Electronic Door-Lift, Inc.*, 558 So. 2d 43, 47 (Fla. 1st DCA 1989)); see also *Morhaim v. State Farm Fire & Cas. Co.*, 559 So. 2d 1240, 1241 (Fla. 3d DCA 1990). “Rehearing is not intended as a device to present additional evidence that was available, although not presented,” at the original hearing. *St. Petersburg Housing Auth. v. J.R. Dev.*, 706 So. 2d 1377, 1378 (Fla. 2d DCA 1998). The Petition for Rehearing raises several arguments as to why the Supplemental Order was improperly entered. However, the petition fails to point to a shred of new evidence that surfaced or arose since the July 14, 2015 hearing. The Board need not even address whether any “newly discovered evidence” would be relevant to the decision of the board, because Petitioner has not identified any such new evidence *at all*. The Board therefore may not grant Petitioner a rehearing on the basis of “newly discovered evidence.”

B. Petitioner has not demonstrated that the Board overlooked or failed to consider something that made the Board’s decision erroneous.

Petitioner frames its Petition for Rehearing by arguing that the Board overlooked or failed to consider information which renders the decision erroneous. However, as in its first Petition for Rehearing, rather than point to information overlooked, Petitioner instead argues that the Board’s decision to approve the application, with conditions, was not supported by competent substantial evidence.

See Pet'r's Br. 4, 7, 8. For instance, Petitioner argues, "Overlooked was the lack of discussion, or any findings based on competent substantial evidence, as to the detailed demolition plans or detailed analysis of the building's structural condition, because those items were simply not provided by the applicant." Pet'r's Br. 7.

Petitioner suggests that the Board should grant a rehearing on the basis that, at the July 14, 2015 hearing, "there was no discussion on the record as to the satisfaction of the mandatory demolition criteria under Code section 118-562(b)(7)." Pet'r's Br. 6. The Board heard and rejected this argument by Petitioner on September 8, 2015, when the Board denied Petitioner's first rehearing petition. First, whether or not a particular issue was discussed by the Board at a hearing is irrelevant to whether the Board should grant Petitioner a rehearing. In rendering a decision, the Board is not constrained to the scope of its discussion at a hearing. The Board may also consider submissions by applicants and their opponents, as well as the analysis and testimony of applicants, City staff, opponents, and experts. Or, the Board may merely render a decision based on its review of an application and the evidence and analysis in the Planning Department's staff reports.

Second, it is absurd, as a practical matter, to expect that the Board must, at a hearing, recite or discuss every minute technical aspect of every application in order to grant an approval. It is sufficient that a decision of the Board is supported

by competent substantial evidence in order for a Certificate of Appropriateness to withstand appeal.

However, the question of competent substantial evidence is not currently before the Board. Instead, the Board is constrained to the two-pronged standard of review for a petition for rehearing. Once the question of newly discovered evidence is answered in the negative, the only remaining question is whether the Board overlooked or failed to consider something which rendered its decision erroneous. Prior to rendering the Supplemental Order, the Board had considered the Shore Club's application and all related plans, documents, expert testimony, and other submissions; the Planning Department's staff reports and testimony; argument and testimony presented by the Setai Parties; and argument and testimony presented by G200. Petitioner has failed to point to anything that the Board overlooked or failed to consider which would render its decision erroneous.

VI. Petitioner's arguments are beyond the limited scope of the Board's review of a petition for rehearing.

A. Whether the Board's decision was supported by competent substantial evidence is not pertinent to a petition for rehearing.

Petitioner objects to the conditions imposed by the Board in its Supplemental Order. Petitioner argues,

there was no discussion on the record as to the satisfaction of the mandatory demolition criteria provided under Code section 118-562(b)(7). At no point during the hearing were these elements discussed, nor debated by

the HBP [sic]. The discussion among the HPB leading to the Supplemental Order focused exclusively on reduced demolition to the historic facades of the Cromwell Hotel and the sequential methodology to be employed.

Pet'r's Br. 6-7. As in its first rehearing petition, Petitioner once again relies on a legal standard that is immaterial to the Board's review of a rehearing petition: "the Board overlooked the lack of competent substantial evidence as to the satisfaction of mandatory criteria to authorize the demolition and substantial alteration it approved." Pet'r's Br. 7. Petitioner also states, "[t]he record does not show the Board weighed the evidence presented as to the need for additional testing, or the Code requirements for demolition. The Board thus overlooked its obligation to deliberate over the evidence presented, and then support its Orders . . . with required findings of fact." Pet'r's Br. 8. Once again, Petitioner's argument is irrelevant at this stage. Whether competent substantial evidence supports the Board's imposition of any conditions is beyond the scope of the Board's review of the Petition for Rehearing.

Petitioner conflates the standard of review on a rehearing petition with first-tier certiorari review by the circuit court, or appellate review by the special master. *See* City Code Section 118-537(b)(2) ("[i]n order to reverse amend, or modify any decision of the board, the special master shall find that the board did not do one of the following: (a) [p]rovide procedural due process; (b) [o]bserve essential requirements of law; or (c) [b]ase its decision upon substantial competent

evidence.”). At this stage, the Board may not address whether competent substantial evidence supports the Board’s decision. The Board may only consider whether there is newly discovered evidence or whether the Board overlooked or failed to consider something that made its decision erroneous. Petitioner has not established its entitlement to a rehearing on either theory.

Petitioner’s arguments are not pertinent to a rehearing petition. The question of whether competent substantial evidence supported a quasi-judicial decision of the Board is a question for appellate review by the special master, or for the circuit court to address on a petition for writ of certiorari.⁴ City Code Section 118-537(b)(2); *Miami-Dade Cnty. v. Walberg*, 739 So. 2d 115, 116-117 (Fla. 3d DCA 1999); *see also Bd. of Cnty. Comm’rs of Brevard Cnty. v. Snyder*, 627 So. 2d 469, 476 (Fla. 1993); *City of West Palm Beach Zoning Bd. of Appeals v. Educ. Dev. Ctr., Inc.*, 504 So. 2d 1385, 1385 (Fla. 4th DCA 1987).

As in its previous rehearing petition, Petitioner *again* relies on a portion of the opinion in *Premier Developers III Assoc. v. City of Fort Lauderdale*, 920 So. 2d 852 (Fla. 4th DCA 2006), which addressed an applicant’s petition for second-tier certiorari review. The Fourth District Court of Appeal affirmed the circuit court’s decision upholding the Ft. Lauderdale Planning and Zoning Commission’s denial of an applicant’s site plan application, on the basis that the circuit court “(1)

⁴ A decision by the Board to grant or deny a Certificate of Appropriateness may be appealed to the special master. A decision regarding a variance may be appealed by petition to the circuit court for a writ of certiorari.

afforded procedural due process; and (2) applied the correct law.” *Premier Developers*, 920 So. 2d at 852. This case has no relevance whatsoever to the Petition for Rehearing before the Board. The Shore Club’s application is not currently before an appellate court on second-tier certiorari review. Once again, the Board is constrained to the standard of review for a petition for rehearing.

B. Whether the Board has the authority to impose conditions requiring further review by the City’s Planning Department is beyond the scope of a petition for rehearing.

Petitioner argues that, in several instances, the Board improperly delegated its authority to City staff. Specifically, Petitioner points to Paragraphs I.C.1.a, I.C.1.b, and I.C.1.c of the Supplemental Order. Pet’r’s Br. 8. Petitioner asserts, “[l]ocal legislative or quasi-judicial bodies may not delegate their decision-making power to administrative boards, committees or staff members,” and “[i]f such power is improperly delegated to an unelected body[,] . . . the result is an incurable denial of due process.” Pet’r’s Br. 10. Petitioner argues that the Board’s allegedly improper delegation of authority is a legal basis for the Board to grant a rehearing petition.

On a petition for rehearing, the Board is constrained by the City Code and Florida case law to examining whether there is newly discovered evidence, or whether the Board overlooked or failed to consider something. The Board need not address Petitioner’s argument that the conditions imposed in its Supplemental

Order would result in “an incurable denial or due process.” Whether the Board afforded the parties procedural due process is a question for appeal. *See Dusseau v. Metro. Dade Cnty. Bd. of Cnty. Comm’rs*, 794 So. 2d 1270, 1274 (Fla. 2001) (citing *City of Deerfield Beach v. Vaillant*, 419 So. 2d 624, 626 (Fla. 1982)); *see also* City Code Section 118-537(b)(2).

Nonetheless, the City’s land development regulations provide broad guidance on the Board’s authority to impose conditions on a Certificate of Appropriateness:

In granting a certificate of appropriateness, the historic preservation board and the planning department may prescribe appropriate conditions and safeguards, either as part of a written order or on approved plans. Violation of such conditions and safeguards, when made a part of the terms under which the certificate of appropriateness is granted, shall be deemed a violation of these land development regulations.

City Code Section 118-561(b). “The board shall approve, deny, approve with conditions or continue action on all applications for a certificate of appropriateness.” City Code Section 118-563(b). The plain language of the City Code expressly and broadly authorizes the Board to impose conditions in a Certificate of Appropriateness.

CONCLUSION

The Board considered evidence and analysis submitted by City staff, the Applicant, the Setai Parties, and Petitioner before it approved the Certificate of

Appropriateness for the demolition of the Cromwell/Sharalton building. Petitioner has once again failed to point to any evidence overlooked by the Board or to newly discovered evidence that would warrant a rehearing of that portion of the application that relates to the demolition of the Cromwell/Sharalton building. The City respectfully requests that the Board uphold the Certificate of Appropriateness for demolition of the Cromwell/Sharalton building, dated July 21, 2015, and deny Petitioner's request for rehearing.

Respectfully submitted,

RAUL J. AGUILA, CITY ATTORNEY
CITY OF MIAMI BEACH
1700 Convention Center Drive, 4th Floor
Miami Beach, Florida 33139
Telephone: (305) 673-7470
Facsimile: (305) 673-7002
nickkallergis@miamibeachfl.gov



Nicholas E. Kallergis
Assistant City Attorney
Florida Bar No. 105278

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served via email to Marcie Oppenheimer Nolan and Kevin Markow, counsel for Petitioner G200 Exchange LLC, at mnolan@bplegal.com and kmarkow@bplegal.com; Kent Harrison Robbins, Esquire, counsel for Petitioners Setai Resort and Residences Condominium Association, Inc., Dr. Stephen Soloway, and Setai Hotel Acquisition, LLC, at khr@khrlawoffices.com; Eve A. Boutsis, Esquire, Deputy City Attorney, City of Miami Beach, at eveboutsis@miamibeachfl.gov; and Alfredo J. Gonzalez, Esquire, and Lucia Dougherty, counsel for Applicant, at gonzalezaj@gtlaw.com and doughertyl@gtlaw.com, this 21st day of September, 2015.



Nicholas E. Kallergis
Assistant City Attorney

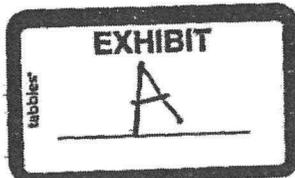
Kallergis, Nick

From: Boutsis, Eve
Sent: Tuesday, May 12, 2015 2:12 PM
To: Kent Harrison Robbins - KHR Law Offices
Cc: Belush, Michael; Mooney, Thomas; GonzalezAJ@gtlaw.com; DoughertyL@gtlaw.com; Kallergis, Nick; Stohl, Antoinette; Villegas, Irina
Subject: Re: Appeals to BOA of determinations of completeness two appeal: hpb file7515 and7539

My email and mailing i would consider signed and you can rely upon.

Sent from my iPad

> On May 12, 2015, at 2:10 PM, Kent Harrison Robbins - KHR Law Offices <khr@Khrlawoffices.com> wrote:
>
> So I have a signed determination.
>
> Kent Harrison Robbins
> khr@khrlawoffices.com
> By iPhone 3056321770
>
>> On May 12, 2015, at 2:04 PM, Boutsis, Eve <EveBoutsis@miamibeachfl.gov> wrote:
>>
>> Why
>>
>> Sent from my iPad
>>
>>> On May 12, 2015, at 2:03 PM, Kent Harrison Robbins - KHR Law Offices <khr@Khrlawoffices.com> wrote:
>>>
>>> Will you be sending me a formal letter on your stationary?
>>>
>>> Kent Harrison Robbins
>>> khr@khrlawoffices.com
>>> By iPhone 3056321770
>>>
>>>> On May 12, 2015, at 1:45 PM, Boutsis, Eve <EveBoutsis@miamibeachfl.gov> wrote:
>>>>
>>>> Kent:
>>>>
>>>> Both appeals are rejected as untimely. The Planning Director determined the first application was complete and advertised the application by December 2014. The application was continued twice thereafter. Just because staff is not satisfied with the quality of the submittal does not mean that the application was incomplete. The second application (7539) was determined complete within the first ten days of January 2014. The deadline to appeal was thirty days from that determination. Your two appeals are months late and cannot be jurisdictionally accepted to proceed to Board of Adjustment. Nor is there an administrative appeal of juris determination made by the city attorney's office.
>>>>
>>>> Thank you.
>>>>
>>>> Sent from my iPad



HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: October 13, 2015

FILE NO: 7515

PROPERTY: 1901 Collins Avenue

APPLICANT: G200 Exchange, LLC

LEGAL: All of Lot 1 and a portion of Lots 2 and 3, Block B, of the OCEAN FRONT PROPERTY OF THE MIAMI BEACH IMPROVEMENT COMPANY, According to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida and all of Lots 5, 6, 8, 9 and 10 and a portion of Lots 4 and 7, Block 1, FISHER'S FIRST SUBDIVISION OF ALTION BEACH, According to the Plat Thereof, as Recorded in Plat Book 2, Page 77, of the Public Records of Miami-Dade County, Florida; and a portion of land lying East of and contiguous to the East line of said Blocks B and 1.

IN RE: A request for a re-hearing of the July 14, 2015 decision of the Historic Preservation Board wherein it approved a Supplemental Order granting a Certificate of Appropriateness for the structural alteration and partial demolition of the Cromwell Hotel structure located along 20th Street. If the request for a re-hearing is granted, the matter may be heard immediately.

ORDER

The City of Miami Beach Historic Preservation Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

I. Certificate of Appropriateness

- A. The subject site is located within the Ocean Drive/Collins Avenue Local Historic District.
- B. On May 12, 2015, the Board granted a Certificate of Appropriateness for the subject development project with the exception of the demolition proposed for the Cromwell Hotel structure located along 20th Street, which were continued to a date certain of July 14, 2015.

- C. On July 14, 2015, the Board approved the demolition plan for the Cromwell Hotel.
- D. The petition submitted by the re-hearing applicant, G200 Exchange, LLC, inclusive of all exhibits and testimony, fails to establish that the standards necessary for the granting of a re-hearing of the Certificate of Appropriateness that was granted by the Historic Preservation Board on July 14, 2015, are satisfied.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, that the request filed by the G200 Exchange, LLC, for a rehearing of the subject project is DENIED. The previous Certificate of Appropriateness granted July 14, 2015 shall remain in effect until final action on the rehearing, however no permits for demolition of the hotel structure shall be issued under such Certificate until such final action.

Dated this _____ day of _____, 20__.

HISTORIC PRESERVATION BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
DEBORAH TACKETT
PRESERVATION AND DESIGN MANAGER
FOR THE CHAIR

STATE OF FLORIDA)
)SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ 20__ by Deborah Tackett, Preservation and Design Manager, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. He is personally known to me.

NOTARY PUBLIC
Miami-Dade County, Florida
My commission expires: _____

Approved As To Form:
City Attorney's Office: _____ ())

Filed with the Clerk of the Historic Preservation Board on _____ ())