

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
October 21, 2015

Mayor Philip Levine
Vice-Mayor Edward L. Tobin
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Deede Weithorn
Commissioner Jonah Wolfson

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

R9 - New Business and Commission Requests

- R9A Discussion Regarding A Resolution Approving And Authorizing The City Manager And The City Clerk To Execute A Settlement And Release Agreement, In Such Form And Manner As Shall Be Acceptable To The City Manager And City Attorney's Office, Between The City And 71 Investments, LLC, Regarding Those Requirements Set Forth And Established Within Ordinance No. 2014-3916, And The Property Located At 912 71st Street, Miami Beach, Florida.

(Office of the City Attorney)
(Memorandum & Resolution)

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MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

RAUL AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: MAYOR PHILIP LEVINE
MEMBERS OF THE CITY COMMISSION
JIMMY L. MORALES, CITY MANAGER

FROM: RAUL J. AGUILA, CITY ATTORNEY *R. Aguil*

DATE: OCTOBER 21, 2015

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE A SETTLEMENT AND RELEASE AGREEMENT, IN SUCH FORM AND MANNER AS SHALL BE ACCEPTABLE TO THE CITY MANAGER AND CITY ATTORNEY'S OFFICE, BETWEEN THE CITY AND 71 INVESTMENTS, LLC, REGARDING THOSE REQUIREMENTS SET FORTH AND ESTABLISHED WITHIN ORDINANCE NO. 2014-3916, AND THE PROPERTY LOCATED AT 912 71ST STREET, MIAMI BEACH, FLORIDA.

The City Attorney's Office is seeking authorization for the City Manager and the City Clerk to execute a Settlement and Release Agreement that will be acceptable to the City Manager and the City Attorney's Office as it pertains to those alleged property rights asserted by 71 Investments, LLC, and the enactment of Ordinance No. 2014-3916 and its applicability upon the property located at 912 71st Street. The City Attorney's Office has determined that the resolution of this matter is appropriate, and will further prevent costly litigation surrounding those claims made by 71 Investments, LLC. Equally important, the Settlement and Release Agreement achieves those essential protections that will preclude a serious danger to the health, safety and welfare of the public and the surrounding neighborhood.

The City Attorney's Office has reached an agreement with the Property Owner, and is in the process of negotiating the final terms and conditions of the Settlement and Release Agreement, which is consistent with, and is an acceptable resolution of this matter.

RJA/AB/sc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE A SETTLEMENT AND RELEASE AGREEMENT, IN SUCH FORM AND MANNER AS SHALL BE ACCEPTABLE TO THE CITY MANAGER AND CITY ATTORNEY'S OFFICE, BETWEEN THE CITY AND 71 INVESTMENTS, LLC, REGARDING THOSE REQUIREMENTS SET FORTH AND ESTABLISHED WITHIN ORDINANCE NO. 2014-3916, AND THE PROPERTY LOCATED AT 912 71ST STREET, MIAMI BEACH, FLORIDA.

WHEREAS, the City Manager had revoked A & S Entertainment, LLC d/b/a The Office Gentlemen's Club's (the "Business") Business Tax Receipt and Certificate of Use No. RL-10006655 pursuant to Sections 102-383 and 14-406(b) of the City of Miami Beach Code; and

WHEREAS, the Business was operated at 912 71st Street, and was ordered to immediately cease its business operations based upon the revocation order; and

WHEREAS, the Chief Special Master held a final hearing regarding the revocation of the Business Tax Receipt and Certificate of Use, and issued an Order that affirmed the determination of the City Manager; and

WHEREAS, the Chief Special Master further permitted the Business to implement certain remedial measures, which would have alleviated the inappropriate activities at the Business and allowed the Certificate of Use and Business Tax Receipt to be reinstated; and

WHEREAS, during the pendency of the revocation proceedings before the Chief Special Master, the Mayor and City Commission determined it was necessary to amend Chapter 142 of the Miami Beach Code on December 18, 2014; and

WHEREAS, Ordinance No. 2014-3916 amended Section 142-303, and established additional conditional uses for the North Beach Neighborhood located north of 65th Street. The Business is, and would be, subject to the conditional use criteria set forth in Ordinance 2014-3916; and

WHEREAS, the City was notified by 71 Investments, LLC (the "Property Owner"), that it had not abandoned, or intended to abandon those uses specifically delineated in Section 142-303(c), and was neither apprised of the activities that had transpired at the Business nor was ever notified of the Special Master Order regarding the Business' failure to comply with the remedial directive set forth in the Chief Special Master Order that was issued on December 15, 2014; and

WHEREAS, the Property Owner has alleged that their "property rights" have been "violated" based upon the enactment of Ordinance No. 2014-3916, and that the City is legally prohibited from imposing those requirements set forth within Ordinance No. 2014-3916 against the property location at 912 71st Street; and

WHEREAS, the City and the Property Owner have acknowledged and recognized that the provisions of Article IV of the Land Development Regulations will determine those circumstances in which there is discontinued use (nonconforming use) at the Premises; and

WHEREAS, the Parties desire to settle claims, disputes, past, present, or future regarding this matter and the applicability of Ordinance No. 2014-3916, regardless of responsibility; and

WHEREAS, the Parties believe it would be in their best interests and the best interests of the City to agree to the provisions of this Agreement.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby approve and authorize the City Manager and the City Clerk to execute a Settlement and Release Agreement, in such form and manner as shall be acceptable to the City Manager and City Attorney's Office, between the City and 71 Investments, LLC, regarding those requirements set forth and established within Ordinance No. 2014-3916, and the property located at 912 71st Street, Miami Beach, Florida.

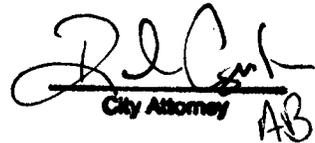
PASSED and ADOPTED this ____ day of _____, 2015.

ATTEST:

MAYOR PHILIP LEVINE

RAFAEL GRANADO, CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney AB

10-19-15

Date

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