



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commissioners
FROM: Joseph Centorino, Inspector General

DATE: October 7, 2021
PROJECT: 1701 Meridian Avenue Commercial Lease Complaint
OIG No. 21-30

On July 9, 2021, the Office of the Inspector General (OIG) received an emailed complaint from an individual self-identified as Mr. Steve T. Jones requesting an examination related to City Clerk Public Records Request (PRR) system 28670 / 31277 - IT 2825. The complaint centered on the City's commercial lease agreements with five named tenants in the City-owned building located at 1701 Meridian Avenue.

OIG staff reviewed the complaint information, including email correspondence between Mr. Jones and City employees, the "Response Letter to PRR" dated on July 1, 2021. Staff also reviewed documentation provided by the City's Facilities and Fleet Management Department, Finance Department, Human Resources Department's Risk Management Division, City Attorney's Office, Exigis software, Energov system, and performed internet research. In doing so, the following deficiencies were noted in connection with Mr. Jones's assertions:

- a. A review of the EnerGov system, the City's licensing and permitting system, found that two of the five tenants named in the complaint, Brageh, LLC d/b/a Rosa's Beauty Studio (Rosa's Beauty Studio) located at 765 17th Street, and Taste Bakery MB City Hall, LLC (Taste Bakery) located at 773 17th Street, were operating without an active business tax receipt (BTR).

More specifically, it was determined that Rosa's Beauty Studio had not applied for a BTR from the City since commencing operations on the premises. In a phone conversation with an Assistant City Manager on October 5, 2021, he explained that Rosa's Beauty Studio was having difficulties obtaining their County BTR, as they had been waiting for over six weeks for a response. A business operating within Miami Beach is required to obtain both a City and a County BTR. Consequently, Rosa's Beauty Studio is not in compliance as of the date of this report.

Meanwhile, the BTR for the 2019/2020 fiscal year related to Taste Bakery was paid late, as the \$592.50 payment was remitted on October 7, 2019, which was seven days after the September 30, 2019 due date. As a result, \$88.87 in late penalties were levied.

OIG staff's August 5, 2021 review of the EnerGov system found that these late fees remained unpaid, and the status of the BTR was listed as "pending" for the 2019/20 fiscal year. "Pending" status means that the BTR is not yet valid or active, and is missing needed

documentation and/or payment in full. In addition, our review also determined that Taste Bakery was not invoiced for its 2020/21 fiscal year BTR.

City Code Section 102-377 states, *“Any person who shall carry on or conduct any business for which a tax receipt is required by this article without first obtaining such tax receipt shall be issued a violation for the offense which shall have a civil fine of \$1,000.00. The enhanced enforcement for this violation shall be pursuant to subsection 102-377(d) herein.”* Although neither Rosa’s Beauty Studio nor Taste Bakery were issued valid BTRs for the 2019/20 and 2020/21 fiscal years, the City’s Code Compliance Department was not notified to issue violations pursuant to City Code Section 102-377.

Consequently, OIG staff, via an August 4, 2021 email, requested that Code Compliance dispatch an officer to both businesses to determine whether they were compliant. In response, an August 5, 2021 e-mail was received from the Code Compliance Department stating that Rosa’s Beauty Studio was issued violation #CC2021-11292 and Taste Bakery violation #CC2021-11295 for failing to timely obtain its BTRs.

Shortly thereafter, Taste Bakery paid the \$88.87 late penalty due for its 2019/20 BTR and \$807.50 for its 2020/21 BTR, including late penalty on August 6, 2021. Lastly, Taste Bakery also paid \$646.00 for its 2021/22 fiscal year BTR due on September 30, 2021.

- b. At OIG staff’s request, the City’s Risk Management Division reviewed the Certificate of Insurance provided by the tenant/assignee Rosa’s Beauty Studio for the period of September 11, 2020 through September 12, 2021. It was determined that the business is not in compliance with Section 10 of the executed Lease Agreement between the City of Miami Beach (Landlord) and South Florida Salon Group, Inc. (tenant/assignor) for the following reasons: Certificate Holder should read City of Miami Beach, with the City’s address; City of Miami Beach must be endorsed as an Additional Insured for the Liability coverage; and no proof of Workers’ Compensation coverage or an exemption (a statement from the business that they have fewer than four employees) was provided.

The City entered into a master customer agreement with Exigis on July 14, 2018 to use its RiskWorks software, a proprietary web-based Risk Management Operating System comprising a suite of configurable web-enabled risk, insurance, and treasury “Application Modules.” One of the software’s stated benefits is to centralize the administration and automate the request, follow-up, processing, auditing, and tracking of Certificates of Insurance.

OIG staff reviewed the Exigis software and determined that the Certificate of Insurance provided by the previous tenant/assignor Franklin Salomon by Noshka, LLC for the period of April 4, 2019, through April 4, 2020, under company account South Florida Salon Group, Inc. was non-compliant as it did not provide proof of Workers’ Compensation coverage or an exemption.

- c. OIG staff researched the internet and obtained information about Rosa’s Beauty Studio business activities. Business social information was researched and verified at websites maintained by the Florida Division of Corporations (www.sunbiz.org) and the Department of Business and Professional Regulation (www.myfloridalicense.com). Brageh, LLC is an entity actively registered in the State of Florida with the Division of Corporations since September 1, 2019, and Rosa’s Beauty Studio has been registered and obtained a Cosmetology Salon License with the Department of Business and Professional Regulation

since April 27, 2021 at 765 17th Street in Miami Beach. As shown below, in a picture obtained from Google Maps dated February 2021, the business' front signage, visible to the street, is Rosa's Beauty Studio.



- d. The City's Response Letter to Mr. Jones's public records request dated July 1, 2021, stated "*Pursuant to Florida Statutes Section 607.1420, an administratively dissolved Florida corporation continues in existence necessary to wind up its activities and affairs, liquidate and distribute its assets, and notify claimants. Franklin Salomon by Noshka, LLC was administratively dissolved on September 25, 2020, and in connection with winding up affairs, requested the assignment of the Lease to Brageh, LLC.*" OIG staff confirmed that the City's Facilities and Fleet Management Department requested legal advice and the aforementioned Florida Statute was provided by the City Attorney's Office based on the applicable law.
- e. Mr. Jones requested on three different occasions in July 2021 that the City provide the CoStar report(s) used to arrive at the \$35 per square foot (PSF) to \$45 PSF within an one-mile radius of 1701 Meridian Avenue. This rate range was then used by the Facilities and

Fleet Management Department to execute leases with tenants. When Mr. Jones did not receive the requested CoStar report(s), he sent a September 22, 2021 email to the OIG requesting its assistance.

When contacted by the OIG, the Facilities and Fleet Management Assistant Director provided a September 8, 2021 email from its Asset Management Division Director stating, *"Unfortunately, that report was not saved."* Although this email was promptly forwarded to the City Clerk's Office, its contents were not furnished to Mr. Jones.

The Facilities and Fleet Management Department also informed the OIG that the CoStar report was generated based on market rates in effect at the time and cannot be re-created. This was confirmed by the Office of the City Clerk. Consequently, the OIG could not verify the accuracy of the CoStar report's indicating a range of \$35 PSF to \$45 PSF market rates. It is the opinion of the OIG that it would be a better practice that a copy of any document, that is reviewed and utilized to make any policy or process decision by the City, be made and retained by the City.

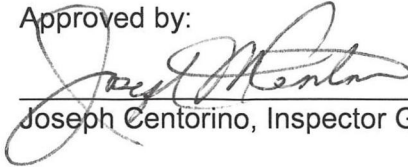
- f. As per Commission Memorandum on September 17, 2021, Massage of South Beach, LLC has proven to be a successful operator at 1701 Meridian Avenue, since its 2018 lease assignment. Comparable operators in the adjacent retail spaces have experienced significant loss in revenue due to the COVID-19 pandemic. Massage of South Beach, LLC, despite any revenue loss, wanted to continue operating at this location, and was ready to invest approximately \$100,000.00 into the property by performing upgrades to the space to meet the new corporate franchise standards, which must be completed by August 2022.

Furthermore, Massage of South Beach, LLC has committed to making significant additional improvements to the space including updating the front desk area, air conditioning unit, replacing the flooring, adding fixtures, and installing new outside signage. These changes should enhance the property and provide a better overall experience to guests.

The City Administration recommended that the Mayor and City Commission adopt a resolution, accepting to waive the formal competitive bidding requirement, by a 5/7ths vote, as permitted under Section 82-39(a) of the City Code, based on such waiver being considered to be in the best interest of the City. The corresponding item related to a five-year lease agreement, with two successive two-year renewal terms at the City's option, was initially included in the September 17th Commission agenda. The item was deferred until the September 30th City Commission meeting, but it was not included on the agenda. Instead, the City Clerk's Office provided an October 6, 2021, email indicating that the item is included in the upcoming October 13, 2021 agenda.

In discussions with the OIG, the Administration reasoned that keeping a successful operator and good tenant, instead of incurring additional costs to locate a new tenant that may not be successful in the space, makes better business sense for the City. Although the OIG is generally in favor of competition for City contracts, including leases, such a discretionary judgment call, under these circumstances, is within the parameters of sound business practices.

Approved by:



Joseph Centorino, Inspector General

10/07/2021
Date

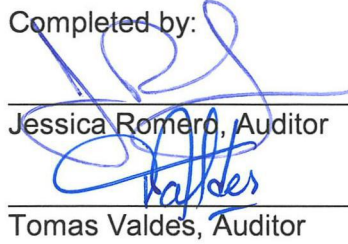
Reviewed by:



Mark Coolidge, Chief Auditor

10-08-2021
Date

Completed by:



Jessica Romero, Auditor

10-8-2021
Date



Tomas Valdes, Auditor

10-08-2021
Date

cc: Alina T. Hudak, City Manager
Mark Taxis, Assistant City Manager
Adrian Morales, Facilities and Fleet Management Department Director
Michael Smith, Human Resources Department Director
Steve T. Jones, Complainant

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The Facilities and Fleet Management Department's Asset Management Division has reviewed OIG No. 21-30 Report, 1701 Meridian Avenue Commercial Lease Complaint and provides the following in response:

- a. Business Tax Receipts (BTR) are invoiced and issued by the Finance Department. When the Department was made aware of the findings for Rosa's Beauty Studio and Taste Bakery, the Asset Management Division communicated with the tenants to cure and rectify these deficiencies.
 - Taste Bakery was unaware that their BTR was not activated due to outstanding balances as they never received notice. Once this was communicated by the Asset Management Division, Taste immediately complied, remedied balances, and late fees of 2019-2020 and 2020-2021. The tenant maintains an active BTR status.
 - Brageh LLC d/b/a Rosa's Beauty Studio was also made aware of this deficiency. They promptly applied for the BTR and due to new guidelines requiring DERM review, issuance has been delayed. The tenant has obtained license# BTR010650-08-2021 as they await final approval from DERM.
 - The findings in this report provided the opportunity for the Asset Management Division to implement additional measures and actively work collaboratively with Departments responsible for issuing BTRs (Finance) or citations (Code Compliance) for non-compliance. Notwithstanding, the Asset Management Division has added controls to regularly audit that all tenants have active BTRs in place.

- b. Brageh LLC d/b/a Rosa's Beauty Studio was informed by the Division of the certificate of insurance (COI) deficiencies. The tenant updated and /or provided the necessary COIs and is compliant.

Alonso, Elisa

From: Centorino, Joseph
Sent: Thursday, October 7, 2021 4:21 PM
To: Alonso, Elisa
Subject: Response of Steve Jones to Draft Report: OIG No. 21-30 --1701 Meridian Avenue Commercial Lease Complaint

From: Steve Jones <retailprosource@gmail.com>
Sent: Thursday, September 16, 2021 12:02 PM
To: Alonso, Elisa <ElisaAlonso@miamibeachfl.gov>
Cc: Centorino, Joseph <JosephCentorino@miamibeachfl.gov>; Coolidge, Mark <MarkCoolidge@miamibeachfl.gov>; Romero, Jessica <JessicaRomero@miamibeachfl.gov>; Valdes, Tomas <TomasValdes@miamibeachfl.gov>
Subject: Re: FW: City of Miami Beach Office of the Inspector General, Draft Report: OIG No. 21-30 --1701 Meridian Avenue Commercial Lease Complaint

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Mr. Centorino,

Thank you for investigating some of the issues I raised in my previous email dated 7/9/21. To put this matter in context, I had requested information in February 2021 regarding availability of retail space for lease at the 1701 Meridian Avenue retail/office building owned by the City of Miami Beach. I was seeking information on behalf of a potential new tenant. As a result of a FOIA request and numerous email and letter exchanges with city staff, it became apparent the city had no interest in giving an outside entity an opportunity to lease city space.

The issues you focused on, no BTRs and no insurance for certain tenants, etc. were supporting facts that I provided to demonstrate a bigger point, but they were not the essence of my complaint. Rosa's Beauty Salon was an unauthorized subtenant of the city's tenant, a dissolved company which city staff, specifically department director Adrian Morales, didn't even know about. He unwittingly admits it in his 6/11/21 email where he claims they are an "If Tenant chose to have an operator oversee their day-to-day business the City does not recognize that operator as the Tenant. The relationship has remained between the Tenant and Landlord as stated in the lease." This is obviously incorrect as the actual tenant had been administratively dissolved since 9/25/20. So once I pursued this issue he went scrambled for yet another excuse and now claims the dissolved tenant was allowed to "wind up its activities and affairs". You point out in your letter that the City Attorney's Office provided FS 607.1420 to this point. This is clearly an after the fact justification of a matter that was unbeknownst to Mr. Morales and a clear violation of the lease. **So regardless of Mr. Morales and the City Attorney's Office, I ask you, as Inspector General, what is your opinion regarding whether a company should be allowed to operate a business, profit from a sublease of their store to another company (without the knowledge or approval of the city/landlord) for a period of nine months, all under the guise of "winding up its activities"?** I think this is an absurd justification by the city to cover up mismanagement and incompetence. This space should have been put on the open market for lease.

Regarding 1701 Meridian Avenue, Unit 2, after numerous requests the 7/30/21 FERC memorandum was emailed to me on 7/23/21. In that memorandum, city staff advised the FERC committee members that according to the CoStar data platform, rents for comparable space are \$35 - \$45 per square foot. I replied via email the same day to Carmen Hernandez, Adrian Morales, Alina Hudak, Elizabeth Miro, Mark Taxis and the Office of the Inspector General, as follows:

“Please provide, prior to the FERC meeting, the full Costar analysis utilized to support your conclusion of market rates, including the corresponding rates for closed transactions for comparable spaces and the calculations you performed to arrive at \$35 to \$45 per square foot.” I requested this information so I could share it with my client and compare this location to others we were considering.

I specifically requested receipt of the information prior to the 7/30/21 FERC committee. City staff had a full week to simply email me the supporting documentation from their supposed research. Not only was this information not provided to me in time to address this matter prior to the FERC committee but city staff still has not provided this information to me, nor any explanation, nearly eight weeks later and despite additional requests. This is a clear violation of FOIA requirements. It is clear to me city staff did no such CoStar research and is simply making up their own facts to provide to the FERC committee, who relies on this information to make important decisions, in this case a real estate lease for nine years.

Who is responsible for ensuring city staff responds to FOIA requests in a timely manner? As Inspector General, you can investigate my assertion simply by requesting the same information from city staff and verifying the research was done prior to the preparation of the 7/23/21 FERC memorandum.

Regarding the renewal options city staff accepted and approved from Damian J. Gallo & Associates and Taste Bakery MB City Hall in contradiction to the clear notice requirements contained in their leases, Assistant City Manager Mark Taxis claims the city has the right to waive strict adherence to said requirements. He offers the signed letter agreement renewals as proof of the city’s right to waive the notice requirements contained in the lease. He is essentially saying “we did it so that’s the proof we were allowed to.” This is a violation of standard public procurement requirements and prevents the public from an opportunity to lease these spaces. At the very least, any waiver of provisions contained in the lease should be made by the mayor and city commission, not Mark Taxis or the city manager. These two spaces should have been put on the open market for lease. **So I ask you, as Inspector General, is this a violation of the city’s standard procurement policies or, at the very least, a decision that should be made by the elected officials and not city staff?**

I have learned during this process, city staff is very good at taking several weeks to provide a simple email response to a FOIA request, not responding at all, shading the truth and making up their own facts to suit their needs. It certainly brings into question motives, ethics and competency. After this experience, I will never again consider doing business with the City of Miami Beach. There are plenty of private landlords in the city that are motivated to attract quality tenants and actually treat lease prospects as valued customers and not a nuisance.