Memorandum

MIAMI-DADE COUNTY

Date: June 30, 2015

Agenda Item No. 5(Y)

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Appeal of the Historic Preservation Board's Decision to Designate as Historic Bay Harbor Continental, 1135 103 Street in the Town of Bay Harbor Islands

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This is an appeal by an applicant of a decision by the Miami-Dade County Historic Preservation Board, rendered after public hearing on April 15, 2015. This appeal is a quasi-judicial item brought pursuant to Section 16A-15 of the Miami-Dade County Code.

Attached is the Resolution requesting a decision from the Board of County Commissioners on the appeal.

The proposed resolution creates no fiscal impact on Miami-Dade County.

Jack Osterholt, Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: June 30, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 5(Y)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(Y)
6-30-15

RESOLUTION NO. _____

RESOLUTION DECIDING THE APPEAL BY BAY HARBOR CONTINENTAL, INC. AND P3 INVESTMENTS, LLC OF THE DECISION BY THE MIAMI-DADE COUNTY HISTORIC PRESERVATION BOARD TO DESIGNATE BAY HARBOR CONTINENTAL, LOCATED AT 1135 103 ST, BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA, AS A MIAMI-DADE COUNTY HISTORIC SITE

WHEREAS, the Board of County Commissioners of Miami-Dade County conducted a public hearing on the appeal, filed by Bay Harbor Continental, Inc. and P3 Investments, LLC, of the decision by the Miami-Dade County Historic Preservation Board to designate Bay Harbor Continental, located at 1135 103 Street, Bay Harbor Islands, Miami-Dade County, Florida as a Miami-Dade County Historic Site; and

WHEREAS, having heard from the parties at public hearing, reviewed the record and the materials included herewith, and being otherwise apprised of the premises,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are approved and incorporated in this Resolution.

Section 2. Having considered this matter at a public hearing, the appeal filed by Bay Harbor Continental, Inc. and P3 Investments, LLC of the decision by the Miami-Dade County Historic Preservation Board to designate Bay Harbor Continental, located at 1135 103 Street, Bay Harbor Islands, Miami-Dade County, Florida as a Miami-Dade County Historic Site, is hereby _____.

The foregoing resolution was offered by Commissioner ,

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 30th day of June, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

James Eddie Kirtley

Memorandum

MIAMI-DADE COUNTY

Date: May 21, 2015

To: Jack Osterholt, Deputy Mayor/Director
Department of Regulatory and Economic Resources

From: Kathleen S. Kauffman KSK
Historic Preservation Chief

Subject: Appeal of the Historic Preservation Board's Decision to Designate as Historic Bay Harbor Continental, 1135 103 Street in the Town of Bay Harbor Islands

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Historic Preservation Board Decision

The designation process for the Bay Harbor Continental was started at the February 18, 2015 meeting of the Miami-Dade County Historic Preservation Board (HPB), when the HPB accepted a petition by owner. On March 18, 2015, HPB staff filed a preliminary evaluation report with the HPB, after the HPB voted to accept the report. The HPB also directed staff to commence the process for a public hearing and the public hearing was scheduled and noticed for April 15, 2015. At the public hearing, the HPB unanimously approved the designation of Bay Harbor Continental, located at 1135 103 Street, Bay Harbor Islands, as a Miami-Dade County Historic Site. On May 5, 2015, Bay Harbor Continental, Inc. and P3 Investments, LLC filed an appeal of the HPB's designation of Bay Harbor Continental as a Historic Site.

Background and Historic Context

Constructed in 1958, Bay Harbor Continental was designed by locally significant architect Charles McKirahan on a waterfront lot on the northern tip of the East Island of Bay Harbor Islands. Today, Bay Harbor Continental remains an excellent example of the architectural heritage of Bay Harbor Islands and maintains a high degree of historic integrity. The Bay Harbor Continental is historic as it is the work of Charles McKirahan, a recognized architectural master, and embodies the distinct characteristics of Miami Modern (MiMo), a significant architectural style that defined the character of Bay Harbor Islands during its height of development in the mid-20th century. Further, it is representative of the pattern of original development in Bay Harbor Islands and contributes to a better understanding of the architectural heritage of Bay Harbor Islands.

Historic Preservation staff evaluated Bay Harbor Continental, as well as researched the historic context of the building. Staff determined that Bay Harbor Continental meets the objective criteria for designation, as stated in the designation report.

Appeal Packet Materials

This packet includes the official record and supporting materials from the HPB proceedings pertaining to Bay Harbor Continental, as well as the Notice of Appeal and supporting documents submitted by the appellants and a written Response to the Appeal and supporting documents submitted by certain interested parties.

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Exhibit:

1 Official Notice of Appeal filed by Bay Harbor Continental, Inc. and P3 Investments, LLC on May 5, 2015

2 Response to Appeal filed by Nicole A. Milson, Esq. on behalf of several residents of Bay Harbor Islands, FL and of the Bay Harbor Continental on June 12, 2015

3 Designation Resolution

4 Designation Report

5 Designation Presentation made by HP Staff to HP Board

6 HP Board Meeting Minutes Pertaining to Bay Harbor Continental from February 18, 2015

7 Petition by Individual Unit Owners Submitted to the HP Board on February 18, 2015

8 Letter, dated February 23, 2015, to Property Owners Notifying them of Petition by Owner

9 Letter, dated March 7, 2015, to HP Board from Bay Harbor Continental, Inc. President

10 HP Board Meeting Minutes Pertaining to Bay Harbor Continental from March 18, 2015

11 Letter, dated March 23, 2015, to Property Owners Notifying them of Public Hearing to Consider Designation

12 Letter, dated April 7, 2015, to HP Board from a Bay Harbor Islands Property Owner

13 Economic Hardship Materials filed with HP Board by Bay Harbor Continental, Inc. on March 31, 2015

14 Economic Hardship Materials filed with the HP Board by Individual Units Owners on March 31, 2015

15 Letter, dated April 14, 2015, to the HP Board from the National Trust for Historic Preservation

16 Various email correspondence from HP Staff to Bay Harbor Islands Town Manager

17 Email correspondence submitted to the HP Board prior to the April 15, 2015 Designation Hearing

18 Staff Report from Public Hearing on April 15, 2015

19 Exhibits submitted to HP Board during Public Hearing on April 15, 2015

20 HP Board Meeting Minutes Pertaining to Bay Harbor Continental from April 15, 2015

21 Letter, dated April 17, 2015, to Property Owners Notifying them of Outcome of Public Hearing to Consider Designation

Exhibit 1:

Official Notice of Appeal filed by Bay Harbor Continental, Inc. and P3 Investments, LLC on May 5, 2015

(The exhibits referenced in the Notice of Appeal are being distributed with this packet, under separate cover)

CLERK OF THE BOARD
2015 MAY -5 PM 4:00
CLERK, CIRCUIT & COUNTY CTS
MIAMI-DADE COUNTY, FLA.
#1

Akerman

Neisen O. Kasdin

Akerman LLP
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

May 5, 2015

Via Hand Delivery
Honorable Harvey Ruvin
The Clerk of the Board of County Commissioners
of Miami-Dade County
Stephen P. Clark Government Center
111 NE First Street, Suite 17-202
Miami, FL 33025

Re: Appeal of Miami-Dade County Historic Preservation Board Resolution No. 2015-06, dated April 15, 2015, designating the Bay Harbor Continental (1135 103rd Street, Bay Harbor Islands, Florida)

Dear Honorable Harvey Ruvin and Board of County Commissioners:

Our firm represents Bay Harbor Continental, Inc. ("Owner"), the owner of the property located at 1135 103rd Street, Bay Harbor Islands, Florida (the "Property"), and P3 Investments I, LLC ("P3"), the contract purchaser of the Property, in defense against the involuntary designation of the Property as a historic site by the Miami-Dade County Historic Preservation Board ("HPB").

The Property is improved with a 35-unit, 5-story cooperative residential building, constructed in 1958. The building and the Property are owned singularly by the Owner as a cooperative formed under Chapter 719, Florida Statutes, whereby residents within the building are shareholders in the corporation and have a leasehold interest in their units.

On April 15, 2015, despite the fact that Owner, a large majority of its residents, and P3 voiced strong opposition and demonstrated evidence of economic hardship associated with the designation of the Property, the HPB voted to designate the Property as a historic site, purportedly under the jurisdiction set forth in Chapter 16A of the Miami-Dade County Code of Ordinances ("County's Ordinance"). A copy of Resolution No. 2015-06 is attached as **Exhibit 1**. A copy of Chapter 16A, the County's Ordinance is attached as **Exhibit 2**.

Pursuant to Section 16A-15 of the County's Ordinance, we hereby submit to the Board of County Commissioners this appeal of HPB's April 15th decision to designate the Bay Harbor Continental as a historic site and respectfully request that the HPB's decision be overturned with prejudice.

A Master Exhibit List, including all relevant documents cited in this Appeal, and those submitted into the record at the April 15th HPB Meeting ("Public Hearing Binder"),[1] is attached and incorporated herein.

BASIS FOR APPEAL

1. Owner, the overwhelming majority of its residents, and P3 collectively ***oppose*** historic designation. Approximately 86% of residents agreed to sell the Property. And as of today's date, 25 of 35 residents (70%) have affirmatively voiced their opposition to historic designation. .

2. The HPB's decision is predicated on a flawed process, including (a) an invalid petition for historic designation that does not meet the County's own criteria for initiation of historic designation; (b) lack of notice and meaningful opportunity to be heard, (c) lack of a fair and impartial hearing caused by the HPB Chair's clear predetermination to designate the building, (d) mischaracterization by County Staff of ill feelings by a minority of residents about the sale of the building as an "economic hardship" to neutralize any consideration by the HPB of economic hardship claimed by Owner and a majority of residents caused by the designation of the building, and (e) the total and unqualified failure to consider the impact of land development regulations in the Town of Bay Harbor Islands.

3. County Staff and the HPB failed to adequately consider competent substantial evidence of the economic hardship created by the historic designation of the building, including evidence that the deficiencies require some $8 million in renovations, that Owner does not have the financial capability to pay for the required renovations, that there are no opportunities for adaptive reuse, and therefore that renovation of the building by Owner is practically and financially infeasible.

4. Owner and P3 relied heavily on the withdrawal by the County of a designation report for the same building in 2011, believing the County would not designate the building, and have entered into a valid contract for sale of the Property, which was set to close on April 15th, and the parties have spent substantial sums of money in furtherance of the contract.

5. The HPB ignored testimony from well-known local modernist architects, with expertise in historic preservation, that the existing building does not exhibit distinguishing or significant features that rise to the level of a building that merits designation given the economic hardship factors presented.

For the reasons stated herein, we respectfully request that the Board of County Commissioners ***grant the appeal and overturn the HPB's decision***.

[1] The Public Hearing Binder includes: Exhibit 16, Exhibit 22, Exhibit 24, Exhibit 3, Exhibit 26, Exhibit 19, Exhibit 20, Exhibit 23, and Exhibit 35.

ANALYSIS TO SUPPORT THE GRANTING OF THE APPEAL AND OVERTURNING THE HPB RESOLUTION

I. The Bay Harbor Continental should not be designated historic against the will of the Owner and the people who live there

A. The Owner, Bay Harbor Continental, Inc., OPPOSES historic designation

The Property is owned and has been owned solely by Owner since 1958. On March 7, 2015, Robert Kolbert, as president of Owner, submitted a letter on behalf of Owner strongly opposing any continued efforts by the County's HPB to designate the building, and continues to oppose the historic designation of the building. See the March 7, 2015 Letter from Bay Harbor Continental, Inc. attached as **Exhibit 3**. Owner is a party to this appeal and issued the attached letter re-stating their continued opposition. See the May 5, 2015 Letter from Bay Harbor Continental, Inc. attached as **Exhibit 4.**

B. Clear majority of Shareholders/Residents are AGAINST designation

In March 2014, Owner entered into a contract for sale of the Property with P3 Investments I, LLC (the "Contract"). In April 2014, Owner provided P3 notice that the required number of shareholders (in excess of 77%) voted to approve the Contract. See April 28, 2014 Letter attached as **Exhibit 36**. Thereafter, 86% voted in favor of the Contract. The Contract was set to close on April 15, 2015, and would have closed but for the HPB's designation of the building and moratorium imposed on any demolition or alterations to the building.

In total, the shareholders of 25 of the 35 units in the building, representing roughly 70% of the units, have submitted affidavits indicating their stance OPPOSING historic designation. At the March 18th HPB Meeting, when the HPB was considering the designation of the building, we submitted into the record 23 original signed affidavits. Two (2) additional affidavits have been submitted collectively with the other affidavits in **Exhibit 5**. It is important to note that while there are 10 additional shareholders, only a portion of the remaining shareholders actually support designation.

Yet, the HPB ignored these passionate pleas and moved forward with designation against the will of the Owner and majority of residents.

C. Property rights of the Residents should be valued and protected

The sole legal owner of this property, Owner strongly objects to the designation of the building. As the owner of real property, holding title in fee simple, these property rights come with a bundle of sticks, including the right to enjoyment and the right to sell or dispose

of the property how one chooses. See Keystone Bituminous Coal Ass'n v. DeBenedictis, 480 U.S. 470, 500 (1987).

The interests and economic hardship faced by the current shareholders, most of whom are elderly and on fixed incomes, have been pushed aside by County staff and the County's HPB in favor of protecting an interesting looking building. These residents feel helpless and angry.

Even though the County's Ordinance does not require consent, Section 16A-10 (IV)(c) encourages the Board to "obtain the permission of the property owner(s)." In this case, Owner is the sole owner of the Property. The shareholders of the cooperative make up the individuals who lease and control and reside in the units. P3 is the purchaser under the Contract and has contractual rights to acquire title to the Property and therefore is an affected party. At no time did the HPB make any effort to inquire into the number or percentage of shareholders who supported preservation. The HPB also made no effort to obtain the permission of Owner or of P3. In fact, once it was brought to the HPB's attention that the Petition filed represented a small minority of shareholders and did not reflect the views of the sole Owner of the Property, the HPB disregarded the views of the Owner and the majority of its shareholders and residents.

My colleague, Steve Wernick, spent much of the April 15th meeting consoling elderly shareholders who felt their voices weren't being heard and who were ignored, brushed aside, and whose lives were made to feel secondary, at best, to the interests of a handful of shareholders attempting to undermine the sale of the Property and a small group of preservation advocates determined to preserve the architectural features of the building – most of whom don't live or work in Bay Harbor Islands – and others who admittedly have never visited the Property. While architectural merit is certainly worthy of the HPB's consideration, it must be balanced with Property rights and any economic hardship that would be imposed by the designation on the Owner and affected parties.

This blatant disregard for human interest could not have been the intent of the County Commission when the County's Ordinance was adopted in 1981.

D. No residential building has ever been designated historic under the County's ordinance AGAINST the will of the Owner

Based on our research of available files, we have found no cases in which Miami-Dade County has designated a residential building as a historic site against the will of the Owner. This County Commission would be the first to uphold such a decision.[2]

[2] As of the date of this Appeal, there is another appeal pending related to Seaside Terrace, in which a condominium is divided between individuals who support and individuals who oppose the designation of an existing 2-story building on Collins Avenue built in 1948.

Residential buildings must be viewed differently from an office building, restaurant, hotel, church, or other place of public accommodation. To impose designation on a residential building means to interfere in many cases with the rights of individuals to their homestead property. Furthermore, there is a right of privacy that is valued much higher than in places of public accommodation. No one living in the Bay Harbor Continental is interested in having tourists parking in front of their home to take photographs.

The Bay Harbor Continental was built as a multifamily residential building and still exists as a multifamily residential building. There is no commercial aspects to the building. There is no public access to the waterfront through the Property. There has never been an expectation that this building would be open to the public.

II. Procedural Defects

A. The HPB's designation of the Bay Harbor Continental ignored the Owner's voice at every step in the process

On February 18th, with no notice to affected parties or the general public and no item scheduled on the HPB's agenda, the HPB accepted a mysterious petition to initiate designation and voted to direct staff to prepare a designation report and to bring it back in 30 days.

After closing the public comment portion of the HPB meeting, it was announced that a petition was filed by Carlos de la Torre, Lisa Mann, and Clara Reed, dated February 10, 2015, requesting the HPB consider the designation of the Bay Harbor Continental (the "Petition"). No inquiry was made by staff or the HPB as to the authority of these residents to file a petition or into the Owner's position. HPB Chairman, Mitch Novick, refused to hear any public testimony and immediately made his thoughts known loud and clear. "[If] this Board find[s] within its wisdom, hey we want these buildings protected, I'm under the impression that today the moratorium kicks in and you have 30 or 60 days to provide us a report." Page 18-22, February 18th Transcript, attached as **Exhibit 6.**[3] Based on the Petition, and although it was not included as an item on the agenda, the HPB voted to direct staff to prepare a designation report which once filed would create a moratorium on the Property. See February 18, 2015 HPB Meeting Minutes, attached as **Exhibit 7.**

On March 18th, Kathleen Kauffman, the County's Historic Preservation Officer, presented a designation report on the Bay Harbor Continental to the board for its acceptance. Despite evidence presented to the HPB by Owner and P3 that the Petition was legally invalid because it was not filed by an "Owner" of the Property, the HPB accepted the designation report, imposing a moratorium on any demolition or construction activity on the Property. See the invalid Petition attached as **Exhibit 8.**

[3] Note the February 18th Transcript is only a portion of the hearing. The full hearing can be found in the audio files attached to the appeal.

On April 15th, the HPB with only 5 members present voted to designate the Bay Harbor Continental. Despite overwhelming evidence presented by Owner and P3 of economic hardship caused by the proposed designation of the building and expert testimony to demonstrate various practical and economic difficulties unique to this case, several members of the HPB ignored this evidence, saying essentially that the job of the board was to consider only the merit of the building itself.

B. The HPB hearings were handled improperly and without affording due process to BHC and P3

The HPB hearings denied procedural due process to Owner and P3. The Florida Constitution provides that "[n]o person shall be deprived of life, liberty or property without due process of law." Art. I, § 9, Fla. Const. The Fifth Amendment of the United States Constitution guarantees the same rights. Procedural due process requires both fair notice and a real opportunity to be heard. Keys Citizens For Responsible Gov't, Inc. v. Florida Keys Aqueduct Auth., 795 So. 2d 940, 948 (Fla. 2001).

The Owner and residents did not have a meaningful opportunity to be heard since they were not given any notice that their Building would be considered at the February 18th hearing, nor that the Petition had been filed. According to the United States Supreme Court, the fundamental right to have a meaningful opportunity to be heard "has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest." Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313 (1950). The opportunity to be heard must be "at a meaningful time and in a meaningful manner." Keys Citizens, 795 So. 2d at 948 (Fla. 2001).

Not only was there a lack of individual notice to the residents, but the February 18th agenda did not even mention the Bay Harbor Continental, or Bay Harbor Islands. Action was taken under an agenda item entitled "Old Business Items." See February 18, 2015 HPB Agenda, attached as **Exhibit 9**.

The lack of meaningful opportunities to be heard continued throughout the designation process from February through April. Several examples include: (1) Novick repeatedly cut off anyone who spoke out against preservation. For example at the February 18th hearing, Novick tried to silence Frank Simone (Assistant Town Attorney for Bay Harbor Islands) and Ron Wasson (Town Manager for Bay Harbor Islands), for speaking out against designation. See Page 6-7, 11, February 18th Transcript, where Novick makes several comments such as: "wrap it up" and "cut to the chase." (2) At the February 18th hearing, Novick specifically asserted his intentions to designate the Bay Harbor Continental without any meaningful input from its residents or The Town of Bay Harbor Islands.

I'll tell you what I would like to see. I'd like us to begin this process and offer protections for all these buildings that have been referenced; the Seaview, Carlton Terrace, the church, Bay Harbor Island. I think it's within our power. It's our charge. And we can't continue to kick the can down the road. We need to act.[4]

Novick did not permit *any* public comment regarding the filing of the Petition after public comment was closed at the February 18th hearing. See Page 23, February 18th Transcript, where he specifically states that the public comment period is CLOSED after it became apparent that an owner petition had been filed. Therefore, there was no opportunity for public input once the petition was made known to the public – obstructing the residents' right for an opportunity to be heard on this essential item.

At the March 18th HPB Meeting, although the HPB was considering imposing a moratorium on the one specific Property, the Bay Harbor Continental, the HPB did not recognize the hearing as "quasi-judicial" and the March 18th Agenda did not include the item as a public hearing. See March 18, 2015 HPB Agenda attached as **Exhibit 10**. See March 18, 2015 HPB Meeting Minutes attached as **Exhibit 11**. Novick did not afford attorneys for Owner and P3 sufficient time to present their defense and Novick repeatedly granted more time to speakers advocating for designation than speakers opposing designation.

At the April 15th HPB meeting, Novick only granted Owner and P3's legal representative a total of 20 minutes to present its case against designation, including testimony from witnesses and residents of the building. See Page 4 of the April 15th Transcript, attached as **Exhibit 12**. (5) More than one resident asking to testify about their personal hardships and to object to designation were denied or pressured into sitting down. See Pages 97, 112, April 15th Transcript.

The hearings were manipulated by Novick to favor the voice of pro-designation *participants*. At the April 15th hearing, Novick orchestrated the order of the public hearing so that anyone speaking against designation was required to speak in a first group of speakers and tried to limit the number of people speaking, while those speaking in favor of designation were able to speak last and without any cap on the number of speakers so that approximately fifty-five (55) minutes elapsed between any speakers against designation and the board's deliberations on the matter at hand. Novick denied residents the right to speak because he didn't care to listen to their testimony and wanted to maximize the impact of pro-preservation testimony. See Pages 97, 112-113, April 15th Transcript.

[4] See Pages 19-24. Thereafter, it is announced that an owner petition was submitted to designate BHC; and Novick admitted that he sent an email prior to the Board meeting asking Ms. Kaufman to bring the previously prepared designation reports. See Pages 21, 23.

C. Owner and P3 denied right to a fair and impartial hearing due to actions of County staff and Chairman Novick

In the spring and summer months of 2014, Ms. Kauffman and one or more preservation advocates[5] interested in buildings on the East Island quietly prepared and submitted an application to the National Trust for Historic Preservation ("National Trust"), without the consent or knowledge of Town of Bay Harbor Islands officials or the Owner, in which they encouraged the National Trust to market the East Island as a place in danger. See Pages 1, 5 of 2014 Public Records Results attached as **Exhibit 13**. In fact, the Office of Historic Preservation even offered a summer internship specifically to assist in updating the historic survey and documentation of Bay Harbor Islands. See Page 8 of 2014 Public Records Results. When they were informed that the application was being accepted, the Office of Historic Preservation arranged for the County to issue a press release to spread the news. See Pages 9, 12, 16 of 2014 Public Records Results. None of this was done with the consultation of the Town of Bay Harbor Islands or the Owner, nor with any inquiry or thought into the economic impacts of these actions.

On February 17, 2015, Novick sent an email to Kathleen Kauffman, asking that she bring the old designation reports for Bay Harbor Islands to the meeting, commenting that he was "looking forward to an exciting meeting." See February 17th Email from Novick attached as **Exhibit 14**. At the February 18th meeting, once the public comment section of the meeting was closed, despite the fact that there were no items regarding the Town of Bay Harbor Islands or the Bay Harbor Continental, Novick embraced the Petition that was filed and charged forward with attempts to immediately impose a moratorium on the Property. Interestingly, no other board member on the dais happened to be aware of the Petition or Designation Report. For example Board Member George said: "I think we need clarity [on] what has been handed to us, for the sake of both myself and the Board members." See Page 22, February 18th Transcript. Further, Board Member Vangates asks whether the 2010 Designation Report was "disseminated to all members of the committee or just the chairman," and when Kauffman merely states she has copies [available at the meeting] – Vangates replies: "I have a little bit of uneasiness about that, because we haven't had a chance to review it formally and make a recommendation." See Page 28, February 18th Transcript.

Based on Novick's email from February 17th and his actions at each of the HPB meetings, it is clear that his intentions were purposeful and calculated to designate this building without any concern for the opinions of the Owner or its residents, Town officials, or any consideration of the County's Ordinance or fundamental issues of due process. At the April 15th hearing, despite comments from other Board members questioning the impact of economic hardship and looking for more information, Novick closes the discussion on designation as follows:

[5] See Teri D'Amico's email from April of 2014 regarding the Bay Harbor Continental: "Can we make this building the Martyr of BHI." (emphasis added). See page 18 of **Exhibit 13**.

I believe we should move forward today with designation. I believe that's our charge. I believe firmly that this building meets the criteria for designation, And we'd be remiss if we should move in another direction, So with that, I would entertain a motion to move forward with designation.

See Page 122 of the April 15th Transcript. After Novick presses fellow board members to make a motion, he asks staff to re-word the motion made, seconds the motion (as the chairman), and adds language to the motion, requesting that a moratorium be put in place in case the matter is appealed. See Pages 123-124 of the April 15th Transcript. Not only did he improperly exert influence as the Chair but he overstepped his role as well.

D. The decision to initiate proceedings, to impose a moratorium, and to ultimately designate the building was premised on a Petition filed improperly by a non-owner, and therefore the HPB's actions are invalid and void ab initio

The Petition presented at the February 18, 2015 meeting by three individuals – Carlos De La Torre, Lisa Mann and Clara Reed – is invalid and therefore, the entire premise on which the HPB moved forward in a swift and forceful manner was tainted. Section 16A-10 of the County's Ordinance states that: "the owner(s) of any property may petition the Board for designation of their property." Neither Carlos De La Torre, Lisa Mann nor Clara Reed are in fact owners of the property. The property is owned solely by a cooperative or "co-op" (under Chapter 719 of Florida Statutes), "Bay Harbor Continental, Inc.". The 3 individuals are technically shareholders of the corporate entity.

Each of the shareholders is entitled to exclusive possession, through a leasehold interest, of one of the 35 units in the co-op building. Unlike a condominium, they do not have legal title to their units. See Section 719.103(12), F.S.,[6] When purchasing a co-op, you acquire a share or shares in the company that has legal title to the real property, but you do not directly acquire title to any portion of the real property. See Sections 719.103(12) and 719.105, F.S. as **Exhibit 15.**

Co-op shareholders cannot initiate a petition because they are not owners of any portion of the real property. Therefore, the Petition filed on February 18, 2015 was invalid and the HPB's actions were void ab initio.

[6] (12) "Cooperative" means that form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

E. Given the procedural deficiencies and evidence that the Board had predetermined the outcome, the decision regarding designation should not be remanded to the Board because the outcome will be the same

Section 16A-10 (IV B) calls for the Board to initiate proceedings based on a petition from an owner or staff recommendation. Despite evidence that the Petition was invalid and a lengthy discussion at the March 18th meeting in which the County Attorney suggested the board members consider initiating the proceedings through a different mechanism, the HPB chose to rely on the invalid Petition because members of the HPB, primarily Novick, already had predetermined the outcome of the proceedings and wanted to designate this building before holding a meaningful quasi-judicial hearing.

The County Commission should overturn the HPB's decision; any decision to send the case back to the HPB for a new hearing would be a *fait accompli*. To correct the "fruit of the poisonous tree," the Board would have had to start the process over, with a new hearing, with proper notice and initiation – and with a fresh and unbiased perspective. See Guerra v. State, Dep't of Labor & Employment Sec., 427 So. 2d 1098, 1103 (Fla. 3d DCA 1983). At this point, the process is so badly tainted that it is clear Owner and P3 would not be afforded a fair and impartial hearing.

F. Staff misrepresented the economic hardship at the April 15th Meeting, suggesting to the HPB that there were equal cases of economic hardship on either side.

The purposes of the economic hardship protection is to shield property owners from ill effects of historic designation of property, and other acts by the Board, which would result in undue economic hardship. Section 16A-12 of the County's Ordinance specifically cites HPB consideration of economic hardship: "Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant property, strict enforcement of the provisions of this chapter would result in serious undue economic hardship to the applicant...." (emphasis added).

The economic hardship to be considered by the HPB is for owners of property who believe they will suffer economic damages or hardship from the HPB's strict enforcement of the code against their property. There must be some act committed by the Board which would result in an undue hardship in order to assert an economic hardship. It cannot be used by other parties to show that the lack of some act will be to their detriment. In other words, a resident of the building cannot claim that failure of the HPB to act (and therefore retain the status quo) would result in an economic hardship.

In any claim of undue economic hardship, affidavits are required to be submitted at least 15 days prior to the public hearing. See Chapter 16A-12. Pursuant to letters sent by County staff, affidavits were required to be submitted to the HPB by March 31st for consideration at the April 15th hearing. Owner, through its President Robert Kolbert,

submitted a comprehensive affidavit addressing the criteria cited in Chapter 16A-12, including various letters from individual residents, and regarding the impact of the designation on the value of the building, analysis regarding the millions of dollars it would cost to correct structural and other deficiencies, the inability to pay for necessary repairs, and the practical infeasibility of retaining and renovating the building. See BHC Economic Hardship Affidavit attached as **Exhibit 16.**

Four unique affidavits[7] were submitted by individual shareholders in support of designation – and two of those affidavits do not have stamps indicating that they were timely submitted to the HPB. See Four Pro-Designation Affidavits attached as **Exhibit 17**. These affidavits essentially claim an economic hardship based on frustration that the Property is under contract to be sold. For example, Mr. Kirskey clearly implies that the economic hardship is a result of the sale of the property and not the designation of the property. The economic impact he describes is the "tax burden since Bay Harbor Continental is a cooperative property and subsequently has a different tax burden associated with it." Ms. Kirskey also states that she voted "no" on all offers to purchase the Bay Harbor Continental – clearly showing her rationale for supporting the designation is truly opposition to the sale. Further, there is evidence that Carlos De La Torre and Lisa Mann, two of those who submitted affidavits in favor of designation had previously been against designation – and only changed their minds due to the tax consequences of the co-op. See Kathleen Weinstein's Letter attached as **Exhibit 28.** These arguments are in fact attempts to use the HPB to undermine a valid real estate contract.

Whether intentional or not, staff misrepresented the economic hardship at the April 15th meeting, comparing viewpoints on the sale of the Property and suggesting that there were equal cases of economic hardship on either side. Appendix B of the April 15, 2015 Bay Harbor Continental Designation Report (Page 24), attached hereto as **Exhibit 18**, states:

> *Specifically, some unit owners have provided statements that they are depending on the sale of the building for their future costs of living. These owners have also indicated that they can no longer afford the costs associated with the on-going maintenance of the building, with some owners already behind in assessment and maintenance fees. On the other hand, other unit owners, particularly those petitioning the Board to consider historic designation, have indicated if the sale of the building goes through, they will be forced to sell their home and will not receive adequate sales profits to relocate to comparable waterfront property, resulting in their displacement from their home and community.*

Staff correctly points to the economic hardship of the majority of the residents - indicating significant maintenance costs that will continue to be incurred if the HPB

[7] Note two affidavits were submitted by the Kirskey family. However, Mr. Kirskey makes conflicting statements as to whether he lives in the Building. See Exhibit 12, page 60 where Mr. Kirskey says he is not a unit owner and is merely speaking on behalf of his mother.

designates the building and the contract does not close. But the other affidavits submitted in support of designation do not present a case of economic hardship pursuant to Chapter 16A because any economic impact claimed is a result of a sale of the Property, not hardship caused by action taken by the HPB to enforce the County's Ordinance.

Staff's mischaracterization prevented the HPB's proper consideration of actual economic hardship caused by the designation of the building and contributed to the HPB's decision that the architectural merit of the building outweighed any consideration of economic hardship.

G. The Town's Code does not allow for adaptive reuse and when renovated, will require that the entire building meet current zoning and building code requirements.

The building cannot be renovated for a profitable use such as a hotel or restaurant. The Property is located in the RM-3 District. Pursuant to Chapter 23, Article I of the Town of Bay Harbor Islands Code of Ordinances ("Code"), residential use is the only permitted use on the Property. In fact, the Town Council in January 2015 adopted a resolution specifically eliminating any possibility that an applicant could seek accessory commercial uses in the RM-3 District. See Ordinance No. 972 attached as **Exhibit 19.**

Unlike other municipalities such as the City of Miami Beach, the Town's Code has no incentives or flexibility from land development regulations for historic buildings. Where renovations exceed 50% of the value of the existing building, the building must be brought up to meet current zoning and building code requirements. This includes ADA compliance which would require major changes to hallways and elevators. This also includes a requirement that the finished floor elevation be raised to base flood elevation. The existing building is several feet below base flood elevation. Therefore, the entire ground floor, which contain residential units, would be forced to be eliminated. See Code sections 18-22 and 7½ -27, attached as **Exhibit 20.** See also the Town Manager's relevant testimony from the April 15th hearing, attached as **Exhibit 21.**

County staff made misleading comments – suggesting to the HPB that designation of the building would have no impact on the development rights of the Property, even though they admittedly did not analyze the zoning and other restrictions imposed in Bay Harbor Islands. County staff did not consult Town officials nor did they review or analyze the Town's Code to understand the practical ability to adaptively reuse the building; other individuals testifying in support of designation who called attention to their credentials as experts in historic preservation, including Alex Adams, admitted they had not visited the Property and they had no specific knowledge or experience working with the Town's land development regulations. See Pages 100-101, April 15th Transcript.

III. Economic Hardship

A. Designation would impose an economic hardship on the Owner and its Residents

Designation would impose an economic hardship on the Owner and its residents. The Building has substantial deficiencies and the cost to renovate is approximately **$8 million**. Owner and P3 submitted to the HPB in advance of the April 15th meeting two (2) independent reports. Pursuant to the ERF Report, attached hereto as **Exhibit 22,** the extensive renovations would impose a financial burden on each unit owner ranging from $160,000.00 to $200,000.00 – amounting to roughly $6 million for total renovations. Based on the Odebrecht report, attached as **Exhibit 23,** which points out even further deficiencies, there would be an additional $1.5 to $2 million in estimated costs to adequately address required renovations. Owner has no reserves to pay for any level of renovations, let alone millions of dollars in renovations. And many of the residents have claimed they cannot afford a special assessment. Therefore, renovating the building is economically infeasible.

In addition, the renovations are practically infeasible. Pursuant to the ERF Report, the 57 year old Building requires major upgrades to comply with current safety codes and standards, including raising the first floor to meet the base flood elevation. This type of renovation is a much more expansive and a difficult undertaking, requiring multi-level expertise and in-depth detailed inspection. See Page 4 of the ERF Report.

Even if renovations were feasible, the cost to renovate is not justified based on the market potential. Based on a Market Analysis performed by RC3 World, which shows the value of the Building as a renovated rental Building, the potential value is only approximately $1.6 million – which would result in only $46,518 per unit. See Market Study Analysis as **Exhibit 24**. These figures are compared with the $16.5 million value for new development – which would result in approximately $471,428 per unit under the current contract. This imposes a discrepancy or economic impact of $424,910 per unit owner.

Further, Integra Realty Resources has conducted an independent analysis concluding similarly that the "estimated aggregate market value as is of the subject individual units ($7,906,250) compared with the current purchase contract of $16,500,000, results in an economic hardship of approximately **$8,593,750** to the subject's current shareholders/owners. This implies an economic hardship of approximately $245,536 per unit (35 units), or $21,647 per outstanding share (397 shares) of the cooperative." Therefore, the designation would **result in an economic hardship equal to the loss in market value of the Property in addition to the costs of renovation required to comply with the code, for a total amount of approximately $16.5 million**. See Integra Report attached as **Exhibit 25**.

Finally, and significantly, residents have presented testimony and letters to the HPB in furtherance of the personal economic hardship suffered by the respective individuals,

many of whom are elderly and on fixed incomes, and cannot bear the additional assessments to pay for the significant costs involved in the restoration of the existing building. See Resident Letters, attached hereto as **Exhibit 26.** For example, Bill Zucker's letter exemplifies the financial difficulties imposed on the residents and their struggle to merely pay off the old assessment. In addition, it shows how many residents were relying on the sale and "struggling day to day to get to [the] closing April 15th."

Further, many of the residents suffer from severe health problems or are caring for ailing relatives. The letters from Jeffrey Koster and Kathleen Weinstein depict these dire circumstances and the residents' reliance on the money from the sale to care for themselves and their families. As Ms. Weinstein states in her letter:

> *My hardship is only one of many in this building. Not all are capable for speaking for themselves, but their needs are a reality not a fabrication. If your decision is to designate this building at this late hour just before closing, you will devastate the lives of many elderly shareholders, all of whom were counting on this sale for their care in the last years of their lives.*

B. Designation would impose an economic hardship on P3

P3 is also an affected party to the designation and would suffer a serious economic hardship. This was officially brought to the Board's attention in Akerman's March 17, 2015 Letter, attached as **Exhibit 27.** P3 has been under contract with Owner to purchase the Property since March 27, 2014. The closing was scheduled to occur on April 15th, the same date that the building was designated. P3 entered into the Contract relying on the fact that there was no pending historic designation proceedings. Based on this reliance, P3 proceeded to spend significant resources, time and energy towards the acquisition of the Property with the intent to demolish the existing building and develop a new, modern luxury multifamily residential building.

P3 has incurred approximately **$2.1 million** in reliance on the Contract – including architectural and design fees, engineering fees, legal fees, salaries and costs of operating, consultation fees, financial due diligence, and equity investment to date. In addition, P3 called in their equity capital in preparation for the April 15th closing, which will now cost P3 approximately $110,000 per month moving forward.

IV. Prior Designation Report was withdrawn and parties relied on that determination.

In 2010, a prior designation report for the Bay Harbor Continental was prepared by County staff and brought to the HPB for its consideration. See December 15, 2010 Designation Report attached as **Exhibit 29.** Owner opposed the efforts and in February 2011, the HPB declined to designate the Property. Thereafter the report was withdrawn and lifted

the temporary moratorium that had been put in place. See February 2011 HPB Meeting Minutes attached as **Exhibit 30.**

Partly in reliance on the withdrawal of the report, Owner decided to list the Property and moved forward with the sale of the building, and entered into the Contract in March 2014.

In reliance and noting that the building was not located in a historic district nor was it designated historic by the HPB in 2011, P3 hired architects, design professionals and attorneys to commence design of plans for new construction on the Property and meetings with the Town of Bay Harbor Islands to secure entitlements for the project. Additionally, Owner and P3 applied for and the Town issued a demolition permit on February 18th. See Demolition Permit attached as **Exhibit 31.** To date, P3 has spent approximately **$2.1 million** in reliance on the ability to demolish the building. DRC submittal attached as **Exhibit 32.**

It is fundamentally unfair to pull the rug out from under Owner and P3 four (4) years after the decision not to designate the building and knowing that a real estate contract is pending closing.

To designate the Property four (4) full years after the withdrawal of the designation report violates a reasonable investment-backed expectation that was created among Owner and P3. The Parties may be entitled to significant monetary damages due to the diminution in value from the inability to demolish the building and from additional restrictions on alterations and new construction, as set forth above.

V. The architectural significance is not important enough to outweigh the economic hardship imposed on Owner and its residents

A. Evidence presented by experts that the Bay Harbor Continental does not meet the criteria in the County's Ordinance

At the April 15, 2015 HPB Meeting, the only testimony presented that could be considered competent substantial evidence regarding the merit or significance of the building's architecture was the staff report presented by Sarah Cody on behalf of the County's historic preservation office. There were no professionally licensed architects speaking in support of designation. To the contrary, there were two highly respected professional architects that spoke in opposition of historic designation.

Both Laurinda Spear, principal and co-founder of Arquitectonica, and Bob Chisholm, of RE Chisholm Architects, Inc., who has been working in Florida since the 1970s and was a lead participant in the creation of the County's preservation Ordinance, spoke about the limitations of the building and testified that the building is not nearly as significant as the staff report would suggest. While the building exhibits elements of MiMo architecture, it is

not in the opinion of Chisholm or Spear one of the more significant contributions. The architect, Charles McKirihan was actually not an important architect of the time. And beyond the concrete screen which is visible from the street, the building as a structure is a concrete box that was built inexpensively, was not particularly laid out well on the site and is surrounded by a sea of parking at the expense of any meaningful landscaping or landscape plan.

See Letter from Bob Chisholm dated April 30, 2015 attached as **Exhibit 33.** See Letter from Laurinda Spear dated May 1, 2015 attached as **Exhibit 34.**

B. Following this approach to historic preservation would suggest that many more multifamily apartments, condominiums and cooperatives will be designated historic in the near future against the will of the people.

Although the existing building contains design elements commonly associated with MiMo architecture, so do a vast number of buildings across Miami-Dade County and all of South Florida. If this Commission was to uphold the decision by the HPB ignoring unique circumstances and clear and strong objection by the Owner and the majority of its residents, then every typical multifamily building that is greater than 50 years old in any municipality within Miami-Dade County which is of typical architecture of the period of time in which it was built should be targeted for preservation, regardless of the views of the residents or the municipalities in which the building is located. In a few years from now, the HPB would be targeting multifamily buildings in every district across Miami-Dade County.

C. The Designation Report mischaracterizes the importance of the Building to the history of Bay Harbor Islands

Ms. Kauffman represented on numerous occasions that the Bay Harbor Continental is an example of the intent behind "origins of development patterns" on Bay Harbor Islands, suggesting that developer of the islands, Shepard Broad, envisioned or somehow created design criteria for buildings to look like the Bay Harbor Continental.

However, there is no evidence of any intentional architecture or design; Bay Harbor Islands is not like Coral Gables or Opa Locka, cities planned and developed in a particular style or motif with very stringent design restrictions guiding the architecture of its original buildings. Quite to the contrary. The East Island was developed with simply private deed restrictions on use, lot dimensions, setbacks and similar standards.

According to Morris Broad, Shephard's son and an owner of several properties in Bay Harbor Islands, <u>there was no plan</u> for architecture, design, or any coordination of the selection of architects. Shephard Broad platted the islands and contributed greatly to its history and the creation of mix of density of residential uses, but he wanted it left to individual developers and builders to select the architects of their choice.

According to Mr. Broad: *"There is no question in my mind if my father were here today, the visionary that he is, he would say we're in the 21st Century. We respect the 20th Century, but we live in the 21st Century."* See Page 52, Line 11 of the April 15th Transcript.

CONCLUSION

As set forth in great detail above and in the BHC Economic Hardship Affidavit previously filed with the HPB, designating this building would have arduous and unduly burdensome economic consequences for Owner. At the heart of the matter, when economic impact outweighs architectural merit, in a residential building that is at essence the home and homestead of individual County residents, with no overwhelming historic value, and there is no feasible way to pay for the extensive renovations necessary to bring the building up to current zoning and building codes, the County should not force upon the Owner a historic designation.

Please respect the will of the Owner, the overwhelming majority of its residents, and P3, and overturn the HPB's decision.

Sincerely,

Neisen O. Kasdin

Enclosures

cc: Honorable Mayor Carlos J. Gimenez
Board of County Commissioners, Miami-Dade County
Kathleen Kauffman, Historic Preservation Officer, Miami-Dade County
Steven Wernick, Esq., Akerman LLP
Robert Kolbert, President, Bay Harbor Continental, Inc.
Gaurav Butani, P3 Investments I, LLC

Master Exhibit List

1. Resolution No. 2015-06
2. Chapter 16A, the County's Ordinance
3. March 7, 2015 Letter from Bay Harbor Continental, Inc.
4. May 5, 2015 Letter from Bay Harbor Continental, Inc.
5. Affidavits from 25 of the 35 Shareholders
6. February 18th Transcript
7. February 18, 2015 HPB Meeting Minutes
8. February 10, 2015 – Invalid Petition
9. February 18, 2015 HPB Agenda
10. March 18, 2015 HPB Agenda
11. March 18, 2015 HPB Meeting Minutes
12. April 15th Transcript
13. 2014 Public Records Results
14. February 17th Email from Novick
15. Sections 719.103(12) and 719.105, F.S.
16. BHC Economic Hardship Affidavit
17. Four Pro-Designation Affidavits
18. April 15, 2015 Bay Harbor Continental Designation Report
19. Bay Harbor Islands – Ordinance No. 972
20. Bay Harbor Islands – Code Sections 18-22 and 7½ -27
21. Town Manager testimony from the April 15th hearing
22. ERF Report
23. Odebrecht report
24. Market Study Analysis
25. Integra Report
26. Resident Letters
27. Akerman's March 17, 2015 Letter
28. Kathleen Weinstein's Letter
29. December 15, 2010 Designation Report
30. February 2011 HPB Meeting Minutes
31. Demolition Permit
32. DRC Submittal
33. Letter from Bob Chisholm dated April 30, 2015
34. Letter from Laurinda Spear dated May 1, 2015
35. CVs from experts who spoke at the April 15th HPB hearing
36. April 28, 2014 Letter

**CD containing audio files of the February 18th, March 18th and April 15th HPB Meetings (NOTE copies of the CDs will be included in the binder of the appeal).

Note: The exhibits referenced in the Notice of Appeal are being distributed with this packet, under separate cover

Exhibit 2:

Response to Appeal filed by Nicole A. Milson, Esq. on behalf of several residents of Bay Harbor Islands, FL and of the Bay Harbor Continental on June 12, 2015

(The exhibits referenced in the Response to Appeal are being distributed with this packet, under separate cover)

NICOLE A. MILSON, ESQ.
Attorney at Law
786.301.4194
nicole@milsonlaw.com

June 12, 2015

Board of County Commissioners
of Miami-Dade County
Stephen P. Clark Government Center
111 NE First Street, Suite 17-202
Miami, FL 33025

RECEIVED
JUN 12 2015
MIAMI-DADE COUNTY
OFFICE OF HISTORIC PRESERVATION

Dear Board of County Commissioners:

I have been retained, on behalf of several residents of Bay Harbor Islands, FL and of the Bay Harbor Continental, to speak against the appeal of the rightful designation of the Bay Harbor Continental building as a historic site.

The appeal, which was filed by attorneys who represent the potential buyer of the property (the development company P3 Investments I, LLC), makes several unfounded and inaccurate arguments to support their position of repealing the historic designation of the Bay Harbor Continental. The arguments largely revolve around false assertions that a majority of the shareholders of the cooperative of the Bay Harbor Continental oppose the historic designation as they believe it would cause economic hardship. However, no evidence is presented, other than anecdote, to demonstrate the veracity of these assertions, and many of the shareholders fully support the designation. The designation also has significant support within the community as P3 Investments I, LLC has been clear that its only intention with the building is to immediately destroy it.

The appeal also falsely asserts that economic hardship would be imposed on the building in the form of fabricated unnecessary repairs which would allegedly total in excess of $8 million dollars, a grossly exaggerated sum for a building of its size. However all the reports procured to support this position are based on a largely illegible single estimate by a contractor admittedly unfamiliar with the property. Oppositely, and quite significantly, the building has *just this year* passed its 40-year mandatory inspection as conducted by a licensed engineer and is completely sound structurally and electrically. The building has been properly maintained and managed throughout the years, and is also financially sound. Historical designation would therefore *relieve* any economic hardship as the accompanying federal, state and local waivers would allow the building to remain entirely in its present condition. The property is presently being operated at its best and highest use which is, in fact, as a condominium or cooperative. Individual owners are free to sell their interest as is at any time, as they were also free to do before the designation, and the collective owners are free to enhance the property without destroying the historic attributes. Assertions that the buyer, P3 Investments I, LLC will not be able to use the property as it initially wished if it proceeds with the purchase are not the type of economic hardship that are relevant to this matter.

The appeal further presents irrelevant speculation that the appellants were disliked by the Miami-Dade County Historic Preservation Board and other county employees simply because their

arguments were not viewed favorably and the designation was allowed against their wishes. To the contrary, the appellants were provided an excess of time to make their points and present witnesses at all junctures. The appeal states that the town of Bay Harbor Islands was likewise opposed to the designation, however such an argument bears no weight as it has been repeatedly demonstrated and it is widely known that the town has no intention of preserving any of the history in its locale and instead has favored and fully supported the wishes of developers. To have halted the designation simply because an owner, buyer or the town opposed it would actually have been a violation of the code itself, as such a consideration is explicitly prohibited, and this issue has already been decided by the Commissioners accordingly.

Additionally, the appeal incorrectly asserts that shareholders of the cooperative of Bay Harbor Continental are not owners of their units and should have been ruled ineligible to fi e a petition for the historic designation. Appellants have proffered this argument while fully aware of multiple statutes and ordinances that state the contrary, that shareholders of a residential cooperative are considered owners of the property. Meanwhile, the appeal has gone to lengths to assert the concerns and positions of P3 Investments I, LLC who is neither an owner, shareholder nor resident of the building whatsoever.

Lastly, the appeal attempts to assert that the Bay Harbor Continental does not have enough historical significance to have warranted a designation as a historic site, despite the excess of national, statewide, and citywide recognition the building has garnered as a historic example of MiMo architecture. The building, which was designed by architect Charles McKirahan, has been deemed by the National Trust for Historic Preservation as a significant piece of America's unique architectural history. Likewise, the building has been widely featured in many journalistic reports on historic preservation including the prominent media outlets of CNN, The Miami Herald, the New York Times, and Tropics Magazine. The building was considered in the 2006 Historical Structure Survey performed of Bay Harbor Islands, and was fully evaluated in the county's 2010 designation report. The designation was not done prior to now due to immense pressure by the town of Bay Harbor Islands against the work of the Historical Preservation Board. It has therefore been widely known for almost 10 years that the Bay Harbor Continental is considered a historic building by numerous notable sources, and the appellants have no valid basis for claiming surprise where their goal was simply to beat the odds and have the building demolished before any designation finally came to fruition.

The appeal against the designation of the Bay Harbor Continental has in its entirety failed to proffer a valid basis to overturn the knowledgeable and informed decision made by the Historic Preservation Board. A summary of the evidence against the arguments in the appeal, in the order they were presented in the appeal, is as follows:

1. The appellants' statements regarding the number of shareholders supporting the appeal is inaccurate. Today there are 13 out 35 unit owners in favor of designation that want retain their current standard of living as the majority of those in favor of designation are full time residents. Further, over 70% of the owners supporting the appeal are not full time residents of the building but rather have homesteads outside of the state.

2. This Commission unanimously voted against requiring owner consent as it would halt any future preservation efforts, and would be against the current code. The arguments regarding the consent of the owners or other parties are therefore moot.

3. The petitioners of the designation were all shareholders of the Bay Harbor Continental cooperative, and were all therefore owners eligible to set forth such a petition. See County HP

ordinance 16.4 (14) – Owner of the property. The 3 petitioners for nomination for designation are listed as current tax payers on 1150 103rd Street as reflected in the current Metropolitan Miami-Dade County tax rolls, in keeping with the ordinance's determination of ownership. Further, under the Florida Cooperative Act, a person who holds shares in the cooperative and a lease for their unit is considered an owner, Fla. Stat. 719.103(26).

4. The County properly followed all ordinances related to historic preservation. The Board and Chairperson exhibited professional and unbiased demeanor at the April 2015 hearing, and followed all rules for a quasi-judicial meeting. The appellants were provided over 2 hours at the Board meeting to present their case, and the Board ultimately voted 6-1 overwhelmingly in favor of designation.

5. Contrary to appellants' assertions regarding zoning in Bay Harbor Islands, the property is currently zoned for multifamily residential. The property is therefore already currently being used at its highest and best use for development. The buyers themselves intend to use it for the same purpose after demolishing the current historic Bay Harbor Continental structure.

6. The appellants' arguments for economic hardship of the shareholders is all based on the estimated cost for deferred maintenance and estimate cost for renovation from one General Contractor, ERF Construction Group. Their analysis was based on one site visit, unfounded assumptions, and anecdotal opinions of 4 shareholders, and did not involve a thorough inspection or any necessary testing to provide such an estimate. The report made no references to the maintenance and upkeep that is routinely and consistently performed on the building including restoration work performed in the last 3 years. The recertification inspection as approved by an engineering firm in May 2015, demonstrates that the building is to code for life safety, electrical, and structural elements, including the elevator and the seawall. All future regular maintenance of the building has already been calculated in accordance with the Cooperative Act and will not have any significant financial impact on the shareholders in the next 10 years.

7. Appellant did not present the true facts about historically designated buildings and building codes. The designation does not require renovations, nor does it require bringing the building up to code. The local, state and federal codes allows for variances and waiver for historic designation such as relief from the FEMA 50% rule for construction, and ADA compliance. The County HP staff presented overwhelming evidence the historic properties do increase in value and provide a benefit to owners.

8. The appellants' claims that they were unaware of the pending nature of the historic designation are frivolous in consideration that the County's original 2010 designation report is 5 years old and publicly available. The designation report clearly states that the building meets all the requirements of a historic site. Withdrawal of the designation was only made at that time because of threats and obstacles made by the Bay Harbor Islands town council towards the Historical Preservation program.

9. The HBP gave overwhelming evidence of the significant of the building, including the staff designation report and presentation. Their presentation included a letter from the National Trust of Historic preservation, which state Charles McKirahan is a prominent MiMo architect and the significance of the Bay Harbor Continental to Bay Harbor Islands, which they refer to as the nation's foremost collection of modernist architecture, as well as contributing to Miami Midcentury MiMo era. Additional evidence of historical significance was presented by local preservationists and architectural historians Teri D'Amico and Nina Korman, authors of the book

Bay Harbor Island MiMo, architecture of a Mid-Century town, published in 2009, which actually features the Bay Harbor Continental. Copies of this book were provided at the December 2014 Commission meeting. D'Amico, a Bay Harbor resident, coined the term MiMo, and Korman, is the author of the cover story for the May 2015 issue of Tropics Magazine that features the work of Charles Mckirahan the architect for the Bay Harbor Continental.

In conclusion, no evidence has been presented that this appeal should be granted. While the pending sale of the building should have no bearing on the historic designation, the appeal relies heavily on misstating the impact of the sale on the owners at Bay Harbor Continental. P3 Investments I, LLC has indicated that it will abandon the purchase of the building if the designation is allowed to stand, and has caused a significant amount of duress to several shareholders due to their fabricated claims of expenses associate with the designation. The owners that are in favor of designation believe that the owners who are against designation have only taken such a position because they are in favor of sale of the building to P3 Investments I, LLC due to further misinformation that they will receive greater than market value for their units in the sale, as opposed to selling their unit themselves. However, after the taxes to be paid by the cooperative of Bay Harbor Continental, the amount received per unit would only amount to approximately $240,000 for a one-bedroom waterfront unit with some of the most exceptional views in Miami, significantly below current market value. Owners at the Bay Harbor Continental could not replace their units with properties of the same value if the sale to the developer proceeded, and in turn, there will actually be significant hardship to all of the owners if the historic designation of Bay Harbor Continental is repealed solely for the purpose of encouraging the sale of the building to P3 Investments I, LLC. The designation should therefore be allowed to stand as it was properly made in consideration of all of the relevant and important factors.

Sincerely,
Nicole A. Milson, Esq.

Enclosures
cc: Honorable Mayor Carlos J. Gimenez
Board of County Commissioners, Miami-Dade County
Kathleen Kauffman, Historic Preservation Officer, Miami-Dade County
Neisen O. Kasdin, Esq., Akerman LLP
Steven Wernick, Esq., Akerman LLP

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Exhibit K	Petition of Neighbors supporting historic designation

Note: The exhibits referenced in the Response to Appeal are being distributed with this packet, under separate cover

Exhibit 3:

Designation Resolution

CFN 20150251196
OR Bk 29583 Pgs 4866 - 4875; (10pgs)
RECORDED 04/20/2015 12:24:23
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

MIAMI-DADE

MIAMI-DADE COUNTY
HISTORIC PRESERVATION BOARD
STEPHEN P. CLARK CENTER
111 N. W. FIRST STREET
MAILBOX 114, LOCATED ON 12TH FLOOR
MIAMI, FLORIDA 33128
305-375-4958

MIAMI-DADE HISTORIC PRESERVATION BOARD

RESOLUTION NO. 2015-06

Bay Harbor Continental

1135 103rd Street
Bay Harbor Islands, FL 33154

WHEREAS, the Bay Harbor Continental was built in 1958 on the waterfront of Bay Harbor Islands' East Island; and

WHEREAS, the Bay Harbor Continental represents the pattern of development originally planned for Bay Harbor Islands; and

WHEREAS, the Bay Harbor Continenal embodies distinctive characteristics of the significant Miami Modern, or MiMo, architectural style; and

WHEREAS, the Bay Harbor Continental contributes to the understanding of the architectural heritage of the Town of Bay Harbor Islands; and

WHEREAS, the Bay Harbor Continental is one of a limited number of extant works by Charles F. McKirahan, a recognized architectural master; and

WHEREAS, the reference folio numbers and legal descriptions of the property are as follows (see attached for folio numbers and legal descriptions of each individual co-operative unit):

TAX FOLIO NUMBER: (Reference) 13-2227-026-0001

LEGAL DESCRIPTION: (Reference) BAY HARBOR CONTINENTAL CO-OP
BAY HARBOR ISLAND PB 46-5
LOT F LESS S11FT

MIAMI-DADE

MIAMI-DADE COUNTY
HISTORIC PRESERVATION BOARD
STEPHEN P. CLARK CENTER
111 N. W. FIRST STREET
MAILBOX 114, LOCATED ON 12TH FLOOR
MIAMI, FLORIDA 33128
305-375-4958

WHEREAS, the Bay Harbor Continental fulfills the following criteria for designation:

Criteria Sec. 16A-10(1)(a), *Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric, paleontological and architectural history that have contributed to the pattern of history in the community, Miami-Dade County, south Florida, the State or the nation.*

Sec. 16A-10(1)(c): *Embody the distinctive characteristics of a type, period, style or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction;* and

WHEREAS, if the historic designation of the Bay Harbor Continental is appealed, the decision of the Miami-Dade County Historic Preservation Board is stayed and the moratorium on alterations remains in effect until the appeal is heard.

NOW, THEREFORE, BE IT RESOLVED, that the Historic Preservation Board of Miami-Dade County on April 15, 2015 has designated the Bay Harbor Continental, located at 1135 103rd Street, Bay Harbor Islands, FL as a Historic Site pursuant to the Miami-Dade County Historic Preservation Ordinance (81-13) and that all elements of these structures are subject to all rights, privileges and requirements of that ordinance.

Kathleen Kauffman

Kathleen Kauffman, Historic Preservation Chief
Office of Historic Preservation

4/15/15
April 15, 2015

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MIAMI, FLORIDA 33128
305-375-4958

Board Members	Vote
Gary Appel	ABSENT
Ruth Campbell	YES
Dr. Adriana Cantillo	ABSENT
Rick Cohen	YES
Dr. Paul George	YES
Mitch S. Novick, Chair	YES
JoEllen Phillips	YES
Dr. Enid C. Pinkney	ABSENT
Ronda Vangates	ABSENT

MIAMI-DADE

MIAMI-DADE COUNTY
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Attachment 1: Folio Numbers & Legal Descriptions

Address	Folio Number	Legal Description	Property Owner
1135 103 Street Unit A1	13-2227-026-0010	Bay Harbor Island PB 46-5 Lot F Less S11ft. Bay Harbor Continental Inc - Co-op Apt A-1 12 Shares of 397 or 19937-4706 0301 1	Joan Carney 1135 103 Street Unit A1 Bay Harbor Islands, FL 33154
1135 103 Street Unit A2	13-2227-026-0080	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT A-2 13 SHARES OF 397 OR 14934-2721 0391 4 COC 23262-2091 08 1997 5	Robert & June Kolbert 40 St. Andrews Circle South Hampton, NJ 11968
1135 103 Street Unit A3	13-2227-026-0150	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT A-3 13 SHARES OF 397 OR 18863-2765-2767 1099 1	Patricia Cawley 1135 103 Street Unit A3 Bay Harbor Islands, FL 33154
1135 103 Street Unit A4	13-2227-026-0220	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT A-4 13 SHARES OF 397 OR 18331-1065 0998 1	Margaret Tavares & Kathleen Weinstein 1135 103 Street Unit A4 Bay Harbor Islands, FL 33154
1135 103 Street Unit A5	13-2227-026-0290	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT A-5 14 SHARES OF 397 DEATH CTF MELVIN 611285 (ILL) OR 19925-3961-1000-1	Peter Acosta & Pura Perez 1135 103 Street Unit A5 Bay Harbor Islands, FL 33154

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1135 103 Street Unit B1	13-2227-026-0020	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT B-1 10 SHARES OF 397 OR 17914-206 TO 210 1197 6	June Lantz 1135 103 Street Unit B1 Bay Harbor Islands, FL 33154
1135 103 Street Unit B2	13-2227-026-0090	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT B-2 10 SHARES OF 397 OR 18131-1704-0598 1	David & Audrey Cozlan 1135 103 Street Unit B2 Bay Harbor Islands, FL 33154
1135 103 Street Unit B3	13-2227-026-0160	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT B-3 10 SHARES OF 397 OR 18270-3999 0998 1	Monique Beaudet 1135 103 Street Unit B3 Bay Harbor Islands, FL 33154
1135 103 Street Unit B4	13-2227-026-0230	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT B-4 10 SHARES OF 397 OR 19767-1445-0501 5 COC 21701-2867 09 2003 1	William Zucker 1135 103 Street Unit B4 Bay Harbor Islands, FL 33154
1135 103 Street Unit B5	13-2227-026-0300	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT B-5 11 SHARES OF 397 OR 16090-2207 0893 6	Marjory Rossin & Jeannette Gato 1135 103 Street Unit B5 Bay Harbor Islands, FL 33154
1135 103 Street Unit C1	13-2227-026-0030	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-1 10 SHARES OF 397 OR 19609-3913 04 2001 1 COC 22859-1737-10 2004 4	Richard & Susan Olsen & Maria Maldonado 1135 103 Street Unit C1 Bay Harbor Islands, FL 33154

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1135 103 Street Unit C2	13-2227-026-0100	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-2 10 SHARES OF 397 OR 18621-4422 0599 1	Mark & Lillian Hart 1135 103 Street Unit C2 Bay Harbor Islands, FL 33154
1135 103 Street Unit C3	13-2227-026-0170	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-3 10 SHARES OF 397 OR 21107-2206 0203 1 COC 22195-3377-03 2004 5	Clara Reed 1135 103 Street Unit C3 Bay Harbor Islands, FL 33154
1135 103 Street Unit C4	13-2227-026-0240	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-4 10 SHARES OF 397 OR 11462-503 0682 1	Pascual Innamorato 1135 103 Street Unit C4 Bay Harbor Islands, FL 33154
1135 103 Street Unit C5	13-2227-026-0310	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-5 11 SHARES OF 397 OR 15490-2227 0492 1	Gervaise Racine 201 Ch des Cedres St. Anne Des Lacs Quebec J0R 1B0 Canada
1135 103 Street Unit D1	13-2227-026-0040	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT D-1 10 SHARES OF 397 OR 17098-2450 & 2452 0296 1	Salomon Nehmad 1135 103 Street Unit D1 Bay Harbor Islands, FL 33154
1135 103 Street Unit D2	13-2227-026-0110	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT D-2 11 SHARES OF 397 OR 19047-2696 19411-2046 0300 1	Michael Hartman 1135 103 Street Unit D2 Bay Harbor Islands, FL 33154

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1135 103 Street Unit D3	13-2227-026-0180	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT D-3 11 SHARES OF 397 OR 16475-1574 0394 1	Frances Griffith 1135 103 Street Unit D3 Bay Harbor Islands, FL 33154
1135 103 Street Unit D4	13-2227-026-0250	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT D-4 11 SHARES OF 397 DEATH CTF ELIZABETH OR 19849-4218 COC 23953-2023 10 2005 4	Nydia Gonzalez Sarrain 1135 103 Street Unit D4 Bay Harbor Islands, FL 33154
1135 103 Street Unit D5	13-2227-026-0320	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT D-5 12 SHARES OF 397 OR 20084-4623 0901 1 COC 24152-0288 01 2006 1	Martin Taplin 1135 103 Street Unit D5 Bay Harbor Islands, FL 33154
1135 103 Street Unit E1	13-2227-026-0050	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT E-1 10 SHARES OF 397 OR 17393-1717 0996 4	Sofia Zadeika 1135 103 Street Unit E1 Bay Harbor Islands, FL 33154
1135 103 Street Unit E2	13-2227-026-0120	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC -CO-OP APT E-2 10 SHARES OF 397 OR 21697-39/41 09 2003 1	Adolfo & Amelia Beorlegui 1135 103 Street Unit E2 Bay Harbor Islands, FL 33154
1135 103 Street Unit E3	13-2227-026-0190	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT E-3 10 SHARES OF 397 OR 17667-0290 0597 5 COC 24156-3724 01 2006 1	Martin Margulies 445 Grand Bay Drive Unit PH 1B Key Biscayne, FL 33149

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1135 103 Street Unit E4	13-2227-026-0260	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT E-4 10 SHARES OF 397 OR 19904-0339 19999-4044 0801 5	Mirta D. Selva 1135 103 Street Unit E4 Bay Harbor Islands, FL 33154
1135 103 Street Unit E5	13-2227-026-0330	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT E-5 11 SHARES OF 397 OR 17519-0449 1296 1	Elizabeth & Richard Schmaeling 1135 103 Street Unit E5 Bay Harbor Islands, FL 33154
1135 103 Street Unit F1	13-2227-026-0060	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-1 10 SHARES OF 397	Jeffrey Koster 1135 103 Street Unit F1 Bay Harbor Islands, FL 33154
1135 103 Street Unit F2	13-2227-026-0130	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-2 10 SHARES OF 397 OR 14848-2928 1290 1	Edward & Pierrete Woolley 10195 St Denis Montreal H3L 2H9 Canada
1135 103 Street Unit F3	13-2227-026-0200	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT F-3 11 SHARES OF 397 OR 21345-4291 04 2003 1	Louis & Sandra Lezama 1135 103 Street Unit F3 Bay Harbor Islands, FL 33154
1135 103 Street Unit F4	13-2227-026-0270	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-4 11 SHARES OF 397 COC 22272-1762 04 2004 4	Becky McIver 1135 103 Street Unit F4 Bay Harbor Islands, FL 33154

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1135 103 Street Unit F5	13-2227-026-0340	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-5 12 SHARES OF 397 OR 18905-1006 1299 6	Leonor Kirksey 1135 103 Street Unit F5 Bay Harbor Islands, FL 33154
1135 103 Street Unit G1	13-2227-026-0070	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-1 14 SHARES OF 397 OR 13679-1604-1600 0588 1 COC 26529-3811/26529-3814 0708 5	Carlos de la Torre 1135 103 Street Unit G1 Bay Harbor Islands, FL 33154
1135 103 Street Unit G2	13-2227-026-0140	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC -CO-OP APT G-2 14 SHARES OF 397 OR 16727-3687 0493 1 COC 23112-3990 02 2005 5	Nancy & Scott Peters 1135 103 Street Unit G2 Bay Harbor Islands, FL 33154
1135 103 Street Unit G3	13-2227-026-0210	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-3 14 SHARES OF 397 OR 22828-2048/24557-0504-1104 1	John Timinsky & Lisa Mann 1285 NE 104 Street Miami, FL 33138
1135 103 Street Unit G4	13-2227-026-0280	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-4 14 SHARES OF 397 OR 12287-2899 0584 4 COC 22796-4491 09 2004 6	Leo Schattlack & Gladys Sharshon 330 Lagoon Drive Copiague, NY 11726

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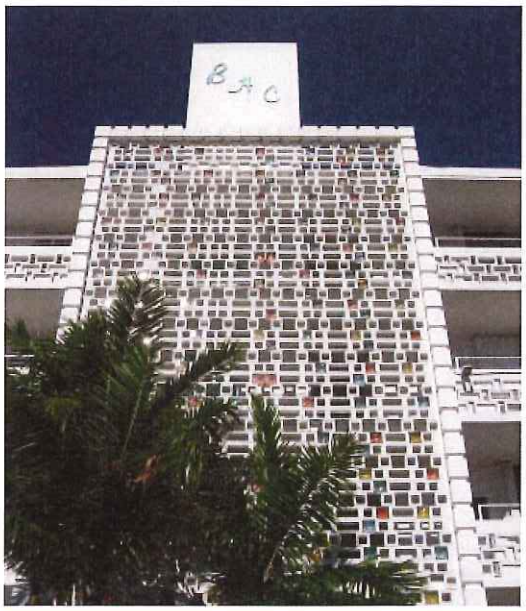
1135 103 Street Unit G5	13-2227-026-0350	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-5 14 SHARES OF 397 OR 15967-1544 0693 1 COC 25661-1878 05 2007 1	DJS Bay Harbor LLC 459 Blue Road Coral Gables, FL 33146

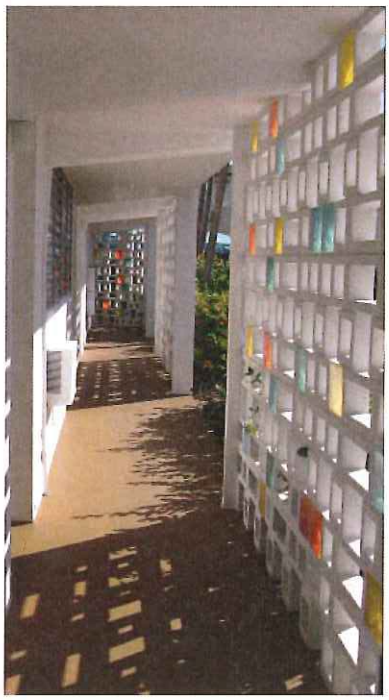
Exhibit 4:
Designation Report

Designation Report

Bay Harbor Continental Apartments

Bay Harbor Islands, Florida
Built: 1958





Prepared by: Carlos J. Dunn & Sarah K. Cody

Miami-Dade County
Regulatory and Economic Resources Department
Office of Historic Preservation

April 15, 2015

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VI.	Standards for Certificate of Appropriateness	Page 11
VII.	Contributing Features	Page 11
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I. GENERAL INFORMATION.

NAME:	**Bay Harbor Continental Apartments**
LOCATION:	1135 103rd Street Bay Harbor Islands, Florida
ARCHITECT:	Charles F. McKirahan, AIA
YEAR BUILT:	1958
PROPERTY OWNERS:	See Appendix A: Property Information
TAX FOLIO NUMBER:	13-2227-026-0001
LEGAL DESCRIPTION:	BAY HARBOR CONTINENTAL CO-OP BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT
STRUCTURES:	Bay Harbor Continental Apartments is a distinct mid-century Miami Modern (MiMo) style building with 35 residential units, open grounds, a pool, and a small auxiliary building on the northern tip of the east island in the Town of Bay Harbor Islands. It is a five-story building with an irregular footprint and asymmetrical façade.
SIGNIFICANCE:	**History/Context**: Bay Harbor Continental Apartments is historically significant for its association with the architectural history and its reflection of the pattern of development in the Town of Bay Harbor Islands as well as providing a significant example of mid-century Miami Modern (MiMo) architecture. The Bay Harbor Continental Apartments fulfills: Criteria Sec. 16A-10(1)(a), *Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric, paleontological and architectural history that have contributed to the pattern of history in the community, Miami-Dade County, South Florida, the State, or the Nation.* **Architecture:** Bay Harbor Continental Apartments is significant as an excellent, and exceptionally well-preserved, example of MiMo architecture. It's overall character and detailing contributes to the understanding of the architectural heritage of Bay Harbor Islands. Further, it is one of a limited number of extant works by Charles F. McKirahan, a recognized architectural master. The Bay Harbor Continental Apartments building fulfills Criteria Sec. 16A-10(1)(c): *Embody the distinctive characteristics of a type, period, style or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction.*

IMPACTS:

The Miami-Dade County Office of Historic Preservation is required to approve any exterior changes and/or additions, demolition, or new construction to the designated resource.

Most approvals are handled in-house directly by the staff of the Office of Historic Preservation. Major alterations require approval by the County Historic Preservation Board.

Designated resources are eligible to take part in the County's Ad-Valorem Tax Exemption program, and are eligible for any historic preservation grants that may be available at the time.

Contemporary aerial photograph with property boundary outlined in red, circa 2015.

II. PHYSICAL DESCRIPTION & SETTING

The Bay Harbor Continental Apartments is located on the northern tip of the island. Built in 1958, the Bay Harbor Continental Apartments was constructed during Bay Harbor Islands' height of development. Other mid-century buildings are located nearby, notably the Bay Harbor Club next door and the Morning Star Condominium, across 103rd Street. The Bay Harbor Continental is a 35-unit, 5-story complex facing 103rd Street.

The building is laid out with an irregular footprint, forming a widened "L" shape. The distinct angle of the building layout was an integral part of the original design. This layout allows for maximum sunlight, breezes, and waterfront views for each individual unit. The layout of the building also defines an open courtyard, with each unit opening onto the central green space. The building is oriented at the southeast portion of the lot, with the courtyard occupying the rest of the lot. The spatial organization of this property works well with the previously constructed Bay Harbor Club, where the building is placed at the southwest property corner. Together, the two buildings enclose their two associated courtyards. Visually, the courtyards read as one open green space, though a fence separates the properties.

The primary façade fronts on 103rd Street. Here, the angled, asymmetrical façade features prominent architectural elements associated with distinct mid-century Miami Modern (MiMo) design. Concrete brise-soliel panels extend up the length of the building. Here, concrete blocks of various sized squares and rectangles are interspersed with colored glass blocks, providing shade and engaging light/shade patterns within the exterior corridors. Continuous stucco bands surround the panels, emphasizing the geometric pattern created by the individual concrete and glass blocks. Between the brise-soliel panels, concrete block is used to create a balustrade with a simple metal railing atop, providing additional safety.

On the eastern portion of the main façade, a pylon projects outward and above the roof line. The pylon features the same brise-soliel with open concrete blocks and colored class. The pylon is further emphasized with a continuous surround. Atop the building, centered on the pylon, is a solid projection, featuring the lettering "BHC," for "Bay Harbor Continental."

Other prominent features on the main façade include two rounded projections. These elongated projections enclose exterior staircases, providing access to the upper floors. The rounded walls are perforated by diagonal rows of square cutouts, emphasizing the geometric pattern of the brise-soliel and balustrade. These decorative features on the main façade also provide important functionality for the building. The concrete and glass brise-soliel provides respite from the intense sun, while the open blocks allow fresh air to flow through the exterior corridors. The cutouts on the staircases provide additional light and air.

The main entry is located on the eastern portion of the front façade, immediately south of the projecting pylon. A simple canvas awning provides additional shade. Original jalousie windows and doors remain in place on the primary façade.

The north and angled west façades face the central courtyard. These façades maintain their original design features. Tray balconies project off the building front. The balcony walls are formed by rectangular, open concrete blocks identical to the balustrade on the primary façade. On the ground level, open concrete blocks are used to create walls to one side of these exterior spaces. These blocks form a more amorphic shape and are set in double-width rows, with tall, narrow rectangular blocks extending between the rows.

The fifty-seven-year-old structure has remained intact and has suffered little or no transformation to its exterior design. The Bay Harbor Continental Apartments continue to reflect its original mid-century Miami Modern (MiMo) character. In addition to the overall design remaining intact, individual building features remain from the original

construction. The building maintains most of its original design elements such as the decorative railings, lush ornamentation, tray balconies, louver windows, original entry doors, decorative concrete and glass blocks of various sizes used to provide visual interest, and exposed cantilevered exterior walkways, among other elements.

III. HISTORIC SIGNIFICANCE

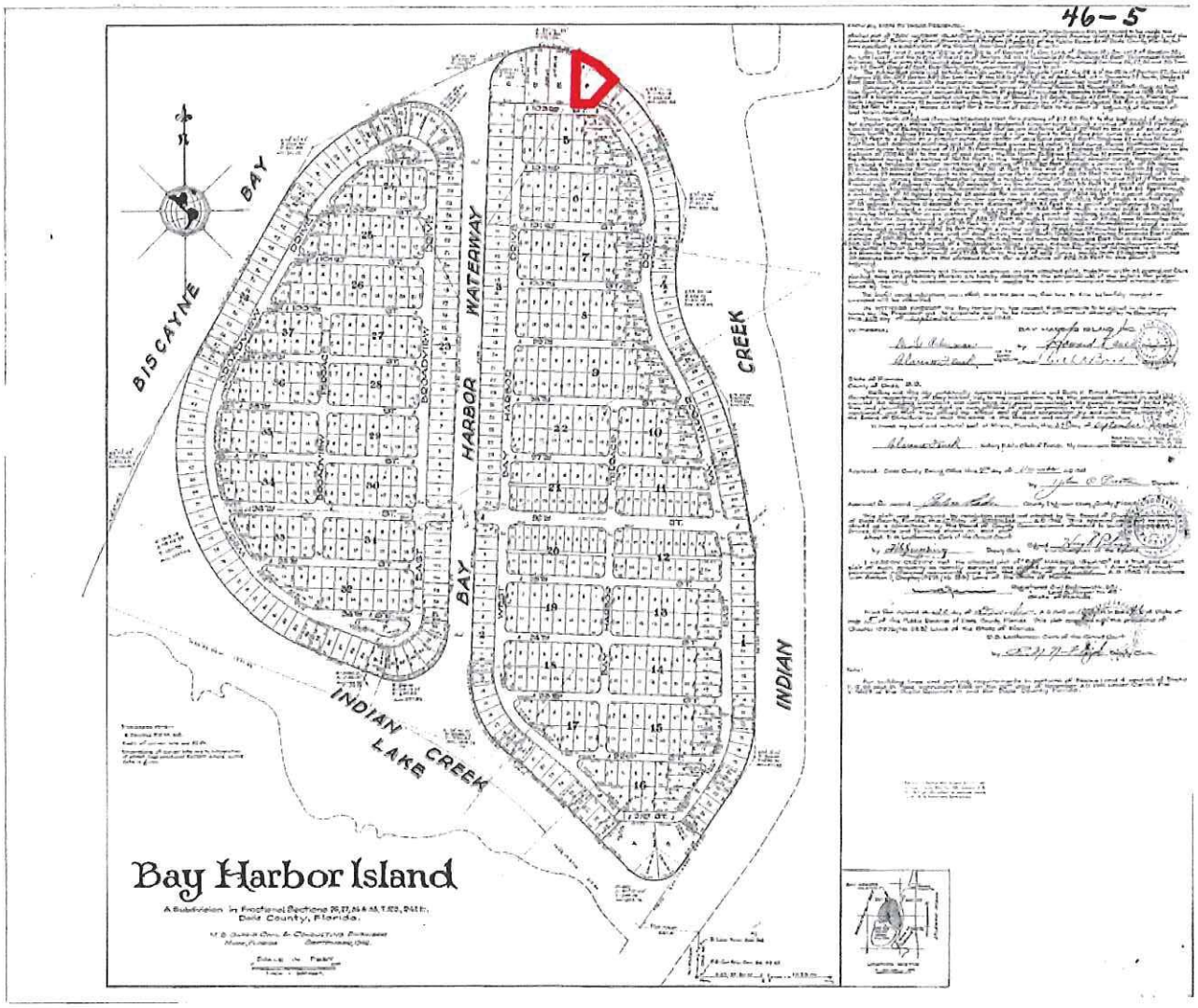
Bay Harbor Continental Apartments is historically significant for its association with the architectural history and its reflection of the pattern of development in the Town of Bay Harbor Islands as well as providing a significant mid-century Miami Modern (MiMo) architecture. While the building was constructed in 1958, it represents the pattern of development that Shepard Broad and his partner, Ben Kane, planned for Bay Harbor Islands twelve years earlier.

The Town of Bay Harbor Islands grew from the foresight of Shepard Broad, who came to America from Minsk, Russia in 1920. He practiced law in New York until 1940, when he brought his wife and family to live in South Florida. That same year, he was admitted to the Florida Bar and opened a law office in Miami Beach, where he founded the law firm of Broad & Cassel.

In 1945, Broad and his partner, Ben Kane, became interested in two undeveloped islands located in Biscayne Bay. Broad envisioned apartment complexes, single-family homes, and shops. He sketched the plans for Bay Harbor Islands, designing it in two sections: one for single-family homes and the other for multiple-family buildings.

Developed on 253 acres of mangrove swamp islands in Biscayne Bay, Bay Harbor Islands is located between the Indian Creek Waterway, Biscayne Bay, and Indian Creek Lake. The build-out followed the original plan devised by Shepard Broad, to have one island dedicated to single-family homes, and a second island for multiple-family buildings and a commercial area. As built, the Town is composed of the 103-acre West Island, which remains a single-family residential development, and the 150-acre East Island, which contains multiple-family dwellings and a modest business district. The East Island is composed of rectilinear blocks and a perimeter lined by waterfront multiple-family buildings. East and West Bay Harbor Drive encircles the island. Kane Concourse, the commercial strip, divides the island into a north and south section. The commercial concourse was named for Broad's business partner, Ben Kane. Broad also envisioned a dredged waterway, 150 feet wide, to separate the two islands.

To fund the development, Broad and Kane began selling lots on the east island. In just three months, April, May and June of 1946, they sold enough lots to fund the entire venture. In 1947, the Town of Bay Harbor Islands was incorporated. In 1953 the Florida Legislature chartered the present municipality and later that same year it was approved by the voters of the Town. Shepard Broad was elected the first Mayor of the Town and served in that position for twenty-six consecutive years until his retirement in 1973. He died on November 6, 2001 at the age of ninety-five.



Original plat map laying out Bay Harbor Islands with the property boundary outlined in red, 1946. (Courtesy Miami-Dade County.)

As part of his vision for the Town, Shepard Broad invited many of Miami's most prominent architects of the time to come to his new town and design buildings in the current architectural trends. The result was a concentrated collection of distinct mid-century modern buildings designed by some of Miami's most renowned architects.

The first building permit was applied for in June 15, 1947, marking the start of a period of intense development for the Town. Within four years, the Town's population had grown to 550 citizens living in 46 private residences. Also in 1947, the Legislature authorized the building of a causeway at 125th Street and Biscayne Boulevard. The $2.5 million road was completed in 1951, joining the islands with the mainland of northern Miami-Dade County. The bridge now carries the name of the Shepard Broad Causeway.

Aerial photograph looking south across Bay Harbor Islands, 1959. (Courtesy General Collection, Florida Memory, State Archives of Florida, Image # N045102.)

Aerial photograph showing Bay Harbor Islands, at right, with the then-recently completed Broad Causeway connecting the island town with the mainland, March 16, 1952.

IV. ARCHITECTURAL SIGNIFICANCE

The Bay Harbor Continental Apartments is significant as an exemplary representation of mid-century Miami Modern (MiMo) architecture. Because the height of development for Bay Harbor Islands happened during the mid-20th century, MiMo was the architectural style that came to characterize the Town of Bay Harbor Islands. Additionally, it is significant as the work of Charles F. McKirahan, a recognized master architect in South Florida.

Mid-century modern design embodied the Nation's ideals of progress and optimism, as Americans left the war behind and looked forward towards the future. Miami Modern, or MiMo, is Miami's unique interpretation of the national mid-century modern movement, adapted to suit the local climate. Pre-cast concrete screens boasted fun geometric patterns while sheltering residents from the intense sun. Cantilevered roofs were perforated with cut-outs where palm trees could stretch up to the open sky above. Open-air corridors and staircases brought people outside to take advantage of warm weather and balmy breezes. Exterior decoration evoked a sense of the tropical environment, using abstract forms in shades of sea green, and featuring representations of sea life, like mermaids, dolphins, seahorses, and seashells. The MiMo style defined a new architectural vocabulary that not only spoke to the novelty and futurism embedded in mid-century design, but that addressed functional concerns of living in the subtropical climate of Miami.

MiMo design was incorporated into a range of building types, from large hotels Fontainebleau and the Carillon, to apartment complexes, condominiums, office and commercial buildings, two-story motels, and single-family homes. Some of the most noted MiMo architects include Morris Lapidus (Fontainebleau and Eden Rock Hotels), Igor B. Polevitzky, Robert Law Weed, Gilbert Fein, and Charles F. McKirahan, among others.

The Bay Harbor Continental Apartments is an excellent example of MiMo architecture. The building incorporates important characteristics of the Miami-Modern (MiMo) architectural style, including:

a. Acute Angles
b. Asymmetrical facade
c. Lush ornamentation
d. Cantilevers (Projection that is unsupported at its projecting end)
e. Catwalks (Exposed cantilevered exterior corridors)
f. Decorative Concrete Blocks of various sizes used to provide visual interest
g. Decorative Railings
h. Exposed edges of concrete floors and walls projecting outward
i. Glass Mosaic Tile
j. Interior and Exterior Blending
k. Intersecting Planes
l. Jalousies
m. Ribbon Windows
n. Driveway drop-off area
o. Screen Block (Cast-concrete blocks)
p. Tray Balconies (Cantilevered balconies with concrete parapets)

Built in 1958, the Bay Harbor Continental Apartments was designed by Charles F. McKirahan, a prominent South Florida Architect of the mid-1950s and 1960s. Other works by this architect include: The Manhattan Tower Apartments (Ft. Lauderdale), Sunset Elementary School (Ft. Lauderdale), Bay Club Apartment Co-Op (Ft Lauderdale), the Coral Ridge Country Club, the Americana Motor Inn (Ft. Lauderdale) and the Castaways Motel in Miami Beach.

Charles Foster McKirahan was born in Tulsa Oklahoma on March 20, 1919. He studied at Oklahoma State University and obtained his B.S. in Architecture from the University of Illinois. He became licensed to practice architecture in the State of Florida, holding state license number 1700. In 1950, he became a member of the Broward County Chapter of the American Institute of Architects (AIA). In 1964, McKirahan was involved in a fatal car accident. He died at the age of 44 and was buried at the Fort Lauderdale Memorial park Cemetery.

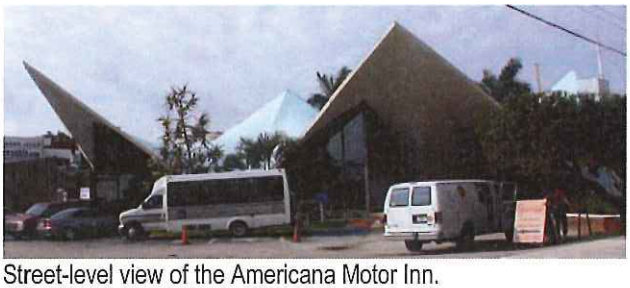
McKirahan practiced as a licensed architect for less than 15 years before his sudden death; however his design prowess and legacy is impressive. He designed works in his distinct MiMo style throughout South Florida, and in the Caribbean. Though many of his works have been demolished, overall his work is recognized as some of the strongest examples of MiMo architecture in South Florida today. Some of his principal works include:

a. Manhattan Tower Apartments (1953), Ft. Lauderdale (Existing)
b. Sunset Elementary School (1954) Ft. Lauderdale
c. Bay Club Apartment Co-Op (1954) Ft. Lauderdale
d. Time Square Shopping Center (1955) Ft. Lauderdale
e. Coral Ridge Country Club (1955) FT. Lauderdale (Existing)
f. Cotton Bay Club Beach House (1955) British West Indies
g. Ocean Manor Apartment/Hotel (1956) Ft. Lauderdale (Restored)
h. Bay Harbor Club Co-Op Apartments (1956) Bay Harbor Islands, Florida (Existing)
i. Nassau Beach Hotel (1957) Bahamas
j. Breaker Tower Co-Op Apartments (1958) Ft. Lauderdale
k. Bay Harbor Continental Co-Op Apartments (1958) Bay Harbor Islands, Florida (Existing)
l. Quito Hotel (1960) Quito, Ecuador
m. Bayview Office Building (1960) Ft. Lauderdale
n. Point View Co-Op Apartments (1961) Miami
o. The Americana Motor Inn (1963) (Demolished)
p. The Castaways – Miami Beach (Demolished)

The Manhattan Tower, Ft. Lauderdale, 1950s.

The Manhattan Tower, Ft. Lauderdale, today.

The Americana Motor Inn, Ft. Lauderdale, designed by Charles McKirahan in 1963 and considered a rare hyperbolic concrete structure, was demolished in 2007.



Street-level view of the Americana Motor Inn.

The Bay Harbor Continental Apartments building embodies an architectural type that was part of the pioneering vision of Shepard Broad for Bay Harbor Islands. Because major development occurred in Bay Harbor Islands from the late 1940s through the 1950s, MiMo architecture came to define the distinct sense of place for the east island. Not only does it remain as an excellent example of MiMo architecture, but it is one of the extant works that came out of the truncated career of architectural master Charles F. McKirahan. Today, Bay Harbor Continental Apartments remains as an example of the defining character of Bay Harbor Islands.

V. CRITERIA FOR DESIGNATION

The Bay Harbor Continental Apartments, located at 1135 103rd Street, Bay Harbor Islands, is significant under the following criteria, as set forth in Section 16A-10 the Miami-Dade Historic Preservation Ordinance:

(a) **Criteria Sec. 16A-10(1)(a),** Is associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric, paleontological and architectural history that have contributed to the pattern of history in the community, Miami-Dade County, south Florida, the State or the nation

(c) **Criteria Sec. 16A-10(1)(c),** Embodies the distinctive characteristics of a type, period, style or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinctions;

VI. STANDARDS FOR CERTIFICATE OF APPROPRIATENESS

Standards for Certificates of Appropriateness will follow the general guidelines as recommended for historic sites, as detailed in *The Secretary of the Interior's Standards for the Treatment of Historic Properties* as developed in 1992 and codified as 36CFR Part 68 in the July 12, 1995, *Federal Register* (Vol. 60, No. 133). However, ordinary maintenance and minor repairs will not be subject to review. Alterations to the interior of individual residential units will also not be subject to review.

VII. CONTRIBUTING FEATURES

The Bay Harbor Continental Apartments maintains a high degree of its historic integrity, with minimal alterations since its original construction in 1958. All exterior façades of the building are contributing resources, including the concrete and glass blocks, balustrades, pylon, rounded staircase enclosures, tray balconies, and associated concrete screen walls. Beyond the built structure, the central courtyard is integral to the historic character and setting of the Bay Harbor Continental Apartments. All features in the courtyard, including the overall spatial organization, visual relationships, circulation features, etc., shall be considered contributing features. Any proposed alterations to features that contribute to the significance and integrity of the Bay Harbor Continental Apartments require submittal of a Certificate of Appropriateness.

The interior spaces of individual condominium units are non-contributing resources. As such, alterations to these interior spaces would not require a Certificate of Appropriateness.

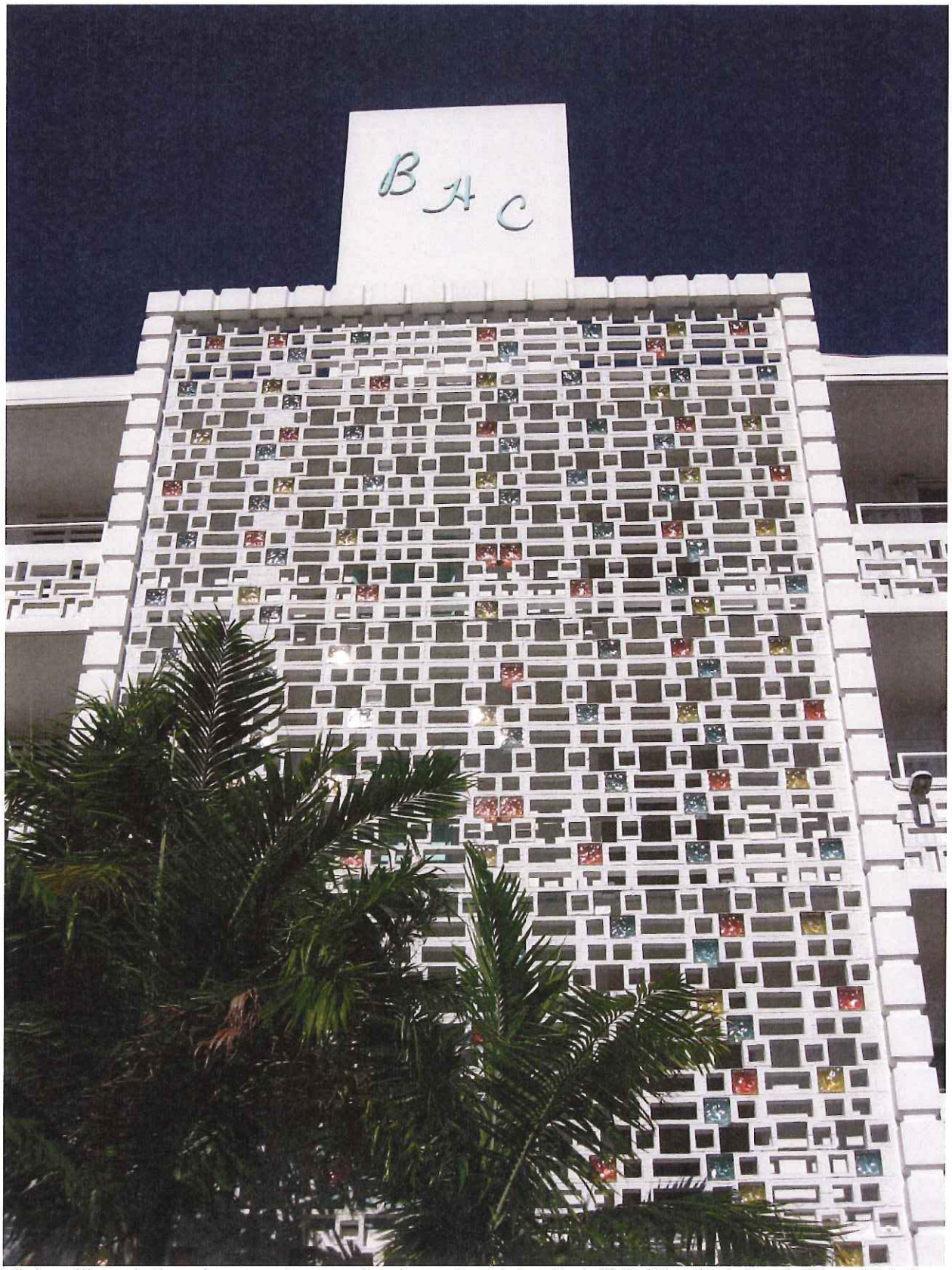
VIII. STAFF EVALUATION

Staff has performed site visits and research to better understand the historic context and existing character of the Bay Harbor Continental Apartments. Staff has determined that the Bay Harbor Continental Apartments, located at 1135 103rd Street, Bay Harbor Islands, meets the objective criteria for designation. This evaluation is based on the historic context and architectural qualities of the building, as it reflects the pattern of development and architectural history of Bay Harbor Islands; embodies the distinctive characteristics of mid-century Miami Modern (MiMo) architecture; and is one of a limited number of extant works by Charles F. McKirahan, a recognized architectural master.

IX. PROPERTY PHOTOGRAPHS

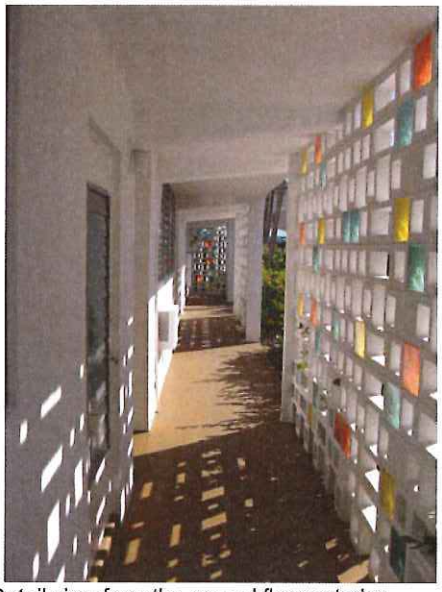
View looking north toward the eastern portion of the primary façade, which fronts on 103rd Street. The concrete and colored glass blocks that form the brise-soliel, balustrades, and projecting pylon are the primary features of this façade, 2010. (Miami-Dade County Office of Historic Preservation.)

View looking south along the eastern portion of the primary façade, Here the brise-soliel gives way to the concrete block balustrades, 2010. (Miami-Dade County Office of Historic Preservation.)



Detail view of the projecting pylon, concrete surround, and concrete and glass block, 2010. (Miami-Dade County Office of Historic Preservation.)

Detail view from the ground floor exterior corridor. Here the concrete and colored glass blocks provide shade while allowing fresh air to flow through the corridor, 2010. (Miami-Dade County Office of Historic Preservation.)



Detail view from the ground floor exterior corridor. The concrete and colored glass blocks also provide visual interest by creating sun/shade patterns inside the corridor, 2010. (Miami-Dade County Office of Historic Preservation.)

View from the northeastern corner of the building, looking along the rear building façade and a portion of the courtyard. The different concrete panels used in the tray balconies and along the ground floor are evident at left, 2010. (Miami-Dade County Office of Historic Preservation.)

Detail view of the projecting tray balconies. The concrete block matches that used in the balustrades on the primary façade, 2010. (Miami-Dade County Office of Historic Preservation.)

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XI. APPENDIX A: PROPERTY INFORMATION

Address	Folio Number	Legal Description	Property Owner
1135 103 Street Unit A1	13-2227-026-0010	Bay Harbor Island PB 46-5 Lot F Less S11ft Bay Harbor Continental Inc – Co-op Apt A-1 12 Shares of 397 or 19937-4706 0301 1	Joan Carney 1135 103 Street Unit A1 Bay Harbor Islands, FL 33154
1135 103 Street Unit A2	13-2227-026-0080	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT A-2 13 SHARES OF 397 OR 14934-2721 0391 4 COC 23262-2091 08 1997 5	Robert & June Kolbert 40 St. Andrews Circle South Hampton, NJ 11968
1135 103 Street Unit A3	13-2227-026-0150	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT A-3 13 SHARES OF 397 OR 18863-2765-2767 1099 1	Patricia Cawley 1135 103 Street Unit A3 Bay Harbor Islands, FL 33154
1135 103 Street Unit A4	13-2227-026-0220	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT A-4 13 SHARES OF 397 OR 18331-1065 0998 1	Margaret Tavares & Kathleen Weinstein 1135 103 Street Unit A4 Bay Harbor Islands, FL 33154
1135 103 Street Unit A5	13-2227-026-0290	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT A-5 14 SHARES OF 397 DEATH CTF MELVIN 611285 (ILL) OR 19925-3961 1000 1	Peter Acosta & Pura Perez 1135 103 Street Unit A5 Bay Harbor Islands, FL 33154
1135 103 Street Unit B1	13-2227-026-0020	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT B-1 10 SHARES OF 397 OR 17914-206 TO 210 1197 6	June Lantz 1135 103 Street Unit B1 Bay Harbor Islands, FL 33154
1135 103 Street Unit B2	13-2227-026-0090	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT B-2 10 SHARES OF 397 OR 18131-1704 0598 1	David & Audrey Gozlan 1135 103 Street Unit B2 Bay Harbor Islands, FL 33154

1135 103 Street Unit B3	13-2227-026-0160	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT B-3 10 SHARES OF 397 OR 18270-3999 0998 1	Monique Beaudet 1135 103 Street Unit B3 Bay Harbor Islands, FL 33154
1135 103 Street Unit B4	13-2227-026-0230	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT B-4 10 SHARES OF 397 OR 19767-1445 0501 5 COC 21701-2867 09 2003 1	William Zucker 1135 103 Street Unit B4 Bay Harbor Islands, FL 33154
1135 103 Street Unit B5	13-2227-026-0300	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT B-5 11 SHARES OF 397 OR 16090-2207 0893 6	Marjory Rossin & Jeannette Gato 1135 103 Street Unit B5 Bay Harbor Islands, FL 33154
1135 103 Street Unit C1	13-2227-026-0030	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-1 10 SHARES OF 397 OR 19609-3913 04 2001 1 COC 22859-1737 10 2004 4	Richard & Susan Olsen & Maria Maldonado 1135 103 Street Unit C1 Bay Harbor Islands, FL 33154
1135 103 Street Unit C2	13-2227-026-0100	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-2 10 SHARES OF 397 OR 18621-4422 0599 1	Mark & Lillian Hart 1135 103 Street Unit C2 Bay Harbor Islands, FL 33154
1135 103 Street Unit C3	13-2227-026-0170	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-3 10 SHARES OF 397 OR 21107-2206 0203 1 COC 22195-3377 03 2004 5	Clara Reed 1135 103 Street Unit C3 Bay Harbor Islands, FL 33154
1135 103 Street Unit C4	13-2227-026-0240	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-4 10 SHARES OF 397 OR 11462-503 0682 1	Pascual Innamorato 1135 103 Street Unit C4 Bay Harbor Islands, FL 33154

1135 103 Street Unit C5	13-2227-026-0310	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT C-5 11 SHARES OF 397 OR 15490-2227 0492 1	Gervaise Racine 201 Ch des Cedres St. Anne Des Lacs Quebec J0R 1B0 Canada
1135 103 Street Unit D1	13-2227-026-0040	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT D-1 10 SHARES OF 397 OR 17098-2450 & 2452 0296 1	Salomon Nehmad 1135 103 Street Unit D1 Bay Harbor Islands, FL 33154
1135 103 Street Unit D2	13-2227-026-0110	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT D-2 11 SHARES OF 397 OR 19047-2696 19411-2046 0300 1	Michael Hartman 1135 103 Street Unit D2 Bay Harbor Islands, FL 33154
1135 103 Street Unit D3	13-2227-026-0180	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT D-3 11 SHARES OF 397 OR 16475-1574 0394 1	Frances Griffith 1135 103 Street Unit D3 Bay Harbor Islands, FL 33154
1135 103 Street Unit D4	13-2227-026-0250	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT D-4 11 SHARES OF 397 DEATH CTF ELIZABETH OR 19849-4218 COC 23953-2023 10 2005 4	Nydia Gonzalez Sarrain 1135 103 Street Unit D4 Bay Harbor Islands, FL 33154
1135 103 Street Unit D5	13-2227-026-0320	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT D-5 12 SHARES OF 397 OR 20084-4623 0901 1 COC 24152-0288 01 2006 1	Martin Taplin 1135 103 Street Unit D5 Bay Harbor Islands, FL 33154
1135 103 Street Unit E1	13-2227-026-0050	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT E-1 10 SHARES OF 397 OR 17393-1717 0996 4	Sofia Zadeika 1135 103 Street Unit E1 Bay Harbor Islands, FL 33154

1135 103 Street Unit E2	13-2227-026-0120	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC -CO-OP APT E-2 10 SHARES OF 397 OR 21697-39/41 09 2003 1	Adolfo & Amelia Beorlegui 1135 103 Street Unit E2 Bay Harbor Islands, FL 33154
1135 103 Street Unit E3	13-2227-026-0190	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT E-3 10 SHARES OF 397 OR 17667-0290 0597 5 COC 24156-3724 01 2006 1	Martin Margulies 445 Grand Bay Drive Unit PH 1B Key Biscayne, FL 33149
1135 103 Street Unit E4	13-2227-026-0260	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT E-4 10 SHARES OF 397 OR 19904-0339 19999-4044 0801 5	Mirta D. Selva 1135 103 Street Unit E4 Bay Harbor Islands, FL 33154
1135 103 Street Unit E5	13-2227-026-0330	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT E-5 11 SHARES OF 397 OR 17519-0449 1296 1	Elizabeth & Richard Schmaeling 1135 103 Street Unit E5 Bay Harbor Islands, FL 33154
1135 103 Street Unit F1	13-2227-026-0060	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-1 10 SHARES OF 397	Jeffrey Koster 1135 103 Street Unit F1 Bay Harbor Islands, FL 33154
1135 103 Street Unit F2	13-2227-026-0130	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-2 10 SHARES OF 397 OR 14848-2928 1290 1	Edward & Pierrete Woolley 10195 St Denis Montreal H3L 2H9 Canada
1135 103 Street Unit F3	13-2227-026-0200	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC CO-OP APT F-3 11 SHARES OF 397 OR 21345-4291 04 2003 1	Louis & Sandra Lezama 1135 103 Street Unit F3 Bay Harbor Islands, FL 33154
1135 103 Street Unit F4	13-2227-026-0270	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-4 11 SHARES OF 397 COC 22272-1762 04 2004 4	Becky McIver 1135 103 Street Unit F4 Bay Harbor Islands, FL 33154

1135 103 Street Unit F5	13-2227-026-0340	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT F-5 12 SHARES OF 397 OR 18905-1006 1299 6	Leonor Kirksey 1135 103 Street Unit F5 Bay Harbor Islands, FL 33154
1135 103 Street Unit G1	13-2227-026-0070	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-1 14 SHARES OF 397 OR 13679-1604-1600 0588 1 COC 26529-3811/26529-3814 0708 5	Carlos de la Torre 1135 103 Street Unit G1 Bay Harbor Islands, FL 33154
1135 103 Street Unit G2	13-2227-026-0140	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC -CO-OP APT G-2 14 SHARES OF 397 OR 16727-3687 0493 1 COC 23112-3990 02 2005 5	Nancy & Scott Peters 1135 103 Street Unit G2 Bay Harbor Islands, FL 33154
1135 103 Street Unit G3	13-2227-026-0210	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-3 14 SHARES OF 397 OR 22828-2048/24557-0504 1104 1	John Timinsky & Lisa Mann 1285 NE 104 Street Miami, FL 33138
1135 103 Street Unit G4	13-2227-026-0280	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-4 14 SHARES OF 397 OR 12287-2899 0584 4 COC 22796-4491 09 2004 6	Leo Schattlack & Gladys Sharshon 330 Lagoon Drive Copiague, NY 11726
1135 103 Street Unit G5	13-2227-026-0350	BAY HARBOR ISLAND PB 46-5 LOT F LESS S11FT BAY HARBOR CONTINENTAL INC - CO-OP APT G-5 14 SHARES OF 397 OR 15967-1544 0693 1 COC 25661-1878 05 2007 1	DJS Bay Harbor LLC 459 Blue Road Coral Gables, FL 33146

XII. APPENDIX B: FUTURE DEVELOPMENT PLANS & ECONOMIC IMPACT

Based on the public comments and other information learned since the March 18, 2015 meeting of the Miami-Dade County Historic Preservation Board, the Office of Historic Preservation Staff provides the following analysis related to future development plans and economic impact. *See* Sec. 16A-10(III) of the Code of Miami-Dade County (stating that designation reports "shall take into consideration projected, proposed or existing public improvements and developmental or renewal plans").

Development Plans

The Bay Harbor Continental is a cooperative property that has been under contract for purchase since March 2014. The development group, P3 Real Estate, intends to purchase the building in its entirety, including all shares in the cooperative. With a closing date scheduled for September 2014, P3 hired an internationally renowned design team from Italy, Pininfarina. The design team set about to create a new development that would be high-end, with approximately 24 condominiums, each priced at a multi-million dollar minimum. Though the proposed 7-story building does not maximize the lot or density coverage that is allowable, it would require the complete demolition of the existing building. The new structure will cover more square footage than the existing building, leaving much less green/open space for future residents than is available at present. The Future Land Use Map from the Bay Harbor Islands Comprehensive Plan indicates that this property, along with the majority of the east island, is identified as being appropriate for medium-to-high density, allowing for 6-34 dwelling units per acre. Both the current building and the proposed building fall within this allowable density.

Economic Impact

In terms of economic impact, it is important to note at the outset that, generally speaking, designation of a property does not limit or regulate an owner's right to sell. Further, even after designation, there are many potential economic benefits associated with the historic designation of a particular property. For example, the Miami-Dade County Historic Preservation Code (the "Code") provides for an ad valorem tax exemption program, which offers tax benefits to owners of historically designated properties in connection with the redevelopment and preservation of existing structures. Owners of designated sites may also be able to take advantage of the Town of Bay Harbor Islands' own Transfer of Development Rights program, which, simply stated, allows property owners to sell, or transfer, their unused development rights to another property. The funds that result from the sale can then be reinvested in the continued maintenance and repair of the existing building.

Although such benefits can be substantial, the Code also recognizes that there may be special, unusual circumstances in which economic hardship allows the Board to vary or modify adherence to the Historic Preservation Ordinance. To that end, Staff has recently been presented with a great deal of public commentary and statements relating to economic hardship from the unit owners, developer, attorneys, and Town officials. Specifically, some unit owners have provided statements that they are depending on the sale of the building for their future costs of living. These owners have also indicated that they can no longer afford the costs associated with the on-going maintenance of the building, with some owners already behind in assessment and maintenance fees. On the other hand, other unit owners, particularly those petitioning the Board to consider historic designation, have indicated if the sale of the building goes through, they will be forced to sell their home and will not receive adequate sales profits to relocate to comparable waterfront property, resulting in their displacement from their home and community.

The developer has indicated that he has been in negotiations with the property owners for over a year, and that the current sales agreement was predicated on the mistaken understanding that any potential historic designation of the building was previously, and permanently, settled in 2010. The developer, who has spent

considerable amounts of money and resources on the project, specifically selected the Pininfarina design firm because he did not want to erect just another ordinary high-rise structure, as seen throughout the County and particularly in its urban core. Additionally, according to the developer, the original closing was set for September 2014, but was delayed by virtue of the developer's voluntary decision to work with the cooperative and its residents to resolve a tax issue. Indeed, just a week prior to the scheduled closing in September 2014, unit owners were purportedly made aware of a large corporation tax issue that would have significantly reduced the value of the sale, and the developer agreed to extend the closing until January 2015, in order to give the unit owners more time to find some solution to their tax issue. The closing has been extended again and is expected to take place in April 2015.

With investors on edge concerning the delays, the developer has indicated that if the building were to be designated, his development firm, P3, will not continue to pursue purchase and redevelopment of the property. However, the developer has indicated that he would be willing to incorporate some elements of mid-century design into the project, as a potential negotiated resolution that would allow the sale and project to go forward, while also attempting to pay homage to, and to honor, the current building's connection to the important MiMo architectural movement.

As laid out above, the issue of economic impact is clearly complicated, with varied and competing factors, viewpoints, and concerns at stake. Because, at this time, information regarding economic hardship has not yet been substantiated with documentation, it is difficult for Staff to fully analyze the matter. If such documentation or other evidence substantiating the claims of economic hardship noted above were to be presented for public hearing on the designation of the property, Staff notes that there may be a compelling basis for the Board to decide against designating the subject property. Prior to the public hearing, any claims of economic hardship must be substantiated in accordance with Section 16A-12 of the Code. *See* Sec. 16A-12(a) of the Code of Miami-Dade County (requiring submission of specified documentation and affidavit "at least fifteen (15) days prior to the public hearing" for any claim of undue economic hardship).

Exhibit 5:

Designation Presentation made by HP Staff to HP Board

BAY HARBOR CONTINENTAL

1135 103RD STREET

BAY HARBOR ISLANDS, FLORIDA

Historic Site Designation
April 15, 2015

SITE CONTEXT

SITE CONTEXT

BAY HARBOR ISLANDS, FLORIDA: HISTORIC CONTEXT

Shepard Broad, center, and then-county commission chairman Hugh Peters man the controls as dredging begins for Broad Causeway. Other commissioners are in background

I remember when

Broad saw a future in Bailey's swamp

KATHY McCARTHY
Miami News Reporter

Whether they like it or not, residents of Bay Harbor Islands can partially thank the FBI for the transformation of a mangrove swamp that was born into a middle-American dream by the bayside.

Bay Harbor Islands was melting more than mud when attorney-banker Shepard Broad traded his interest in the downtown Biscayne Building to the late Pierre Bailey in 1945 for a 232-acre swamp called "Bailey's Island."

Broad met Bailey through Bailey's business representative, Roy Calamia, who came to Broad asking if he knew anyone who wanted to buy Bailey's Island. The asking price was $600,000.

Broad wasn't willing to pay it, but he offered a swap with Bailey. By chance, Broad mentioned to Calamia, the Biscayne Building was leasing 2½ floors to the FBI.

"Do you have a lease with them?" Calamia asked Broad.

"No," Broad replied.

"You're in luck. If for no other reason, Bailey will enjoy throwing them out," Calamia joked to Broad.

Bailey, unknown to Broad, had a personal debt to settle with the FBI. The Frenchman, eager to serve democracy after his father was killed by Nazi soldiers, was rejected from the military by the FBI for security reasons.

Bailey took a slow coach train to Miami from New York and traded Bailey's Island for the Biscayne Building.

Broad looked at the swamp and saw gold.

"If you see a puddle of water, you might say, that's a big puddle.

> *Visionary? I don't know. What I believe in, I believe in . . . It's as simple as that*

When you can see a town being built there, that's vision," says Broad's wife, Ruth. "I'm a realist. I look at water and see water. I just didn't share Shepard's dreams."

But Broad never doubted the island's prosperity.

"I was so certain you wouldn't believe it. To the south, I saw a beautiful golf course, (Indian Creek), to the east was Surfside, and Bal Harbour (then called Bay Harbor) being developed next door by three Detroit big-timers. North was 1½ miles of county park (Haulover). How could I lose?"

Insight like that prompts the word "visionary" repeatedly found in past newspaper clippings and articles about Broad.

Broad scoffs at the term.

"I don't know," he says shaking his head. "What I believe in, I believe in . . . It's as simple as that."

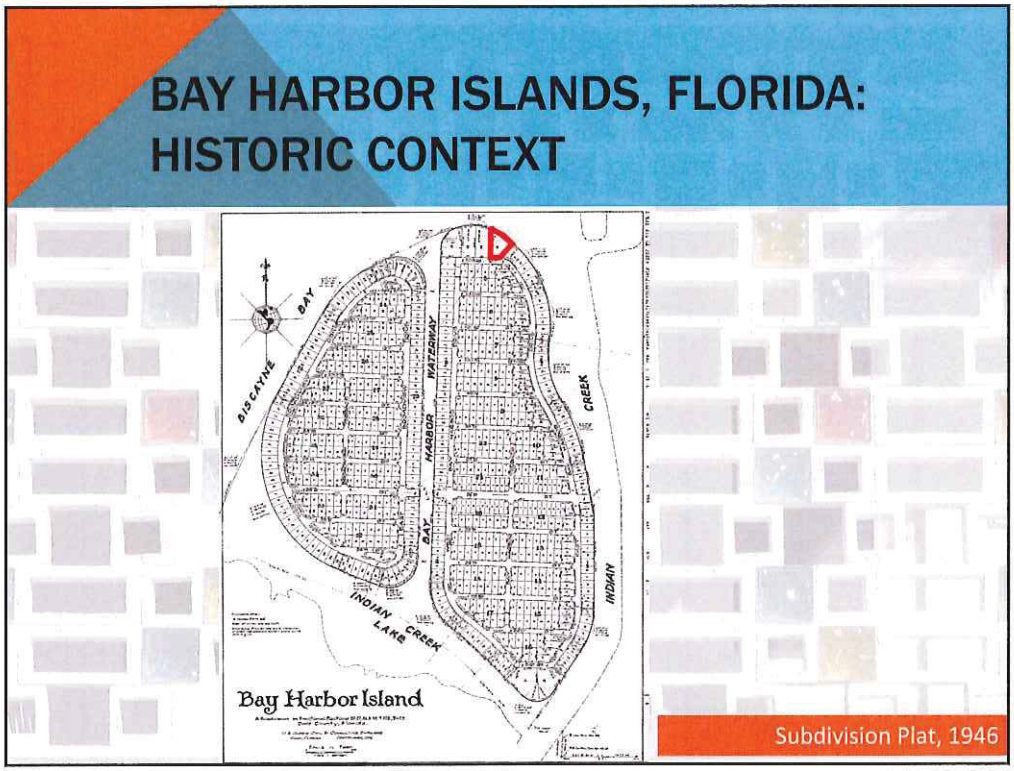
Broad was born in 1906 in Poznik, Russia, orphaned as a child, and fending for himself in the United States at 13. He worked and went to school, eventually working his way through New York Law School and becoming "a downtown New York lawyer."

"He never had to consult anyone.

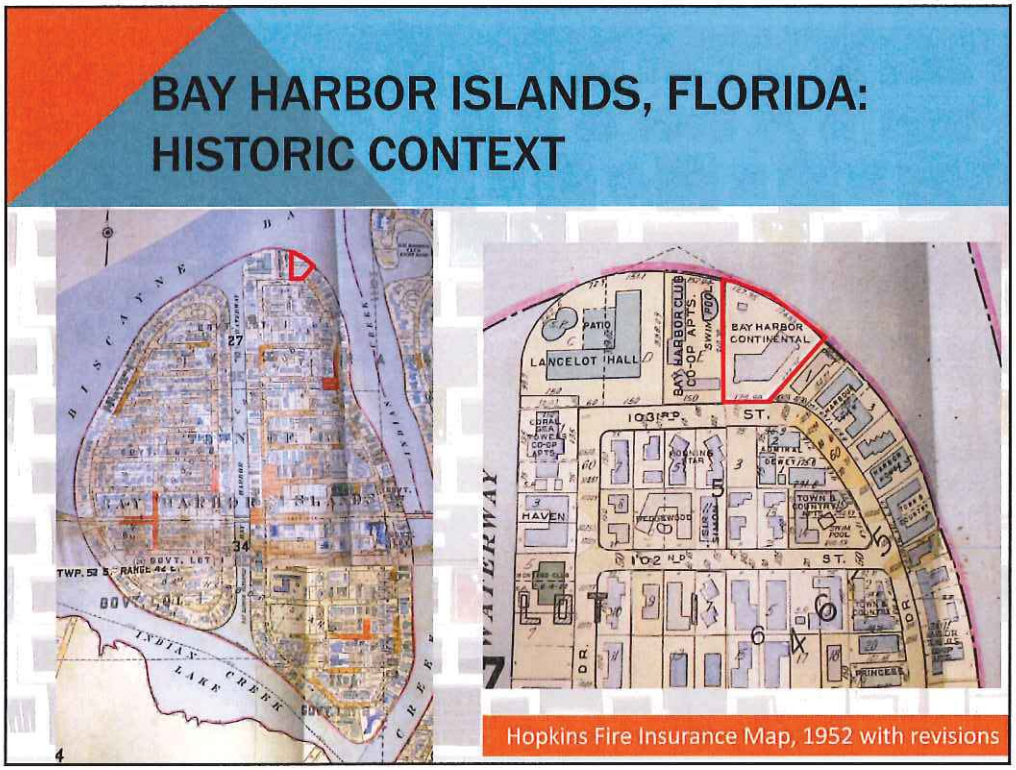
See BROAD, 2MB

Shepard Broad

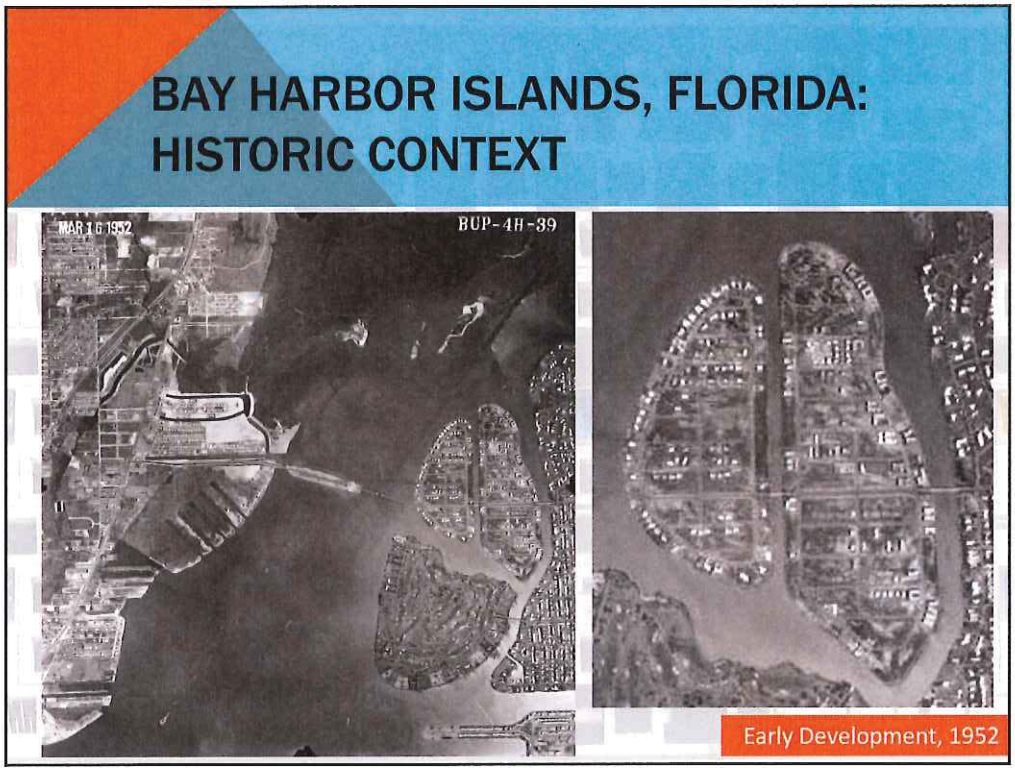
Bay Harbor Islands was planned and built by Shepard Broad, who came to the US from Minsk in 1920. He later came to Miami Beach in 1940. In 1945, Broad and his business partner, Ben Kane became interested in two undeveloped mangrove swamp islands located in Biscayne Bay, known as Bailey's Swamp. During high tide, it wasn't even visible. But Broad had a vision. His vision, that many deemed too crazy to succeed, was to create two islands: one for single-family homes and one for multi-family complexes and shops. To make this a reality, he made a trade with Pierre Bailey, the owner of the undeveloped mangroves. Pierre was given Broad's interest in the downtown Biscayne Building, and Broad was given the swampland.



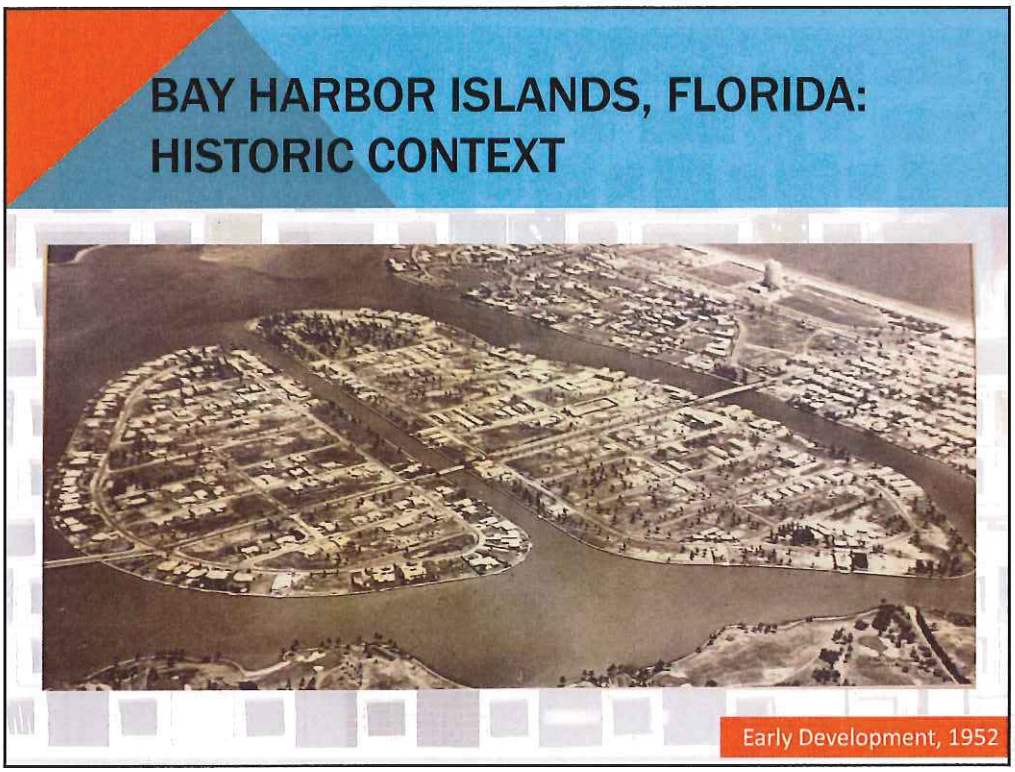
Bay Harbor Islands was built according to Broad's plan – with the 103-acre west island accommodating single-family homes, and the 150-acre east island with multi-family complexes and a modest business district with a 150-foot wide waterway separating the two. Each island was composed of rectilinear blocks with a perimeter road lined by waterfront housing.



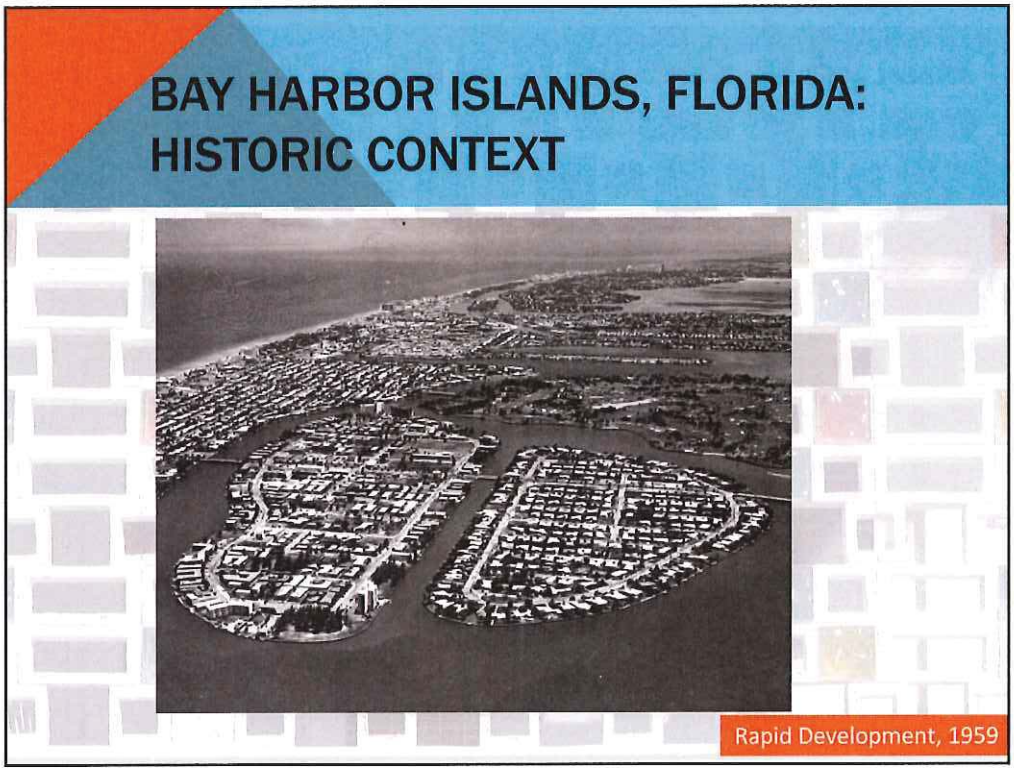
On the east island, East and West Bay Harbor Drive encircle the island. Kane concourse, the commercial strip named for Broad's partner, divides the east island.



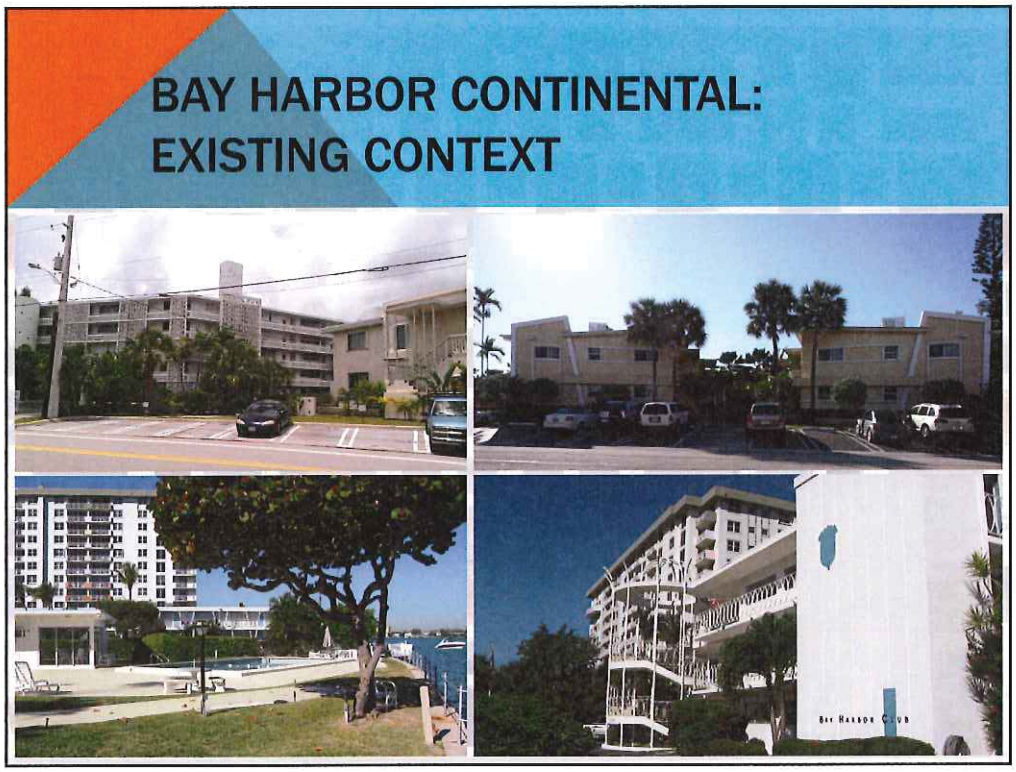
In order to fund the proposed development, Broad and Kane began selling lots on the East Island in April 1946. Within 3 months, they sold enough lots to fund the entire venture. In 1947, the Town was incorporated and development began in earnest. This aerial from 1952 shows BHI in context.



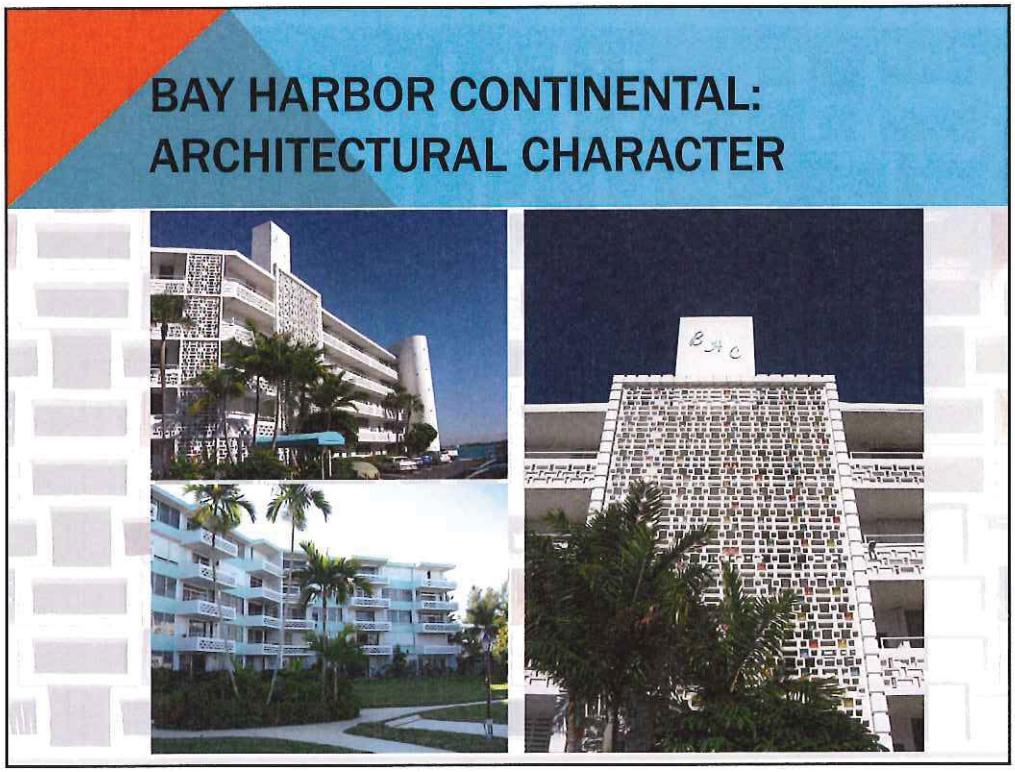
The detail shows large swaths of land on each island that were still undeveloped.



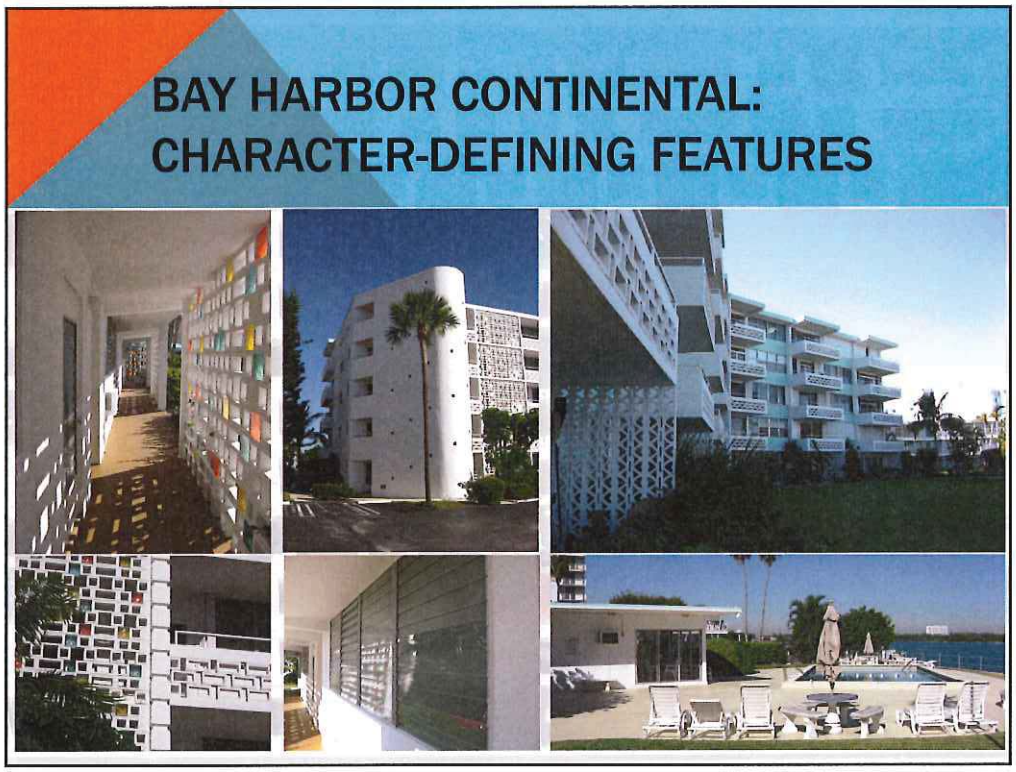
Compare this 1959 aerial with the previous 1952 image and you can get an idea how rapidly the town was developed. This aerial image shows the complete build-out of both islands just 12 years after Broad created the islands and incorporated the Town.



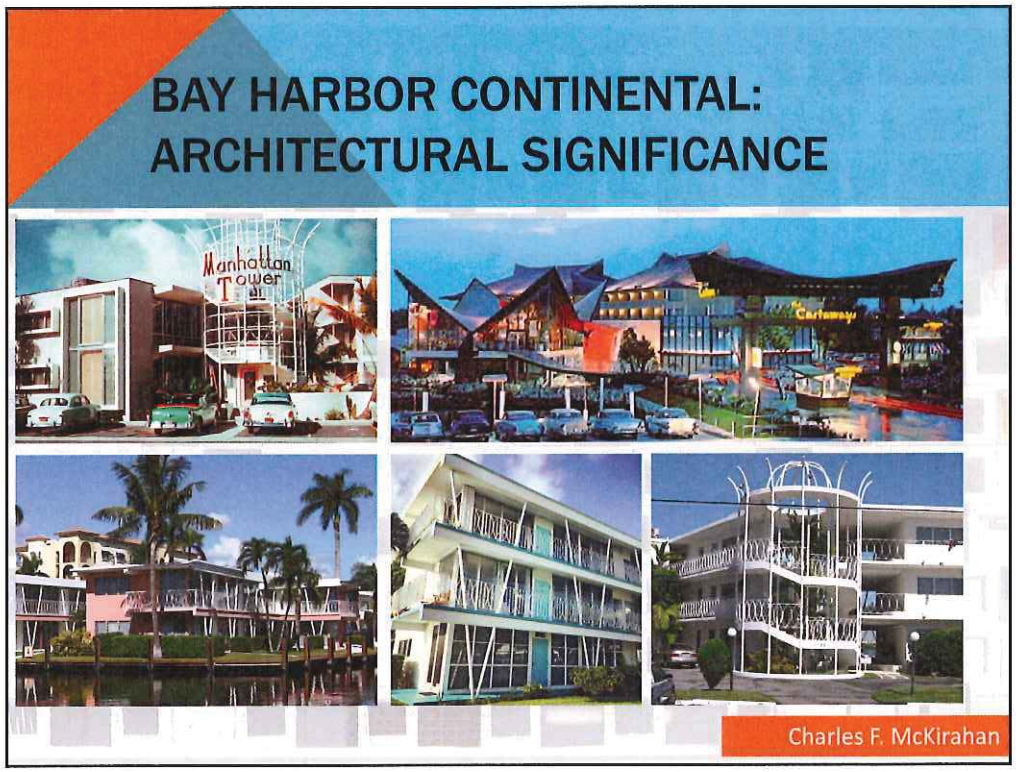
Existing context - buildings to either side.



Architecturally, the Bay Harbor Continental embodies the mid-century Miami Modern, or MiMo, style. It has many features typically seen in MiMo buildings, including strong geometric features, asymmetrical façade, exterior walkways, concrete block brise-soliel, cantilevered tray balconies, prominent pylon on the main façade. Additionally, it displays the garden style site planning that emerged as part of the MiMo style – designers sited the buildings in such a way to optimize views, sun, breezes, and green space for residents.



Here's some more detailed views of the prominent architectural features that typify the MiMo style and define the character of the Bay Harbor Continental, including the concrete and glass block screens that line the front façade; the curved stairwell enclosures with diagonal rows of geometric punch-outs; tray balconies with concrete balustrades and eyebrows and screen walls on the ground floor; jalousie windows; open courtyard with pool on the waterfront side. The pool house, while modest, displays the wide cantilevered roofs typical in MiMo design.



In addition to the architectural character, Bay Harbor Continental is also significant as the work of Charles Foster McKirahan. McKirahan was a licensed architect in Florida and in 1950 he joined the Broward County Chapter of the American Institute of Architects. McKirahan embraced the new cultural ideals of progress and optimism that emerged during the mid-century. Through his architectural work, he helped define the emerging design style of the mid-century, designing playful, iconic buildings throughout South Florida and the Caribbean. You can see some patterns and features that he incorporated into multiple designs. Birdcage features at Manhattan Tower in Ft. Lauderdale and the BH Club; inverted geometric roof at the now-demolished Castaways; angled beanpoles and geometric railings at the Las Olas Club and Bay Harbor Towers.

Just 14 years after McKirahan's arrival in South Florida, he died in a car accident at the age of 44, cutting short his career and his impact on mid-century architecture. Though he practiced for less than 15 years before his death, his design prowess and legacy is impressive. Many of his works have been demolished, but overall his work is recognized as some of the strongest examples of MiMo architecture in South Florida.

DESIGNATION CRITERIA

a) *Associated with distinctive elements of cultural, social, political...and architectural history that have contributed to the pattern of history in the community.*

c) *Embodies the distinctive characteristics of a type, period, style or method of construction or work of a master...*

When considering a property for local historic designation, it must meet at least one of the objective criteria. Bay Harbor Continental meets both Criteria A and C.

STAFF EVALUATION

Staff has determined that the Bay Harbor Continental, 1135 103rd Street, has a high degree of integrity and meets the criteria for designation, based on:

- ***Historic context*** *– representative of the pattern of development in Bay Harbor Islands; contributes to understanding architectural heritage of Bay Harbor Islands*
- ***Architectural qualities*** *– embody distinct characteristics of mid-century Miami Modern (MiMo); work of recognized architectural master, Charles F. McKirahan*

The Historic Preservation Staff performed thorough research, analysis, and evaluation of the Bay Harbor Continental and determined that it has a high degree of historic integrity and meets two of the objective criteria for designation. This evaluation is based on the building's historic context – it is representative of the pattern of development in BHI and contributes to a better understanding of the architectural heritage of BHI; and based on its architectural qualities – embodies distinct characteristics of the significant MiMo style; and is one of a limited number of extant works by Charles F. McKirahan, a recognized architectural master.

FUTURE DEVELOPMENT PLANS & ECONOMIC IMPACT

Development Plans

- Property currently under contract with closing extended
- Plan proposes 7-story, high-end, luxury condo
- May incorporate mid-century style elements

Economic Impact

- Designation does not limit/regulate right to sell
- Potential economic benefits of designation
  - Ad Valorem Tax Exemption
  - Transfer of Development Rights
- Public testimony related to Economic Hardship

In addition to the objective criteria, we must also consider current development plans and potential economic impact. The property is currently under contract with the closing extended from last September. The development plan proposes a 7-story, high-end luxury condo in place of the existing building. The design may incorporate mid-century style elements.

In terms of economic impact, it is important to note that designation does not limit or regulate an owner's right to sell. After designation, there are many potential economic benefits, including the ad valorem tax exemption program. Owners of historically-designated properties in BHI may be able to take advantage of the Town's Transfer of Development Rights program, which allows property owners to sell, or transfer, their unused development rights to another property. The funds that result from the sale can then be reinvested in the continued maintenance and repair of the existing building.

Although these benefits can be substantial, the County Preservation Ordinance also recognizes that there may be special, unusual circumstances in which economic hardship allows the Board to vary or modify adherence to the Ordinance. As you heard at the last meeting, and as you will hear later today, a great deal of public commentary has been provided related to a potential economic hardship if this property is designated. Some unit owners have provided statements that they are depending on the sale of the building for their future costs of living. These owners have also indicated that they can no longer afford

the costs associated with the on-going maintenance of the building, with some owners already behind in assessment and maintenance fees. Other unit owners have indicated if the sale of the building goes through, they will be forced to sell their home and will not receive adequate sales profits to relocate to comparable waterfront property, resulting in their displacement from their home and community.

As you can see, the issue of economic impact is complicated, with varied and competing factors, viewpoints, and concerns at stake. Members of the Board, you must carefully consider any and all claims of economic hardship as part of the determination.

PUBLIC COMMENT & BOARD DISCUSSION

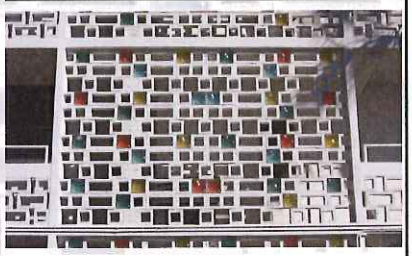


Exhibit 6:

HP Board Meeting Minutes Pertaining to Bay Harbor Continental from February 18, 2015

(HP Board accepted the owner petition, and instructed Staff to begin designation procedures for Bay Harbor Continental)

Meeting Minutes Pertaining to Bay Harbor Continental[1]

Miami-Dade County Historic Preservation Board
Minutes of the February 18, 2015 Meeting

History Miami
101 C West Flagler Street
South Building Theatre
Miami, FL 33130

IV. OLD BUSINESS

OB1. Discussion on Areas of the County in Need of Preservation.

Chief Kauffman asked if she could first present the information that Board member Bob McKinney has requested at a previous board meeting regarding any previous surveys the County has done for historic preservation purposes. She gave a presentation on the various survey efforts that have been funded by and/or performed by the County.

The presentation also included a discussion on those properties that have had designation requests by the owner, and are in the pipeline right now waiting to come before the Board. These efforts may have to wait, however, since Staff is currently dealing with many other items that have taken priority.

Lisa Mann, 1135 103rd Street - There is so much construction and demolishing of buildings on the east island in Bay Harbor Islands. Please designate our building at 1135 103rd Street. The building is in danger of being demolished.

Chair Novick - Asked Staff when a moratorium is put into effect.

Chief Kauffman - A moratorium begins at the point when a report is given to this Board.

Chair Novick – Asked if the moratorium goes into effect when the Board votes for staff to start designation process.

Chief Kauffman - No, once the report is filed with the Board, that's what kicks in the moratorium.

Chair Novick – Expressed that he did not think that was correct.

Eddie Kirtley, County Attorney - She is right. It is the filing of a designation report that triggers the moratorium.

[1] This is a synopsis of what occurred at the HP Board meeting. A full audio tape is available upon request from the Office of Historic Preservation.

Mitch Novick, Chair – We've heard about a lot of different buildings today. A lot of things need protection. Defers to his colleagues and asks how do they think the Board should proceed.

Dennis Kerbel, County Attorney - Suggested an appropriate motion would be to direct staff to start preparing reports to analyze the structures that the Board is interested in preserving. Stated that there is a petition from the owners at 1135 103rd Street for which a report was prepared previously.

Chair Novick - So let's begin with those two. Those two buildings according to the County Attorney's Office, would have the moratorium start today.

Paul George, Board - Suggested that the Board needs a little more clarity and does not want to do anything piecemeal. Asked if someone from Bay Harbor submitted information on the building they are requesting to designate.

Chief Kauffman - Lisa Mann handed this to us. This is a petition to designate the 1135 103rd Street, known as the Bay Harbor Continental.

Mitch Novick, Chair - Stated that he had instructed Staff to bring those old reports back to the Board for this meeting. Also wants Staff to update the building-by-building survey.

Dennis Kerbel, Attorney – Wanted to clarify that this is a unique situation because these reports were already filed with the Board four years ago, but those applications were withdrawn. Suggested that at the very least you could direct Staff to pursue the designation and have the moratorium kick in at the next meeting.

Mitch Novick, Chair – Asked again if it was appropriate for the Board to make a motion to direct staff to prepare the preliminary evaluation designation report.

Dennis Kerbel, Attorney - Reiterated that there is an owner petition that has been presented today for 1135 103rd Street in Bay Harbor Islands.

Paul George, Board – Indicated that he saw this as a good first step, and to open up the issue of studying this for possible designation.

Ronda Vangates, Board – Wanted to know from staff if the report done in 2010 and requested to be brought here by the Board chair was provided to everyone on the committee.

Chief Kauffman – Indicated that there are copies here for all if they are needed.

Dennis Kerbel, Attorney – Advised the Board that in the abundance of caution, because this was not specifically on the Agenda, that perhaps the Board could direct Staff to bring back an updated report next month, which will trigger the process then.

Motion was made by **Dr. Paul George** to direct staff to bring back a designation report to the next meeting for the Bay Harbor Continental, located at 1135 103rd Street. 2nd by **Mitch Novick.** Motion was approved.

Gary Appel	Yes	Mitch S. Novick	Yes
Ruth Campbell	Yes	JoEllen Phillips	Absent
Adriana Cantillo	Yes	Enid Pinkney	Absent
Rick Cohen	Yes	Edmundo Perez	Absent
Paul George	Yes	Ronda Vangates	Yes
Robert McKinney	Absent		

Exhibit 7:

Petition by Individual Unit Owners Submitted to the HP Board on February 18, 2015

EXHIBIT B

February 10, 2014

Miami Dade County
Office of Historic Preservation
Stephen P. Clark Center
111 NW 1st St. - 12th Floor
Miami, FL 33128

To Whom It May Concern:

We would like to petition the County's Historic Preservation Board of begin the process to designate our building the Bay Harbor Continental Inc. as historical. The building is located at 1135 103rd Street, Bay Harbor Islands, Fl 33154. The building is a wonderful example of MIMO architecture, and was designed by a prominent architect by the name of Charles McKirahan who has had other works designated by the National Register of Historic Places.

Thank You,

Carlos De La Torre

Lisa Mann

Clara Reed

Solomom Nehmad

Pascual Innamorato

Exhibit 8:

Letter, dated February 23, 2015, to Property Owners Notifying them of Petition by Owner

(Identical letter sent to all unit owners)

MIAMI-DADE COUNTY
miamidade.gov

Regulatory and Economic Resources Department
Office of Historic Preservation
111 NW 1st Street, Mailbox 114 • 12th Floor
Miami, Florida 33128
T 305-375-4958

February 23, 2015

Joan Carney
1135 103 Street Unit A1
Bay Harbor Islands, FL 33154

RE: Historic Designation of Bay Harbor Continental

Dear Ms. Carney:

At the February 18, 2015 Miami-Dade County Historic Preservation Board meeting, a petition was made by Bay Harbor Continental co-operative owners to consider the property for local designation. As a result of that petition, the Miami-Dade County Historic Preservation Board has requested that the property located at 1135 103 Street, Bay Harbor Islands, be fully evaluated by staff to determine its eligibility for designation as a local historic site.

Historic designations serve to recognize our community's unique historic and architectural sites. Designation of structures helps promote the reuse and preservation of the Town's distinct resources, and it assists historic property owners in rehabilitation efforts through the Ad Valorem Tax Exemption program.

The Board will hold a public hearing to either approve or deny the designation of Bay Harbor Continental, 1135 103 Street, no sooner than April 2015. As a property owner, you will receive additional information, including meeting date and location, prior to any scheduled public hearing.

The proposed designation of Bay Harbor Continental provides an opportunity for property owners, such as yourself, to be part of a concerted effort to enhance the development and character of Bay Harbor Islands by celebrating its unique architectural heritage. We hope you are proud to be the owner of a potentially historic building and we are happy to discuss the benefits of historic designation with you at your convenience.

Sincerely,

Sarah K. Cody

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County

Enclosures: Historic Designation Fact Sheet
Ad Valorem Tax Exemption Fact Sheet

Cc: Ron Wasson, Town Manager, Bay Harbor Islands

Delivering Excellence Every Day

Exhibit 9:

Letter, dated March 7, 2015, to HP Board from Bay Harbor Continental, Inc. President

March 7, 2015

VIA EMAIL and HAND DELIVERY

Miami-Dade County Historic Preservation Board
Office of Historic Preservation
Stephen P. Clark Center
111 NW 1st St. - 12th Floor
Miami, FL 33128

RE: Bay Harbor Continental, Inc.
1135 103rd Street, Bay Harbor Island, Fl. 33154 ("Subject Property")

Dear Chairman Novick and Board Members:

It has come to our attention that at the Historic Preservation Board meeting on February 18, 2015, a petition for historic designation was submitted for our property, and the Board directed staff to prepare a designation report for the Bay Harbor Continental to bring back something that we had already endured in 2010, had opposed it and thought it to be resolved in our favor. Bay Harbor Continental, Inc. does not support nor want such designation. The building does not warrant preservation and the proposed historic designation will have a negative impact on the property and its residents. Furthermore, we do not support nor want staff to continue the preparation of any designation report or any further consideration by the Board.

Bay Harbor Continental, Inc. is a cooperative owner of a residential property in Bay Harbor Islands, Florida which consists of 35 residential cooperative units. We are familiar with the Historic Preservation Board as well as the history of the site and considerations that have been taken in the past. In 2010 initiation of designation of the Bay Harbor Continental (1135 103rd Street) and the Bay Harbor Club Co-op (1155 103rd Street) began. Subsequent hearings were then scheduled in front of the Historic Preservation Board. Bay Harbor Continental, Inc. at that time expressed its vigorous opposition to the proposed designation of the building. We also expressed concerns over the negative impact designation would have on the property. The designation was subsequently withdrawn, and we believed we were free from this threat of historic designation.

Subsequent discussions by the Bay Harbor Continental Inc.'s unit owners resulted in the decision to list the property for sale with a real estate broker (Coldwell Banker) in 2013. This decision was influenced greatly by the fact that the designation had been withdrawn and we felt free to sell our property to the highest bidder. Bay Harbor Continental, Inc. moved forward with the sale of the property and in 2013 received three offers and selected the highest offer from a group that also demonstrated to be capable of developing something unique and responsible on the site. Bay Harbor Continental, Inc. approved the sale which culminated in 30 of the 35 members (86%) voting in favor of selling the Property when the requirement according to our By-Laws is 75%.

We are the owners of this building. This building is not a hotel or a tourist attraction. For many, it is homestead property, and the sale of the property will allow many of the individuals to retire. Bay Harbor Islands is a quiet bedroom community and we don't want to become a tourist attraction. Our building is a simple multi-family apartment building that has outlived its usefulness. The units are cramped, small, and some in poor condition. Keep in mind that these buildings on our island our built at ground level not like the new structures that are built above the base flood level. Being waterfront creates additional major concerns. The coming of a tidal surge could cause irreparable damage and could create a huge problem for our ground floor units. The building given its age has issues dating back to its original construction. A majority of our members are still paying a loan that we took several years ago for major repairs. A future of increased maintenance and special assessments creates a financial burden on all of our members. Over and above we have no financial reserves. Increased maintenance and assessments will create a situation that will cause a forced sale of units at a greatly reduced price simply because the owners will not have the funds to pay for these expenses.

We were very upset to learn that County staff in the summer of last year, without any consideration or communication with our residents, volunteered our building to the National Trust for Historic Preservation and actually actively promoted media attention through press releases. And now, without any public workshops, or presentations within our own community, and without inviting public input or input from the Town of Bay Harbor Islands, the Historic Board has decided to swiftly move forward to designate our property against our will.

Any further consideration of the potential designation of this property will significantly impact our lives. Our sale of this property is so far along, that it seems incomprehensible that the Board is even contemplating this at what seems to be the 11th hour. The closing is set for April and the buyers have already informed us that they themselves have incurred close to a million dollars on their site plan and design development and legal and other associated costs.

Your further pursuit of historic designation for our Private Property will create an enormous financial hardship on the lives of unit owners and all parties involved. Kindly halt any further actions on this matter.

Sincerely,

Robert Kolbert
President of The Bay Harbor Continental

cc.

Mayor Carlos Gimenez
Board of Commissioners of Miami-Dade County;
Members of the Town Council Town of Bay Harbor Islands;

Exhibit 10:

HP Board Meeting Minutes Pertaining to Bay Harbor Continental from March 18, 2015

(HP Board accepted Designation Report prepared by OHP Staff)

Meeting Minutes Pertaining to Bay Harbor Continental[1]

Miami-Dade County Historic Preservation Board
Minutes of the March 18, 2015 Meeting

Stephen P. Clark Center
111 NW 1st Street
22nd Floor Rear Conference Room
Miami, FL 33128

V. PUBLIC COMMENT

Chair Novick indicated that the public may comment on any agenda item that is not a public hearing, but please state your name and address and if everybody can limit their remarks for 2 minutes. Neisen O. Kasdin, Attorney, requested more time.

Chair Novick asked how many people were in the room to speak about the Bay Harbor Continental and asked Mr. Kasdin who he was representing. **Neisen O. Kasdin, Attorney** replied he's the attorney for the Bay Harbor Continental as well as other unit owners.

Dennis Kerbel, County Attorney: Asked if there is anyone in the room that is not here for the Bay Harbor Continental or Bay Harbor Club? Suggests that we call the persons to speak for the Bay Harbor Continental and Bay Harbor Club first.

Chief Kauffman indicated that there are reports for these two properties that are ready to be filed with the Board.

Board Member, Gary Appel: Had a question about conflict since one of the building's shareholders of the Continental is an officer of a company that owns a hotel that he has done some tax work for.

Dennis Kerbel, County Attorney: That is a question that needs to be raised on the Commission on Ethics because we can't give our opinion on those sorts of conflicts so we err on the side of caution.

After further discussion, Board member Gary Appel decides to recuse himself from this item.

Chair Novick: Addresses everyone in the room that at this time they will take public comment.

Neisen O. Kasdin Attorney from Akerman LLP: I am representing P3 Investments, LLC which is an affected party under contract with the Bay Harbor Continental. He gave a brief

[1] This is a synopsis of what occurred at the HP Board meeting. A full audio tape is available upon request from the Office of Historic Preservation.

history with regards to this property, including the previous attempt to designate it in 2010. That effort was subsequently withdrawn in February 2011. The residents of Bay Harbor Continental thereafter decided to list the property for sale in 2013. To my knowledge, and they can speak for themselves, this decision was greatly influenced by the fact that the designation had been withdrawn. In 2013, out of 35 unit owners, 86% of the owners of the co-op voted in favor of selling the property which exceeded the requirement in their own by-laws. The property has been under contract with our client P3 Investments for several months and a closing is set.

Laid out several issues that he wanted to point out to the Board. Stated there was lack of notice at the 2/18/15 HP Board meeting when the Board took action regarding the designation of the property. In his opinion, a withdrawn application cannot be raised again. Stated that Bay Harbor Continental is the sole owner of the property and so it was improper for three individuals to be able to petition the Board for designation as owners. Also noted that the ordinance says the Board is encouraged to obtain permission from the owner prior to initiating designation, and the cooperative Board was not asked for permission to initiate designation. Goes on to speak to the economic hardship issue, and states that the designation report does not address the economic hardship issue at all. Many of the residents are depending on the sale of this building so that they can retire. The building has severe maintenance issues as well and there are insufficient reserves in the budget and the residents, many of whom are elderly and on a fixed income, cannot afford the assessments to pay for essential repairs. If assessments and maintenance rise it will affect the sale of units because the owners have no funds to pay for these expenses.

P3 Investment has already expended a significant amount of money in the acquisition of the property and plans for the redevelopment of the property along with legal fees, contract fees, architectural fees, and other costs. The continued action and interference in the closing of the contract may result in multi-million dollar damages to Bay Harbor Continental, the co-op owners, and P3. Indicated that the developer of the project is willing to explore conserving certain elements of that structure for reinterpretation in the new structure.

Is recommending that this Board reject the designation report and discontinue further action with Bay Harbor Continental. Will be placing a copy of a letter into the record setting forth our objections. Indicated that they will also be submitting over 20 affidavits from co-op shareholders expressing their objections to this action today.

Chair Novick: Thanks Mr. Kasdin for a good presentation. County Attorney's office do you have anything to say?

Dennis Kerbel, County Attorney: If you wish to address it now, we will.

Chair Novick thinks it makes sense to address the legal elements with the Board before we get into any merits being discussed by the residents.

Dennis Kerbel, County Attorney: There are a couple of issues here. One is the issue of owners and who can give the petition. As you will recall from several meetings back, this Board already addressed the issue of whether or not an individual condo unit owner could petition as an owner, even though they did not have the support of the rest of the condo unit owners or condo association. It was determined that they could.

Chair Novick that applies to shareholders or co-ops as well?

Dennis Kerbel, County Attorney: I understand that co-ops are handled a little bit differently. The question is whether the County's historic preservation ordinance and this Board recognize them as owners.

Chief Kauffman stated that we use the owners as listed in the Property Appraiser website to send notifications out to. The Property Appraiser website lists unit owners individually.

Dennis Kerbel, County Attorney stated the Board can consider that to be sufficient, and it is within their purview to decide to go forward with the petition or not. Also reminded the Board that they have the independent authority to designate any property and to initiate the process themselves, without an owner petition.

Mr. Kerbel went back and read from the minutes from the last meeting. Noted that the Chair had asked staff to bring back the reports that had been previously prepared and the Continental is one of them. At the same time while that was being requested, the Board was handed a petition from these owners asking the Board to initiate the designation process. The Motion clearly stated that the Board was not doing it on their own initiative, but that still is one avenue that is open to the Board. Advised the Board to consider what Mr. Kasdin is saying about the ownership issue, but you have the option to avoid that issue all together, since the Board can initiate on their own.

Chair Novick indicated that we needed to move things along. We shouldn't have any more five minute presentations.

Neisen Kasdin, Attorney objected to the time limits.

Chair Novick: Stated all shareholders will get two minutes and that he allowed Mr. Kasdin way more than the 7 minutes originally given.

Carter McDowell, Attorney, 1450 Brickell Avenue. Indicated he was representing the Town of Bay Harbor Islands. Objected to the Board moving forward with this process. Stated the Town has not been given any letters as to this process. State Statute requires any land development order requires coordination to ensure it is consistent with the Comprehensive Development Plan. Does not believe that these actions are consistent with the CDMP and there has been no coordination, no presentation to the local planning of the Town nor the County. Also stated that our staff has agreed to hold a workshop in the Town of Bay Harbor

Islands on the 31st of March 2015. To take action before you even hold a workshop to talk to the residents of the Town is clearly premature.

Chair Novick: Asks if staff and the County Attorney's office agrees with his statements.

Dennis Kerbel, County Attorney: Reminded the Board that it is not taking action to designate the property. There was discussion between Dennis Kerbel and Carter McDowell on this process. This is the filing of the report, which is what is supposed to happen subsequent to the Board asking Staff to prepare a report, which they did, at the last meeting. The ordinance does not require any advance notice of the moratorium. The ordinance requires notice of the proceeding to designate, and notice of the designation hearing. A moratorium is in place until that hearing can be had. It is meant to preserve the status quo until the Board can properly take action.

Chair Novick asked to now hear from those shareholders or anyone else regarding the Continental.

Robert Kolbert, 1135 103rd Street: Handed in a letter for the record. He is the President of the Bay Harbor Continental Board. Had 86% of the membership in favor of going into a contract. Property is in distress, needs multiple repairs. They have no reserves to make the repairs. Lots of divorced women, elderly citizens living in the building. This designation is against our desires to get out of the building. Not in favor of designation.

Chair Novick reminded speakers to please keep remarks to two minutes.

Jeff Koster, Bay Harbor Continental: Feels it is admirable to try to keep a building that is being destroyed, but you have to look at the lives of the people that are living in that building. Indicated that his neighbor is incapacitated and needs full time care. Lost half of his savings in 2007. Loves the building, and has been coming down to the building since 1958, but needs the sale in order to survive. Many of the other people in the building need the sale just in order to survive. Submitted another letter into the record. Against the designation.

Leonor Kirksey, 1135 103rd Street: Has lived in the Bay Harbor Continental for over 19 years. Has noticed that there is a very difficult situation going on now because these people are trying to get rid of our building, but we bought those units to spend the last days of our lives and we are happy. We have been maintaining that building, we are able to pay our maintenance and taxes and we were also able to get $400,000 loan to maintain the building. So feels it is not a question that we are desperate and dying, but lately they have not been keeping the building because the management company is in cahoots with the people that are selling. Begs the Board to look at the people that want to stay there. We bought the building and we wish to stay there. In favor of designation.

Gervaise Racine, 1135 103rd Street: For her she feels it is very sad because she invested her money in that building and it was for her retirement. Now since the building is the way it is

today she will have to eventually borrow money to pay for assessments to repair the building because there is no money in the reserve. Against the designation.

Kathleen Weinstein, 1135 103rd Street: States that 85% of the shareholders voted a year ago to sell the building. Asks the Board to please withdraw from your interest in Bay Harbor Continental. Against the designation.

Chief Kauffman: Just for the record, Ms. Weinstein's letter that came to us by email was distributed to the Board as part of the packet.

Nancy Peters, 1135 103rd Street: She also signed to sell, because her husband is in an assisted living facility and needs the money from the sale of the unit in order to provide for her husband's medical costs, but if the unit is not sold, doesn't know what is going to happen. Against the designation.

Joel Reed, P3 Real Estate Investments: Gave some historical context of what has transpired in the last year. They contracted to purchase the property back in March 2014. He is the project director for P3, is a certified urban planner with 12 years experience in the area of building planning and urban design. During our due diligence period it was essential for us to understand the community and context and the type of project that was appropriate for the site. My role is to review past studies, documents, and the encumbrance of the master plan and other studies of the site to include the 2010-2012 designation report by this Board and the subsequent withdrawal. We also met with the residents and Town officials to receive their inputs as well as preservationists in the community. They decided after doing due diligence to proceed forward with this project. They will be submitting to the Town of Bay Harbor Islands on March 26th for site plan approval and the closing is set for April 15th. In fact the original closing was set for September of 2014 and the co-op had some issues with tax issues and we agreed to work with them to resolve those issues. Stated that they are providing a building that is lower density but very high end. Reducing from 35 to 29 units. They were shocked at the submission of this petition last month by some of the owners, as they have incurred substantial fees already working on this project. We know the Board's role with designation, but we ask that you consider the circumstances of the specific situation and the lives of the residents that will be impacted if further action by your Board is taken.

Ms. Kollert, 1135 103rd Street: Has been living in Miami over 25 years and speaks about the fact that she bought a unit in Bay Harbor Continental and now she has no money left in the bank and doesn't know what to do. Asks that the Board do something to help them. Against the designation.

David Grosse, 1135 103rd Street: A co-op member at the Bay Harbor Continental. He is a practicing architect since 1984 and has done over 250 multi-level developments around the county. He is a lover of mid-century modern and lives in a historic modern house in New York. My wife and I bought the unit a year and a half ago because we love the way it looks. It is extremely pretty, but the building itself as a building is out of date and obsolete. The

elevator is not handicapped accessible. Went on to discuss in length the problems that the building has. Feels that the developers say that they can reuse the elements and that is very enlightened. This building is underbuilt for the property. Against the designation.

June Kolbert, married to Robert Kolbert, 1135 103rd Street: They bought their unit 25 years ago and they have been coming back and forth and it is getting cumbersome for them already. They were happy when they learned that their building was going to be sold would prevent any hardship for them. We ask the Board to please approve the sale of our building so that we can all live our lives. Against the designation.

Teri D'Amico, 9101 East Harbor Drive: Stated that the majority of the comments here today are about selling the property but the designation does not stop you from moving or from selling. If you want to move, move. There is a Transfer of Development Rights program in the Town (TDRs). She thinks the building has nine TDRs, which amounts to about $400,000 they could receive, to put back into the maintenance of the building. Stated that its common sense that buildings need to be constantly maintained, and that this building is only 60 years old. Believes that the Homestead Act keeps you from losing your apartment because of debt. Doesn't understand how they think it is fair to force some of the people out of the building who do not want to leave their home. In favor of designation.

Carlos de la Torre, 1135 103rd Street: Was one of the original persons that spoke last time and he personally enjoys his home and wants to keep it because he likes where it is and bought it because he appreciates the beauty of the building and that is one of the reasons why he came forward with the petition to designate. However, for his gratitude, he was served with a lawsuit from the developer telling him that he should not have asked for a petition from the Historic Preservation Board. I think that speaks volumes. Hands a copy of the lawsuit to the Board for the record. In favor of designation.

Chair Novick: I would ask that those people that are disrupting the meeting to leave if this continues.

Clotilde Luce, 301 Ocean Drive: Happens to be a great admirer of Bay Harbor Islands and has written an article about it. Indicated that she lives in a Melvin Grossman building from 1968 and you have no idea what the units are selling for. Stated that being preserved is not bad for your building. Addressed the people that were coming forward today with very touching stories, but noted that you can sell your units on the open market for probably more than what they are promising you. Noted that the developers are using these human interest stories but once they leave the building, are you even going to be able to afford something in affordable housing? Speaks to the Board that this is pertinent to their decision in that the building meets the criteria for designation. Feels that this is a diversion to the unit owners to simply take you away from the facts. It meets the criteria, these people have other options, and the building is very valuable. In favor of designation.

Tina Paul, 9255 Collins Avenue: Before she bought her condo she was looking in Bay Harbor Islands. Never was able to find anything in the Bay Harbor Continental. All of the listings were on the other island with no kind of view. She wanted to purchase at the Dexter building which had an ocean view, but learned that it was a land leased-property, in other words, someone else owns the land underneath the building. Feels that if you put your apartment now on the market you would sell it and that the developer would not back down from the deal that they have offered you if these buildings are designed historic. Feels that you are doing a disservice to the community that you have lived in and let these buildings go for a dollar. In favor of designation.

Margie Rossin, 1135 103rd Street: I am the last person that purchased a unit in 2013 at Bay Harbor Continental and was interviewed by Carlos, who was on the board at that time, and he asked me if I was aware the building was for sale. I said yes. Again, with the handicapped access, I have a mother that is in a wheelchair you can't get through and it is not good. Against the designation.

Gaurav Butani, 780 NE 69th Street, P3 Investments, LLC: Explained how P3 is the creative team that is using Pinanfarina as the designer for the project. It is an entrepreneurial effort to bring design to the landscape of Miami and other American cities. We chose Bay Harbor for our first project because we saw the way to make space for a progressive environment not only through real estate but for the community. We selected the best local partners and investors to achieve this collective and all encompassing vision. Explained that they have worked on this project for over a year and it has been a long road for P3 and for me personally. Our desire is to make somewhat of an architectural masterpiece for this part of the world, not only for Miami. Not only from the outside, but from the inside. We fear that the doubts of today will limit the realization of tomorrow, for the Town of Bay Harbor, for Miami. As for Carlos De la Torre, yes we sent him a lawsuit, but this man was an aggressive seller and he came to us for more money at the end.

Chair Novick: Indicated that there should be no personal attacks during testimonies.

Patricia Cohen, 10275 Collins Avenue: After months and months attempting to get Seaway Villas designated, we were able to save the building because a few of us were committed to that and the developers agreed to incorporate it into the new project to save as much as they could with the guidance of the staff and feels there can be a happy ending to be achieved. I am very sensitive to your plight and I sense that you have good intentions, but I am also sensitive to the plight of the persons that want to stay in the building. Let's value what we have and not be so fast to tear it down. In favor of designation.

Steven Wernick, Attorney Akerman LLP: Makes reference to correct two issues that were said at the board meeting today which was presented on behalf of P3. Section 16A-2 of the Code says Economic Hardship. Reads part of the code into the record. Against the designation.

Chair Novick indicated that Mr. Kasdin already spoke on behalf of their clients but **Board Member JoEllen Phillips** indicated she would like to hear what he has to say. **Chair Novick** advised him to continue.

Steven Wernick, Attorney: Historic preservation has value, but you cannot ignore that your Code says you do consider economic hardship in unusual circumstances and that is what you are hearing from residents and there are folks in the community that are very interested in historic preservation I get that, but in this neighborhood those uses are not allowed. The building cannot be adapted to be reused as a bed and breakfast; there are very specific circumstances within the Town's zoning, as well as economic circumstances of these residents that have to be considered.

Chair Novick: Thank you.

Monique Beaudet, 1135 103rd Street: Asked the Board if it was true that when you designate a building, you still have an option to sell your apartment, and what happens to the value.

Chief Kauffman: There are numerous studies available that have determined properties that are designated as historic have higher values than those undesignated neighborhoods adjoining them.

Paul George, Board Member noted as an example the neighborhood known as Morningside in Miami; the designation of that neighborhood has enhanced the value of the entire area.

Chair Novick: Feels that the Board needs to deliberate amongst themselves to see where our sentiments lie in this matter.

Wendy Auerbach, 9880 West Bay Harbor Drive: Has been listening to the economic hardship cases and hearing that 86% of the people want to sell, and the fact that there is this high-end design team from Italy thinks that there is good design intention. Bay Harbor Islands already does not permit high rises. Said most people can't afford what it would take to modernize the interior. Against the designation.

Chair Novick: Deferred to my esteemed colleagues.

Dennis Kerbel, County Attorney: Mr. Chair that was a very lengthy discussion. To clarify the only issue before this Board right now is whether to continue the process of whether this will be designated. This is not the designation hearing. Indicated that the Board can accept the report which will then commence the process, or they can direct staff to bring it back at the next meeting as a Board-initiated application which is allowable by ordinance, or the Board can decide they do not wish to pursue this any further. The decision to designate the property would have to be at a publicly noticed hearing within 60 days.

Neisen Kasdin, Attorney: Thinks that you can direct staff to withdraw the application because of the undue economic hardship.

Chair Novick: Stops Neisen and says thank you. My colleagues I defer to you.

Board Member, Ronda Vangates: Asks clarification of some procedural due process. Noted that from the minutes of the February 18th meeting it clearly states "a Motion was made by Dr. Paul George to staff to bring back a designation report to the next meeting (which is today) for this location and it was seconded by our Chair and approved by the Board." So with that Motion being made and approved by the Board, why are there so many options now and why are we not operating from the direction that was given by the Board at the previous meeting?

Dennis Kerbel, County Attorney: Stated that yes, the Board can stay on that course but it is also the Board's prerogative on how to proceed with the report, they can also change their minds on that.

Board Member, Ronda Vangates: On what basis could the Board change their minds?

Dennis Kerbel, County Attorney: Explained that the motion made at the last meeting began the process. Given that also there was a request from the Chair to have staff bring the old reports back, the Board could decide if they wanted to, to take it down a different path by placing it on the next agenda as a Board initiated item, or you can continue with the designation hearing at the next meeting since you now have updated reports.

Board Member, Ronda Vangates: Had a question for the developer's attorney regarding economic hardship and asked what information is being presented in a written document or by affidavit or some other type of reliable information that says there is economic hardship other than the oral testimony that we have heard.

Neisen Kasdin, Attorney: Well you have heard live testimony, but feels there has been no outreach to the owners of the property to participate in this process. Believes that the Bay Harbor Continental Board would be able to set forth in ample detail the economic hardship, which is very real.

Board Member, Ronda Vangates: Had another question regarding the time issue, if they decide to move forward today on what was approved last month, what is the timeliness impact to both the developer and the County?

Dennis Kerbel, County Attorney: You can decide to accept the report and direct staff to commence the further proceedings that the code sets out for designation. In terms of time limits, the only real impact as far as what the ordinance does to a property is the moratorium, and so the question for this Board is, do you want to take the initial step to pose the moratorium on the property by accepting these reports? Now economic hardship, as it is set

forth in the ordinance, is something that you can consider at any stage, it's something that would clearly be a consideration when there is an actual public hearing on designating the property, and at that point when you would take testimony and evidence with any other materials that you want to see about economic hardship, but there is nothing that says you can't consider it today..

Board Member, Ronda Vangates: So towards the issue of the moratorium how does that impact the developer in this instance? If we decide today to move forward on the Motion that was approved, then the moratorium goes into effect today? What's the impact on your development?

Neisen Kasdin, Attorney: They will not be able to go through with the sale if the moratorium goes into effect or designation is therefore adopted.

Board Member, Ronda Vangates: What is the schedule for the closing on the property? April 15th? Are there any tax implications on any of the property owners?

Neisen Kasdin, Attorney: Explained that a co-op is not a condo and is treated differently for tax purposes. A co-op is a corporation. There is property ownership and co-op corporation ownership. The co-op corporation owns the property and the individuals are shareholders. Your code specifically says only owners of properties may petition the Board. These are treated differently for tax purposes.

Dennis Kerbel, County Attorney: Do the individual unit owners enjoy a homestead tax exemption?

Neisen Kasdin, Attorney: Yes and there is a special provision in the Florida Statutes which affords that to owners of a co-op, but if you read the Florida Statutes on co-ops which is separate from the ones on condominiums, it clearly outlines that co-op owners do not have an ownership interest on that property but are shareholders of the property. Very different.

Chair Novick: Ronda did you have any additional questions?

Board Member, Ronda Vangates: Has two other additional questions. Thanks for not answering the tax exemption question because it was really important to me what tax implications will be levied against the owners personally. I understand the difference between the co-op and the condominium, but upon selling of the property, what tax implications are toward the "owner" of the property?

Neisen Kasdin, Attorney: You will have to direct that to the co-op owners themselves.

Robert Kolbert, President of Bay Harbor Continental: As residents we are subject to homestead exemption. Half of the building is non-homesteaded residents and they pay substantial taxes.

Board Member, Ronda Vangates: Had one last question regarding homesteading, and said that the lawsuit gave her pause because she felt it had a chilling effect on the public's participation in the process, or maybe it was a great legal strategic move. Went on to read aloud from the lawsuit clause 32, which states "that the person fraudulently petitioned this Board for such an action." It could just simply be an allegation at this point, but it still puts a chilling effect on the public's role in this process, so it gives her a little pause about whether or not we are all operating in good faith. Ms. Cohen made a very good point that there is room for collaboration and compromise, but unless I see good faith on both sides, I'm kind of leaning towards the County Attorney as to what the implications would be if we decide to defer this item all together.

Neisen Kasdin, Attorney: And we do not represent the developer in that lawsuit, but we are aware of the facts of the lawsuit. The fact is that one particular shareholder filed a petition as an owner on behalf of the Bay Harbor Continental. He took an action that could have only been taken by the owner of the property and feels that was the genesis of their lawsuit.

Enid Pinkney, Board Member: Asked if any person can petition the Board for historic designation.

Chief Kauffman replied that the ordinance provides for any person who is an owner of that property can ask for the designation of that property.

Dennis Kerbel, County Attorney: The petition was one avenue, but the Board has its own authority to pursue historic designation.

Enid Pinkney, Board member: So we are concerned about whether the building qualifies for historic designation and that would be our concern. So we can only make a decision if we know whether it meets the criteria. So we have to begin the process to find out if it meets the criteria, but if we stop today, then we won't even know if it meets the criteria. So feels in favor of moving forward to at least see if the property meets the criteria.

Board member Enid Pinkney makes a motion to move forward and accept the report, to see if the building meets the criteria.

Chair Novick handed the gavel over to **Vice-Chair Ruth Campbell** for the purposes of seconding the motion. **Chair Novick** seconds the motion.

JoEllen Phillips, Board Member, had a question for the County Attorneys on the fact of ownership, and feels that nobody has been really clear about it. Asks if the County Attorneys are suggesting that they can delay the process as one of the alternatives until next month?

Dennis Kerbel, County Attorney: Yes that is correct, to defer the item until next month and having staff re-file the reports but at your direction.

Chair Novick asked that in reference to JoEllen's possible suggestion, if this Board were to defer the item does it put the property in jeopardy of demolition, would no moratorium be put in place for additional fact gathering information and can the property owner then proceed to seek a demolition permit?

Dennis Kerbel, County Attorney: It's the filing of the report that triggers the moratorium, so if the Board decides today to initiate the process for staff to file the report till next month, in that intervening month there would be no moratorium.

JoEllen Phillips, Board Member: Thank you for that clarification.

Sarah Cody, staff, noted that there is still a high occupancy rate in the building, and it is not vacant. It would be very difficult to begin demolition with that situation.

Chair Novick: That's not what happened in Surfside, at the Seaway they continued with a demolition permit even though there were residents living in the building. Ruth, there is a Motion on the table and a second.

Ruth Campbell, Vice-Chair: Indicated let's restate the motion.

Dennis Kerbel, County Attorney: To accept the report that staff has filed with you today and direct them to commence the process for a public hearing on designation. This would begin the moratorium.

Board Member, Ronda Vangates: Asked if it would be possible to have the meeting earlier than April 15th in the spirit of compromise so that the owners would know what their options are before the date the closing is scheduled.

Dennis Kerbel, County Attorney: Wanted to know if there could be an agreement between the property owners and the developers to see if they would agree to a moratorium in the interim until this comes back before the Board in order to do that.

Board Member, Ronda Vangates: Wanted to know if Ms. Pinkney was ok with the amendment, to move forward with the original intention but to bring it back earlier than our next meeting. Asked if the report ready.

Chief Kauffman indicated that the report is now before you, waiting to be filed with the Board. That is what would start the process.

Dennis Kerbel, County Attorney the question is do we have enough time to provide the timely notice per the ordinance and to provide notices to the municipalities, etc., because that's when the normal due process would kick in.

There was discussion amongst the Staff and the Board as to the notification requirements for a meeting, and that we needed 15 days to notify affected property owners and 10 days to place a legal ad in the paper.

Ronda Vangates, Board member indicated that they still do not have the definition clear about ownership.

Ruth Campbell, Vice-Chair indicated we need to have a roll call vote for the motion on the floor.

Chair Novick: If we request this process to proceed, that will be a fact-gathering stage that will be brought back to us and we will consider whether or not this process should continue with designation or not, is that correct?

Chief Kauffman indicated that no, the motion on the table, if you accept the report now, the next step would be the actual public hearing.

Chair Novick: Yes, but we can reject the designation at the public hearing as more facts are compiled. That is the point I wanted to make.

Chief Kauffman indicated that yes, the Board could do that as well.

With an active motion on the floor made by **Enid Pinkney** and seconded by **Chair Novick**, Board Member **Ruth Campbell** took a roll call vote. The motion was approved.

Gary Appel	Recused
Ruth Campbell	Yes
Adriana Cantillo	Yes
Rick Cohen	Yes
Paul George	Yes
Robert McKinney	Absent
Mitch Novick	Yes
JoEllen Phillips	Yes
Enid Pinkney	Yes
Ronda Vangates	Yes

Chair Novick: Folks we need to move on to Bay Harbor Club.

Neisen Kasdin, Attorney: Approaches the Chair and would like to address the Board if he may. Feels Ms. Vangates' motion was constructive in that we expedite the public hearing.

Chair Novick indicated that he would not be available before April 15th but that due process will be had and the Board is looking forward to receiving additional facts on the issue. Stated that the Board needed to move on to the next item.

Exhibit 11:

Letter, dated March 23, 2015, to Property Owners Notifying them of Public Hearing to Consider Designation

(Identical letter sent to all unit owners)

MIAMI-DADE COUNTY
miamidade.gov

Regulatory and Economic Resources Department
Office of Historic Preservation
111 NW 1st Street, Mailbox 114 • 12th Floor
Miami, Florida 33128
T 305-375-4958

March 23, 2015

Joan Carney
1135 103 Street Unit A1
Bay Harbor Islands, FL 33154

RE: Historic Designation of Bay Harbor Continental

Dear Ms. Carney:

As stated in a previous letter dated February 23, 2015, the Miami-Dade County Historic Preservation Board initiated designation procedures for Bay Harbor Continental. Enclosed please find a copy of the designation report, which documents the history of the property, and places it within the context of early development in Bay Harbor Islands.

The Miami-Dade County Historic Preservation Board will hold a public hearing to either approve or deny the designation of Bay Harbor Continental, located at 1135 103rd Street, Bay Harbor Islands, FL on:

Wednesday, April 15, 2015 at 2:00 pm
Miami-Dade Main Library
Library Auditorium
101 W Flagler Street
Miami, FL 33130

Though your attendance is not required, we encourage you to attend to directly address the Board. Please be advised that until the Board makes a determination, a moratorium on alterations or demolitions has been placed on the property, as per Miami-Dade County Ordinance Chapter 16-A.

Please note, per Section 16A-12(a) of the County Historic Preservation Ordinance, any claim of economic hardship must be submitted by affidavit to the Historic Preservation Board staff at least 15 days prior to the public hearing. If you plan to argue an economic hardship in this case, please submit your evidence by the close of business on March 31, 2015.

In addition to the public hearing, the Miami-Dade County Office of Historic Preservation is offering an educational workshop for the residents of Bay Harbor Islands. Though we will not be discussing your building specifically, the workshop will address general preservation information, including facts and myths regarding historic designation. We invite you to attend. It will be held on:

Tuesday, March 31, 2015 at 7:00 pm
Bay Harbor Islands Town Hall
Town Council Chambers
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Please do not hesitate to contact our office with any questions you may have prior to the public hearing.

Sincerely,

Sarah K. Cody

Sarah K. Cody
Historic Preservation Planner

Delivering Excellence Every Day

Encl: Bay Harbor Continental Apartments Designation Report

Cc: Ron Wasson, Town Manager, Bay Harbor Islands

Exhibit 12:

Letter, dated April 7, 2015, to HP Board from a Bay Harbor Islands Property Owner

RECEIVED
APR 07 2015
MIAMI-DADE COUNTY
OFFICE OF HISTORIC PRESERVATION

Medical Partners Group, Inc.
Dr. Frank Waxman
9950 Stirling Rd. # 108
Cooper City FL 33024
Tel.(954) 704-1828 Fax.(954) 704-1797

FAX COVER SHEET

TO: Sarah Cody / Kathleen Kaufman

PHONE: 1-305-375-2560

FROM: Dr. F. Waxman

DATE: 4/7/15

YOU SHOULD RECEIVE (3) PAGE(S) INCLUDING THIS PAGE:

SUBJECT: Please send this to board members before April 15 meeting

THE DOCUMENT IN THIS FACSIMILE TRANSMISION MAY CONTAIN CONFIDENTIAL HEALTH INFORMATION THAT IS PRIVILEGED AND LEGALLY PROTECTED FROM DISCLOSURE BY FEDERAL LAW INCLUDING THE HEALTH INSURNCE PORTABILITY AND ACCOUNTABILITY ACT (HIPPA). THIS INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT READING, DISSEMINATING, DISCLOSING, DISTRIBUTING, COPYING, ACTING UPON OR OTHERWISE USING THE INFORMATION CONTAINED IN THIS FACSIMILE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS INFORMATION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND DESTROY THIS FACSIMILE.

RETURN TO:
Dr. Frank Waxman
9950 Stirling Rd. # 108
Cooper City FL 33024

BHI and its residents finally have the chance to see truly world class design from a very low density, very high end Pininfarina building.

For over 5 years, BHI Residents have talked about wanting new buildings with a low number of units, very large apartments (3,000+ square feet), with luxurious finishes.

Now the reality is here and it's being obstructed by the Miami Dade's Historic Preservation Board members. The Historic Preservation Board will not be impacted by their decision because they do not live in the 33154 zip code. The Bay Harbor Continental Co-Op has been under contract for sale since September 2014 when 85% of the members agreed to sell.

In February 2015, a small group of co-op members changed their minds and had the Miami Dade County Historic Preservation Board come into our town and stop the sale of the BH Continental against the will of the majority of co-op members.

The Bay Harbor Continental is a crumbling co-op. It was not designated "historic" in 2010. The pool is closed, the seawall is old, most units have no central A/C, the windows need replacing, the roof, the plumbing and the electrical infrastructures are crumbling. It is very difficult to sell individual units because: #1. It is a co-op which most buyers steer clear of. #2. Most of the units are in disrepair. #3. The building has millions of dollars of future assessments.

These conditions reduce the value the individual units. Selling the entire building in bulk results in a much larger financial gain for the majority of co-op members.

The members decided to sell, the pending buyers have made every accommodation to fit their new design within all BHI codes. They were ready to close in September 2014.

In March 2015 a moratorium was placed on the building.

Co-op members are now stranded as their personal future financial plans are in limbo and at the hands of the HPB.

Bay Harbor Islands is also in limbo. What will happen next? How many other properties will suddenly become "historic" and handcuff more property owners.

All these new demolitions are occurring because there is a legitimate fear that our town's East Island will be frozen.

The March 31st's HPB "workshop" was really more of an information session on how, in some cases, historic preservation can lead to an increase in real estate values.

Many of the examples given by the HPB took place in blighted neighborhoods with a strong commercial element. The subject properties discussed were not private homes but rather commercial properties and publicly owned buildings.

The East Island of BHI has no blighted commercial spaces or crumbling public buildings.

What we do have on Bay Harbor Islands, and in towns immediately to our east, (in the same zip code 33154) are examples of new luxury construction being completed. The result is a major increase in the real estate values of the neighboring residential properties.

Examples:
St. Regis & Oceana (Bal Harbour), Four Seasons & FENDI (Surfside), Riva & Harbour Park (BHI). These new buildings raised the values of nearby condominiums and homes by 40%+.

The expected tax revenue from the Pinifarina building would be over $1,750,000 every single year from a low density building. Imagine what BHI could do every year with $1,750,000. How beautiful could our community become? Imagine the aesthetic enhancements that could be implemented with this revenue every single year...

Bal Harbour has the St. Regis and the Ritz Carlton to generate high-end real estate taxes. Miami Beach has the Continuum, the Setai, and Apogee to generate high-end real estate taxes. Now even Surfside has the Four Seasons and FENDI to generate high-end real estate taxes.

These strong revenue streams allow these towns to improve the living standards of all the residents by developing new community centers, landscaping, sculptures etc.

Pininfarina is finally our chance to have an incredible future on Bay Harbor Islands.

We would hope that you would support our town of Bay Harbor Islands and its residents and not allow the outside Dade County Historic Preservation Board members to handcuff our future.

Our Future, Our Progress: Bay Harbor Islands...

DR. FRANK WAXMAN
BAY Harbor Islands

Exhibit 13:

Economic Hardship Materials filed with HP Board by Bay Harbor Continental, Inc. on March 31, 2015

Akerman

RECEIVED
MAR 3 1 2015
MIAMI-DADE COUNTY
OFFICE OF HISTORIC PRESERVATION

Neisen O. Kasdin
Steven J. Wernick

Akerman LLP
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

March 31, 2015

VIA E-MAIL AND HAND DELIVERY
Miami-Dade County Historic Preservation Board
Miami-Dade County
111 NW 1st Street
Miami, Florida 33128
Attn: Kathleen Kauffman, Historic Preservation Officer

Re: Bay Harbor Continental, 1135 103rd Street, Bay Harbor Islands, FL
Affidavit re: Economic Hardship, pursuant to Chapter 16A-12, Miami-Dade County Code of Ordinances

Dear Ms. Kauffman:

Enclosed herein is an original signed Affidavit by Robert Kolbert, as President on behalf of Bay Harbor Continental, Inc., a Delaware corporation, the owner of the property located at 1135 103rd Street, Bay Harbor Islands, Florida (commonly referred to as the Bay Harbor Continental).

In accordance with the letter issued by the Historic Preservation Office dated March 23, 2015, this Affidavit is submitted fifteen (15) days in advance of the public hearing scheduled for April 15, 2015 in front of the Miami-Dade County Historic Preservation Board, at which time the Board will consider the involuntary historic designation of the existing building.

The enclosed Affidavit addresses the economic hardship, pursuant to Chapter 16A-12 of the Miami-Dade County Code of Ordinances, created by the proposed historic designation of the building. Thank you for your attention to this matter.

Sincerely,

Steven J. Wernick

Enclosures
akerman.com

{30545357;3}

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared **Robert Kolbert,** (the "Affiant"), who being by me first duly sworn, did depose and say:

A. As of the date of this Affidavit, I am the duly elected President of **Bay Harbor Continental, Inc.**, a Delaware corporation ("Owner").

B. The Owner is a corporation and is in good standing with the State of Florida.

C. The Owner holds title to the property located at 1135 103rd Street, Bay Harbor Islands, Florida 33154, as legally described below (the "Property"), in the cooperative form of ownership pursuant to Chapter 719, Florida Statutes, on which exists a multifamily residential building with 35 units, each of which comes with shares in the cooperative association and a lease from the association as the owner of the Property.

Tract F of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

LESS AND EXCEPT, that portion conveyed to the Town of Bay Harbor Islands, a Florida municipality by that instrument recorded in Official Records Book 427, Page 281, of the Public Records of Miami-Dade County, Florida.

D. Pursuant to Chapter 719, Florida Statutes, and under the governing documents of the Owner, the President has the authority to appear on behalf of the Owner. See Articles of Incorporation attached as **Exhibit 1.**

E. The Historic Preservation Board (the "Board"), at its March 18, 2015 meeting, took formal action to accept a designation report for the Property, and has since scheduled a public hearing to take place on April 15, 2015 to consider the designation of the Property pursuant to Chapter 16A of the Miami-Dade County Code of Ordinances ("County Code").

F. Pursuant to Chapter 16A-12 of the Miami-Dade County Code of Ordinances, the Affiant hereby submits in a timely manner to this Board for its consideration, this Affidavit detailing the economic hardship imposed upon the Owner should the Board adopt a resolution or otherwise continue forward with the historic designation of the building or any improvements on the Property.

(i) The amount paid for the property, the date of purchase and the party from whom purchased;

The amount paid for the Property in 1958, by the original incorporator, was $737,500.00. See Exhibit 1. Since 1958, individual units have been purchased and sold for varying amounts.

(ii) The assessed value of the land and improvements thereon according to the two (2) most recent assessments;

*Based on the information provided by the Miami-Dade County Property Appraiser, as demonstrated in **Exhibit 2**, the total assessed value of the land and improvements in 2013 was $3,520,069; the total assessed value in 2014 was $3,842,084.*

(iii) Real estate taxes for the previous two (2) years;

Based on the information provided by the Miami-Dade County Property Appraiser, as demonstrated in Exhibit 2, the total real estate taxes paid in 2013 were $58,065.64; the total real estate taxes paid in 2014 were $67,319.26.

(iv) Annual debt service, if any, for the previous two (2) years;

The Owner obtained a loan on the existing building for $400,000 to repair cracks in stucco and balconies. The balance on the existing loan is $174,515, with 4.5 years remaining.

(v) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing or ownership of the property;

The Owner has not obtained an appraisal of the Property within the previous two (2) years.

(vi) Any listing of the property for sale or rent, price asked and offers received, if any;

There is a contract for purchase and sale between Owner and P3 Investments I, LLC ("P3"), effective March 27, 2014 in a total amount of $16,500,000.00. The shareholders of the Owner approved this sale by an overwhelming majority (approximately 86%).

(vii) Any consideration by the owner as to profitable adaptive uses for the property;

Based on the Town of Bay Harbor Islands Code of Ordinances and land development regulations for the RM-3 District, applicable to the Property, the Property can only be used for residential uses; no hotel, office, commercial or other non-residential uses are permitted on the Property, and therefore there are no profitable adaptive reuses for the Property.

(viii) All cost estimates or reports relating to the demolition of the property obtained within the previous two (2) years;

Based on a proposal issued by Florida Demolition, Inc., the cost estimate for demolition of the existing improvements on the Property is approximately $151,000.00. See attached ***Exhibit 3.*** *On February 18, 2015, in reliance on the withdrawal of the previous historic designation report by the Board in 2011, the pending sale, and no item or proposal pending on the Board's agenda for consideration of historic preservation, the Town of Bay Harbor Islands issued to Florida Demolition, Inc. a Permit No. BP2014-359 for the demolition of the existing structure (the "Demolition Permit"). See a copy of the Demolition Permit attached* ***Exhibit 4.***

(ix) All cost estimates or reports relating to the rehabilitation or restoration of the property obtained within the previous two (2) years;

Based on a report prepared by ERF Construction Group, Inc., dated March 30, 2015 ("ERF Report"), the cost estimate for rehabilitating and restoring the existing building on the Property, including individual units and common areas is upwards of $200,000 per unit. A copy of the ERF Report is attached as ***Exhibit 5.***

(x) All reports relating to the engineering, architectural, or construction feasibility of rehabilitating or restoring the property obtained within the previous two (2) years; and

Based on the ERF Report, rehabilitating or restoring the Property would be practically infeasible. The building requires replacement of the elevator systems, ADA accessibility and replacement of MEP systems. The entire finished floor of the existing building would need to be raised above base flood elevation to comply with current Florida Building Code and Town of Bay Harbor Islands requirements.

(xi) All reports relating to the economic feasibility of restoring or rehabilitating the property obtained within the previous two (2) years, including market studies.

Owner has no reserves in place for correcting significant deficiencies, and many of the shareholders are not in a financial position to take on additional assessments. Based on lack of reserves, knowledge that the existing building has significant structural and operational deficiencies, and the estimated cost to correct the deficiencies of upwards of $200,000 per unit, and costs to shareholders for temporary relocation during restoration, it is not economically feasible for Owner to restore or rehabilitate the Property.

See the attached report from RC3 World, Inc., dated March 31,2015 ("Market Analysis"), providing analysis on the economic feasibility of restoring or rehabilitating the Property. A copy of the Market Analysis is attached as ***Exhibit 6.***

G. Individual shareholders have presented additional testimony to the Board in furtherance of personal economic hardship suffered by respective individuals, many of whom are elderly on fixed incomes, and cannot bear additional assessments to pay for the significant costs involved in restoration of the existing building. See personal letters attached as **Exhibit 7**.

H. Based on the foregoing, the Owner respectively submits this Affidavit to the Board in claiming undue economic hardship that would be caused to the Owner by the historic designation of the existing building on the Property, and millions of dollars in damages should the building be designated.

[Signatures on following page]

FURTHER AFFIANT SAYETH NAUGHT

Affiant:

Robert Kolbert

STATE OF Florida
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 30 day of March, 2015 by Robert Kolbert, as President of Bay Harbor Continental, Inc., a Delaware corporation, who is personally known to me or who has produced _____ as identification.

Notary Public
Print Name: Blislainey Sainz
My Commission Expires: 12-21-15

BLISLAINEY M. SAINZ
MY COMMISSION # EE 155210
EXPIRES: December 21, 2015
Bonded Thru Notary Public Underwriters

EXHIBIT 1

CERTIFICATE OF INCORPORATION

-OF-

BAY HARBOR CONTINENTAL, INC

FIRST: The name of the corporation is:

BAY HARBOR CONTINENTAL, INC.

SECOND: Its principal office in the State of Delaware is located at 900 Market Street, in the City of Wilmington, County of New Castle. The name and address of its resident agent is the Corporation Service Company, 900 Market Street, Wilmington, Delaware.

THIRD: The nature of the business, or objects or purposes to be transacted, promoted or carried on are:

a. To purchase, operate and manage a cooperative apartment housing project on a non-profit basis and in the interest and for the housing of its members and other lawful occupants.

b. In connection with project, the corporation shall itself, by contract, or otherwise, provide such community facilities, services and benefits as may be necessary or convenient for the welfare of its members and the usefulness of the project.

c. In furtherance of the foregoing purposes, the corporation shall have power to purchase, lease or otherwise acquire land, both improved and unimproved, to build, rebuild, repair, improve and manage any such property, and to do any and all other things necessary or convenient for the fulfillment of the purposes of this corporation.

d. To enter into, make, perform and execute contracts, deeds, leases and agreements of every kind and description with any person, firm, association, corporation, municipality, county, state, body politic or government or colony or dependency thereof.

e. To borrow or raise monies for any of the purposes of the corporation and, from time to time, without limit as to amount, to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment of any thereof and of the interest thereon by mortgage or deed of trust upon or pledge, conveyance or assignment in trust of the whole or any part of the property of the corporation, whether at that time owned or thereafter acquired, and to sell, pledge or otherwise dispose of such

bonds or other obligations of the corporation for its corporate purposes.

f. To carry out all or any part of the aforesaid objects and purposes, and to conduct its business in all or any of its branches, in the State of Delaware and in the City of Bay Harbor Islands, Florida.

g. The foregoing objects and purposes shall, except when otherwise specifically expressed, be in no way limited or restricted by reference to, or inference from, the terms of any other clause of this or any other article of this Certificate of Incorporation or of any amendments thereto, and shall each be regarded as independent and construed as powers as well as objects and purposes.

h. The corporation shall be ~~authorized to exercise~~ and enjoy all of the powers, rights and privileges granted to, or conferred upon, corporations of a similar character by the General Corporation Law of the State of Delaware, or by the laws of any other jurisdiction wherein the corporation may do business, now or hereafter in force, and to do any and all of the things hereinbefore set forth to the same extent as natural persons might or could do.

FOURTH: a. This corporation shall be organized without capital stock.

b. Membership in the corporation shall be limited to owners of Co-Operative Apartment Certificates of Ownership to be issued by the corporation in a standard form not inconsistent with the provisions of this charter and to be adopted by the Board of Directors at its first meeting. A separate Certificate of Ownership shall be issued for each apartment unit, shall constitute a single membership, and shall entitle the holder or holders thereof to number of votes in the management of the affairs of the corporation as recited in the Certificate of Ownership.

c. Membership may be either "resident" or "equity". Any natural person owning a Certificate of Ownership under which the owner is currently entitled to occupancy rights shall be deemed a resident member and resident membership shall carry with it full voting rights. Any person, firm or corporation owning a Certificate of Ownership without occupancy rights having been granted by the Board of Directors shall be deemed an equity member and equity membership shall carry with it the right to vote with resident members on matters pertaining to any amendment to the Certificate of

Incorporation, the sale or mortgage of corporate property, or the dissolution of the corporation. No other voting rights are accorded equity members.

d. Transfer of membership shall be upon such terms and conditions as shall be contained in the By-Laws, not inconsistent with the terms of the Co-operative Apartment Certificates of Ownership.

e. The standard form of Co-operative Apartment Certificates of Ownership, hereinbefore referred to, shall not be changed after its adoption by the Board of Directors except with respect to occupancy provisions, which may be amended in such manner as may be provided in the By-Laws.

f. The capital value of the corporation shall be the sum of Seven Hundred Thirty Seven Thousand Five Hundred ($737,500.00) Dollars and shall be allocated to the Co-operative Apartment Certificates of Ownership representing the respective apartment units as follows:

Apartment No.	Capital Value	Apartment No.	Capital Value
A1	$22,900.00	C3	$18,400.00
A2	$23,900.	C4	$18,900
A3	$24,400	C5	$20,400
A4	$24,900	D1	$18,900
A5	$26,400	D2	$19,900
B1	$16,900	D3	$20,400
B2	$17,900	D4	$20,900
B3	$18,400	D5	$22,400
B4	$18,900	E1	$16,900
B5	$20,400	E2	$17,900
C1	$16,900	E3	$18,400
C2	$17,900	E4	$18,900

Apartment No.	Capital Value	Apartment No.	Capital Value
E5	$20,400.00	F5	$21,400.00
F1	$17,900	G1	$25,900
F2	$18,900	G2	$26,900
F3	$19,400	G3	$27,400
F4	$19,900	G4	$27,900
		G5	$29,400

The amount so assigned to each apartment unit shall be deemed the assigned capital value of the Co-operative Apartment Certificates of Ownership covering such apartment unit, and said amount shall not thereafter be subject to change.

FIFTH: The names and places of residence of the incorporators are as follows:

Name	Address
B. J. FLOOD	1015 Kane Concourse Bay Harbor Islands, Miami Beach, Florida
ALBERT J. GURRIER	1015 Kane Concourse Bay Harbor Islands, Miami Beach, Florida
KATHRYN A. RAINEY	1015 Kane Concourse Bay Harbor Islands, Miami Beach, Florida

SIXTH: The corporation is to have perpetual existence.

SEVENTH: No member shall be personally liable for corporate debts to any extent whatsoever.

EIGHTH: a. The management of the affairs of the corporation shall be conducted by its Board of Directors in accordance with the provisions of its By-Laws. The first Board of Directors shall have the power and authority to make and adopt the original By-Laws of the corporation; in conformity

herewith, insofar as applicable thereafter the power and authority to make, alter or amend the By-Laws shall vest in the membership on such terms as shall be expressly stated in the By-Laws.

b. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized:

1. To create out of the funds of the corporation a reserve or reserves for any proper purpose.

2. To borrow monies for the purposes of the corporation to the extent permitted by the By-Laws, subject, however, to the limitation hereinafter expressed.

3. When and as authorized by the affirmative vote of three-fourths of the entire membership of the corporation at a meeting of the members duly called for that purpose, or when authorized by the written consent of three-fourths of the entire membership, to sell, lease or exchange or mortgage all of the property and assets of the corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration as the Board of Directors shall deem expedient and for the best interest of

the corporation. For the purposes of this section each Certificate of Ownership shall constitute only one (1) vote.

4. By resolution or resolutions passed by a majority of the whole Board, to designate one or more committees, each committee to consist of two (2) or more of the directors and/or members of the corporation, which, to the extent provided in said resolution or resolutions or in the By-Laws of the corporation, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers which may require it provided the said resolution or resolutions shall so provide. Such committee or committees shall have such name or names as may be stated in the By-Laws of the corporation or as may be determined from time to time by resolutions adopted by the Board of Directors, or a majority of the members.

NINTH: The meetings of members may be held without the State of Delaware, if the By-Laws so provide. The books of the corporation may be kept (subject to any provisions contained in the statutes) outside of the State of Delaware at

such place or places as may be from time to time designated by the Board of Directors or in the By-Laws of the corporation.

Elections of directors need not be by ballot unless the By-Laws so provide.

TENTH: The corporation reserves the right to amend, alter, change or repeal any provisions contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon members herein are granted subject to this reservation, it being provided, however, that said reserved right to amend, alter, change or repeal may be exercised only with the approval of three-fourths of the entire membership obtained at a meeting called for such purposes, ~~and it being~~ further provided, however, that this Certificate of Incorporation may not be amended, altered or changed in any respect which shall adversely affect equity rights contained in the Co-operative Apartment Certificates of Ownership, except by unanimous approval of the entire membership obtained by written consent or at a meeting called for such purpose. For the purpose of this section each Certificate of Ownership shall constitute only one (1) vote.

ELEVENTH: Section 1. The name and post office address of the members of the first Board of Directors of this corporation, who shall hold office for the first year of existence of the corporation or until their successors are elected and have qualified, any provision to the contrary herein notwithstanding, are as follows:

Name	Address
B. J. FLOOD	1015 Kane Concourse Bay Harbor Islands, M.B. Florida
ALBERT J. CURRIER	1015 Kane Concourse Bay Harbor Islands, M.B. Florida
KATHRYN A. RAINEY	1015 Kane Concourse Bay Harbor Islands, M.B. Florida

Section 2. The names and post office addresses of the officers of this corporation who shall hold office for the first year of existence of the corporation or until their successors are elected or appointed and have qualified, any provision to the contrary herein notwithstanding, are as follows:

Name		Address
B. J. FLOOD	President	1015 Kane Concourse Bay Harbor Islands, Miami Beach, Fla.
ALBERT J. CURRIER	Secretary-Treasurer	1015 Kane Concourse Bay Harbor Islands, Miami Beach, Fla.
KATHRYN A. RAINEY	Vice President	1015 Kane Concourse Bay Harbor Islands, Miami Beach, Fla.

TWELFTH: The officers and directors other than those herein named to hold office for the first year of existence of the corporation, or until their successors are elected and have qualified, shall be members of the corporation during their term of office, any provision to the contrary herein notwithstanding.

THIRTEENTH: Should the monies, funds or contributions paid by a member or stockholder to the corporation as his share of the expenses of said corporation, actually exceed the liabilities and expenditures of the corporation in the fiscal year in which the contribution is made, then the corporation shall be liable to the member for the excess amount so paid or contributed, and the member shall receive credit for said over-payment on the amount chargeable or assessed against him during the next succeeding fiscal year.

WE, THE UNDERSIGNED, being each of the incorporators hereinbefore named for the purpose of forming a corporation in pursuance of the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that the facts herein stated are true, and accordingly have hereunto set our hands and seals this 6th day of January, A.D. 1958.

B. J. Flood (SEAL)
B. J. FLOOD, President

Kathryn R. Rainey (SEAL)
KATHRYN R. RAINEY, Vice President

Albert J. Currier (SEAL)
ALBERT J. CURRIER, Secretary-Treasurer

STATE OF FLORIDA)
: SS.
COUNTY OF DADE)

BE IT REMEMBERED, that on this 8th day of January, 1958, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared B. J. FLOOD, President and ALBERT J. CURRIER, Secretary of BAY HARBOR CONTINENTAL, INC., the corporation mentioned in the foregoing Certificate, known to me, and acknowledged the said Certificate to be their act and deed and the act and deed of the said corporation and that the seal thereto affixed was the seal of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

EUGENE W. SULZBERGER
Notary Public, State of Florida at Large

My Commission expires February 9, 1961
Bonded by American Fire & Casualty Co.

EXHIBIT 2

ASSESSED VALUE AND TAXES PAID

UNIT #	ASSESSED VALUE 2014	ASSESSED VALUE 2013	TAXES PAID 2014	TAXES PAID 2013	NOTES
A-1	$93,428	$92,048	$1,081.14	$1,167.81	
A-2	$147,080	$133,670	$3,364.96	$2,792.36	
A-3	$147,037	$133,670	$3,364.96	$2,792.36	
A-4	$79,183	$78,013	$426.23	$444.92	
A-5	$85,138	$83,880	$808.84	$803.03	
B-1	$60,829	$59,931	$661.89	$661.93	
B-2	$112,959	$102,690	$2,585.09	$2,167.54	
B-3	$60,829	$59,931	$595.09	$598.30	
B-4	$112,959	$102,690	$2,692.80	$2,321.62	
B-5	$163,380	$113,100	$3,486.80	$2,387.28	
C-1	$112,959	102,690	$2,692.80	$2,167.54	
C-2	$60,829	$59,931	$296.31	$296.23	
C-3	$112,959	$102,690	$2,665.87	$2,145.20	
C-4	$112,959	$102,690	$2,692.80	$2,189.89	
C-5	$124,410	$113,100	$2,847.24	$2,362.67	
D-1	$53,530	$52,739	$240.45	$235.12	
D-2	$66,997	$66,007	$669.08	$671.70	
D-3	$58,957	$58,086	$287.87	$278.94	
D-4	$114,796	$113,100	$1,518..93	$1,509.61	
D-5	$135,597	$123,270	$3,232.48	$3117.68 - tax cert. issued 6/1/14 - $2,963.27	
E-1	$104,230	$102,690	$684.41	$2,145.20	
E-2	$100,247	$98,766	$629.76	$609.15	
E-3	$112,959	$102,690	$2,612.02	$2,145.20	
E-4	$77,831	$76,681	$428.98	$748.82	
E-5	$124,410	$113,100	$2,876.89	$2,387.28	
F-1	$53,530	$52,739	$539.23	$543.24	
F-2	$112,959	$102,690	$2,585.09	$2,145.20	
F-3	$124,410	$113,100	$2,847.24	$2,362.67	
F-4	$163,380	$113,100	$2,566.69	$2,411.89	
F-5	$73,016	$71,937	$389.61	$382.13	
G-1	158,103	$143,730	$3,267.51	$3,002.52	
G-2	$145,885	$143,730	$2,155.87	$2,149.46	
G-3	$158,103	$143,730	$3,769.03	$3,002.52	
G-4	$158,103	$143,730	$3,618.27	$3,002.52	
G-5	$158,103	$143,730	$3,655.96	$3,033.79	
TOTAL	$3,842,084	$3,520,069	$67,319.26	$58,065.64	

EXHIBIT 3

FLORIDA DEMOLITION, INC.

245 SE 1st Street, Suite#326
Miami, Florida 33131
Ph: 305-329-4174 Fax: 305-329-4175

9-2-2014

P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Dear Joel,

Please accept this letter from Robert Arena, as president of Florida Demolition Inc., 245 SE 1st Street, #326, Miami, Florida 33131 Tel: 305-329-4174, Fax: 305-329-4175, Cell: 305-333-1109.

We are a full service demolition company for 30 years in the Miami Florida area. Some of our clients are Related Group, Patrick Campbell, Fortune International, Ronald Choron, Link Construction, Guillermo Willie Fernandez amongst others. Our projects range from small interior demolition to a concrete plant industrial demo in Allentown, Pa., that was $3.9 million in 2011 We are currently not or have ever been in any litigation caused by any fault of our own, only the few times clients bankrupted before we were paid or during projects.

Thank you for the opportunity to bid your project and look forward to working with you soon.

Sincerely,
Robert Arena
President

Robert Arena

REAL ESTATE

BID SPECIFICATIONS / BID SUBMITTAL FORM
Project Location:

The undersigned DEMOLITION CONTRACTOR, having examined these documents, and having full knowledge of the condition under which the work described herein must be performed, hereby proposes that she/he will fulfill the obligations contain herein in accordance with all instructions, terms, conditions, and specifications set forth; and that she/he will furnish all required products/services and pay all incidental costs in strict conformity with these documents for the stated prices as payment in full.

Bid $ 141,000.00 Demo bldgs, pool and asphalt $10,000.00 allowance for disconnects + permits

Length of time for Completion: 60 days

Disposal Landfill(s): Lopefra - trash Lopefra - Biscayne land concrete

Submitting Firm: Florida Demolition Inc

Address: 245 SE 1st #326, Miami, Fl 33131

Name of Authorized Representative (print/type): Robert Arena

Title: Pres.

Authorized Signature: Robert Arena

Date: 9-2-14

Email: bwrecker@msn.com

Phone Number: 305-329-4174 off 305-333-1109 cell

FIRM PRICING

Prices submitted in this bid form are firm through (minimum 30 days): 45 days

Not included. Asbestos survey
Hazardous or regulated materials
All Haz or regulated materials to be removed prior to start of demo
Salvage becomes property of FDI

EXHIBIT 4

TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154
305-993-1786

Building Permit

Permit Number: BP2014-359 **Master Permit #:** BP2014-359
Date Issued: 2/18/2015
Expiration Date: 7/18/2015

Applicant

Name: Florida Demolition Inc **Phone:** 305-333-1109
Address: 245 Southeast 1 Street
Miami, FL 33131

Project Description:

Demolition on Structure

Parcel

Unit #:
Parcel Number: 13-2227-026-0001 **Zoning:**
Address: 1135 103 Street Bay Harbor Islands, FL 33154
Lot(s): TRACT **Block:** F

Owners

Name: Bay Harbor Continental Co-Op
Address: 1135 - 103 Street
Bay Harbor Islands, FL 33154

Contractor

Contractor Type: Certified General
Name: Florida Demolition Inc **Phone:** 305-333-1109
Address: 245 Southeast 1 Street
Miami, FL 33131

Inspection Checklist:

Reqd?	Inspection Type	Date	Signature	Reqd?	Inspection Type	Date	Signature
☑	Final			☐			
☐				☐			
☐				☐			
☐				☐			
☐				☐			
☐				☐			
☐				☐			
☐				☐			

Fees and Receipts:

Number	Description		Amount
FEE2015-479	BP-DEMOLITION (Auto)		$3,500.00
FEE2015-480	CONSTRUCTION BOND (Auto)		$1,000.00
FEE2015-481	DC SURCHARGE (Auto)		$84.60
FEE2015-482	PROCESSING FEE (Auto)		$705.00
FEE2015-483	CREDIT CARD SURCHARGE		$1.00
		Total Fees:	**$5,290.60**
RCPT2015-133	2/18/2015		$5,290.60
		Total Receipts:	**$5,290.60**

Permit Information:

Construction Value: $141,000.00

Construction Type:

Purpose:

Total Area:

New Sq Ft: 35000

Comments:

The demolition permit is issued conditioned to the subsequent receipt by this department the presently missing items noted by the plan reviewers.

We respectfully request you to kindly issue the demolition permit for the Property with our assurance that we will not commence any demolition until the electrical supply is fully disconnected and we provide you with the requisite letter from FP&L. We will provide any written confirmations that you may need to obligate ourselves from commencing any demolition until electrical supply and other utilities to the building have been disconnected.

FAILURE TO COMPLY WITH MECHANICS LIEN LAW CAN RESULT IN THE PROPERTY OWNER PAYING TWICE FOR BUILDING IMPROVEMENTS

THIS PERMIT BECOMES NULL AND VOID UNLESS THE WORK AUTHORIZED IS COMMENCED WITHIN ONE HUNDRED AND EIGHTY (180) DAYS AFTER ITS ISSUANCE, OR IF THE WORK AUTHORIZED IS NOT INSPECTED FOR A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS. THE FLORIDA ENERGY CODE SUBMITTED BECOMES AN INTEGRAL PART OF

Any changes in building plans or specifications must be recorded with this office. Any work not cover above, must have a valid permit prior to starting. In consideration of the granting of this permit, the owner and builder agree to erect this structure in full compliance with the Building and Zoning Codes of the Town of Bay Harbor, Florida. This permit fee is not refundable.

This Permit is granted upon the express condition that all facts stated in the application are true and that the work complies strictly with the plans and specifications submitted, and in accordance and compliance with the Building Laws of the State of Florida and with all Ordinances of the Town of Bay Harbor Islands. This permit may be revoked at any time upon the violation of any provisions of said laws, ordinances or rules and regulations, or upon any change in plans and specifications unauthorized by the Town of Bay Harbor Islands. All sidewalks, gutters, drains, fire hydrants, roadways and private driveways within the block in which the work is being done are to be kept open by the Contractor for their intended uses.

Chief Building Official

In consideration of the issuance to me of the foregoing Permit, I hereby agree to do the proposed work or construction in strict conformity with the application and the plans and specifications thereof heretofore by me submitted, and in compliance with all provisions of all Building Laws of State of Flordia and Miami-Dade County, and all Ordinances of the Town of Bay Harbor Islands and all of the rules and regulations of the Town Council of the Town of Bay Harbor Islands.

x

Contractor or Builder

Hours of Construction (Town Code Section 12-26)

The peformance of activity within the town should be allowed only from 9:00 a.m. until 6:00 p.m., Monday to Friday and between the hours of 10:00 a.m. and 5:00 p.m. Saturday. The peformance of construction activity within the town will not be allowed on Sundays and legal holidays, and the same is hereby specifically prohibited. For purposes of this section, the term "legal holidays", is defined as any day legally observed as a holiday by the town.

NOTICE TO OWNER:

IN ADDITION TO THE REQUIREMENTS OF THIS PERMIT, THERE MAY BE ADDITIONAL RESTRICTIONS APPLICABLE TO THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY, AND THERE MAY BE ADDITIONAL PERMITS REQUIRED FROM OTHER GOVERNMENT ENTITIES SUCH AS WATER MANAGEMENT DISTRICTS, STATE AGENCIES, OR FEDERAL AGENCIES.

INSPECTIONS ARE TO BE CALLED IN 24 HRS IN ADVANCE BY THE CONTRACTOR AT (305) 993-1786. ALL INSPECTIONS ARE SCHEDULED ON MONDAY, WEDNESDAY AND FRIDAYS.

Regarding Demolition Permit For

The Bay Harbor Continental
1135 103rd Street
Bay Harbor Islands, FL 33154

To:
Larry N. Wentworth Building Department
Bay Harbor Islands, FL 33154

Dear Larry,

We respectfully request you to kindly issue the demolition permit for the Property with our assurance that we will not commence any demolition until the electrical supply is fully disconnected and we provide you with the requisite letter from FP&L.

We will provide any written confirmations that you may need to obligate ourselves from commencing any demolition until electrical supply and other utilities to the building have been disconnected.

Thank you.

Sincerely,

Gaurav Butani

P3 Investments 1 LLC
1101 Brickell Avenue South Tower
8th Floor
Miami, FL 33154

FEB 18, 2015

ARS ENVIRONMENTAL

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Project Summary

Pursuant to your request; ARS Environmental, Inc., has performed an Asbestos Building Survey on 9/5/2014 and limited to the above referenced location.

The **Interior/Exterior/Roof** of the above referenced location was visually inspected to identify building materials that may contain asbestos. Suspect materials were collected and samples sent to laboratory for analysis.

Laboratory Results

Based On The Laboratory Analysis, Asbestos Was Detected In Amounts Greater Than 1% In The Secured Bulk Samples.

It has been a pleasure working with you. Please call on us again.

Regards,

Alex Front,
ARS Environmental, Inc.

10097 Cleary Boulevard • #305 • Plantation, FL 33324 • Phone: 954-227-2402 • Fax: 866-816-5110
www.arsenvironmental.com • sales@arsenvironmental.com

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Certification

I hereby certify that this asbestos survey was conducted at the above referenced Job Site on 9/5/2014, and performed by Jeffrey Montalvan; accredited by the EPA as AHERA Inspector(s), utilizing the code of the Federal Regulation Standards, 40 CFR, Part 763, Subpart E, Section 763.80-763.99 and the State Asbestos Regulations, Florida Statutes 469.003.

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
ASBESTOS LICENSING UNIT

LICENSE NUMBER
ZA0000164

The ASBESTOS BUSINESS ORGANIZATION
Named below IS LICENSED
Under the provisions of Chapter 469 FS.
Expiration date: NOV 30, 2016

ARS ENVIRONMENTAL INC
TIMOTHY CAUGHEY
10097 CLEARY BOULEVARD
PLANTATION FL 33324

WWW.FLORIDABUS.

RICK SCOTT
GOVERNOR

ISSUED: 09/03/2013 SEQ # L1309030002224
DISPLAY AS REQUIRED BY LAW

KEN LAWSON
SECRETARY

Timothy F. Caughey, M.P.H.
Florida Licensed Consultant

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Technician Certification

Asbestos Consulting & Training Systems

This is to Certify that

Jeffrey Montalvan

has successfully completed an English

Asbestos Building Inspection Refresher

29-Jan-14 TO 29-Jan-14

Proceeded By:

Seagull

This Certificate Expires:

29-Jan-15

Certificate Number

Course Number SE1405

Jeffrey Montalvan
Certified Asbestos Surveyor
ARS Environmental, Inc.

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Bulk Sample Itemization

Sample Number	Material Class / Sample Description / Location	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Approximate Size	Positive Stop	Asbestos Detected
Sample 1	Surfacing Material	Good	None	None	High	Non-friable	92,190 Sq. Ft.		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 2	Surfacing Material	Good	None	None	High	Non-friable	Included Above		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 3	Surfacing Material	Good	None	None	High	Non-friable	Included Above		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 4	Surfacing Material	Good	None	None	High	Non-friable	Included Above		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 5	Surfacing Material	Good	None	None	High	Non-friable	Included Above		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 6	Surfacing Material	Good	None	None	High	Non-friable	Included Above		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							

The following non-suspect materials were observed during the survey (no samples were taken): No insulation observed behind the walls. A/C duct fiberglass insulation. Window mounted a/c units. Terrazzo flooring, ceramic tiles, carpet, wood.

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Bulk Sample Itemization

Sample Number	Material Class / Sample Description / Location	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Approximate Size	Positive Stop	Asbestos Detected
Sample 7	Surfacing Material	Good	None	None	High	Non-friable	[redacted]		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 8	Surfacing Material	Good	None	None	High	Non-friable	[redacted]		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 9	Surfacing Material	Good	None	None	High	Non-friable	[redacted]		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 10	Surfacing Material	Good	None	None	High	Non-friable	[redacted]		Asbestos Not Detected
Layer	Interior Plaster Coat	All Units Throughout Walls And Ceilings							
Sample 11	Miscellaneous	Good	None	None	High	Friable	38,600 Sq. Ft.		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 12	Miscellaneous	Good	None	None	High	Friable	[redacted]		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							

The following non-suspect materials were observed during the survey (no samples were taken): No insulation observed behind the walls. A/C duct fiberglass insulation. Window mounted a/c units. Terrazzo flooring, ceramic tiles, carpet, wood.

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Bulk Sample Itemization

Sample Number	Material Class / Sample Description / Location	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Approximate Size	Positive Stop	Asbestos Detected
Sample 13	Miscellaneous	Good	None	None	High	Friable	Unknown Area		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 14	Miscellaneous	Good	None	None	High	Friable	Unknown Area		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 15	Miscellaneous	Good	None	None	High	Friable	Unknown Area		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 16	Miscellaneous	Good	None	None	High	Friable	Unknown Area		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 17	Miscellaneous	Good	None	None	High	Friable	Unknown Area		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 18	Miscellaneous	Good	None	None	High	Friable	Unknown Area		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							

The following non-suspect materials were observed during the survey (no samples were taken): No insulation observed behind the walls. A/C duct fiberglass insulation. Window mounted a/c units. Terrazzo flooring, ceramic tiles, carpet, wood.

Today's Date: 9/9/2014 | **Project Number: 20142164** | Page 7 of 21

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Bulk Sample Itemization

Sample Number	Material Class / Sample Description / Location	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Approximate Size	Positive Stop	Asbestos Detected
Sample 19	Miscellaneous	Good	None	None	High	Friable	[redacted]		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 20	Miscellaneous	Good	None	None	High	Friable	[redacted]		Asbestos Not Detected
Layer	Wallboard / Joint Compound	Throughout Some Walls In Kitchen And Under Windows Behind Plaster							
Sample 21	Miscellaneous	Good	None	None	Low	Non-friable	3 Sq. Ft.		Asbestos Not Detected
Layer	Black Sink Insulation	Kitchen Unit 1 C - 11							
Sample 22	Miscellaneous	Good	None	None	Low	Non-friable	3 Sq. Ft.		[redacted]
Layer	Black Sink Insulation	Kitchen Unit D - 1							
Sample 23	Miscellaneous	Good	None	None	Low	Non-friable	3 Sq. Ft.		Asbestos Not Detected
Layer	Black Sink Insulation	Kitchen Unit D - 3							
Sample 24	Miscellaneous	Good	None	None	Low	Friable	2 Sq. Ft.		[redacted]
Layer	Space Heater Insulation	Bathroom Wall Unit D - 1							

The following non-suspect materials were observed during the survey (no samples were taken): No insulation observed behind the walls. A/C duct fiberglass insulation. Window mounted a/c units. Terrazzo flooring, ceramic tiles, carpet, wood.

Today's Date: 9/9/2014 | **Project Number: 20142164** | Page 8 of 21

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Bulk Sample Itemization

Sample Number	Material Class / Sample Description / Location	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Approximate Size	Positive Stop	Asbestos Detected
Sample 25	Miscellaneous	Good	None	None	Low	Friable	2 Sq. Ft.		Yes
Layer	Space Heater Insulation	Bathroom Wall Unit G - 5							
Sample 26	Miscellaneous	Good	None	None	High	Non-friable	64 Sq. Ft.		Asbestos Not Detected
Layer	Floor Tiles; Peel And Stick; Black Mastic	1st Floor Mechanical Room Hallway							
Sample 27	Miscellaneous	Good	None	None	High	Non-friable	77 Sq. Ft.		Asbestos Not Detected
Layer 1	Floor Tiles; Peel And Stick; Beige Mastic	Kitchen Unit C - 4							
Sample 28	Miscellaneous	Good	None	None	High	Non-friable	77 Sq. Ft.		Asbestos Not Detected
Layer 2	12" X 12" Floor Tiles; Beige Mastic	Kitchen Unit C - 4							
Sample 29	Miscellaneous	Good	None	None	Low	Non-friable	7,800 Sq. Ft.		Asbestos Not Detected
Layer	Roof Material; Membrane	Over Building Under Gravel Rocks							
Sample 30	Miscellaneous	Good	None	None	Low	Non-friable	240 Ln. Ft.		Asbestos Not Detected
Layer	Roof Material; Flashing	Perimeter Of Roof And Roof Joints							

The following non-suspect materials were observed during the survey (no samples were taken): No insulation observed behind the walls. A/C duct fiberglass insulation. Window mounted a/c units. Terrazzo flooring, ceramic tiles, carpet, wood.

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Bulk Sample Itemization

Sample Number	Material Class / Sample Description / Location	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Approximate Size	Positive Stop	Asbestos Detected
Sample 31	Miscellaneous	Good	None	None	High	Non-friable	88 Sq. Ft.		Yes
Layer	9" X 9" Floor Tiles Black Mastic Mastic Positive Only	Kitchen Unit D - 1							
Sample 32	Miscellaneous	Good	None	None	High	Non-friable	67,200 Sq. Ft.		Asbestos Not Detected
Layer	Concrete Structure	Floors And Exterior Walls Main Building And Pool Building							
Sample 33	Miscellaneous	Good	None	None	High	Non-friable	Hold		Asbestos Not Detected
Layer	Concrete Structure	Floors And Exterior Walls Main Building And Pool Building							
Sample 34	Miscellaneous	Good	None	None	Low	Non-friable	1,060 Sq. Ft.		Asbestos Not Detected
Layer	Roof Material; Membrane	Over Pool Building							

The following non-suspect materials were observed during the survey (no samples were taken): No insulation observed behind the walls. A/C duct fiberglass insulation. Window mounted a/c units. Terrazzo flooring, ceramic tiles, carpet, wood.

Today's Date: 9/9/2014	Project Number: 20142164	Page 10 of 21

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Friable Asbestos Containing Material

Sample Number	Description / Material Class	Location	Approximate Size	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Asbestos Detected
Sample 24 Layer	Space Heater Insulation Miscellaneous	Bathroom Wall Unit D - 1	2 Sq. Ft.	Good	None	None	Low	Friable	Yes
Sample 25 Layer	Space Heater Insulation Miscellaneous	Bathroom Wall Unit G - 5	2 Sq. Ft.	Good	None	None	Low	Friable	Yes

Recommendations

Friable: any material containing more than one percent asbestos which has been applied on ceilings, walls, structural members, piping, duct work, or any other part of a building, which when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

The following work practice should be followed whenever demolition/renovation activities involving RACM occur: Notify EPA of intention to demolish/renovate, remove all RACM from a facility being demolished or renovated before any disruptive activity begins or before access to the material is precluded, keep RACM adequately wet before, during, and after removal operations, conduct demolition/renovation activities in a manner which produces no visible emissions to the outside air, and handle and dispose of all RACM in an approved manner.

The above building material is considered friable and must be removed by a Florida Licensed Asbestos Abatement Contractor, prior to any disturbance caused by renovation or demolition.

When implementing the response actions, parties responsible for final selection should remember that actions shall be sufficient to protect human health and the environment, but may also be the least burdensome method. Nothing in these recommendations should be construed as prohibiting or discouraging removal.

In the event that demolition or renovation is deemed necessary, parties shall comply with all applicable laws, ordinances, rules and regulations of Federal, State and Local Governmental Agencies, including any National Emissions Standard Hazardous Air Pollutants (N.E.S.H.A.P.) Notification requirements

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Category I - Non-Friable Asbestos Containing Material

Sample Number	Description / Material Class	Location	Approximate Size	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Asbestos Detected
Sample 22 Layer 1	Black Sink Insulation Miscellaneous	Kitchen Unit D - 1	3 Sq. Ft.	Good	None	None	Low	Non-friable	Yes
Sample 31 Layer 1	9" X 9" Floor Tiles Black Mastic Mastic Positive Only Miscellaneous	Kitchen Unit D - 1	88 Sq. Ft.	Good	None	None	High	Non-friable	Yes

Recommendations

The above referenced Asbestos Contained Building Materials may be left in place if deemed to be in good condition and no repairs or renovations are scheduled which would disturb them. Care should be taken to ensure that the materials not be disturbed during repair, renovation or remodelling activities which could possibly release fibers into the air. To reduce the intrinsic liability to the owners, the ultimate solution may be to have the material removed. However, at the minimum, a formal Operations and Maintenance (O&M) Program is recommended to minimize potential fiber releases, monitor any future deterioration, and to ensure proper record keeping.

Under the FDEP regulations, Category I non-friable asbestos-containing materials may be left in place during demolition under wet conditions. However, OSHA regulations require that disposal of asbestos-containing materials and debris is disposed of in a leak-tight and labeled container. The container may be plastic bags so long as the holding is leak-tight. All materials must be disposed of in a Class I landfill and manifest as Category I Non-Friable Asbestos containing material.

To meet the requirements of a wet demolition, it is the responsibility of the demolition contractor to control any visible emissions by adequately applying water on the structure. Furthermore, the work practices for the demolition of a building containing asbestos must be in regulatory compliance with OSHA 1926.1101. All materials must be kept thoroughly wet or saturated during the demolition to assist in preventing the release of asbestos fibers. A certified asbestos supervisor must perform or supervise the work. If during the demolition process visible emissions are observed, the asbestos-containing materials must then be abated.

The regulations of the Occupational Safety and Health Administration (OSHA) applies to any detectable amount of asbestos in building materials or on facility components. This requirement covers worker training, work practices, and disposal methods. In summary, removing asbestos in a commercial setting requires training, specific work practices, and disposal methods for the asbestos and asbestos-containing debris.

However, if Category I Materials have become friable or are in poor condition, they must be removed before demolition or renovation begins by a Florida Licensed Asbestos Abatement Contractor.

When implementing the response actions, parties responsible for final selection should remember that actions shall be sufficient to protect human health and the environment, but may also be the least burdensome method. Nothing in these recommendations should be construed as prohibiting or discouraging removal.

Today's Date: 9/9/2014	Project Number: 20142164	Page 12 of 21

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Category II - Non-Friable Asbestos Containing Material

Sample Number	Description / Material Class	Location	Approximate Size	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability	Asbestos Detected

NONE DETECTED

Recommendations

The above referenced Asbestos Contained Building Materials may be left in place if deemed to be in good condition & no repairs or renovations are scheduled which would disturb them. Care should be taken to ensure that the materials not be disturbed during repair, renovation or remodelling activities which could possibly release fibers into the air. To reduce the intrinsic liability to the owners, the ultimate solution may be to have the material removed.

The above building materials are considered Category II Non-Friable and are likely to become crushed, crumbled, pulverized or reduced to powder during demolition or renovation therefore must be removed before demolition or renovation begins by a Florida Licensed Asbestos Abatement Contractor.

To meet the requirements of a wet demolition, it is the responsibility of the demolition contractor to control any visible emissions by adequately applying water on the structure. Furthermore, the work practices for the demolition of a building containing asbestos must be in regulatory compliance with OSHA 1926.1101. All materials must be kept thoroughly wet or saturated during the demolition to assist in preventing the release of asbestos fibers. A certified asbestos supervisor must perform or supervise the work. If during the demolition process visible emissions are observed, the asbestos-containing materials must then be abated.

The regulations of the Occupational Safety and Health Administration (OSHA) applies to any detectable amount of asbestos in building materials or on facility components. This requirement covers worker training, work practices, and disposal methods. In summary, removing asbestos in a commercial setting requires training, specific work practices, and disposal methods for the asbestos and asbestos-containing debris.

However, if Category II Materials have become friable or are in poor condition, they must be removed before demolition or renovation begins by a Florida Licensed Asbestos Abatement Contractor.

When implementing the response actions, parties responsible for final selection should remember that actions shall be sufficient to protect human health and the environment, but may also be the least burdensome method. Nothing in these recommendations should be construed as prohibiting or discouraging removal.

General Terms and Conditions

Scope of Work

ARS Environmental's inspections are limited and non-destructive in nature. Any conditions or materials which were not able to be visually observed on the surface, or in easily accessible areas, were not inspected and may differ from those observed. It was not within the scope of this investigation to remove surface materials to investigate portions of the structure or materials which lay beneath the surface. Our selection of sample locations and frequency is based upon our observations and the assumption that like materials in the same area are homogeneous. This inspection report is the result of a diligent search of the facility for Asbestos Containing Building Materials (ACBM). The purpose of this inspection was to identify those materials which may pose a health hazard to occupants of a building and impart future liability to the owners and insurers of the property. However, we do not claim to have identified all of the asbestos containing building materials present in the facility. Materials such as underground pipes, any material inside walls, ceilings, floors, or other enclosed and inaccessible areas were not sampled and are not covered in this report. This report is designed to aid the building owner, architect, construction manager, general contractor, and potential asbestos abatement contractor in locating asbestos containing building materials. Under no circumstances is this report to be utilized as a proposal or a project specification document. This report is based upon conditions and practices observed at the property and information made available to the surveyor. This report does not intend to identify all hazards or unsafe practices, nor to indicate that other hazards or unsafe practices do not exist at the premises. In the event that demolition or renovation is deemed necessary, parties shall comply with all applicable laws, ordinances, rules, and regulations of federal, state, and local governmental agencies, including any National Emissions Standard Hazardous Air Pollutants (NESHAP) notification requirements.

Right of Entry

The client will provide for right of entry to ARS Environmental's personnel in order to complete the above referenced work.

Invoices

ARS Environmental will submit invoices to client upon completion of services.

Ownership of Documents

All reports, field data, field notes, laboratory tests data, calculations, estimates, and any other documents prepared by ARS Environmental as instruments of service shall remain the property of ARS Environmental.

Assumptions and Limitations

The results, findings, conclusions, and recommendations expressed in this report are based only on conditions which were observed during inspections by this report. ARS Environmental makes no representation or assumptions as to past conditions or future occurrences.

Assigns

Neither the client nor ARS Environmental may delegate, assign, sublet or transfer his duties or interest in this agreement without the written consent of the other party.

Roof Cuts

To obtain accurate information in a roof investigation, roof cuts approximately four inch 4" squares, may be deemed necessary. It is the responsibility of our client to make appropriate repairs to these roof cuts, using materials consistent with the roofing system and in accordance with any existing material manufacturer's warranties. A roofing contractor or maintenance personnel selected by our client should be on the roof to make any necessary repairs at the time the samples are being obtained. Although, every attempt will be made to make these repaired areas water tight, ARS Environmental will in no way be responsible for any water damage to the roofing system, building, or it's contents resulting from ARS Environmental temporary repairs.

Disclaimer

If in the course of a renovation or demolition activity, suspect materials become exposed, ALL FURTHER ACTIVITY SHOULD IMMEDIATELY CEASE AND THE STATUS OF THE MATERIAL SHOULD BE DETERMINED BEFORE PROCEEDING.

Today's Date: 9/9/2014	**Project Number: 20142164**	Page 14 of 21

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Technician Chain of Custody Forms and Field Notes

ARS ENVIRONMENTAL, INC.
CHAIN OF CUSTODY

Page 1 Of 4
PLM Analysis: Asbestos Bulk Samples

Positive Stop Requested
Point Count Requested On Friable Materials That Report Less Than 1%

Turnaround Time Requested: Same Day • 24 Hour • 48 Hour • 72 Hour

Sampling Date: 9/5/14
Project Location: CONDO BLDG
1135 103RD STREET
BAY HARBOR, FL

Samples Taken By: J. MONTALVAN
Project Number: 2014-2164

Sample Layer	Material Class	Sample Description	Sample Location	Approx. Size	Sample Condition	Physical Damage	Water Damage	Material Content	Sample Friability
1	S	INTERIOR PLASTER COAT	THROUGHOUT THE WALLS AND CEILINGS INSIDE ALL THESE UNITS.	92,190'	G	N	N	H	NF
2	S	" "	" "	DA					
3	S	" "	" "	DA					
4	S	" "	" "	DA					
5	S	" "	" "	DA					
6	S	" "	" "	DA					
7	S	" "	" "	DA					
8	S	" "	" "	DA					
9	S	" "	" "	DA					
10	S	" "	" "	EA					

Material Class: S=Surfacing Materials T=Thermal Insulation (TSI) M=Miscellaneous Materials

Friability: NF=Category I or Category II Non-Friable Material (Material that, when dry, may not be crumbled, pulverized, or reduced to powder by hand pressure.) F=(Material that may be crumbled, pulverized, or reduced to powder by hand pressure when dry.)

Transfered By: [signature] Date: 9/5/14 Received By: [signature] Date: 9/7/14

10097 CLEARY BOULEVARD • #305 • PLANTATION, FL 33324 • TOLL FREE: 877-227-2401 • PHONE: 954-227-2402 • FAX: 866-816-5110

Prepared For:	Job Site:
Joel Reed P3 Real Estate Investments 1101 Brickell Avenue, 8th Floor Miami, Fl 33134	35 Condominium Units 1135 103rd Street Bay Harbor, Fl

Asbestos Survey — Technician Chain of Custody Forms and Field Notes

ARS Environmental, Inc.
CHAIN OF CUSTODY

Page 2 of 4

PLM Analysis: Asbestos Bulk Samples

Positive Stop Requested
Point Count Requested On Friable Materials That Report Less Than 1%

Turnaround Time Requested: Same Day • 24 Hour • 48 Hour • 72 Hour

Sampling Date: 9/5/14
Samples Taken By: J. MONTALVAN
Project Number: 2014-2164
Project Location: CONDO BLDG 1135 103RD STREET BAY HARBOR, FL

Sample Layer	Material Class	Sample Description	Sample Location	Approx. Size	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability
11	M	WALLBOARD/JOINT COMPOUND	THROUGHOUT SOME WALL INSIDE KITCHEN AND UNDER	38600'	G	N	N	N	F
12	M	" "	WINDOWS BEHIND PLASTER " "	EA					
13	M	" "	" "	EA					
14	M	" "	" "	EA					
15	M	" "	" "	EA					
16	M	" "	" "	EA					
17	M	" "	" "	EA					
18	M	" "	" "	EA					
19	M	" "	" "	EA					
20	M	" "	" "	EA					

Material Class: S=Surfacing Materials T=Thermal Insulation (TSI) M=Miscellaneous Materials

Friability: NF=Category I or Category II Non-Friable Material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. F=Material that may be crumbled, pulverized, or reduced to powder by hand pressure when dry.

Transferred By: _____ Date: 9/5/14 Received By: _____ Date: 9/7/14

10097 CLEARY BOULEVARD • #305 • PLANTATION, FL 33324 • TOLL FREE: 877-227-2402 • PHONE: 954-227-2402 • FAX: 866-816-5110

Today's Date: 9/9/2014	**Project Number: 20142164**	Page 16 of 21

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Asbestos Survey — Technician Chain of Custody Forms and Field Notes

ARS Environmental, Inc.
CHAIN OF CUSTODY

Page 3 Of 4
PLM Analysis: Asbestos Bulk Samples

Positive Stop Requested
Point Count Requested On Friable Materials That Report Less Than 1%

Turnaround Time Requested: Same Day • 24 Hour • 48 Hour • 72 Hour

Sampling Date: 9/5/14
Project Location: CONDO BLDG
1135 103RD STREET
BAY HARBOR, FL

Samples Taken By: J. MONTALVAN
Project Number: 2014-2164
☒ INT ☒ EXT ☒ ROOF

Sample Layer	Material Class	Sample Description	Sample Location	Approx. Size	Sample Condition	Physical Damage	Water Damage	Material Contact	Sample Friability
21	M	BLACK SINK INSULATION	INSIDE KITCHEN AREA OF UNIT (C-1)	3'	G	N	N	L	NF
22	M	" "	INSIDE KITCHEN AREA OF (D-1)	3'	↓	↓	↓	↓	↓
23	M	" "	INSIDE KITCHEN AREA OF (D-3)	3'	↓	↓	↓	↓	↓
24	M	SPACE HEATER INSULATION	INSIDE THE BATHROOM WALL OF (D-1)	2'	↓	↓	↓	↓	F
25	M	" "	INSIDE THE BATHROOM WALL OF (G-5)	2'	↓	↓	↓	↓	↓
26	M	BLACK PEEL & STICK FLOOR TILES & MASTIC	1ST FLOOR MECHANICAL ROOM HALLWAY	64'	G	N	N	H	NF
27/1	M	BEIGE PEEL & STICK FLOOR TILES/MASTIC	INSIDE UNIT (C-4) KITCHEN 1ST LAYER	77'	↓	↓	↓	↓	↓
28/2	M	IXI BEIGE FLOOR TILES & MASTIC	INSIDE UNIT (C-4) KITCHEN 2ND LAYER	77'	↓	↓	↓	↓	↓
29	M	ROOF MATERIAL (MEMBRANE)	OVER THIS BLDG UNDER GRAVEL ROCKS.	7800'	↓	↓	↓	L	↓
30	M	ROOF MATERIAL (FLASHING)	AROUND THE PERIMETER AT THE ROOF JOINTS.	240LF	↓	↓	↓	↓	↓

Material Class: B=Surfacing Materials To Thermal Insulation (TSI) M=Miscellaneous Materials

Friability: NF=Category I or Category II Non-Friable Material (Material that, when dry, may not be crumbled, pulverized, or reduced to powder by hand pressure.) F=Material that may be crumbled, pulverized, or reduced to powder by hand pressure when dry.

Transfered By: [signature] Date: 9/5/14 Received By: [signature] Date: 9/7/14

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Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
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Bay Harbor, Fl

Asbestos Survey — Technician Chain of Custody Forms and Field Notes

ARS ENVIRONMENTAL, INC.
CHAIN OF CUSTODY

Page 4 of 4

PLM Analysis: Asbestos Bulk Samples

Positive Stop Requested
Point Count Requested On Friable Materials That Report Less Than 1%

Turnaround Time Requested: Same Day • 24 Hour • 48 Hour • 72 Hour

Sampling Date: 9/5/14
Project Location: CONDO BLDG
1135 103RD STREET
BAY HARBOR, FL
Sampler Taken By: J. MONTALVO
Project Number: 2014-2164
Client Project Reference:

Sample Loc	Material Class	Sample Description	Sample Location	Approx. Size	Sample Condition	Friable?	Color	Hard to Sample?
31	M	9X9 FLOOR TILES & BLACK MASTIC	INSIDE THE KITCHEN AREA UNIT (D-1)	88'	G	N	N	H	NF
32	M	CONCRETE STRUCTURE	THROUGHOUT THE FLOORS AND EXTERIOR WALLS MAIN	64200'	↓	↓	↓	↓	↓
33	M	" "	BLDG AND POOL BLDG. " "	EA	↓	↓	↓	↓	↓
34	M	ROOF MATERIAL (MEMBRANE)	OVER POOL BLDG.	1060'	↓	↓	↓	L	↓
		NO INSULATION OBSERVED ON THE WALLS A/C DUCT FIBERGLASS INSULATION AND WINDOW UNITS TERRAZO FLOORS, CERAMIC TILES, CARPET AND WOOD OBSERVED NOT TYPICAL SUSPECT MATERIAL.						

Transferred By: Date: 9/5/14 Received By: Date: 9/7/14

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Asbestos Survey — Laboratory Results

ARS ENVIRONMENTAL, INC.

Environmental Consulting Services
Asbestos Business License #ZA-0000164

Asbestos Consulting • Radon Measurements • Lead Assessments • Indoor Air Quality Testing • Mold Investigations

Today's Date: 9/9/2014 | Project Number: 20142164 | Page 1 of 4

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Laboratory Analysis

Sample Number	Gross Description	Estimated Asbestos Percentage	Non-asbestos % Fibers	Non-fibrous % Materials
1	Plaster	No Asbestos Detected		100%
2	Plaster	No Asbestos Detected		100%
3	Plaster	No Asbestos Detected		100%
4	Plaster	No Asbestos Detected		100%
5	Plaster	No Asbestos Detected		100%
6	Plaster	No Asbestos Detected		100%
7	Plaster	No Asbestos Detected		100%
8	Plaster	No Asbestos Detected		100%
9	Plaster	No Asbestos Detected		100%
10	Plaster	No Asbestos Detected		100%

Alex Front,
Analyst

10097 Cleary Boulevard • #305 • Plantation, FL 33324 • Phone: 954-227-2402 • Fax: 866-816-5110
www.arsenvironmental.com • sales@arsenvironmental.com

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Today's Date: 9/9/2014 Project Number: 20142164 Page 2 of 4

Prepared For:

Joel Reed
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1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Laboratory Analysis

Sample Number	Gross Description	Estimated Asbestos Percentage	Non-asbestos % Fibers	Non-fibrous % Materials
11	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
12	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
13	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
14	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
15	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
16	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
17	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
18	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
19	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%
20	Drywall / Joint Compound	No Asbestos Detected	30% Cellulose 25% Glass	45%

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Miami, Fl 33134

Job Site:

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1135 103rd Street
Bay Harbor, Fl

Laboratory Analysis

Sample Number	Gross Description	Estimated Asbestos Percentage	Non-asbestos % Fibers	Non-fibrous % Materials
21	Sink Insulation	No Asbestos Detected	15% Cellulose 5% Synthetic	80%
22	Sink Insulation	[illegible]	15% Cellulose 5% Synthetic	75%
23	Sink Insulation	No Asbestos Detected	15% Cellulose 5% Synthetic	80%
24	Space Heater	[illegible]		55%
25	Space Heater	[illegible]		55%
26	Floor Tile Mastic	No Asbestos Detected No Asbestos Detected	 10% Cellulose	100% 90%
27	Floor Tile Mastic	No Asbestos Detected No Asbestos Detected	 10% Cellulose	100% 90%
28	Floor Tile Mastic	No Asbestos Detected No Asbestos Detected	 10% Cellulose	100% 90%
29	Membrane	No Asbestos Detected	35% Cellulose 20% Glass 5% Synthetic	40%
30	Flashing	No Asbestos Detected	35% Cellulose 15% Glass 5% Synthetic	45%

Alex Front,
Analyst

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Asbestos Survey — Laboratory Results

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Today's Date: 9/9/2014 Project Number: 20142164 Page 4 of 4

Prepared For:

Joel Reed
P3 Real Estate Investments
1101 Brickell Avenue, 8th Floor
Miami, Fl 33134

Job Site:

35 Condominium Units
1135 103rd Street
Bay Harbor, Fl

Laboratory Analysis

Sample Number	Gross Description	Estimated Asbestos Percentage	Non-asbestos % Fibers	Non-fibrous % Materials
31	Floor Tile	No Asbestos Detected		100%
	Black Mastic	5% Chrysotile	10% Cellulose	85%
32	Concrete	No Asbestos Detected		100%
33	Concrete	No Asbestos Detected		100%
34	Membrane	No Asbestos Detected	30% Cellulose 25% Glass	45%

Alex Front,
Analyst

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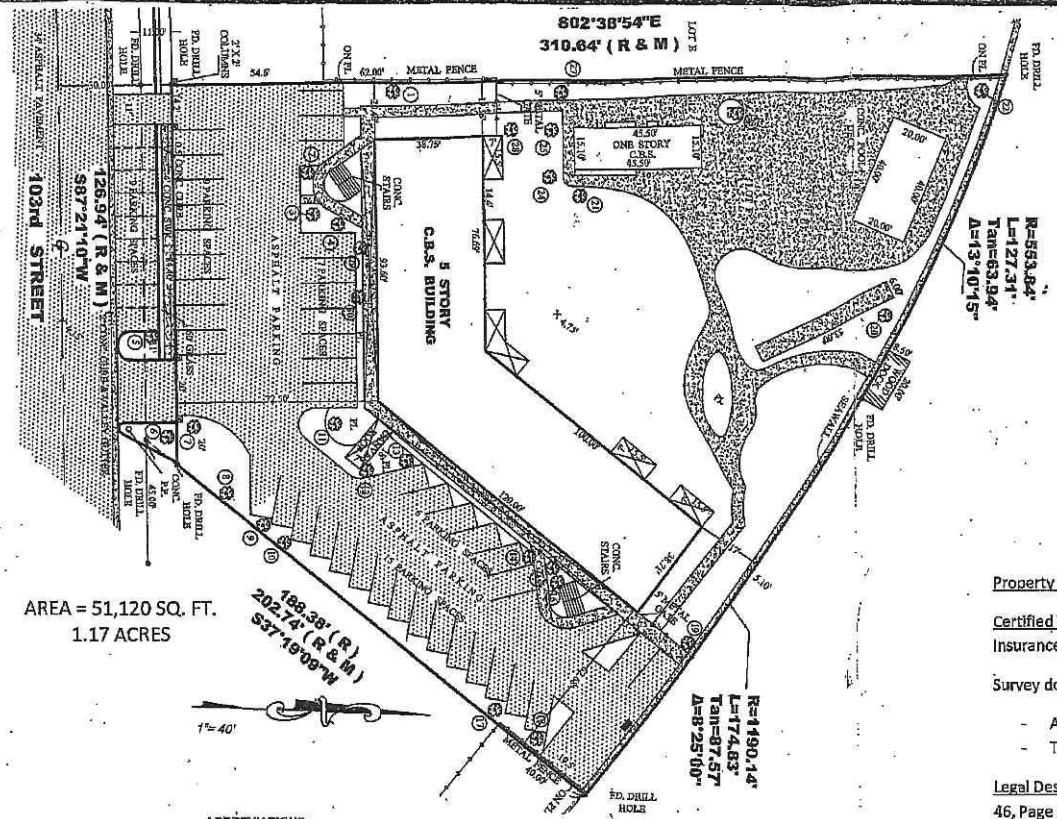
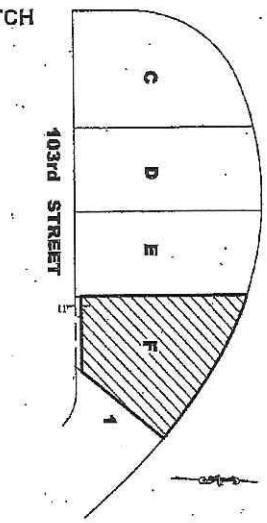


LOCATION SKETCH
SCALE: NTS

PAGE 1 OF 2



ALTA SURVEY

Property Address: 113S 103rd St., Bay Harbor Islands, FL 33154.

Certified To: P3 Investments I, LLC a Florida limited liability company; Akerman LLP; First American Title Insurance Company.

Survey done according to First American Title Insurance Company File Number: 1062-3134633.

- All Schedule B-II title exceptions are blanket in nature and not plottable.
- There are no encroachments on the property.

Legal Description: Tract "F" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

LESS AND EXCEPT, that portion conveyed to the Town of Bay Harbor Islands, a Florida municipality by that Instrument recorded in Official Records Book 427, Page 281, of the Public Records of Miami-Dade County, Florida

ABBREVIATIONS:
SWK=SIDEWALK, CBS=CONCRETE BLOCK STRUCTURE, CLF=CHAIN LINK FENCE, PL=PROPERTY LINE, DUE=DRAINAGE UTILITY EASEMENT, IP=IRON PIPE, F=FOUND, A/C=AIR CONDITIONER PAD, P/C=PROPERTY CORNER, D/H=DRILLED HOLE, WF=WOODEN FENCE, RES=RESIDENCE, CL=CLEAR, RB=REBAR, UE=UTILITY EASEMENT, CONC=CONCRETE SLAB, R/W=RIGHT OF WAY, DE=DRAINAGE EASEMENT, C/L=CENTER LINE, O=DIAMTER, TYP=TYPICAL, M=MEASURED, R=RECORDED, ENCR=ENCROACHMENT, COMP=COMPUTER, ASH=ASPHALT, N/D=NAIL & DISC, S=SET, FEE=FINISH FLOOR ELEVATION, O/S=OFFSET, P/P=POWER POLE, O/HP=OVERHEAD POWERLINE, WM=WATER METER
WOOD FENCE=
MASONRY WALL=
CONCRETE=
MAINTENANCE & DRAINAGE EASEMENT= M & D.E.

ELEVATION BASED ON LOC. #
CBM# ELV.

TYPE OF SURVEY: BOUNDARY SURVEY

NOT VALID UNLESS EMBOSSED WITH SURVEYOR'S SEAL

REVISED:

SURVEYOR'S NOTES: 1) OWNERSHIP SUBJECT TO OPINION OF TITLE. 2) NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. 3) THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE. 4) UNDERGROUND ENCROACHMENTS NOT LOCATED. 5) ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929. 6) OWNERSHIP OF FENCES ARE UNKNOWN. 7) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. 8) CONTACT THE APPROPRIATE AUTHORITY PRIOR TO ANY DESIGN WORK FOR BUILDING AND ZONING INFORMATION.

ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

BEARINGS WHEN SHOWN ARE REFERRED TO AN ASSUMED VALUE OF SAID PB 46 PAGE 5

I HEREBY CERTIFY That the survey represented thereon meets the minimum technical requirements adopted by the STATE OF FLORIDA Board of Land Surveyors pursuant to Section 472.027 Florida Statutes.
There are no encroachments, overlaps, easements appearing on the plat or visible easements other than as shown hereon.

ADIS N. NUNEZ
REGISTERED LAND SURVEYOR
STATE OF FLORIDA #5924

SINCE 1987
BLANCO SURVEYORS INC.
Engineers • Land Surveyors • Planners • LB # 0007059
655 NORTH SHORE DRIVE
MIAMI BEACH, FL 33141
(305) 865-1200 Email: blancosurveyorsinc@yahoo.com Fax: (305) 865-7610

FLOOD ZONE: AE		SUFFIX: L	DATE: 9/11/09 BASE: 9'
PANEL: 0144		COMMUNITY # 120637	
DATE: 8/25/14	SCALE: 1" = 40'	DWN. BY: F. Blanco	JOB No. 14-257

TREE CHART

PAGE 2 OF 2

No.	NAME	DIAMETER	HEIGHT	SPAN
1	PINE TREE	2.5'	60'	15'
2	PALMETTO PALM	1'	30'	10'
3	TWIN PALMETTO PALM	1'	12'	10'
4	UMBRELLA TREE	2'	20'	15'
5	PALMETTO PALM	2'	10'	12'
6	PALMETTO PALM	1.5'	10'	12'
7	PALMETTO PALM	1.2'	8'	10'
8	PALMETTO PALM	1.5'	15'	12'
9	PALMETTO PALM	2'	16'	14'
10	PALMETTO PALM	1.5'	12'	12'
11	PALMS (3)	0.7' EACH	35'	12'
12	PALMS (3)	0.60' EACH	25'	12'
13	UMBRELLA TREE	1.5'	15'	12'
14	PALMETTO PALM	0.60'	30'	10'
15	PALMETTO PALM	0.80'	30'	10'
16	UMBRELLA TREE	1' & 1.3'	20'	15'
17	PALMETTO PALM	1'	15'	12'
18	PALMETTO PALM	2'	9'	10'
19	BIRD OF PARADISE	0.30' EACH	20' (1) 15' (6)	5' EACH
20	SEA GRAPE TREET (2)	1' (1) 0.80' (1)	15' EACH	20' EACH
21	SEA GRAPE TREET	1.2'	12'	24'
22	ONKNOWN SMALL TREE & CLUSTER	0.40' (1) 0.10' - 0.25' (REST)	12'	12'
23	BUSH	8'	6'	8'
24	PALM (1)	0.40'	15'	8'
	TREE (4) CLUSTER	4'	12'	12'
25	PALM (1)	0.40'	12'	10'
	TREE (4) CLUSTER	2'	10'	15'
26	PALMS CLUSTER	4'	14'	18'
27	COCONUT PALM	1'	20'	15'
28	COCONUT PALM	0.35'	7'	5'
29	BIRD OF PARADISE	1.2'	15'	20'
30	BIRD OF PARADISE	1.0'	10'	15'

ABBREVIATIONS:
BWK=BOARDWALK, CBS=CONCRETE BLOCK STRUCTURE, CLF=CHAIN LINK FENCE, PL=PROPERTY LINE, DUD=DRAINAGE UTILITY EASEMENT, P=PINE TREE, P=PALM, A/C=AIR CONDITIONER PAD, PC=PROPERTY CORNER, DR=DRILLED HOLE, WF=WOODEN FENCE, RES=RESIDENCE, CL=CLEAR, RB=RIBBON, UE=UTILITY EASEMENT, CONC=CONCRETE, B.L.B.=BYNARGET OF WAY, DE=DRAINAGE EASEMENT, COMP=COMPUTER, ASH=ASPHALT, NO=NAIL & DISC, S=SET, FE=FINISH FLOOR ELEVATION, [illegible]

ELEVATION BASED ON LOC. #
CBM#
ELV.

TYPE OF SURVEY: BOUNDARY SURVEY

NOTE: 1) NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. 2) THE SURVEY DRAWING AND REPORT PROFESSIONAL LIABILITY INSURANCE. 4) UNDERGROUND FOUNDATIONS AND ENCROACHMENTS NOT LOCATED. 5) ELEVATIONS ARE BASED ON NAVD 88 UNLESS OTHERWISE NOTED. 6) FENCES ARE UNKNOWN. 7) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. 8) CONTACT LOCAL AND REGIONAL AUTHORITY PRIOR TO ANY DESIGN WORK FOR BUILDING AND ZONING INFORMATION.

ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

BEARINGS SHOWN ARE REFERRED TO AN ASSUMED VALUE OF SAID PB. 46 PAGE 5

NOT VALID UNLESS EMBOSSED WITH SURVEYOR'S SEAL

REVISED:

I HEREBY CERTIFY That the survey represented hereon meets the minimum technical requirements adopted by the STATE OF FLORIDA Board of Land Surveyors pursuant to Section 472.027 Florida Statutes.
There are no encroachments, overlaps, easements appearing on the plat or visible easements other than as shown hereon.

ADIS N. NUNEZ
REGISTERED LAND SURVEYOR
STATE OF FLORIDA #5924

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Engineers • Land Surveyors • Planners • LB # 0007069
555 NORTH SHORE DRIVE
MIAMI BEACH, FL 33141
(305) 865-1200 Email: blancosurveyorsinc@yahoo.com Fax: (305) 865-7810

FLOOD ZONE: AE
PANEL: 0144
DATE: 8/25/14
SCALE: 1" = 20'
SUFFIX: L
DATE: 9/11/09
BASE: 9'
COMMUNITY # 120637
DWN. BY: F. Blanco
JOB No 14-257

EXHIBIT 5

Mr. Robert Kolbert
President
Bay Harbor Continental Inc.
1135 103rd Street
Bay Harbor Islands, Fl 33154

Personal and confidential

In accordance to our proposal letter as of March 9, 2015 we are herewith submitting the report documenting our observations conducted on March 9, 2015 at Bay Harbor Continental building located at 1135 103 Street, Bay Harbor Islands, Florida

Areas Observed:

- Common areas; Roof, stairs, parking, recreational pool areas and sea wall.

- Apartments 2A, 2C, 4A 5C.

General characteristics:

- The construction of the building was performed in 1958
  Consisting of 35 (one and two bedroom) apartments.
- The subject is a 57 years old building, requiring major up-grades to comply with current up to date safety codes and standards.
- The Building stands below Base Flood Elevation.

Note: No construction plans were available.

Findings:

1. Built up roof needs replacement, leaks were reported, membrane adhesion to roof failures observed.
2. Exit stairs door do not shut properly to meet safety codes. Egress signage missing or damaged.
3. Insufficient water pressure in some of the apartments indicating old clogged and rusted plumbing.
4. Frequent waste stacks clogged were reported.
5. Parking drainage deficiency reported.

6. Glass jalousie windows are not air sealed and do not comply with energy codes and do not comply with current wind loads codes (safety issue). Water intrusion at multiple locations.
7. Balcony sliding doors not working properly.
8. Air conditioning units protrude into required egress width of corridors, presenting a safety issue and/or other accessibility issues.
10. Hand railings corroded and broken at several places.
11. Swimming pool leaks reported.
12. Floor cracks were noted due to possible hydrostatic pressure given below BFE structure.

Rising water levels anticipated in the future should be of important concern.

Cost analysis:

In the attached table it is our main objective to quantify the cost of refurbishing the building, exclusively addressing safety and the 11 fundamental issues mentioned above.

Notes:

The estimates provided are based on a one day observation trip and standard estimating techniques, and cost information you have provided and therefore no representation or warranty is given or implied as to the information or pricing that is presented.

*Even though no testing was performed, we can expect the presence of lead paint under the layers of paint or exposed in certain areas which constitutes a health hazard to the residents. Lead mitigation costs increase remodeling costs substantially, especially when the peeling method becomes an essential method and toxicity levels are high (regarding the disposal sites). In our experience when lead paint existence is detected, peeling mitigation method costs could be as high as $20,000 per apartment, without taking in consideration the relocation of residents, inconvenience. Encapsulation method, which is substantially less costly, is not recommended when partial demolition of surfaces is necessary to upgrade the rough-in plumbing and electrical items.

*Residents' relocation during construction is essential.

The partial repair cost estimates attached as Exhibit 1, focusing on the eleven (11) functionality issues cost analysis is further complicated by shared common elements (sanitary pipes, conduits ext.) will require that all unit owners must agree unanimously to the upgrade works to be performed.

As requested, our experience as contractors in the COMPREHENSIVE remodeling of 1,200 units built in the 1950s, the cost for the upgrade and remodeling of the Bay Harbor Continental units, including common areas would be in the range of $160,000 to $200,000 per unit with standard finishes.
Furthermore, a RESTORATION is a much more expensive and a difficult undertaking that will require a multi-level expertise and an in-depth detailed inspection. A basic estimate has been shown.

Emilio Fagundo
President
ERF Consultant Group

Exhibit A: Estimated Costs for Obsolete Functionality Items.
Exhibit B: Estimated Costs for Restoration

ESTIMATED COSTS

Bay Harbor Continental, 1135 103rd Street, Bay Harbor Island, Bay Harbor, FL

Category	Unit	Quantity	Material Unit Cost	Total Material Cost	Labor Unit Cost	Total Labor Cost	Subcontractor Cost	Total Sub Contractor Costs	Total Estimated
Built Up Roof	Square Feet	7000	$7.00	$49,000.00		$0.00	$6.00	$42,000.00	$91,000.00
Stairs Doors	Each	10	$2,500.00	$25,000.00	$600.00	$6,000.00		$0.00	$31,000.00
Potable Water Rough-Inn	Units	35	$1,200	$42,000	$2,500	$87,500		$0	$129,500
Sanitary and Soil Stacks Rough Inn	4000	35	$1,800	$63,000	$2,500	$87,500		$0	$150,500
Electrical Wiring	LS	35	$1,500	$52,500		$0	$1,500	$52,500	$105,000
New Windows and Sliding Doors	Units	105	$2,500	$262,500		$0		$0	$262,500
Wall Mount Split AC Systems	Units	35		$0		$0	$2,000	$70,000	$70,000
New Hand Rails	LF	2000		$0	$50	$100,000		$0	$100,000
Swimmming Pool Resurfacing	LS	1		$0		$0	$10,000	$10,000	$10,000
General Painiting	LS	1		$0		$0	$75,000	$75,000	$75,000
Laead Paint Abatement	Units	35		$0		$0	$20,000	$700,000	$700,000
Flooring	Required But Not Estimated			$0		$0		$0	$0
Laundry Appliances	Required But Not Estimated			$0		$0		$0	$0
Bathrooms	Required But Not Estimated			$0		$0		$0	$0
Refrigerators	Required But Not Estimated			$0		$0		$0	$0
Cabinets	Required But Not Estimated			$0		$0		$0	$0
Ventilation	Required But Not Estimated			$0		$0		$0	$0
Other				$0		$0		$0	$0
Total				**$494,000**		**$281,000**	**$108,506**	**$949,500**	**$1,724,500**
								Subtotal	$1,724,500.00
								Unexpected Costs - Add 15%	$258,675.00
								Total	$1,983,175.00

Summary

	Material Cost		$494,000
	Labor Cost		$281,000
	Labor Tax	23%	$64,630
	Subcontractor Cost		$949,500
	Unexpected Costs		$258,675
Total Direct Cost			$2,047,805

Contractor's Overhead	7%	$143,346

Contractor's Profit	20%	$438,230

Insurances		
Workmen compensation insurance	2%	$60,476
Payment & performance Bonds	3%	$281,000
Public liability	2%	$5,620
Total Insurance		$347,096

Residents relocation	
8 Months x 35 Units x $2000 Cost per unit per month	$560,000

Total Costs	$2,976,477
Total Relocation Costs	$560,000
Total Costs	$3,536,477

Cost Per Unit	$101,042

B. ESTIMATED COSTS OF COMPREHENSIVE RESTORATION*.

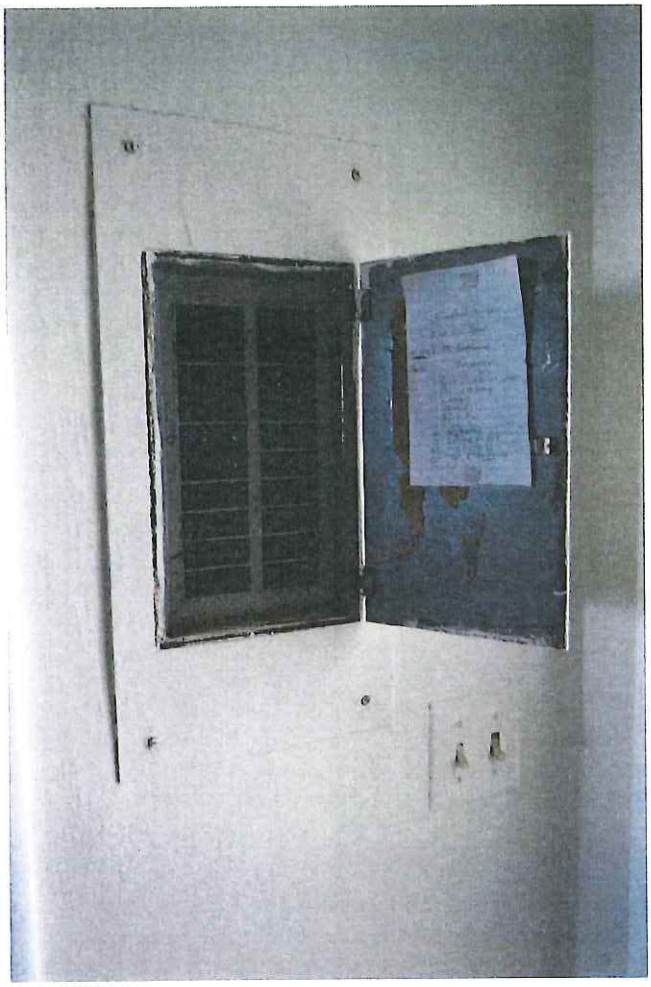
Category	Unit	Quantity	Material Unit Cost	Total Material Cost	Labor Unit Cost	Total Labor Cost	Subcontractor Unit Cost	Total Sub Contractor Costs	Total Estimated
Site Electrical works	Apts	35					$6,000	$210,000	$210,000
Mechanical works	Apts	35					$5,000	$175,000	$175,000
Site civil works	Apts	35					$5,000	$175,000	$175,000
Elevator	EA	1					$300,000	$300,000	$300,000
Baths (2 bath units)	Apts	10	$6,000	$60,000			$2,000	$20,000	$80,000
Baths (1 bath units)	Apts	25	$6,000	$150,000			$2,000	$50,000	$200,000
Kitchens	Apts	35	$12,000	$420,000			$3,000	$105,000	$525,000
New doors	Apts	35					$1,000	$35,000	$35,000
Painting & Trim	Apts	35					$3,000	$105,000	$105,000
Flooring	Apts	35					$5,000	$175,000	$175,000
Sub-total costs									$1,980,000
Contractors overhead and profit									$534,600
insurances& bonds									$138,600
Sub-Total									$2,653,200
PLUS ESTIMATED COSTS OF OBSOLETE FUNCTIONALITY ITEMS.									$3,536,477
Total costs									$6,189,677

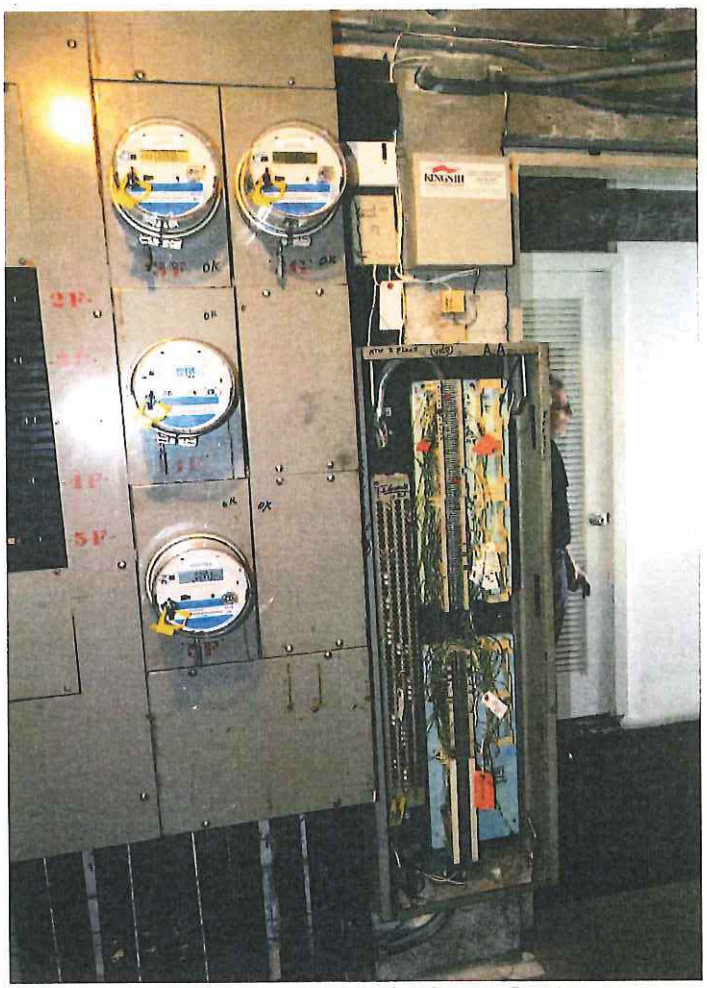
* Restorations of buildings requires components manufactured by suppliers that may no loger be in existance or in the regular market, thus creating a cost uncertainty but undoubtly a substantial expensier products.

A final estimate of costs cannot be submitted without final restoration plan

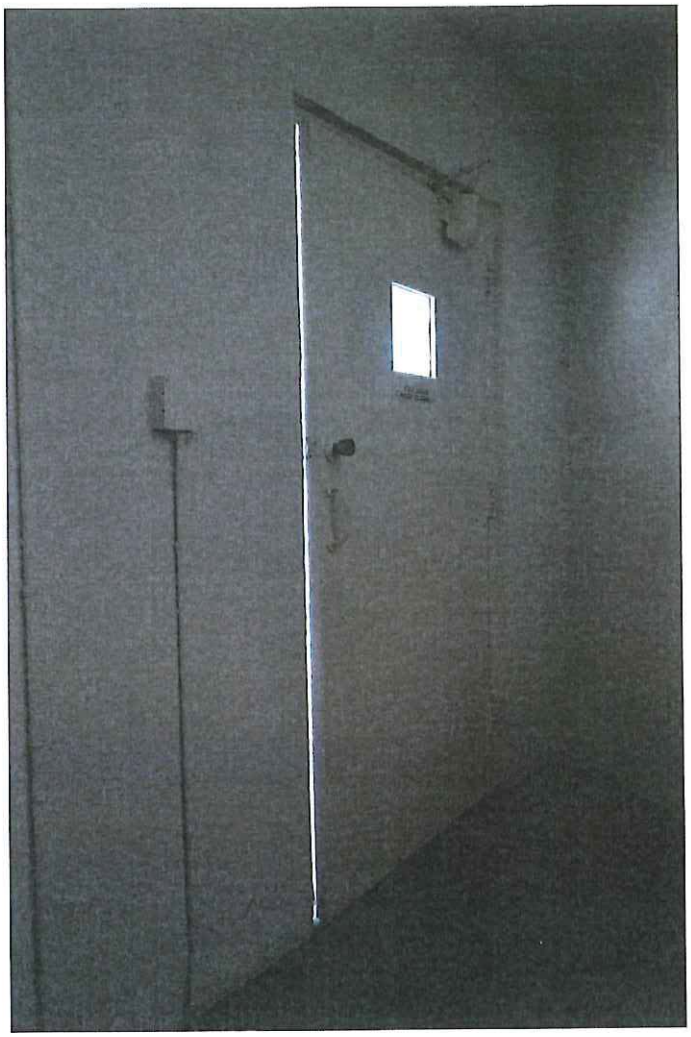
ROOF AREAS including vents, piping & AC condensing units

Abandoned water tower

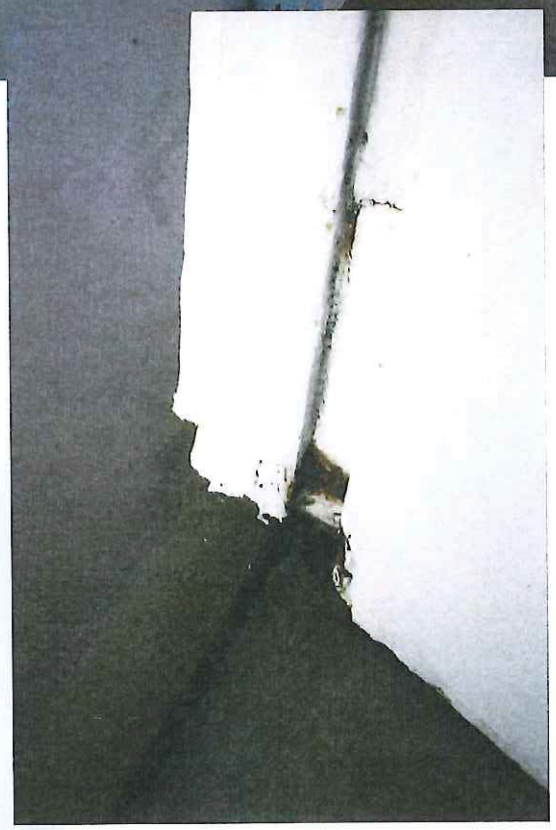




Meter Room and Telephone System

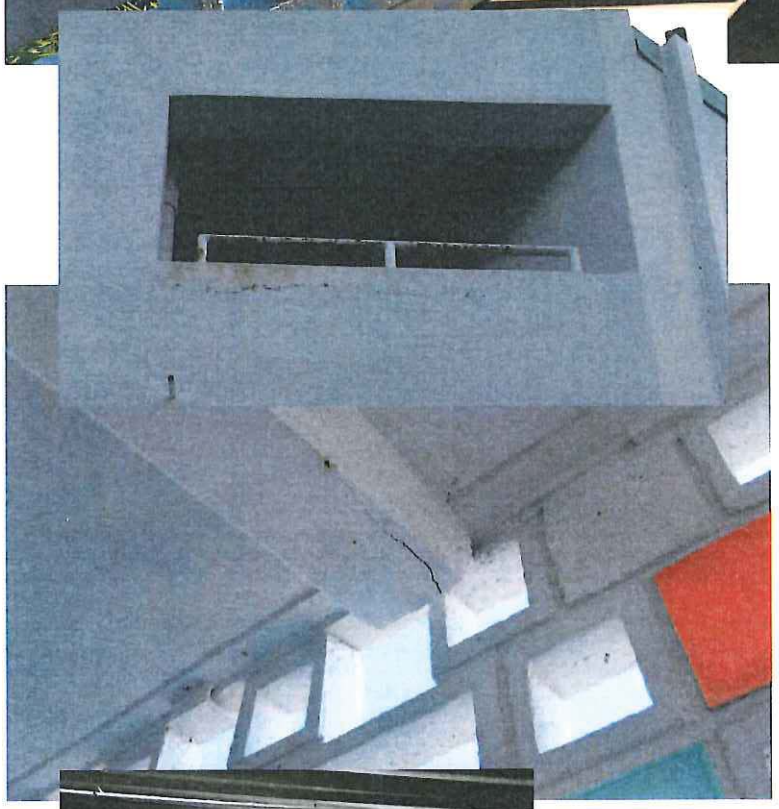


EXIT STAIR DOORS



LIFE SAFETY: EXIT SIGNAGE, EMERGENCY LIGHTING, FIRE ALARM PULL STATION

JALOUSIE DOORS/WINDOWS



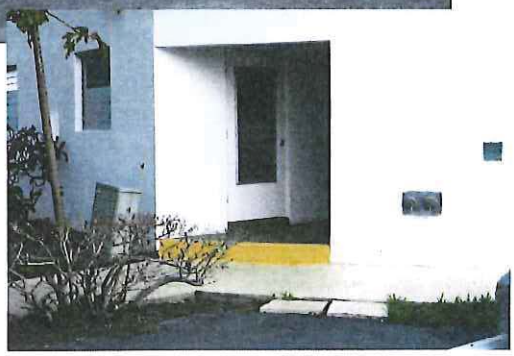


EXHIBIT 6

RC 3 WORLD INC.
Planning & Development Consulting
C/O Plaza Executive Center, 31 Ocean Reef Drive, Suite A-301, Key Largo FL 33037
joelreed55@gmail.com 404-403-2925

March 31, 2015

P3 Investments 1 LLC
Attn: Gaurav Butani
1101 Brickell Ave.
8th Floor
Miami FL 33134

RE: Analysis of Rental of Existing Structure vs. Redevelopment and Economic Hardship

Mr. Butani,

We analyzed the potential purchase price of the Bay Harbor Continental Inc. based on maintaining the asset as a rental property. In order to do so the building would need to be bought into compliance with life safety issues as well as a modest renovation to the interior of individuals units as recommended by your Engineers report. This analysis looked at the cost of renovations vs. the market potential for rentals of the units and what the market could potentially support based on current rental rates. The analysis assumed 85% occupancy, addressing life safety and modest upgrades to the units necessary to be able to market the units. Furthermore, based on available rentals (Zillow) One (1) bedroom units in Bay Harbor are renting from $1,000 to $1350 per month where two (2) bedrooms rent from $1500 to $2500.

Modest Renovation and Life Safety	$6.5 Million
Rentals -	
1 Bedroom - $1550 X 25 X .85	$32,937.50
2 Bedroom - $2500 x 10 X .85	$21,250
TOTAL	$54,187 Monthly ($650,250 Annually
Capitalization at 8%	$8,128,125
Potential Value as Rental	$1,628,125 or $46,518/unit
Potential Value New Development	$16,500,000 or $471,428/unit*
ECONOMIC HARDSHIP	**$424,910 PER UNIT OWNER**

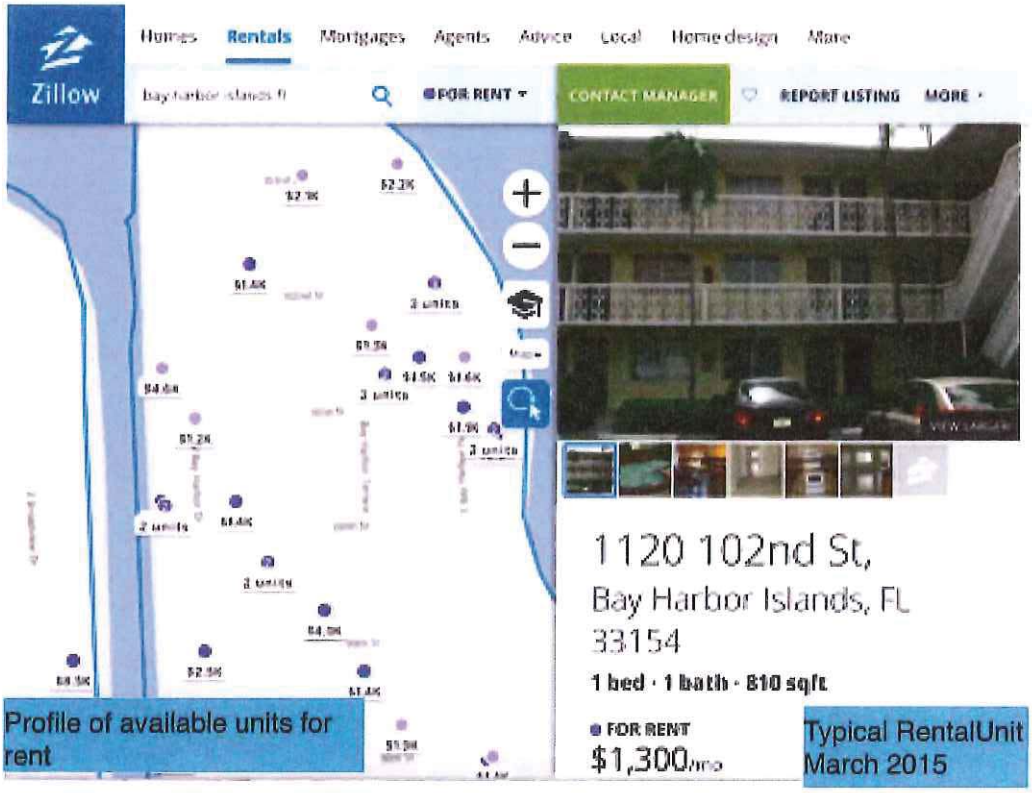
Sincerely,

Joel C. Reed

Joel C. Reed, AICP

*Based on contracted purchase price as provided by P3 Capital 1 LLC

RC 3 WORLD INC.
Planning & Development Consulting
C/O Plaza Executive Center, 31 Ocean Reef Drive, Suite A-301, Key Largo FL 33037
joelreed55@gmail.com 404-403-2925



*Based on contracted purchase price as provided by P3 Capital 1 LLC

EXHIBIT 7

Becky McIver
Bay Harbor Continental, Inc.
1135 103rd Street, Apartment F4
Bay Harbor Islands, Florida 33154
Email: Becky.McIver@gmail.com
Cellular: 305.772.4342

March 30, 2015

Dear Historic Preservation Board:

Please consider my request to withdraw your interest in designating Bay Harbor Continental, Inc. as an historic building. One year ago we made a decision to sell our building because most of us could not afford to maintain the property due to much needed repairs. I have been counting on the money from this sale to find more affordable housing. Designation of this building as historic will cause me great financial hardship as it is already interfering with the sale of Bay Harbor Continental, Inc. and we are incurring additional, unexpected legal fees.

Please do not proceed with historic designation of our building. Thank you for your time and consideration.

Sincerely,

Becky McIver

From: bzuck2007@yahoo.com
To: jk9785@aol.com, margie@gf55.com
Sent: 3/18/2015 7:33:30 A.M. Eastern Daylight Time
Subj: Re: New Meeting Notice

To The members of the Historic Preservation Board
My Name is Bill Zucker a unit owner at the Bay Harbor Continental and I ask you to seriously listen to what Im about to say
If you make this building historical you are literally putting me out on the street "Homeless"
I bought my unit over 10 years ago when I had a decent job and some money in the bank before the economy turned on us for the worse
About 2 years ago after losing my job I could no longer keep up with my mortgage and The growing maintenence charges on our building because it is seriously falling apart due to plumbing,electrical ,elevator and seawall issues
I decided I had nochoice but to sell my unit
At that time we had an offer on our building to sell and i signed the purchase and sale agreement..we were informed we would be closing June 6th of 2014
I had no money to pay bills and Knowing we were closing soon I took a second Balloon mortgage on my unit to catch up on my Bills expecting to pay it off on upcoming closing due to delays in the closing I used all the money to live and have been counting the days just waiting for the Closing This APRIL 15th
I had to rent out my unit just to cover the 1st loan and to survive... and I had to rent another unit elsewhere.....I have since Lost my Car....I am 7 months behind on my rent and they have started the eviction process against me
I have been Struggling day to day to get to our closing April 15th
If you make this building historical you are literally putting me out on the street Homeless
Every word I tell you is true and I beg you to Please consider what youre doing to our lives
the building is Falling apart and most of us unit owners are struggling just to pay off the old 200,000.00 assessment loan we took to fix the seawall and Balconies
keep in mind there are only 35 owners in this old building
Im sure there are buildings out there that would fit what youre looking for without destroying Lives
I plead with you to put yourself in our shoes before making the wrong decision
Thank you
Bill Zucker

unit B4

---------- Forwarded message ----------
From: Bill Zucker <bzuck2007@yahoo.com>
To: "jk9785@aol.com" <jk9785@aol.com>, "carlitos305@gmail.com" <carlitos305@gmail.com>, "management@scmcorp.net" <management@scmcorp.net>
Cc: "becky.mciver@gmail.com" <becky.mciver@gmail.com>, "creed.5@hotmail.com" <creed.5@hotmail.com>, "daniel.schweiger@bluewin.ch" <daniel.schweiger@bluewin.ch>, "dedegozlan@yahoo.ca" <dedegozlan@yahoo.ca>, "b.schweiger@bluewin.ch" <b.schweiger@bluewin.ch>, "Frankhgriffith@aol.com" <Frankhgriffith@aol.com>, "gswartz@taplin.com" <gswartz@taplin.com>, "gladlee@optonline.net" <gladlee@optonline.net>, "jagscharfer@aol.com" <jagscharfer@aol.com>, "freesspirit32@gmail.com" <freesspirit32@gmail.com>, "angelsforme5@gmail.com" <angelsforme5@gmail.com>, "hkwracing@atlanticbb.net" <hkwracing@atlanticbb.net>, "leonork2003@yahoo.com" <leonork2003@yahoo.com>, "lisa@lisaemann.com" <lisa@lisaemann.com>, "skiplez@aol.com" <skiplez@aol.com>, "mzm445@aol.com" <mzm445@aol.com>, "martin@taplin.com" <martin@taplin.com>, "m5748@aol.com" <m5748@aol.com>, "mirtaselva@att.net" <mirtaselva@att.net>, "monique_beaudet@yahoo.com" <monique_beaudet@yahoo.com>, "nysid94@yahoo.com" <nysid94@yahoo.com>, "cngroup@comcast.net" <cngroup@comcast.net>, "donegalpat@aol.com" <donegalpat@aol.com>, "peter70x7@gmail.com" <peter70x7@gmail.com>, "louisewoolley@sympatico.ca" <louisewoolley@sympatico.ca>, "sueolsenusa@gmail.com" <sueolsenusa@gmail.com>, "richard@scmcorp.net" <richard@scmcorp.net>, "jrkolbert@gmail.com" <jrkolbert@gmail.com>, "margie@gff55.com" <margie@gff55.com>, "nnehmad1@nyc.rr.com" <nnehmad1@nyc.rr.com>, "nancyvp34@gmail.com" <nancyvp34@gmail.com>

Date: Sat, 14 Mar 2015 20:32:51 +0000 (UTC)

Subject: Re: B.H.C. Meeting Notice note from Jeff

To the Association and all unit owners

I am putting on public record that I refuse to spend one penny on lawyers defending the fact that BHC has breached its contract for the sale to P3 when they bring Legal action against us for Breaking a perfectly legal and Signed Purchase and Sale Agreement and we end up in court
All monies to Lawyers defending against P3,RE Agents and individuals suing the association should come DIRECTLY out of the pockets of Carlos Delatorre,Lisa Mann and whoever else went behind our backs to sabotage our binding contract
Carlos lied to me directly while in position as the president of the association who has a LEGAL and Moral responsibility to be forthcoming,Honest and fullfiling the goals of the majority of unit owners
Thank God my Brother and my 2 best friends are powerful Lawyers that have been monitoring these deceptve practices over the last year and will be representing me if we dont close on April 15th
Im not sure about any other unit owners but if this sale doesnt close on April 15th I will be financially ruined because of these individuals and i will be holding them responsible

Knowing that we had a firm purchase and sale agreement in Hand I got a second balloon mortgage on my unit because I knew i would be paying it off last June 6th (the 1st closing date)
Because of the illegal and Deceptive practices of these individuals stalling the closing I am now over 6 months behind on my loan,my rent,etc at my new residence and I am about to lose my unit and will be "homeless"
Before it comes to this point I urge all the unit owners to unite and do whatever it takes to make sure we have the closing on April 15th

This Old decrepid Building is literally falling apart and will be needing so much work on electrical,Plumbing,elevators,seawall.etc that our maintenence payments will be through the roof
The time to act is NOW
Bill Zucker
Unit B4

3-30-2015

My name is Jervaise Facine

A member of Bay Harbour Continental Inc.
and reside in unit C5

I am a single woman of 73 year old.

I bought my membership, 23 year ago to enjoy this unit, and also as an investment for my retirement.

After 2 years of being in a process to sell, we are now being told that the Historic Board will put a moratorium and stop this sale. I am surprised that every body is talking about this cheap painted glass & block concrete screen and nobody is talking about our plight and the fact that building is in poor con-

we have no financial reserves.
Can barely keep up, which on going
maintenance and on the contrary
asked to preserve this building

Who will compensate for our lost
sale, my life savings, and all the
stress and problems that we are
being put through.

The members who petitioned to you
are using you and dont care about
historic preservation.

The buyer has shown genuine
concern to help us get most money
after taxes from our sale gave us
the time and art [illegible]

It is our property and we should be free to sell and not ask anybody for permission but I beg you to understand our situation.
May God bless you!

Gervaise Racine

GERVAISE RACINE
C5
Bay Harbor Continental
Tel: 305-864-0625

To Historic Preservation

Jeffrey Koster

1135103rd street

Bay Harbor Islands

Fl.33154 Apt F-1

3/30/2015

1of 2 Pgs

Miami Dade County Historic preservation board

Office of Historic Preservation

Stephen P. Clark Center

111NW 1sst St. -12th Floor

Re: Bay Harbor Continental- Hardship

Dear Chairman and Board Members,

This is a letter that I never thought I would have to write, and I am writing it with embarrassment, to individuals that I don't know.

I am a 70 year male living at the above address since 1986, 29 years. The first night I slept in this building was Christmas of 1958, the building was newly built, I was 13 and stayed with my Grandparents.

I have a long history with this building and I love living here.

In 1982 I was diagnosed with a brain tumor a 3" diameters portion of my scull was removed and I underwent 17 hours of surgery to remove the growth ,two days later the doctors realized that they did not seal the operation properly and they had to graft skin, this took 7 additional hours.

My grandfather taught me at a young age when you start to earn money, to accumulate wealth he said "If your need to buy a pair of shoes and you see a pair for $60.00 and a pair for $20.00 buy the less expensive pair Spend your money wisely and buy some real estate, a home that will grow in value. " I listened to him. I had a small business with a partner, and I am also an artist and was successful with the Sale of metal sculptures. I produced and sold in N.Y.C. ,and started to save money along with a small stock portfolio started for me by my Grandfather .He advised me to never sell the stocks and just keep reinvesting the dividends to buy more stock. I followed his instructions and the portfolio grew.

I am telling you this to illustrate how circumstances change. When I was young I thought if I did certain things life would work out, It doesn't work out, It just is.

In my prime I was hit with my surgery. Was in the hospital for a month and then nursed back to being able to walk without a cane. I was never able to go back full time to the foundry. Eventually my partner forced me to sell my share of the business for $85,000.00

I could no longer afford to live in New York City. I was told that living in Florida was cheap so I started looking for a place to live, I remembered my grandparents building .and found a unit on the ground floor for $32,500.00. The maintenance was less than what I was paying for parking my car. In the city. With my savings and the money from the buyout, and a small inheritance and living moderately I was able to get by. Circumstances change .Came 2007 with the crash of the stock Market, out of fear of losing

everything I sold my portfolio. Resulting in a gutting of my net worth. Finding myself in a situation similar to 1986 When I was so ill and lost my business. I started selling off my antique collection and other things to help pay for living. I have no children and live alone, I worry about how I will care for myself as I get older. That is the reason I need this sale to go through. As in New York I can no longer afford to live In this building, Besides from the maintenance at its current level and paying off the last lone we took out, money is tight. We only have 35 units. To split the cost of repairs and we will have an enormous lawyer's bill we will have to pay. I found a place to live at Point East in Aventura with a water view similar to what we have now the unit was $ 85,000.00 the maintenance is $250.00 a month and there are 1200 units to help pay the cost of repairs.

With my Social Security of $675.00 monthly the savings I have left and the money I would receive from the sale of this building I could get by. We are not getting rich from this sale. For my 10 shares I will get $250,000 or with tax mitigation $320,000.00 gross amount. The brokers have to be paid the lone paid off and the attorney's fees. I estimate about $38,000.00 .I was counting on the money from the sale to fund the balance of my life. The future scares me .My Mother is in an assisted living facility. Her upkeep is expensive, I try not to think about what it would be like being 75 or 80 and no money.

Of the three that signed the petition for historic designation Lisa Mann and Carla Reed do not live in this building. Clara lives In U.N Plaza N.Y.C. Although I was told she bought a house. Lisa has many corporations Drives a Ferrari and had her unit up for sale before the contract to sell the building. Carlos owns another apt. and has a good job with the county. Carlos Delatorre, Solomon Nehmad , and Clara Reed all signed the contract to sell . They all went behind our backs. I guess when you have money you lose sight of the fact that others are in need. Over %80 want to sell. The petitioners can afford the upcoming charges, I can't..

As for a private sale no one will pay for a unit 60 years old apt in bad repair and high assessments. We have no reserves .Please allow the sale to go through. And allow us to realize a return on our investments so we can continue to live, and not become a burden to our families and society. Please withdraw your demands. Allow us to proceed with the closing and sale.

Thank you for taking the time reviewing this letter

Sincerely

Jeffrey Koster

March 31, 2015

Miami Dade County Historic Preservation Board

Re: Bay Harbor Continental, Hardship

Chairman and Staff Members,

With the expectation of a closing on April 15th, 2015, I made plans to move my brother into a Memory Center for Alzheimers. He is only 70 years old and was diagnosed 9 years ago. Since our Mother died at 95 in May of 2014 he has declined rapidly. My Mother left her share of the apartment to me, with the understanding that I would take care of my brother. He has been living with her these past nine years.

Since May of 2015, I have spent over $17,000 in nurses for his care. I have recently hired an Elder Attorney to help me apply for VA Benefits and other Benefits to help pay for the exorbitant cost for his care. His fee was over $10,000. I have also made plans for his living arrangements at the Pacifica Memory Center. I need to give them a deposit to hold his room in the amount of $7000 this week. I have searched for over 8 months to find a decent facility for him and I have to go forward with this decision. The cost of this facility is $3750 per month and I need to private pay for 6 months to a year before benefits come into play. This could be up to $45.000 out of pocket. All of these expenses are documented and available for inspection.

My Mother and I, are part of the 86% who voted yes to sell. She was ill and needed aides to help her and that again was an enormous amount of money. We needed the proceeds of the sale to take care of mounting expenses for her and for my brother. Unfortunately she passed away but the expenses for my brother are a reality. This is a tremendous financial burden on me and me alone. I don't have this extra money needed for his care.

If the HPB deems this building Historic, I will have to sell but it will not be for what I could receive from the sale to a Developer. A private sale would give me half of what I expected.

Furthermore, I am genuinely concerned about future assessments and possible lawsuits for the interference of this contract. Who is going to buy my apartment with all of this taking place? Would you buy in a building with all of these issues? I know I certainly would not. I need this money now as I originally planned on.

My hardship is only one of many in this building. Not all are capable of speaking for themselves, but their needs are a reality not a fabrication. If your decision is to designate this building at this late hour just before our closing, you will devastate the lives of many elderly shareholders, all of whom were counting on this sale for their care in the last years of their lives.

Respectfully,

Kathleen Clark Weinstein

Unit A-4

Ms. Lillian Hart
1135 103Rd St., Apt. C2
Bay Harbor Is., FL 33154

The Beautiful

9/30/15

BHC - Board of Directors
Cmr. Robert Hoekert - President

Dear Robert,

I was just notified by one of my neighbors that you would need for the attorneys this letter from permanent ~~and~~ residence's.

I have been a permanent residence of Bay Harbor Contenental for over the past 16 years. It would gravely hurt me financily if the Historic Assoc takes over my building.

As a Share Holder my history is 9 operations 3 cancers being a Overcomer I have been working over 50 years to subsides my income so that I was able to raise a son & take care of my Mother I'm not asking for someone to pay my bills.

All I'm asking is to let us

sell the OLD building to investors who bided last year 2014 and gave us money in a escrow account.

Please reconsider the lives and retirement owners who will be effected by this

Respectfully,

Lillian Hart
C-2
Bay Harbor Continental

P.S. Also please note after the bid for 16.5 million last year I took a deep breath + said that the sale money + my $1,200.00 MO from Social Security will be my retirement.

HEIDI PFISTER
37 Highwood Road
East Norwich, NY 11732

March 31, 2015

Miami-Dade Historical Preservation Board

To Whom It May Concern:

I am writing on behalf of my father, Leo Schattlack, who has a condominium located at 1135 103rd Street, Unit G4, Bay Harbor Island, FL. My father, who is 75 years old, has been bravely battling Parkinson's Disease for the past 5 years. He resides in New York and requires help and assistance from his family.

Over the past few years, it has become increasingly difficult for my father to visit the Bay Harbor Island area since his mobility has diminished. All his doctors are located in New York and he needs to be able to see them on a regular basis.

In addition, the condominium will require extensive renovations which, at this juncture, does not seem feasible as the medication he is taking for the Parkinson's is quite costly. Since he resides in New York, he will not be able to oversee any construction work that needs to be done.

I implore the Preservation Board to please consider this hardship and allow the sale of this building to go through.

If you require any additional information or have any questions, please do not hesitate to contact me.

Sincerely,

Heidi Pfister

Sworn to before me this 31st day of March, 2015.

Notary Public

SHARON KEANE
Notary Public, State of New York
No. 01KE6072208
Qualified in New York County
Commission Expires April 1, 2018

Doc#: US1:9953982v1

February 26, 2015

Marjory L. Rossin
1135 103 Street #5B
Bay Harbor Island, FL 33154
Marjory@[illegible].com

and

10 Martin Road
Rye, NY 10580

Dear Historic Preservation Board:

While I am a devoted modernist who currently lives in two historically modern homes, I cannot support the move to designate 1135 103rd Street a Landmark.

Currently the building is in sad repair and does not fit into a designation as something that can be adaptively reused. The rooms are very small. The bathrooms do not meet HC code. There isn't HC access in the building. Because of the structural system of the building where the load bearing walls are perpendicular to the façade it is impractical almost impossible to expand the units within the current footprint. Any attempt to renovate will ultimately ruin the very nature that the designation is trying to protect.

The building is currently under contract for sale and a large deposit of over a million dollars is in escrow. A demolition permit has been applied for. To designate the property at this point would amount to a financial taking and result in a serious financial loss for all the co-op owners. This would result in law suits and disruption.

What you might not know is that the move to designate the building has been maliciously promoted by the co-op board president who has had a change of heart regarding the sale. His motives have nothing to do with preservation. He will face a lawsuit and the building will be tied up in litigation for years. The current contract vendees are committed to completing the sale process. The co-op members followed the rules and procedures of the building's by-laws regarding the sale. An offer was accepted, and as a Co-op we are ready to move forward.

The current co-op owners do not have the money to maintain the building and that is one of the reasons it is being sold. The building is deteriorating quickly.

I am troubled by some of the views that I have heard expressed at the public hearings. It is easy for one to vocalize a love of modernism but it's a different commitment to maintain a structure. As a member of DOCOMO and the wife of a prominent NY Architect, I have an expert understanding of the resources it would take to bring my building up to today's living standards. It's unrealistic.

My husband and I live in a significant and award winning Historic Mid Century Modern of 1954 in Rye, New York designed by Ulrich Franzen. We carefully restored it and adapted it while adding an award winning addition. That is how the structure was saved from the Mc Mansion desire of another buyer. Because it was adapted to a modern use.

We do not have the same situation here whereby a beautiful yet obsolete building can be adapted. The new building will be an expression of its time. The time for this building has passed.

The financial burden the designation would impose by designation of your board would be devastating. We have already purchased another unit at 9901 East Bay Harbor Drive/Harbor Park-currently under construction. BECAUSE BAY HARBOR CONTINENTAL HAD BEEN ON THE MARKET FOR A LONG TIME ALREADY. WE IN CONTRACT. I PURCHASED MY OTHER UNIT AS 1135 103 Street PARCEL WAS FOR SALE.
DOES THE PRESERVATION BOARD PLAN TO COMPENSATE US ALL?

Thank you,

Marjory L. Rossin

Note,
I will be CC this letter on every level up to Federal!

From: redsock@sbcglobal.net
To: jk9785@aol.com
Sent: 3/30/2015 4:58:14 P.M. Eastern Daylight Time
Subj: Letter from Lon Zadeika

March 30, 2015

To Whom it May Concern,

I am writing you on behalf of my mother, Sofia Zadeika, owner of Apartment E-1 at 1135 103rd St, Bay Harbor Islands. She was in my constant care for two years until my own medical problems (I have severe heart problems that have resulted in my requiring multiple heart surgeries) made it impossible for me to provide her with all the help she needs. She is unable to live independently, so I was forced to move her into an assisted living facility. The turmoil revolving around the sale of this building has caused both of us undue stress. I am currently unable to work because of my health. I now find myself with not only my own bills and those for my mother's care, but also for the taxes, utilities, and association fees for this property that has been sitting vacant. Just when we thought this sale was finally going through, after years and years of hearing about it being for sale, a select few have decided to act on their own accord and reach out for historical protection. These few do not speak for me or my mother. This property is a great hardship for us and we align ourselves with the potential buyers. We signed the documents approving the sale and we stay by that contract. Please consider our situation in your decision.

Thank you,

Longin Zadeika

Exhibit 14:

Economic Hardship Materials filed with the HP Board by Individual Units Owners on March 31, 2015

RECEIVED
MAR 3 1 2015
MIAMI-DADE COUNTY
OFFICE OF HISTORIC PRESERVATION

Affidavit of Maurice Kirksey

TO: Miami-Dade Historic Preservation Board

RE: Historic Designation of Bay Harbor Continental

Date: March 31, 2015

My name is Maurice Kirksey, and I live at 1135 103rd Street I am Leonor Kirksey's son. There has been much conversation about economic impact; therefore, I would like to take a moment to go through some numbers. I would like to emphasize our tax burden since Bay Harbor Continental is a cooperative property and subsequently has a different tax burden associated with it than, for example, a condominium would have.

The initial figure of $16,500,000 would have paid us around 40,000 dollars per share; however, we eventually found out that the real number was only half that amount. After stamp/surtax, broker commissions and attorneys' fees are taken out that amount is lowered by almost a million dollars. Other costs, such as mortgage value based taxes and withholdings for corporate expenses, reduce this almost an additional two million dollars. However, the most damaging cost will be that of our corporate federal income tax which will take out an additional $5,413, 765.00.

This tax would reduce our per share valuation by fifty percent to $20, 234, 22. With the average amount of money received at $242, 811 for a one bedroom, it would be nearly impossible to purchase a similar home in Bay Harbor where the average price for a one-bedroom is $316,000.

The economic impact of being forcibly displaced from their homes would be substantial as residents would receive below market value for their units. This is a classic case of gentrification by displacing residents to make way for a more affluent group. . I implore the historical society to intervene on the behalf of this historic property, and its beleaguered full-time residents who are being forced out by self-interested parties looking to make some fast cash.

Dated: March 31, 2015

Maurice Kirksey

JORGE MARTINEZ
Notary Public - State of Florida
My Comm. Expires Nov 5, 2017
Commission # FF 068519

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing was acknowledged before me this 31st day of March 2015, by Maurice Kirksey, who is/is not personally known to me, and who produced Florida Identification Card as identification and who did not take an oath _____.

NOTARY PUBLIC Jorge Martinez Printed Name of Notary Jorge Martinez

RECEIVED
MAR 3 1 2015
MIAMI-DADE COUNTY
OFFICE OF HISTORIC PRESERVATION

Affidavit of Leonor Kirksey

TO: Miami-Dade Historic Preservation Board

RE: Historic Designation of Bay Harbor Continental

Date: March 31, 2015

My name is Leonor Kirksey, and I live at 1135 103rd Street, Bay Harbor Islands. I have been living at the Bay Harbor Continental since 1995. I bought this unit because it was in a beautiful historic building and had an excellent view of the bay I have been very happy in my unit which is in very good condition. I have never wanted to move because this apartment was my retirement home and because I don't think we should replace such a beautiful historic building. I voted "no" on all the offers to buy our property. I am seventy-two years old, and the stress of having to move to a new location would be great. I do not have two homes like the majority of the snowboards who are in favor of selling the building. If I lose my home and half of my profit to taxes, I would not be able to find the same kind of apartment on the island. This has been very stressful since we do not know where we would go This is my primary home. The loss of it is devastating to me as I am now being forced to relocate against my will with a much-reduced sum of money. Having our building declared historical would save the bay harbor continental as well as the livelihoods of seniors such as me who wish to stay in our homes. *

Dated: March 31, 2015

Leonor Kirksey

Leonor Kirksey

JORGE MARTINEZ
Notary Public - State of Florida
My Comm. Expires Nov 5, 2017
Commission # FF 068519

STATE OF FLORIDA

COUNTY OF MIAM- DADE

The foregoing was acknowledged before me this 31st day of March 2015, by Leonor Kirksey, who is/is not personally known to me, and who produced Florida Driver License as identification and who did/not take an oath _____.

NOTARY PUBLIC Jorge Martinez Printed Name of Notary Jorge Martinez

AFFIDAVIT of Lisa E. Mann

RECEIVED
MAR 3 1 2015
MIAMI-DADE COUNTY
OFFICE OF HISTORIC PRESERVATION

TO: Miami-Dade Historic Preservation Board

Re: Historic Designation of Bay Harbor Continental

Date: March 31, 2015

I am submitting this Affidavit in regards to the designation of the Bay Harbor Continental as an historic building. It is very important for me that this building obtains an historic designation. If this building was destroyed I would suffer an economic hardship. I have spent a considerable amount of money improving my unit. I have both an economic and emotional investment. This is a unique building which architecture and location cannot be replaced. I specifically choose this building six years ago due to its unique character, location and strong building structure.

Dated: March 31, 2015

Lisa E. Mann

STATE OF FLORIDA

COUNTY OF DADE

The foregoing was acknowledged before me this 31st day of MARCH 2015, by Lisa E. Mann, which is/is not personally known to me, and who produced FL DL #K6410 as identification and who did not take an oath.

NOTARY PUBLIC

ARMOGAN MANIKUM
Notary Public, State of Florida
Commission# FF 171355
My comm. expires Dec. 5, 2018

Armogan Manikum
Printed Name of Notary

3/31/2015

To the Historic Board

I Solomon Nehmad would suffer economic hardship as I have advanced cancer am 83 years old and could Not Replace my home with the amount given to me and difficulty of Moving,

Solomon Nehmad

KEVIN G. MORRIS
Notary Public - State of Florida
My Comm. Expires Jul 17, 2017
Commission # FF 036972
Bonded Through National Notary Assn.

3/31/15

Affidavit of Carlos De La Torre

To: Miami Dade Historic Preservation Board

Re: Historic Designation of The Bay Harbor Continental

March 31, 2015

I submit this affidavit in regards to the designation of Bay Harbor Continental as a historic building. Saving this building is very important to me as losing my home would cause economic hardship to me. I have invested substantial amount of money remodeling my unit along with time and effort. The building is solid, has very unique characteristics, open greenways, catwalks, and Mimo features that are beautiful and irreplaceable. I have also been looking around and have not been able to find an economical equivalent for the replacement of my home with all of its beauty.

Dated : March 31, 2015

Carlos De La Torre

State of Florida

County of Miami Dade

The foregoing was acknowledge before me this 31st day of March 2015 by Carlos De La Torre , which is/is not personally known to me, and who produced D436-111-66-460-0 as identification and who did not take an oath.

Notary Public Signature

Robin Mims
COMMISSION # FF 049891
EXPIRES: AUG. 29, 2017
WWW.AARONNOTARY.com

Printed Name of Notary

Bay Harbor Continental Economic Impact

HYPOTHETICAL REVENUE DISBURSEMENT SUMMARY

Co-op Property Sale		
	Bay Harbor Continental, Inc., Delaware corporation	
PROPERTY:	**1135 103rd Street, Bay Harbor Islands, FL 33154**	
CLOSING DATE:	**April 15, 2015**	**No Tax Savings Scenario A**
Contract Sales Price		$ 16,500,000
Co-op Related Closing Costs & Expenses		
Documentary Stamp Tax on Transfer payable to County Clerk of Court		$ (99,000)
Miami Dade Surtax on Transfer payable to County Clerk of Court		$ (74,250)
Fortune International Realty Broker Commission	2.50% Selling	$ (412,500)
Coldwell Banker Broker Commission	2.50%Listing	$ (412,500)
Attorney's Fees		$ (100,000)
Accounting and Tax Preparation - payable to		$ (30,000)
Original land Mortgage		
Mortgage Sun Trust		$ (250,000)
building value basis at average 25K per unit		$ (875,000)
10% Withholding for corporation expenses		$ (800,000)
Corporate Federal Income Tax Liability (estimated @ 38% of Net Proceeds)		$ (5,413,765)
	Gross Seller Proceeds	$ 8,032,985

Net Revenues avail for Distribution		
	397 Shares @ per Share =	$ 20,234.22
	10 Shares	$ 202,342
	11 Shares	$ 222,576
	12 Shares	$ 242,811
	13 Shares	$ 263,045
	14 Shares	$ 283,279
Average Per Unit		**$ 242,811**

Tax mitigation is estimated to save an additional $2 million and still results in below market values, additionally the legal opinion is that " appears to generally satisfy certain Internal Revenue code requirements, there is no assurance as to whether the tax treatment of the restructured transaction and possible tax mitigation would not be successfully challenged by the Internal Revenue Service."

1 Bed Room Listings

- 10350 W Bay Harbor Dr $315,000
- 10350 W Bay Harbor Dr $360,000
- 9800 W Bay Harbor Dr $350,000
- 9440 W Bay Harbor Dr $265,000
- 9270 W Bay Harbor Dr $325,000
- 9381 E Bay Harbor Dr $285,500

Zillow

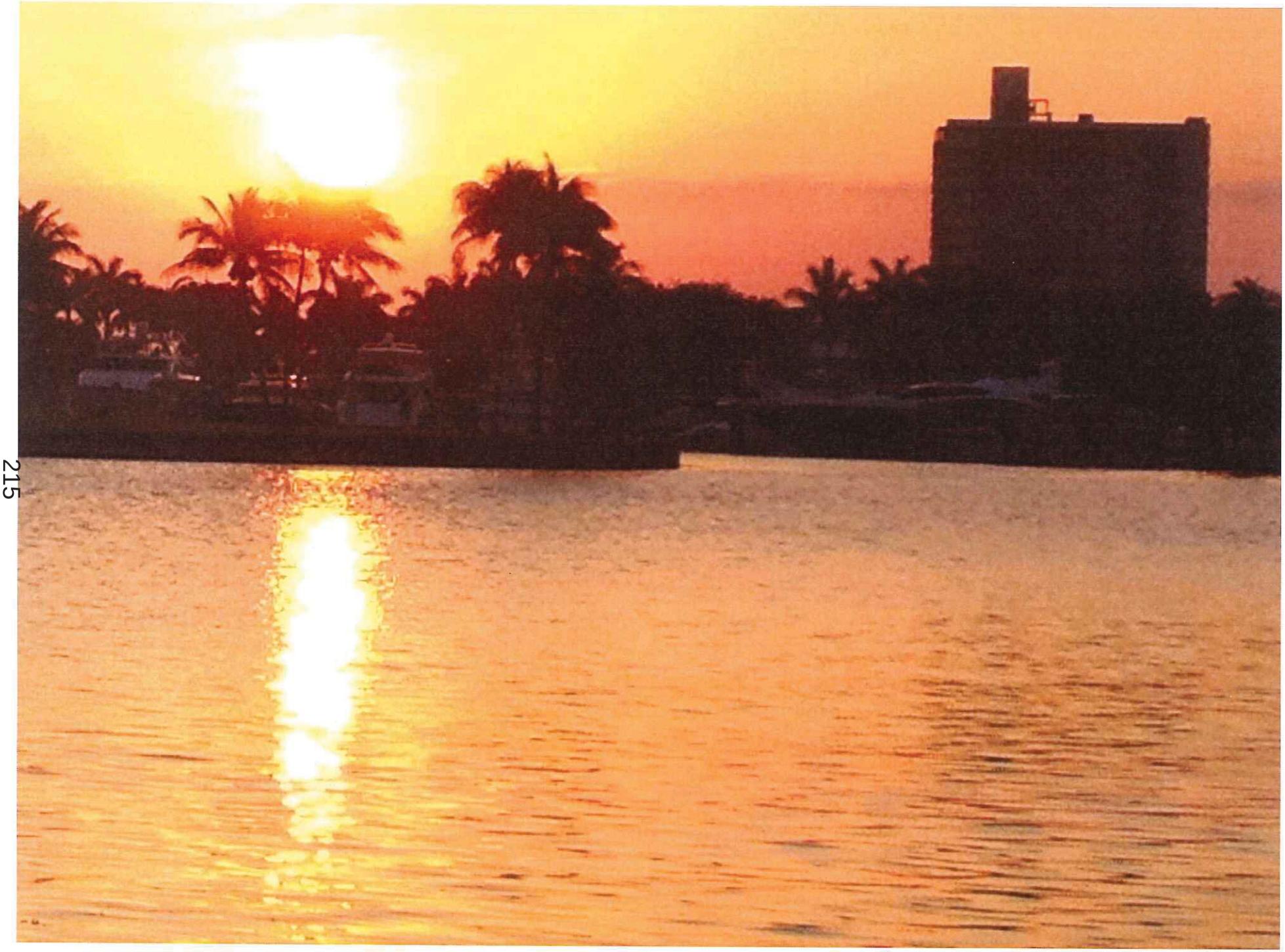
2 Bed Room Listings

- 10350 W Bay Harbor Dr $450,000
- 10350 W Bay Harbor Dr $430,000
- 9100 W Bay Harbor Dr $380,000
- 9180 W Bay Harbor Dr $425,000
- 1120 98th Street $522,000

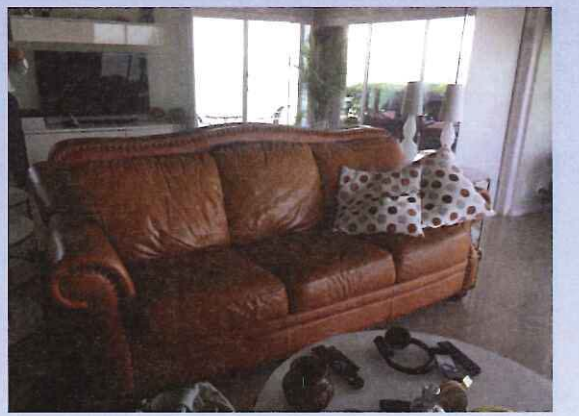
Zillow

Conclusion

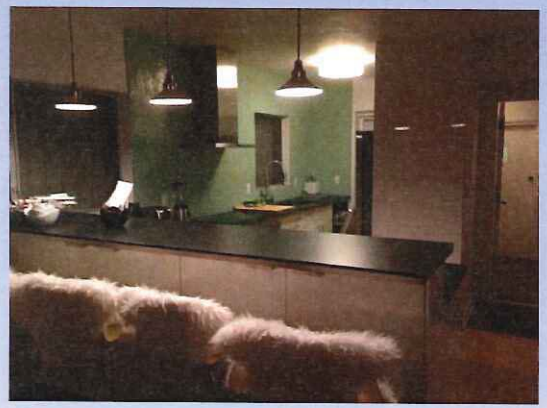
- There is significant economic impact to the shareholders if forced to sell
- Residents may receive below market value prices
- Classic case of gentrification by displacing residents to make way for more affluent population
- If allowed to happen it promotes people to buy historic properties to run them down in order to flip at a higher price to potential developers while long time residents suffer



Interiors



Interiors



Interiors

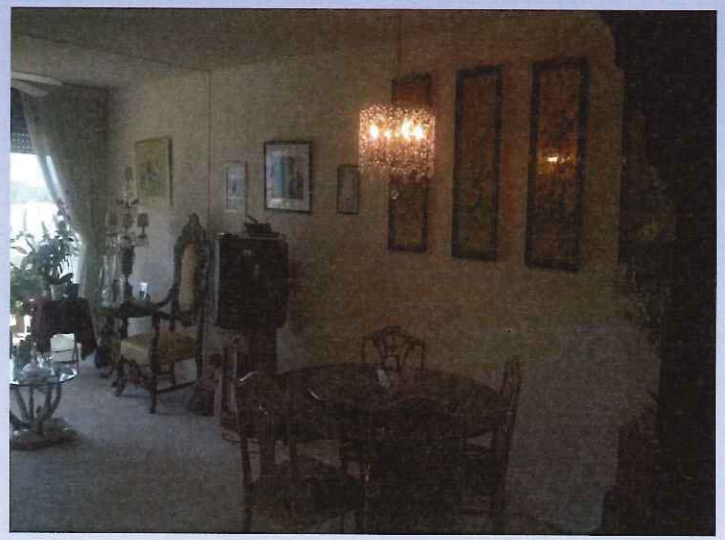


Exhibit 15:

Letter, dated April 14, 2015, to the HP Board from the National Trust for Historic Preservation

National Trust *for* Historic Preservation

Save the past. Enrich the future.

April 14, 2015

Miami-Dade County Historic Preservation Board
C/o Kathleen Kauffman, Chief Preservation Officer
111 NW 1st Street, 12th Floor
Miami, Florida 33128

Dear Members of the Miami-Dade County Historic Preservation Board:

As you know, last year The National Trust for Historic Preservation listed Bay Harbor's East Island as one of the 11 Most Endangered Historic Places in America. East Island is endangered by redevelopment as large-scale construction threatens to take the place of the smaller scale mid-century modern buildings.

These buildings represent the work of many of the most prominent modern architects such as Charles McKirahan and Morris Lapidus. They make for a cohesive whole, a tribute to the Miami Mid-Century Modern (MIMO) style.

As National Trust president, Stephanie Meeks, said, when the listing was announced, "As one of the nation's foremost collections of Modernist architecture, Bay Harbor's East Island represents a significant piece of America's unique architectural history. The island's historic buildings were thoughtfully and creatively adapted to South Florida's tropical environment. We must urge developers and the city to not subject these uniquely designed mid-century modern structures to the wrecking ball."

You are in a position to begin the process of saving the remaining significant structures on East Island. As the Bay Harbor Continental and the Bay Harbor club are threatened with redevelopment, I urge you to grant Historic Site Designation to both. Bay Harbor's East Island is an architectural gem, showcasing a style unique to Miami, MIMO. If the buildings on the island are not protected Bay Harbor's East Island is in danger of becoming just another group of condos with good views.

Thank you for your consideration.

Sincerely,

John B. Hildreth

John Hildreth
Vice President for Eastern Field Services

Eastern Field Services, William Aiken House, 456 King Street, 3rd Floor Charleston SC 29403
info@savingplaces.org P 843.722.8552 F 843-722-8652 www.PreservationNation.org

Exhibit 16:

Various email correspondence from HP Staff to Bay Harbor Islands Town Manager

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Friday, February 06, 2015 11:00 AM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER)
Subject: HP Board - February Agenda
Attachments: 2015_2 - FINAL.pdf

Mr. Wasson,
Attached please find our draft agenda for the February HP Board meeting.

Please let me know if you have any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Wednesday, February 18, 2015 11:34 AM
To: 'Ronald J. Wasson'
Cc: Kauffman, Kathleen (RER)
Subject: RE:
Attachments: 2015_2 - FINAL 2-18-15.pdf

Please see attached for the final agenda. It is identical to the draft agenda I provided a few weeks ago.

Please let us know if you have any questions.

Thanks,

Sarah
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

From: Ronald J. Wasson [mailto:rwasson@bayharborislands.net]
Sent: Wednesday, February 18, 2015 11:30 AM
To: Cody, Sarah (RER)
Subject:

Hello Sarah,
Could you send me todays agenda for the HP Meeting today. Thanks

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Monday, February 23, 2015 4:23 PM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Owner Notification Letters - BH Continental & BH Club
Attachments: PetitionNotification-BHContinental-Feb2015-unitA1.pdf; Historic DesignationFAQ.pdf; Tax ExemptionFAQ.pdf; BoardActionNotification-Feb2015-unit1A.pdf

Mr. Wasson,
Attached please find copies of the letters our office sent to all unit owners at 1135 103 Street and 1155 103 Street notifying them of the Historic Preservation Board's directive to have the buildings evaluated for potential eligibility. I have also attached the two FAQ sheets that we sent along with the letters.

Please feel free to provide copies of the attached materials to other individuals in the Bay Harbor Islands' town administration, as appropriate.

Please do not hesitate to contact our office with any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Wednesday, February 25, 2015 10:28 AM
To: 'Ronald J. Wasson'; Kauffman, Kathleen (RER)
Subject: RE:

Hi Mr. Wasson,
The Board directed staff to update the reports and resubmit at the March meeting for two buildings: the Continental, 1135 103 Street, and the Club, 1155 103 Street.

I previously emailed you copies of the letters going to all owners at both of those buildings, explaining the situation to all property owners. Please let me know if you need me to resend those to you.

Please do not hesitate to contact us with any additional questions.

Sarah
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

From: Ronald J. Wasson [mailto:rwasson@bayharborislands.net]
Sent: Wednesday, February 25, 2015 10:24 AM
To: Kauffman, Kathleen (RER)
Cc: Cody, Sarah (RER)
Subject: FW:

Hello Kathleen/Cody,
Could you tell me was there two buildings from BHI being brought up to the next HPB Meeting? Was it one or two building?
I thought it was two buildings.

Thanks
Ron

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

From: Ronald J. Wasson
Sent: Tuesday, February 24, 2015 4:19 PM

To: Kauffman, Kathleen (DP&Z) (kkauff@miamidade.gov)
Subject:

Hello Kathleen,

Could you tell me was there two buildings from BHI being brought up to the next HPB Meeting? Was it one or two building?

I thought it was two buildings.

Thanks

Ron

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

Cody, Sarah (RER)

From: Kauffman, Kathleen (RER)
Sent: Thursday, February 26, 2015 12:39 PM
To: Cody, Sarah (RER)
Subject: FW: Owner Notification Letters - BH Continental & BH Club

Kathleen Slesnick Kauffman
Historic Preservation Chief, Miami-Dade County
111 NW 1st Street, Mailbox #114
(physical location 12th floor)
Miami, FL 33128
(305) 375-4958

The greenest building is the one already built.

From: Ronald J. Wasson [mailto:rwasson@bayharborislands.net]
Sent: Thursday, February 26, 2015 9:59 AM
To: Kauffman, Kathleen (RER)
Cc: Craig Sherman (craig@shermanslaw.com); Frank Simone (frank@franksimone.com); Stanley B. Price; Amador, Margaret (DIST4); Isaac Salver (Isaac Salver); Jordan (jwlmiami@yahoo.com); Josh Fuller; Kelly Reid; Robert Yaffe (robert@robertyaffe.com); srousselot@gmail.com; Stephanie Bruder (sbruder31@gmail.com)
Subject: RE: Owner Notification Letters - BH Continental & BH Club

Hello Kathleen,

I am sorry you feel my original e-mail was directed at you but to address some of your comments:

- Everyone who wanted to speak at the HPB Meeting was afforded the opportunity with the exception of myself and Frank Simone, BHI Attorney and the Attorney for Bal Harbour Shops. I and they were told to "Get to the point, hurry up, wrap it up and to sit down" Only the pro-historic preservation people were given unlimited speaking time. Several spoke twice. So I would disagree with your assessment I was treated the same and given consideration by the Chairman. The attitude from the Chairman was blatantly obvious in that he was not interested in hearing my comments.

- Coming to the Continental and Club Building to do outreach is something I do want but I would expect that you would want, or at least be required to do. One of those buildings as you have said went through this ordeal in 2010 and were moving forward with a real estate transaction that has been two years in the making. I would think you of all people should have said that before agreeing to do a rehash of a 2010 report, you should have advised your HPB to follow the same protocol as last time. YOU should be doing this as part of your job. You are working on a report and only now the owners are getting some kind of notice from you. Quite frankly before a report is done, the other owners should be given some chance to weight in before a report is ordered. I don't remember seeing any documentation presented that this was discussed by the coop board of the building in question, no petitions or affidavits supporting or not supporting this action. You speak about notice and communication and it is these types of actions that diminish the credibility of the County and the HPB. Lastly, I might add I am not sure a quorum was present at the end of the meeting when the HPB was giving you direction.

- I would like to let you know that the agenda's for the last two HPB meetings did not in any way indicate BHI was going to be considered for Historic District Status. There was in my opinion an obvious plan of action being contemplated and carried out by the HPB. Based on the statements of the Chairman of trying to get a report utilizing a magic marker x'ing out properties for designation would indicate there should have been some notification to me, the BHI Mayor and the BHI Council. That was something promised by the Deputy Mayor at the first meeting we had many months ago. That is the communication that is lacking and discredits this process. The two gentleman on the HPB felt the agenda was lacking in transparency and lacked any notification to the Town and it was suggested some outreach of some kind occurred. The Chairman verbally chastised them when they suggested giving some additional time for outreach to the our elected officials as well as our residents. I understand the process very well, the report is ordered and then the notices come out for the property owners to participate and give their opinion. However, it is my opinion, the outreach should happen **before** the report is generated as to gage the property owners interest and to follow the spirit of the rules you say you follow. Based I what I experienced and witnessed at the last HPB Meeting it is also my opinion the likelihood of anyone listening to opposition of a designation is remote.

Going forward, I welcome and invite you to schedule a public meeting immediately to discuss the survey you are conducting presently, the methodology of the process, the reasoning behind it and what the impacts to BHI as a Town and fiscally what could occur. Please give me dates that are available for you and I will coordinate it with staff and our elected officials. BHI is not a commercial district part of a larger municipality. BHI is a small residential community so the idea of keeping very old substandard buildings needing in some cases, millions of dollars to fix, is a very complex one matter and not something that can be done with a handout. This attempt to designate the East Island as Historic will have economic consequences effecting all our residents so it is critical we have all the information.

Thank You

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

From: Kauffman, Kathleen (RER) [mailto:kkauff@miamidade.gov]
Sent: Wednesday, February 25, 2015 4:05 PM
To: Ronald J. Wasson; Isaac Salver (Isaac Salver); Jordan (jwlmiami@yahoo.com); Josh Fuller; Kelly Reid; Robert Yaffe (robert@robertyaffe.com); srousselot@gmail.com; Stephanie Bruder (sbruder31@gmail.com)
Cc: Stanley B. Price; Frank Simone (frank@franksimone.com); Craig Sherman (craig@shermanslaw.com); Amador, Margaret (DIST4); Woerner, Mark (RER)
Subject: RE: Owner Notification Letters - BH Continental & BH Club

Dear Mr. Wasson:

For clarification, two people attended last week's Historic Preservation Board meeting to support the designation of the Bay Harbor Continental, and they provided the Board with a Petition to consider the building for designation with three signatures.

I'm not sure why in the email below there is the assumption that we will do no outreach to the building owners. As you and I discussed immediately following the Historic Preservation Board meeting, we are more than happy to come out

and provide informational workshops, if that is what is desired. We did so in 2010 for the building owners of the Continental and the Club buildings. We would be happy to do so again.

Additionally, we are more than happy to also come do a public workshop for your town on preservation in general, but we would like to be further along with our survey update before doing so.

I believe that the Historic Preservation Board is interested in hearing everyone's opinion. This discussion item at the end of last week's agenda was not a public hearing on anything related to Bay Harbor Islands, but even so, within the two and half hours of discussion, the Board chair allowed anyone who wanted to speak to get up and do so. Over 18 people did so. As you know, the Board takes into consideration what is said at the meeting but also makes their decisions based on a building's adherence to the designation criteria.

The designations of any properties all go through the same process. The moratorium on any building permits do not begin until a report is submitted to the Historic Preservation Board. Then, a public hearing is held the following month. All owners will be notified of this meeting and will be allowed to voice their concerns in the public hearing.

The minutes of this meeting will be available shortly and I will make sure they are distributed to all of you. Again, as we have indicated to you and your elected officials, we remain committed to keeping you informed of preservation activities within your town.

Let me know if there is anything else you need, thank you.

Kathleen Slesnick Kauffman
Historic Preservation Chief, Miami-Dade County
111 NW 1st Street, Mailbox #114
(physical location 12th floor)
Miami, FL 33128
(305) 375-4958

The greenest building is the one already built.

From: Ronald J. Wasson [mailto:rwasson@bayharborislands.net]
Sent: Monday, February 23, 2015 5:52 PM
To: Isaac Salver (Isaac Salver); Jordan (jwlmiami@yahoo.com); Josh Fuller; Kelly Reid; Robert Yaffe (robert@robertyaffe.com); srousselot@gmail.com; Stephanie Bruder (sbruder31@gmail.com)
Cc: Stanley B. Price; Frank Simone (frank@franksimone.com); Craig Sherman (craig@shermanslaw.com); Amador, Margaret (DIST4); Kauffman, Kathleen (RER)
Subject: FW: Owner Notification Letters - BH Continental & BH Club

Mayor and Council,

For Your Information,

Note: I witnessed only one person ask that the BH Continental be designated. It was discussed that this very property was designated in 2010 but the application was withdrawn because the owners overwhelmingly did not want it. This time I believe there will be no reaching out to the building owners other than letters. That is a shame due to the fact many are out of towner's that might not receive the notice in time. I am concerned the MDHPB is not really interested in hearing from everyone based on how they conducted themselves at the last meeting. Hopefully they will at least do some outreach as they did the last time to gage interest from the building unit owners.

Ron

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands

9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

From: Cody, Sarah (RER) [mailto:scody@miamidade.gov]
Sent: Monday, February 23, 2015 4:23 PM
To: Ronald J. Wasson
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Owner Notification Letters - BH Continental & BH Club

Mr. Wasson,
Attached please find copies of the letters our office sent to all unit owners at 1135 103 Street and 1155 103 Street notifying them of the Historic Preservation Board's directive to have the buildings evaluated for potential eligibility. I have also attached the two FAQ sheets that we sent along with the letters.

Please feel free to provide copies of the attached materials to other individuals in the Bay Harbor Islands' town administration, as appropriate.

Please do not hesitate to contact our office with any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Tuesday, March 10, 2015 8:54 AM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER)
Subject: HP Board - March Agenda
Attachments: 2015_3 - FINAL.pdf

Mr. Wasson,
Attached please find the draft agenda for the March HP Board meeting.

Please let me know if you have any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Tuesday, March 24, 2015 3:06 PM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Owner Notifications - BH Club & BH Continental
Attachments: PublicHearingNotification-BHContinental-April2015.pdf; BHContinental-DesignationReport-15April2015.pdf; PublicHearing-Notification-April2015.pdf; BHClub-DesignationReport-15April2015.pdf

Mr. Wasson,
Attached please find copies of the letters sent to all unit owners at the Bay Harbor Continental and the Bay Harbor Club, notifying them of the moratorium as well as the public hearing, scheduled for April 15. We also included information about the public workshop on March 31.

Also attached are the final designation reports for both properties. Please forward copies of the letters and/or reports to other individuals in Bay Harbor Islands' town administration, as appropriate.

Please do not hesitate to contact me with any questions.

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
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(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Ronald J. Wasson <rwasson@bayharborislands.net>
Sent: Friday, March 27, 2015 11:32 AM
To: Cody, Sarah (RER)
Subject: RE: Owner Notifications - BH Club & BH Continental

Thanks

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

From: Cody, Sarah (RER) [mailto:scody@miamidade.gov]
Sent: Friday, March 27, 2015 11:19 AM
To: Ronald J. Wasson
Subject: RE: Owner Notifications - BH Club & BH Continental

Please see attached for the previously prepared reports for both properties.

Thanks,

Sarah
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

From: Ronald J. Wasson [mailto:rwasson@bayharborislands.net]
Sent: Friday, March 27, 2015 11:16 AM
To: Cody, Sarah (RER)
Subject: RE: Owner Notifications - BH Club & BH Continental

Thank You Sarah,

I will forward it on. Would you please do me a favor and forward me the 2010 designation reports which were done for these properties. Thank You

Ron Wasson

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

From: Cody, Sarah (RER) [mailto:scody@miamidade.gov]
Sent: Tuesday, March 24, 2015 3:06 PM
To: Ronald J. Wasson
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Owner Notifications - BH Club & BH Continental

Mr. Wasson,
Attached please find copies of the letters sent to all unit owners at the Bay Harbor Continental and the Bay Harbor Club, notifying them of the moratorium as well as the public hearing, scheduled for April 15. We also included information about the public workshop on March 31.

Also attached are the final designation reports for both properties. Please forward copies of the letters and/or reports to other individuals in Bay Harbor Islands' town administration, as appropriate.

Please do not hesitate to contact me with any questions.

Sarah K. Cody
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Miami, FL 33128
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(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Kauffman, Kathleen (RER)
Sent: Wednesday, April 01, 2015 2:53 PM
To: Ronald J. Wasson
Cc: Kirtley, James E. Jr. (CAO)
Subject: RE: Thank You// Change of Venue

Ron,

Thank you for your offer to accommodate us, however, the April 15th meeting has already been legally advertised and cannot be changed. The meeting is being held in the Downtown library auditorium, which has plenty of seating.

A request to change the meeting date and time can be made to the HP Board. Additionally, deferrals of any item can be requested of the HP Board as well if those owners wanted to push back the public hearing in the event the HP Board decided to change the meeting time.

Thank you again for a lovely evening.

Kathleen Slesnick Kauffman
Historic Preservation Chief, Miami-Dade County
111 NW 1st Street, Mailbox #114
(physical location 12th floor)
Miami, FL 33128
(305) 375-4958

The greenest building is the one already built.

From: Ronald J. Wasson [mailto:rwasson@bayharborislands.net]
Sent: Wednesday, April 01, 2015 2:36 PM
To: Kauffman, Kathleen (RER)
Cc: Marlene Marante; J C Jimenez; Isaac Salver (Isaac Salver); Jordan (jwlmiami@yahoo.com); Josh Fuller; Kelly Reid; Robert Yaffe (robert@robertyaffe.com); Stephanie Bruder (sbruder31@gmail.com)
Subject: Thank You// Change of Venue

Hello Kathleen,

Thank you for coming out last night. I am sure many people learned something. At the request of our elected officials in Bay Harbor Islands and many of the residents, I am writing to request the April 15th , 2015 Historic Preservation Board Meeting be scheduled here in Bay Harbor Islands. Over the past several months, the Historic Preservation Board (HPB) has changed the location of its meeting at least three times. I also noticed that often there has been sparse seating for persons who are attending. Bay Harbor Islands can offer better accommodations and at least it will be easier for the seniors to attend the meeting. I think I would be nice gesture of your part and be a way to be seen as a little more accommodating to the effected community. Of course we would appreciate a 7PM meeting time, but would be fine with your normal 2PM meeting time.

If you need something on official letterhead I will happy to do so.
Thank You
Ron

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Friday, April 10, 2015 4:48 PM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: HP Board - March Minutes
Attachments: 2015_4 - FINAL.pdf; HP BOARD MINUTES 3-18-15.pdf

Mr. Wasson,
Attached please find a copy of the minutes from the March 18, 2015 HP Board meeting. I believe Kathleen already sent you the agenda for the April 15 meeting, but I have attached it herein for reference.

Please do not hesitate to contact our office with any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Monday, April 20, 2015 2:18 PM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Owner Notification Letters - BH Club & BH Continental
Attachments: DesignationNotification-BHContinental-April2015.pdf; DeferralNotification-April2015.pdf

Mr. Wasson,
Attached please find a copy of the letters sent to all owners at the Bay Harbor Club and the Bay Harbor Continental, notifying them of the outcome of the Historic Preservation Board's public hearings.

The Board approved a 6-month deferral for the Bay Harbor Club, and after a very lengthy public hearing, they voted to designate the Bay Harbor Continental.

Please let us know if you have any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Tuesday, May 05, 2015 12:40 PM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Bay Harbor Continental
Attachments: SpecialCOANotification-BHContinental-May2015.pdf

Mr. Wasson,
Attached please find a copy of the notification letter being sent to all owners at the Bay Harbor Continental. Our office has been in communication with P3, and together with the Co-op Board, they will be submitting a Special Certificate of Appropriateness (COA) for the County HP Board to review proposed alterations to the property. Special COAs are handled thru public hearings, and as such all owners are notified.

Please do not hesitate to contact our office with any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Ronald J. Wasson <rwasson@bayharborislands.net>
Sent: Tuesday, May 12, 2015 5:09 PM
To: Cody, Sarah (RER)
Subject: RE: Bay Harbor Continental

Thank You Sarah.
Ron

Ronald J. Wasson
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Office - 305-866-6241
Fax - 305-866-4863
rwasson@bayharborislands.net

From: Cody, Sarah (RER) [mailto:scody@miamidade.gov]
Sent: Tuesday, May 12, 2015 4:58 PM
To: Ronald J. Wasson
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: RE: Bay Harbor Continental

Mr. Wasson,
I am following up last week's notification to you with the additional note that an appeal has been filed against the designation of the Bay Harbor Continental. As per the County HP Ordinance, a public hearing will be scheduled in front of the Board of County Commissioners within 60 days. It has not yet been scheduled, but we will keep you informed as the item moves forward.

Please do not hesitate to contact our office with any questions.

Thanks,

Sarah
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

From: Cody, Sarah (RER)
Sent: Tuesday, May 05, 2015 12:40 PM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: Bay Harbor Continental

Mr. Wasson,
Attached please find a copy of the notification letter being sent to all owners at the Bay Harbor Continental. Our office has been in communication with P3, and together with the Co-op Board, they will be submitting a Special Certificate of

Appropriateness (COA) for the County HP Board to review proposed alterations to the property. Special COAs are handled thru public hearings, and as such all owners are notified.

Please do not hesitate to contact our office with any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Cody, Sarah (RER)

From: Cody, Sarah (RER)
Sent: Monday, May 18, 2015 8:48 AM
To: rwasson@bayharborislands.net
Cc: Kauffman, Kathleen (RER); Amador, Margaret (DIST4)
Subject: HP Board Agenda
Attachments: 2015_5 - FINAL.pdf

Mr. Wasson,
Attached please find the agenda for this month's HP Board meeting. Please let us know if you have any questions.

Thanks,

Sarah K. Cody
Historic Preservation Planner
Miami-Dade County Office of Historic Preservation
Regulatory and Economic Resources Department (RER)
111 NW 1st Street, 12th Floor
Mailbox 114
Miami, FL 33128
(305) 375-4958 (office)
(305) 375-4438 (direct)

"Delivering Excellence Every Day"

Exhibit 17:

Email correspondence submitted to the HP Board prior to the April 15, 2015 Designation Hearing

Kauffman, Kathleen (RER)

From: Lucy Weber <lhw@aol.com>
Sent: Wednesday, April 15, 2015 2:16 AM
To: Kauffman, Kathleen (RER)
Subject: Historic designation for the Bay Harbor Club and Bay Harbor Continental

Dear Ms. Kauffman,

I am the stepdaughter of Charles McKirahan, and I understand that two of his buildings, the Bay Harbor Club, and the the Bay Harbor Continental are being considered for historic designation. He was a wonderful man and an extremely talented architect, who had a profound influence on the architecture of the time. It would be a shame to lose those buildings, which could now never be replaced. His style was unique and often copied, and his buildings need to be preserved as a fine example of his outstanding architectural style of the time. Unfortunately, his life came to an end prematurely, and those buildings are now few and far between.

On behalf of his children and grandchildren, we would be honored to have his buildings saved for future generations to enjoy and admire.

They are so important to the landscape of south Florida. Thank you so much for your consideration in saving these beautiful buildings.

Sincerely,

Lucy Weber

Lucy Weber
Broker-Associate
Better Homes & Gardens Real Estate Florida 1st
777 S. Federal Highway
Fort Lauderdale, FL 33316
(954) 648-2976
Lhw@aol.com

Cody, Sarah (RER)

From: Mitch Scott <sherbrookehotel@gmail.com>
Sent: Tuesday, April 14, 2015 9:37 PM
To: Kauffman, Kathleen (RER); Cody, Sarah (RER)
Cc: Jeff Donnelly
Subject: Fwd: MiMo Architecture and Charles McKirahan

Dear Staff:

Please forward Mr. Donnelly's email to the board and have it included as part of the record.

Thank you,

Mitch Novick

Begin forwarded message:

From: jeffdonn@aol.com
Subject: MiMo Architecture and Charles McKirahan
Date: April 14, 2015 at 7:57:09 PM EDT
To: sherbrooke@the-beach.net

Good afternoon, Mitch.

I will not be able to attend the County Historic Preservation Board meeting on Wednesday, and I ask that you read this note to the members of your board.

The career of Charles McKirahan was cut short by his untimely death at 44, but the innovation and quality of his work has contributed substantially to today's developing international interest in Miami's mid-century modern architecture. For example, McKirahan worked together with Buckminster Fuller on the golden dome of the Miami Seaquarium.

Since McKirahan's very promising career was cut so short, preserving his work, including his buildings on Bay Harbor Islands, is even more important than usual. Loss of a McKirahan work opens the possibility of losing the visual record of one of Miami's finest architects.

Jeff Donnelly
Public Historian, Miami Design Preservation League
C-Author, *Miami Architecture: An AIA Guide Featuring Downtown, Coconut Grove, and the Beaches.*

Kauffman, Kathleen (RER)

From: Su Rudy <surudy@aol.com>
Sent: Tuesday, April 14, 2015 10:56 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of designation

Hello...

I lived in South Florida for 21 years...and 5 right on Bay Harbor Islands. It was clearly THE best place I lived. I truly believe that if it wasn't for Art Deco and Mid Century Modern buildings/structures, Miami/Miami Beach would not be the unique visual destination it has become.

It would be a crime to destroy these buildings!
Thank you & sincerely,

Su

Su Rudy
SURUDY.COM
HOUZZ.COM
484.222.0799

Kauffman, Kathleen (RER)

From: Jim Pappas <jimpappas85@outlook.com>
Sent: Wednesday, April 15, 2015 8:40 AM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of designation

Kauffman, Kathleen (RER)

From: victoria palumbo <dcvix@hotmail.com>
Sent: Tuesday, April 14, 2015 10:56 AM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of designation

Please save these buildings!!! South Florida won't be the same again!!!

Kauffman, Kathleen (RER)

From: victoria pellicer <pixievix26@gmail.com>
Sent: Tuesday, April 14, 2015 8:14 AM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of designation!

I am writing to voice my encouragement and support for keeping the Bay Harbor McKirahan buildings safe, and designated as architectural landmarks.

Fifteen years ago I moved to South Florida specifically for the Mid-Century Modern architecture and the stylish feel it gives to coastal living. My heart breaks every time I see one of these buildings demolished.

These McKirahan works of art are crucial to the architectural history of South Florida. Just look at how many tv shows have been so special to everyone, bringing tourist from all over the world just to see these amazing buildings and their surroundings.

Let's keep the REAL Bay Harbor Butcher AWAY!!!

Vix Pellicer

Fort Lauderdale, FL

Kauffman, Kathleen (RER)

From: Sandy Colea <slcolea@gmail.com>
Sent: Monday, April 13, 2015 5:07 PM
To: Kauffman, Kathleen (RER)
Subject: Mckirahan is worthy of designation

Kauffman, Kathleen (RER)

From: Stephanie Wikberg <swikberg@icloud.com>
Sent: Monday, April 13, 2015 3:31 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of Designation

Sent from my iPhone

Kauffman, Kathleen (RER)

From: win edson <winedson@yahoo.com>
Sent: Monday, April 13, 2015 3:15 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worth of designation

Please stop the over development of the Bay Harbour Islands.

Thank you,

Sincerely,

Win Edson

Kauffman, Kathleen (RER)

From: robertcengle@att.net
Sent: Monday, April 13, 2015 3:18 PM
To: Kauffman, Kathleen (RER)
Subject: Subject - McKirahan is worthy of Designation

Save McKirahan's Bay Harbor Island Buildings!

I lived in Florida for over 25 years. The exact reason I left is because of the over-commercialising of too many historic sites.

As you are aware, Florida does not have that many historical sites. Partially because the legislature is allowing them to be destroyed.

McKirahan is worthy of Historical Designation.

Please save this architecturally significant building!

Sincerely,
Robert Engle

Kauffman, Kathleen (RER)

From: MIKE JONES <imikejones@me.com>
Sent: Monday, April 13, 2015 2:14 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of designation

Please add me to the list of those seeking to preserve these fine structures.

Sincere,
Mike Jones
954-415-9459
imikejones@mac.com

Sent from my iPhone

Kauffman, Kathleen (RER)

From: Katie Parker <auntkk@hotmail.com>
Sent: Monday, April 13, 2015 1:30 PM
To: Kauffman, Kathleen (RER)
Subject: Mckiahan is worthy of Designation

Please keep history alive! Don't destroy Bay Harbor!!!
Sent from my Verizon Wireless 4G LTE DROID

Kauffman, Kathleen (RER)

From: Harry Sporidis <HSporidis@Polsinelli.com>
Sent: Monday, April 13, 2015 12:55 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is Worthy of Designation

Harry Sporidis
Senior Policy Advisor

hsporidis@polsinelli.com
202.626.8349 Direct Dial
202.669.7399 Mobile
1401 Eye Street NW
Suite 800
Washington, DC 20005
polsinelli.com

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Kauffman, Kathleen (RER)

From: sandybackinfl@yahoo.com
Sent: Monday, April 13, 2015 12:47 PM
To: Kauffman, Kathleen (RER)
Subject: McKiernan is worthy of designation

I am in support of this.
Sandy Harris

Sent from my MetroPCS 4G Android device

Kauffman, Kathleen (RER)

From: Sarah Thompson <s.thompson@comtronix.biz>
Sent: Monday, April 13, 2015 12:25 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is Worthy of Designation

McKirahan is Worthy of designation.

Save McKirahan's bay Harbor Island Buildings.

Sarah Jane Thompson-Aguirre (SJ)
Customer Service Representative
800 W. Collins Drive
Casper, WY 82601
307-265-8838
www.comtronix.biz

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Kauffman, Kathleen (RER)

From: Sasha Mora <sasha.mora@gmail.com>
Sent: Monday, April 13, 2015 12:17 PM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of Designation

Good morning.I wanted to express my concern about the possible destruction of the McKirahan area buildings on Bay Harbor Island. The Bay Harbor Club and The Bay Harbor Continental. These are part of the history of modern architecture! These buildings deserve to be restored and revitalized! Not ripped down! We need to stop tearing down history! Thank you for listening and I hope you take the time to process all the concerns coming in.

Best Regards,

Sasha Mora

--
Sasha Mora
720.936.9225

Kauffman, Kathleen (RER)

From: Karen Gavrilov <redpearlyoga@earthlink.net>
Sent: Monday, April 13, 2015 9:22 AM
To: Kauffman, Kathleen (RER)
Subject: McKirahan is worthy of Designation.

I am writing to voice my encouragement and support for keeping the Bay Harbor McKirahan buildings safe, and designated as architectural landmarks.

Mid Century buildings like this are works of art that cannot be replaced. People come from all over the world to south florida and this architecture is part of what makes us different and memorable

We have already lost so many of these wonderful buildings in south Florida; Let's be leaders in keeping these buildings intact and revered.

best,
Karen Gavrilov
Fort Lauderdale, Fl

Exhibit 18:

Staff Report from Public Hearing on April 15, 2015

STAFF REPORT
MIAMI-DADE COUNTY
HISTORIC PRESERVATION BOARD

Miami-Dade County, Florida *Office of Historic Preservation*

APPLICATION TYPE: Historic Site Designation

SITE NAME: Bay Harbor Continental

ADDRESS: 1135 103rd Street, Bay Harbor Islands, FL 33154

DATE OF CONSTRUCTION: 1958

ARCHITECT: Charles F. McKirahan

PROPERTY OWNER: Various (Co-op)

BACKGROUND: The Bay Harbor Continental was originally evaluated for potential historic site designation in December 2010. Though it was found to meet the criteria for designation, the application was ultimately withdrawn. At the February 18, 2015 Board meeting, based on a petition submitted by individual unit owners, the Miami-Dade County Historic Preservation Board (the Board) directed staff to re-evaluate the building for potential designation, and provide an updated report. On March 18, 2015, the Board voted to accept the updated designation report. Today's item is the public hearing to either approve or deny the designation of Bay Harbor Continental as a Miami-Dade County Historic Site.

In addition to the background of the potential designation of the property, it is also important to note that the Bay Harbor Continental is a cooperative property that has been under contract for purchase since March 2014. The development group, P3 Real Estate, intends to purchase the building in its entirety to create a new high-end development that would require complete demolition of the existing building. The developer has indicated that if the building were to be designated, his development firm, P3, will not continue to pursue purchase and redevelopment of the property.

ITEM# PH3
April 15, 2015

CRITERIA FOR DESIGNATION:

(a) Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric, or architectural history that have contributed to the pattern of history in the community, Miami-Dade County, South Florida, the State, or the nation.

(c) Embody the distinctive characteristics of a type, period, style or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction.

STAFF EVALUATION:

Staff has determined that the Bay Harbor Continental Apartments, located at 1135 103rd Street, Bay Harbor Islands, meets the objective criteria for designation. This evaluation is based on the historic context and architectural qualities of the building, as it reflects the pattern of development and architectural history of Bay Harbor Islands; embodies the distinctive characteristics of mid-century Miami Modern (MiMo) architecture; and is one of a limited number of extant works by Charles F. McKirahan, a recognized architectural master.

ECONOMIC HARDSHIP:

The Miami-Dade County Historic Preservation Code recognizes that there may be special, unusual circumstances in which economic hardship allows the Board to vary or modify adherence to the Historic Preservation Ordinance.

Several affidavits swearing to potential economic hardships have been submitted to the Board. Specifically, some unit owners have provided statements that they are depending on the sale of the building for their future costs of living. These owners have also indicated that they can no longer afford the costs associated with the on-going maintenance of the building, with some owners already behind in assessment and maintenance fees. Other unit owners have indicated if the sale of the building goes through, they will be forced to sell their home and will not receive adequate sales profits to relocate to comparable waterfront property, resulting in their displacement from their home and community.

The issue of economic impact is complicated, with varied and competing factors, viewpoints, and concerns at stake. Staff notes that the Board must carefully consider any and all claims of economic hardship as part of the determination to either approve or deny the designation of Bay Harbor Continental as a Miami-Dade County Historic Site.

ITEM# PH3
April 15, 2015

Exhibit 19:

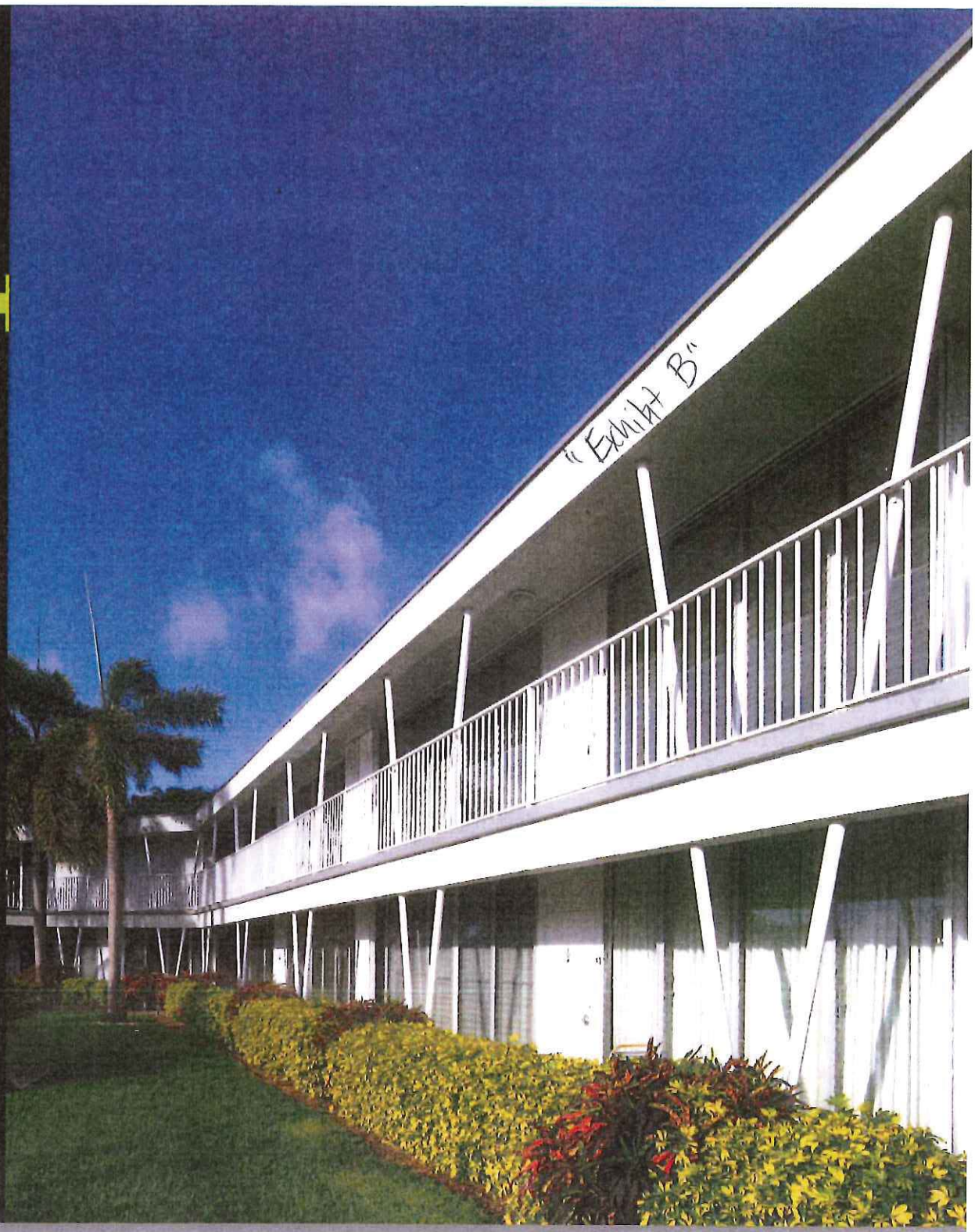
Exhibits submitted to HP Board during Public Hearing on April 15, 2015

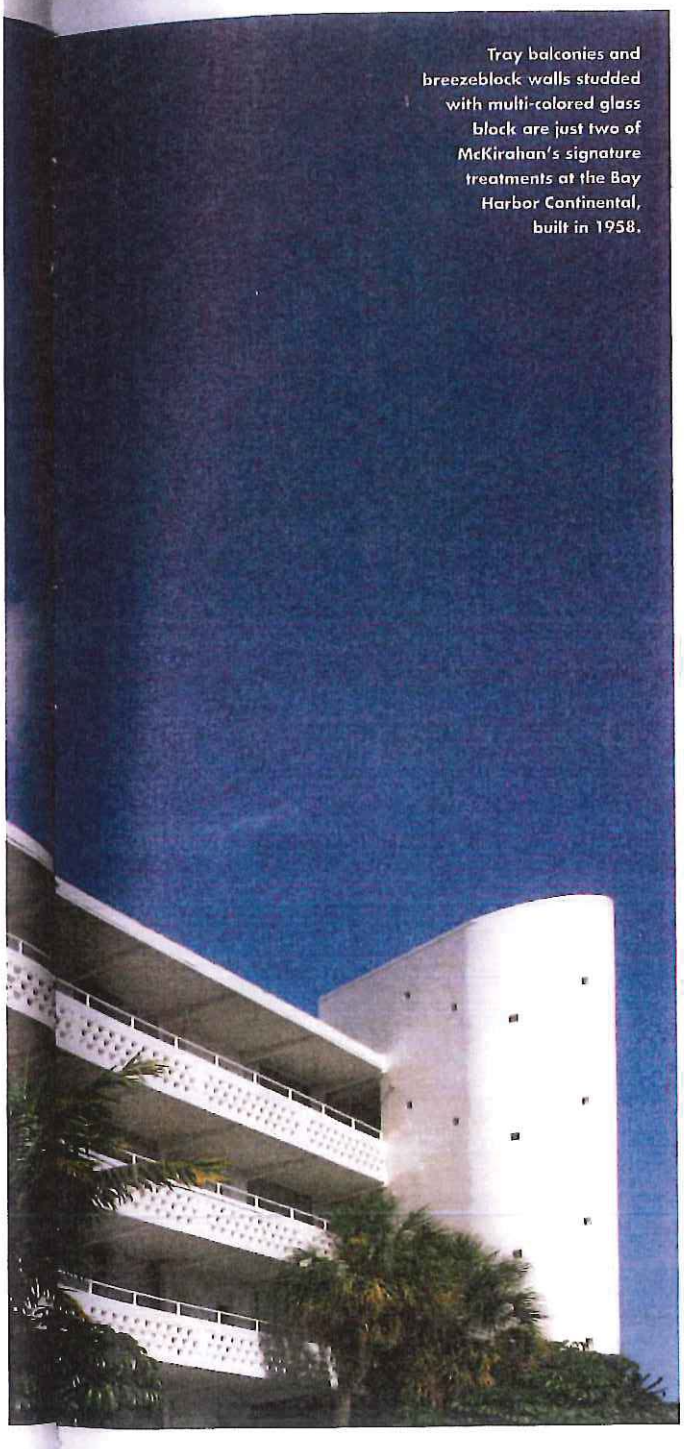
Note: Materials marked as 'Exhibit A' during the April 15, 2015 Public Hearing were submitted by the appellant and are included in this packet, under separate cover, with the Notice of Appeal Exhibits

Tropic

FLORIDA LIVING & DESIGN

APRIL, 2015





Tray balconies and breezeblock walls studded with multi-colored glass block are just two of McKirahan's signature treatments at the Bay Harbor Continental, built in 1958.

UNCOVERING McKIRAHAN

A South Florida Supernova may — finally — be getting some recognition.

Text John T. O'Connor **Photos** Robin Hill

DESPITE ITS OFTEN-GLOWING REPUTATION, the 1950s weren't always so "fabulous." In fact, 1958 especially was not a good year for the United States. More than a decade of post-war prosperity came to a crashing end. Unemployment hovered at seven percent. And, even worse, teen idol/singer Elvis Presley was drafted into the U.S. Army! President Dwight D. Eisenhower found himself commanding a country experiencing its first major recession since the Great Depression.

In the state of Florida, which had grown tremendously following the Second World War, the economic outlook was slightly sunnier. At the time, the chief employer was the commercial airline industry, which began shuttling tourists in and out of the state year-round. Enterprises devoted to cement and even armaments were thriving as well.

Shimmering like water in a Florida swimming pool, embedded glass blocks are set randomly in screenblock walls at McKirahan's Bay Harbor Continental.

Florida's prosperity rained down on many. And in 1958, the architect Charles F. McKirahan was one of the fortunate ones. He had arrived in South Florida with his then-wife, Lucille, also an architect, nearly a decade before. After a brief stint as chief draftsman in the office of Gamble, Pownall & Gilroy and a few years working with a partner, McKirahan, in 1953, launched his solo career as an architect in South Florida and beyond. The war was a dark relic of the past. Americans were looking squarely toward a brighter future. In Florida, plenty of vacant land was ready to accommodate the droves of eager vacationers who needed places to stay and play, plus the masses of would-be homeowners anxious for a place to settle down. McKirahan was ready to oblige.

Not a pure modernist by any means, McKirahan would create sleek modern structures tailored to the local, subtropical environment with his personal, whimsical touches. A building was thoughtfully and artfully sited on a lot to take maximum advantage of bright sunlight, fresh air and stunning views. Floor-to-ceiling glass, in the form of sliding glass doors or banks of operable jalousie windows, often took the place of a solid exterior wall. Cast concrete screen block in a variety of shapes would add embellishment and provide protection from the elements. A structure's spatial organization would promote easy access and circulation.

Although innovative designs were crucial to drumming up business, compelling visuals were paramount as well. McKirahan's spouse, Lucille, was renowned for creating impressive renderings that would help clinch the job. And soon the list of McKirahan-designed projects began to multiply at a dizzying rate.

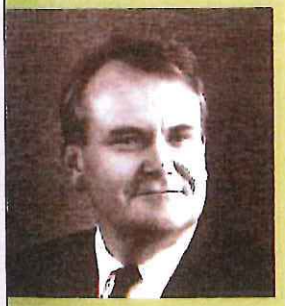
Initially, smaller structures like Fort Lauderdale's Manhattan Tower, complete with a unique jungle gym/bird cage stairwell, sprouted up in 1953 as a corporate retreat for General Motors executives. A few years later,

Currently, the Bay Harbor Club and Bay Harbor Continental are being considered for historic designation by the Miami-Dade County Historic Preservation Board. Charles F. McKirahan, their architect, died in 1964 at age 44, leaving behind "an astounding legacy of architectural masterpieces."

McKirahan became the go-to architect for the powerful, prolific developer, Coral Ridge Properties, which grew to own a $50 million portfolio of land in Broward County. It seemed nearly anything with the name Coral in it was his design: Coral Ridge Country Club, Coral Ridge Yacht Club, Coral Ridge Towers, the list goes on.

It is fair to say that other than his prodigious talent, McKirahan had incredible luck. South Florida at midcentury was exactly the right place for a daring, young architect. Modern life was being re-defined. Home own-

CITIZEN McKIRAHAN

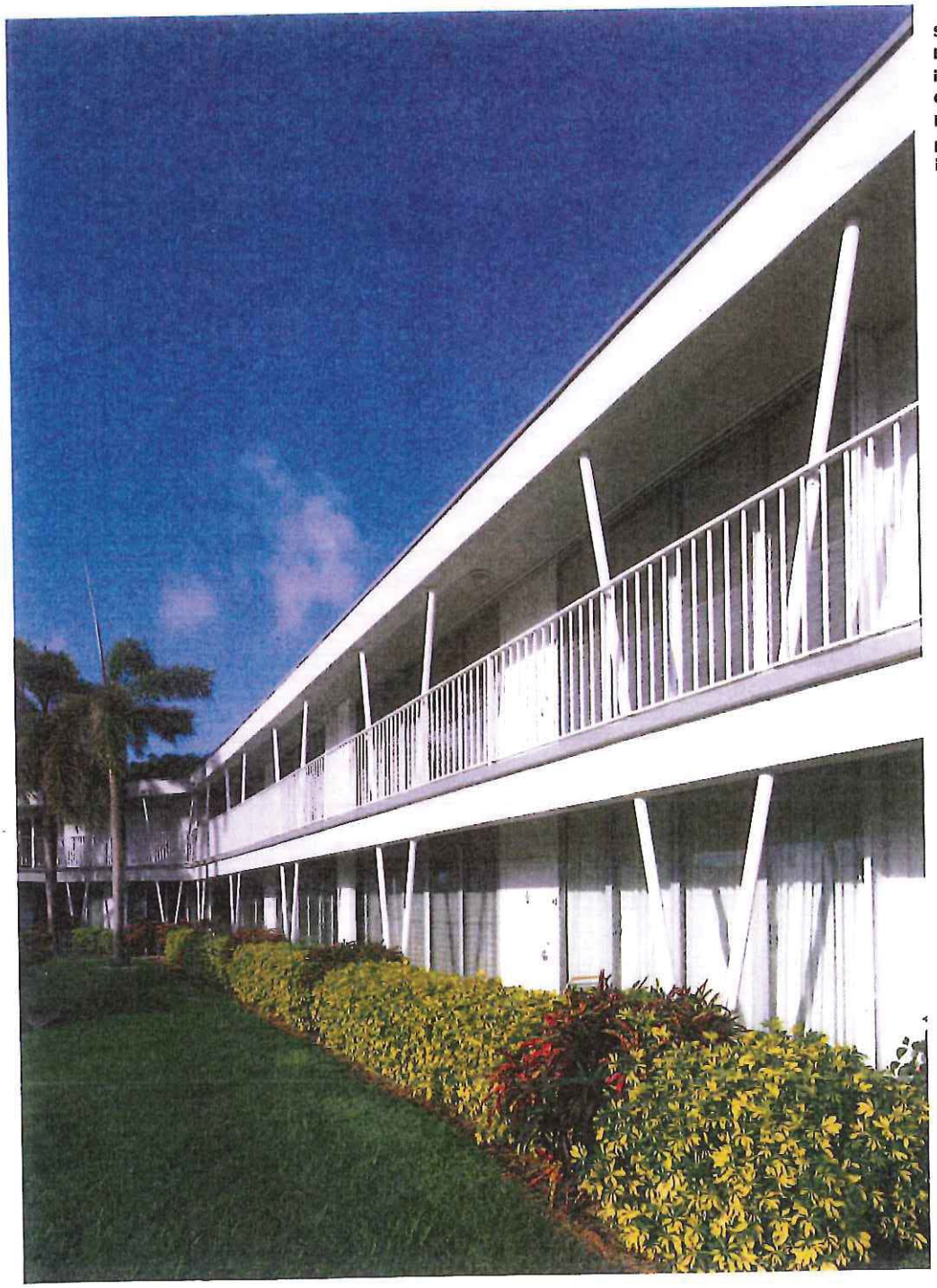


Born in March of 1919 in Tulsa, Oklahoma, the architect Charles Foster McKirahan may have anticipated another famous "Charles Foster," the protagonist of the film *Citizen Kane*, by 22 years, but oddly they did share some similarities aside from their name. Like the cinematic character, McKirahan was "bigger than life" says Lucy Hodges Weber, who at age 8 became one of the architect's four stepchildren when he married their mother, MaryLou Hodges, in 1960. McKirahan also built his own version of Xanadu during his second marriage. However, his expansive modern manse with a distinctive folded-plate roof was more modest and set on a waterfront lot in Fort Lauderdale's Harbor Beach neighborhood. The parallels end there, because unlike the fictional mogul, McKirahan's time on earth was brief and much less fraught with regret.

Charismatic and gregarious, the over 6-foot-tall redhead was a 1946 graduate of the University of Illinois. There he met fellow architecture student, Lucille Woodland. They married in 1941 and had two sons, Charles, Jr. (now deceased) and Robert. Studies and marriage were interrupted by the three years McKirahan spent in the U.S. Army Corps of Engineers during World War II, working in Japan, Hawaii, Australia, Guam, and the South Pacific. That experience would profoundly influence him and his future architectural output.

Eventually, his firm boasted 100-plus employees and satellite offices in the Bahamas, Brazil, and Chicago, but McKirahan still made time for his children, whether carting them to the local drive-in restaurant for a burger or driving his oldest stepson to school in Boca Raton each morning. "He really connected with people and was a lot of fun," says Robert McKirahan, his youngest son. His sense of humor was relentless too. Weber recalls his office on Oakland Park Boulevard having a two-story, screened-in enclosure that housed a flock of birds, including a toucan.

Sadly, Charles F. McKirahan died suddenly on Wednesday, February 12, 1964. Driving his Chrysler Station Wagon on the Florida Turnpike, he lost control of the car, jumped a guardrail, and collided with a post supporting an overpass. His family had moved into the new house he had designed for them just two months earlier. He was 44 years old and his career was at its height. Fifty-one years after his death, his work still speaks to us. —NK



Similar to McKirahan's Bay Harbor Club in Bay Harbor Islands is his earlier Bay Club on Yacht Club Boulevard in Fort Lauderdale. Both feauture V-shaped bean-poles and walls of floor-to-ceiling jalousie glass windows.

ership, with its nagging responsibilities, wasn't everyone's dream. A novel, carefree model of living was being touted via a new building type: co-operative apartments. Co-ops, as they are known, are said to have originated in New York City and were introduced to South Florida in the late 1940s. In a co-op, as opposed to a condominium, a homeowner does not own his or her physical apartment. He or she, along with neighbors, becomes a shareholder in a corporation that owns the entire building. Shareholders (the larger the apartment, the more shares allotted) are entitled to a proprietary lease in the building and can get a series of tax breaks that condo owners don't enjoy.

Co-ops and Charles F. McKirahan arrived in South Florida just about simultaneously. Also around that time, a few miles south of Fort Lauderdale, attorney Shepard Broad and his business partner, Benjamin Kane, were creating a 300-acre, two-island town in Biscayne Bay from a former mangrove swamp dubbed Bailey's Island. Incorporated in 1947, Bay Harbor Islands was located north of Indian Creek Island and west of Bal Harbour and Surfside. Wisely planned, it would consist of single-family homes exclusively on its West Island and multi-family units, a school, and a small business district on its East Island.

By the mid-1950s, Bay Harbor's East Island was nearly built-out. Modestly scaled garden apartments occupied its center, and taller, more majestic structures were placed on its northern and southern tips so as not to impede views and cast unwanted shadows. Careful consideration was given to the placement of a structure on a lot, allowing for green space in front of and around the property, ample parking areas, and a comfortable distance between buildings. The co-ops and condos were created by an array of internationally known architects, among them Morris Lapidus, Igor Polevitzky, Norman Giller, Melvin Grossman, and Charles F. McKirahan.

Airy, lighthearted, and intentionally welcoming the outdoors, Bay Harbor Club, Bay Harbor Towers, and the Bay Harbor Continental embody the exuberant elegance that had become McKirahan's trademark.

Briefly lured south, McKirahan designed a trio of co-ops on the East Island: the Bay Harbor Club, Bay Harbor Towers, and the Bay Harbor Continental. Airy, lighthearted, and intentionally welcoming the outdoors, all three dwellings embody the exuberant elegance that had become McKirahan's trademark. They were completed from 1956 to 1958, respectively, the final structure, the jaunty Bay Harbor Continental, debuting during the gloomy U.S. recession of 1958. Just a year earlier, in 1957, the 10-year-old town seemed concerned enough about its quality of life that it retained the architect and planner Robert Fitch Smith as a consult-

OH MY, MAI-KAI

A few days after Christmas in 1956, the city of Fort Lauderdale, and the world, received a slightly belated but very welcome gift. Encased in a rattan and bamboo shell, embellished with greenery, and soaked in alcohol, it wasn't yet another holiday fruitcake but something infinitely more appealing: The Mai-Kai, South Florida's premiere Polynesian showplace. Complete with sultry dancing maidens, menacing torch-wielding warriors, lush gardens, tasty cuisine, and potent cocktails, the dazzling restaurant was the realized dream of brothers Bob and Jack Thornton.

The architect charged with making the brothers' vision tangible was Fort Lauderdale's Charles F. McKirahan, a perfect choice. A veteran of World War II, he had been stationed in the Pacific and absorbed plenty of design lessons during his three years overseas. From the peaked roofs of Coral Ridge Country Club and the Coral Cove co-ops to the enormous pagoda gate and fretwork balustrades of the Castaways hotel, McKirahan often added stylish subtropical chinoiserie accents to his modern structures, making it very clear that Bali Ha'i was still calling him.

In 1959, another tiki-themed restaurant project landed in McKirahan's lap, and he designed the South Pacific in nearby Hallandale. "America's most exotic and glamorous Polynesian restaurant and village," as it called itself, lasted a mere 16 years. A fraction of time compared to the Mai-Kai, which always seemed close to McKirahan's heart.

"We used to go out to dinner, mostly on Sundays, and a lot of times we went there," recalls Lucy Hodges Weber, the architect's stepdaughter. "For kids it was a really cool place." For many adults it still is. Like her stepbrother, Robert McKirahan, who, when visiting from his home in Las Vegas, makes sure to stop by and see friends such as Angel Vega, a 50-year veteran of the establishment, and enjoy his favorite Black Magic cocktail in the Molokai Bar.

Although the Mai-Kai was expanded more than once since its 1956 opening, its singular status as one of the last of its kind helped earn it a prestigious listing in the National Register of Historic Places in late 2014. But a recent discovery in a warehouse filled with Mai-Kai artifacts shows that the idea of multiple Mai-Kais entered someone's mind at some point. Stuffed into a barrel were plans drawn by Charles F. McKirahan for a Mai-Kai in New York City, located on East 57th Street. The date: 1960. Just imagine, Manhattans served in a coconut-shell mug! —NK

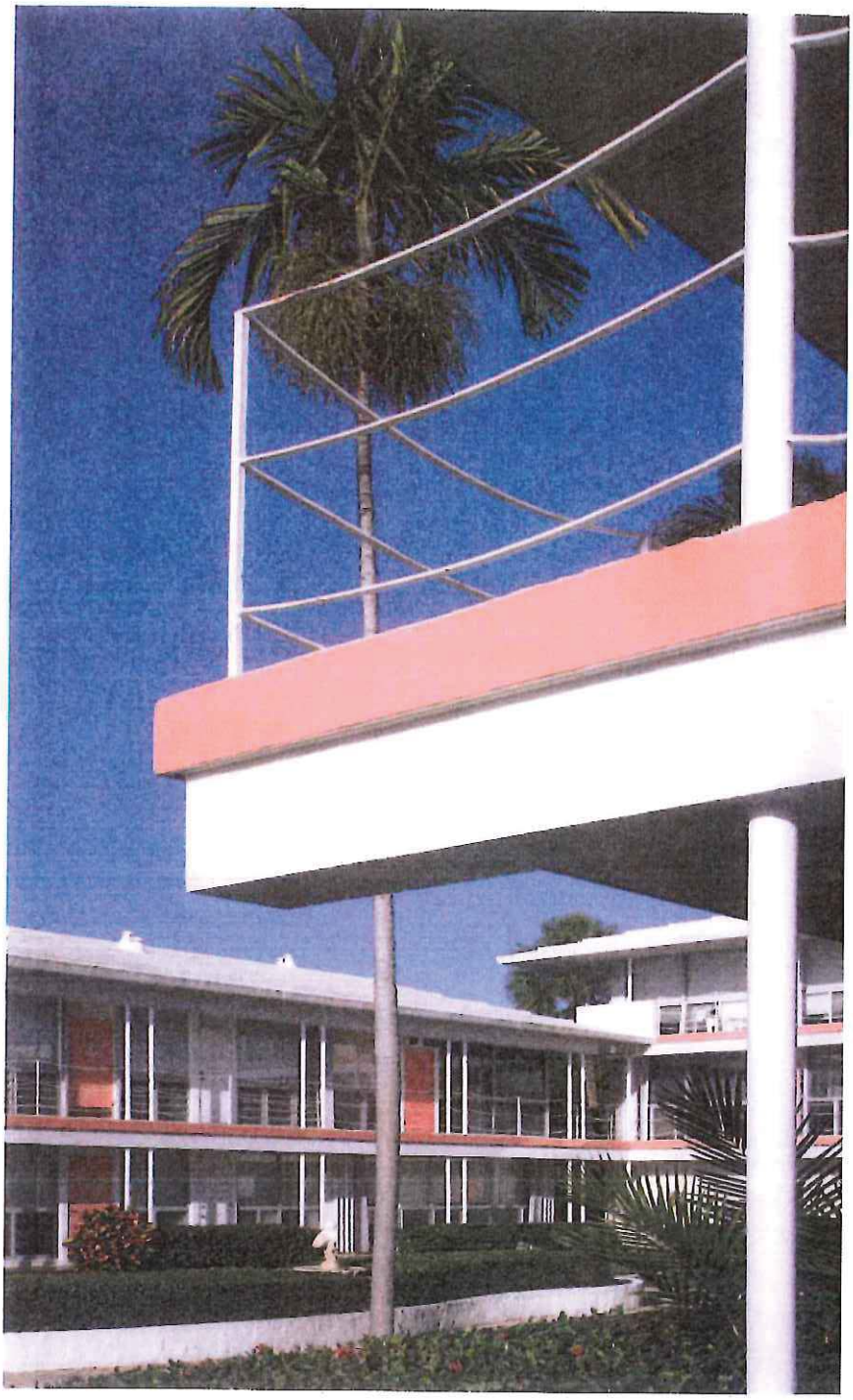
McKirahan's designs for Sunrise Bay Club in Fort Lauderdale feature floating staircases, suspended walkways and custom-designed, wrought-iron railings of the architect's design.

ant. His job was to examine land use and zoning ordinances, plus make recommendations on building heights and the type of structures compatible with the town.

Such worries seem almost quaint now and are a stark contrast to the Bay Harbor Islands of today. Amid an overheated real estate market, little mind is being paid to planning in the town. New buildings are being erected at a breakneck pace. Most are incompatible with the existing architecture, meaning they are either too tall, too dense, take up nearly every inch of their lot, or all of the above. A local government-run program allowing the selling of air rights (also known as transfer of development rights, or TDRs) is being sorely mishandled, resulting in a mish-mash of tall and small buildings alongside each other.

Being demolished just as quickly are original structures which have little protection. The government of Bay Harbor Islands itself does not administer an historic preservation program to shield its worthy structures, and it frequently opposes any effort by others — like Miami-Dade County, under whose jurisdiction it falls on these matters, or the National Trust for Historic Preservation which placed the East Island on its 2014 list of America's 11 Most Endangered Historic Places — to preserve its irreplaceable buildings. Numerous studies have repeatedly shown that historic designation of a property only raises its market value. A legitimate TDR program allows the owner of a historically designated property (donor) to sell its air rights to a developer (receiver); however, the receiving property is always miles away from the donor, not next door or down the block. The money earned from

Bean poles, nautical railings and elegant Bermuda roofs are some of the signature details McKirahan employed 17 individual buildings at the exquisite Coral Cove Club on Yacht Club Boulevard.



the sale is supposed to be used to refurbish the historic building, helping to maintain the character of the area in which it exists. (The enlightened owners of the Vagabond hotel in Miami's MiMo/Biscayne Boulevard Historic District have used TDRs to great effect.)

The enlightened owners of the Vagabond hotel in Miami's MiMo/Biscayne Boulevard Historic District have used a Transfer of Development Rights program or TDRs to great effect. Wouldn't it make sense to use those very programs to preserve many of Fort Lauderdale's most important structures?

Currently, the Bay Harbor Club and Bay Harbor Continental are being considered for historic designation by the Miami-Dade County Historic Preservation Board. Charles F. McKirahan, their architect, died in 1964 at age 44, leaving behind "an astounding legacy of architectural masterpieces," says Diane Smart, former head of the Broward Trust for Historic Preservation. Historic designation would place clearly delineated limitations on any alteration or demolition of these buildings. Instead of wiping out vestiges of the past and ignoring lessons that could be learned from a highly successful planned community, developers could take heed and adaptively re-use historic structures. Sensitively incorporating the buildings or many of their design elements into new construction might result in something entirely unique, highly desirable, and as utterly indispensable as the original structures themselves.

Exhibit "C"

Dade Heritage Trust
190 SE 12th Terrace
Miami, Florida 33131

April 15, 2015

Position Statement from Dade Heritage Trust
Regarding Bay Harbor Islands

Dade Heritage Trust is the largest historic preservation organization in Miami Dade County and has been advocating to save our special places for 43 years.

DHT designated the Bay Harbor Continental (at 1135 103rd Street), and the Bay Harbor Club (known as the Dexter Apartments (at 1155 103rd Street) in Bay Harbor Islands, as among 2014's most endangered sites. They were placed on the list because they are historically significant -- as your own staff will document-- but have not yet been given historic designation. Other MiMo structures are also endangered. (A copy of DHT's 2014 List captioned "*Top 10 Endangered Historic Sites* in Miami-Dade" has been proffered for the record").

We urge the Board to protect these structures so that Bay Harbor will retain its unique identity and neighborhood character. Experience has taught us that it can be economically beneficial to do so

The mid-century period for South Florida was a period of tremendous growth and retooling of collective identity.

Through modernist architecture, Miami architects developed a language unique to the South Florida environment and ethos - which has been termed Miami Modern (MiMo).

The same way that we recognize the historicist and revivalist architecture of the boom 1920s period, this period is equally worthy of merit, designation, and further study.

We save structures for the public benefit, so they can foster civic pride in the accomplishments of the past, but also so they can serve as educational tools for the community and tell the story of how Miami developed. "

Top 10 Endangered Historic Sites in Miami-Dade

SUBMITTED BY ADMIN ON SUN, 07/13/2014 - 18:43

http://www.miamiheritagetrust.org/top-10-endangered-historic-sites-miami-dade

Bay Harbor Islands Mid Century Modern Apartments designed in 1958 by Charles McKirahan and **Bay Harbor Continental,** 1135 103rd Street, and **Bay Harbor Club,** 1155 103rd Street

These two MiMo gems (one of which, the Bay Harbor Club, was where the TV show Dexter was filmed) are undesignated and are likely targets for demolition.

DADE HERITAGE TRUST

Dade Heritage Trust

Donate

Top 10 Endangered Historic Sites in Miami-Dade

SUBMITTED BY ADMIN ON SUN, 07/13/2014 - 18:43

To draw attention to threatened historic properties in Miami-Dade County, Dade Heritage Trust announced its Ten Most Endangered Sites List at DHT's Annual Meeting and Preservation Awards on April 29th.

Endangered buildings are faced with demolition, neglect, incompatible development or lack of restoration funding. Historic buildings that are in the process of being saved--but which have not yet been completed -- were listed as "In Progress." Historic buildings that may be threatened in the near future were listed as "On Our Radar."

Ten Most Endangered Sites

Miami's Woman's Club
(pictured above)
1737 N. Bayshore Drive , Miami.

Listed on the National Register, this landmark received City of Miami funding from the Omni/ Midtown CRA to restore the exterior, but the interior is unusable without millions more that is badly needed.

Flagler Street's Pre WW II Buildings

Miami's oldest shopping district, between Biscayne Blvd and Miami-Dade Courthouse Miami's historic main street contains some buildings that are not used except as ground floors for basic retail. There is a plan to re-make the sidewalks and streetscape, but advocacy is needed for creative solutions lest some buildings be demolished to make room for skyscrapers.

Pan Am Training Center
5000 NW 36rd Street

This Mid-Century Modern structure, nicknamed the Taj Mahal, was built in 1963 by Pan Am to house its corporate headquarters located on the north runway of Miami International Airport. It is in danger of being demolished for hangar space.

Lummus Park Neighborhood Cottage
401 NW 3rd Street

This 100-year-old structure across the street from Lummus Park is owned by Miami-Dade County and is threatened with a demolition order by the City of Miami as an unsafe structure. Its condition is deteriorating rapidly, and it needs immediate help. DHT has offered to help find a solution.

Miami Marine Stadium on Virginia Key

DHT secured historic designation by the City of Miami for the Marine Stadium in 2008 to prevent its demolition and secured $3 million in Miami-Dade County funding for the project, and plans for its restoration are being promoted internationally by the Friends of the Marine Stadium. However, this popular 1963 MiMo icon still needs millions more in funding for its renovation.

Bay Harbor Islands Mid Century Modern Apartments designed in 1958 by Charles McKirahan and Bay Harbor Continental, 1135 103rd Street, and Bay Harbor Club, 1155 103rd Street

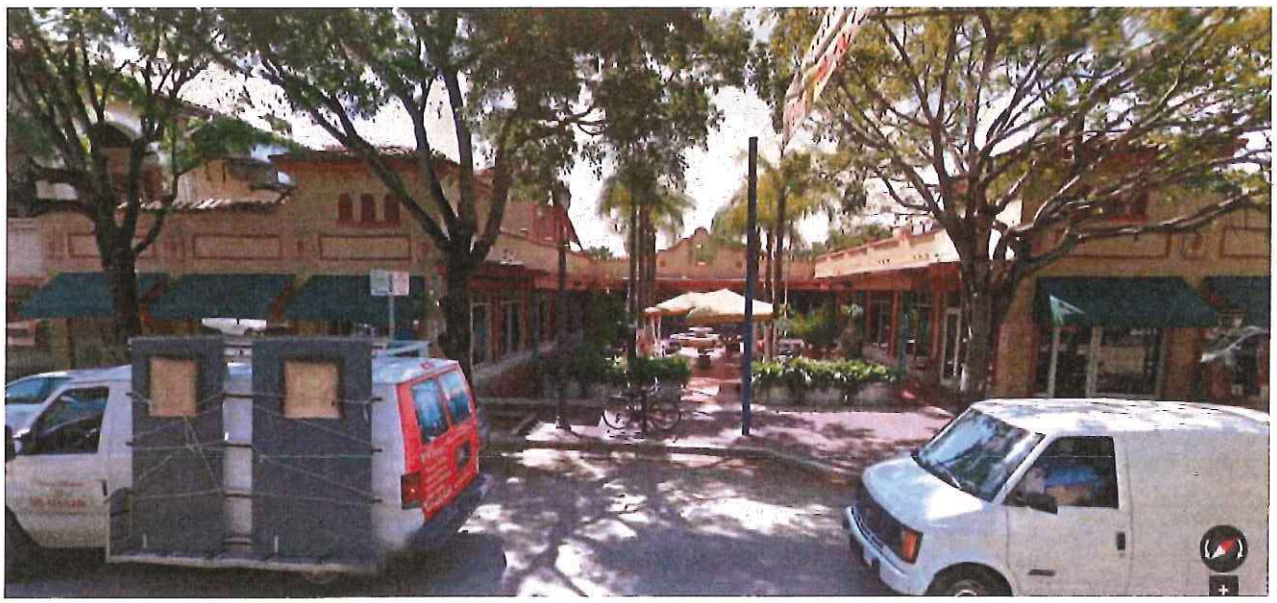
These two MiMo gems (one of which, the Bay Harbor Club, was where the TV show Dexter was filmed) are undesignated and are likely targets for demolition.

Dr. DuPuis Medical Office and Drugstore
6041-6045 NE 2nd Avenue, Lemon City

This rare example of early commercial architecture in Miami-Dade County was built in 1902 by Dr. John G. DuPuis, a prominent physician and founder of White Belt Dairy and the Dade County Agricultural School. It is threatened with demolition by neglect and lack of a planned solution to its plight.

Coconut Grove Playhouse
3500 Main Highway, Coconut Grove

Plans for this 1920s theater are being debated, with controversy over how much to save.



Fiorentino Shops
3434 Main Highway, Coconut Grove

These 1920s era shops and plaza are threatened with demolition by a development.

Miami Beach Pre WWII Waterfront Historic Homes

Regulations in the City of Miami Beach that allow oversized homes are threatening the future of many older homes.

In Progress

Stirrup House
3242 Charles Avenue, Coconut Grove

Plans are underway to renovate the 120 year-old EWF Stirrup house as part of a project by the owners of the Calamari and Taurus restaurant, though permitting is taking a long time.

Fort Dallas Park Palm Cottage
64 SE 4th Street

This cottage was built by Henry Flagler in 1897 and was relocated to the Miami River where Fort Dallas once had stood. It was used as part of Bijan's restaurant for many years but has been vacant for a long time. The City, which owns it, is soliciting proposals for its renovation and re-use.

Met Square Archeological Site
300 SE 3rd Street

Plans call for saving in situ the remains of the Tequesta, Ft. Dallas and Royal Palm eras. Monitoring will be required to ensure the vision becomes a reality.

On Our Radar

- Charles Ave, Coconut Grove
- Office in the Grove, 2699 S. Bayshore Drive designed by Ken Treister
- St. Jude Melkite Catholic Church, 126 SE 15th Road, Miami
- First Church of Christ Scientist, 1836 Biscayne Boulevard, Miami
- Olympia Theater, 174 E. Flagler Street, Miami

Endangered
Stir.jpg

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About Dade Heritage Trust

Dade Heritage Trust is a registered 501(c)(3) non-profit organization in the State of Florida. IRS non-profit status Letter of Determination.

Syndicate

Ported to Drupal by Drupalizing, a Project of More than (just) Themes. Designed by Zsolt Kacso

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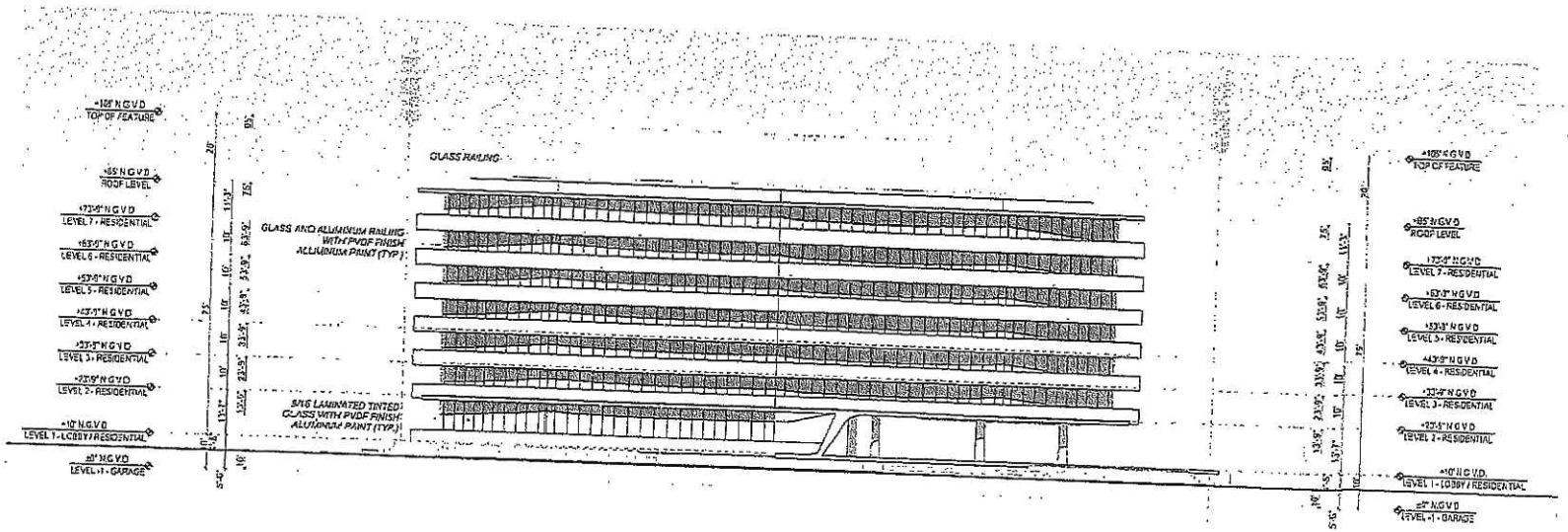
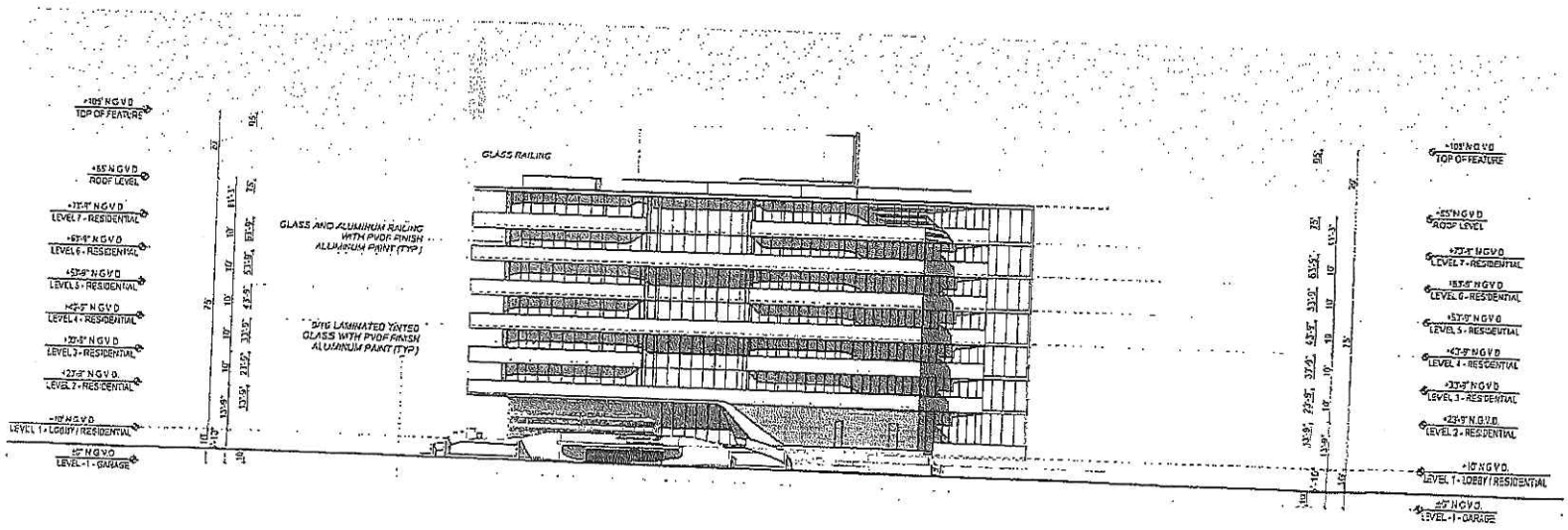
Exhibit "B"



1 A-013 NORTH ELEVATION



2 A-013 SOUTH ELEVATION

revuelta

FLORIDA 03

PJ REAL ESTATE INVESTMENTS

DRC

A-013

Exhibit 20:

HP Board Meeting Minutes Pertaining to Bay Harbor Continental from April 15, 2015

(Designation was approved)

Meeting Minutes Pertaining to Bay Harbor Continental[1]

Miami-Dade County Historic Preservation Board
Minutes of the April 15, 2015 Meeting

Miami-Dade Library System
101 West Flagler Street
Library Auditorium
Miami, FL 33130

III. PUBLIC HEARING – public hearing items may not start before 2:15 pm – public hearing started at 2:15 p.m.

PH3. Historic Site Designation
Bay Harbor Continental
1135 103rd Street
Bay Harbor Islands, FL 33154

Chair Novick: addressed Mr. Neisen Kasdin, attorney representing the Bay Harbor Continental Board, asking how much time he would need for his presentation. **Chair Novick** agreed to give Mr. Kasdin 20 minutes to start with and then see if additional time was needed.

Sarah Cody, Staff: Presented the Staff Report and designation presentation on the Bay Harbor Continental. The presentation outlined the history and significance of the building, and also indicated that the Board would be hearing some claims of economic hardship, which they must consider when deciding whether or not to designate the property.

ECONOMIC HARDSHIP CASE AGAINST THE DESIGNATION:

Neisen Kasdin, Attorney, 1 SE 3rd Avenue: Represents both Bay Harbor Continental, a co-op and the owner of the property, as well as P3 Investments I, LLC the contractor of the property. He acknowledged that certain features of the building are architecturally significant, but that an economic hardship would be imposed on individual owners if designated. Additionally, it is financially and practically unfeasible to restore the building and bring it up to proper code to make it safely habitable. He also indicated that the new design from Pininfarina will incorporate MiMo design elements.

Mr. Kasdin addressed a number of procedural objections as to why the matter should not go forward at this time, including what he believes to be an invalid petition, a lack of

[1] This is a synopsis of what occurred at the HP Board meeting. A full audio tape is available upon request from the Office of Historic Preservation.

notice and a lack of opportunity to be heard, the prior withdrawal of a previous designation report, and issues related to zoning.

Mr. Kasdin presented a report from ERF Construction Group, indicating the cost to repair the existing building is between $150,000 and $200,000 per unit.

Brad Rinzler, 201 Alhambra Circle, Coral Gables, FL: He is the Senior Project Manager with Odebrecht Construction, Inc. with over 30 years of experience.

He summarized his findings from a site inspection at Bay Harbor Continental, and reviewed the ERF report regarding the construction, renovating, and rebuilding of the Bay Harbor Continental at $6.1 M. He noted that there are important issues that may have significant impacts, including extensive repair of the seawall that is in extremely poor condition; deterioration of the 57-year-old reinforced concrete building structure; flood and high-tide issues; life-safety issues related to emergency egress; lack of meeting current safety codes; and deficiencies in plumbing and electrical systems, which requires about $255,000 to address. Based on his observations and review, the estimated cost with a magnitude estimate to address the issues raised between $1.5 to $2 M dollars.

Neisen Kasdin, Attorney: Reemphasized that in order to bring this building up to code in terms of life safety, city code, ADA, and so forth, would require an $8M cost to be shared among the 35 shareholders.

Ron Wasson, 9665 Bay Harbor Terrace, Town Manager for Bay Harbor Islands: Anytime that a structure has more than 50% of the assessed value done on a building, a building would have to be raised above the flood plain, and that goes with any structure or renovation of the property.

Joel Reed, 1101 Brickell Avenue, 8th Floor, Miami, FL: Urban Planner and Designer for 14 years. Spoke on the economics of renovating and renting out the existing building, indicating that after expending about $8 million on renovations and repairs, the potential average rental per unit would be about $46,000, versus the value that is under contract, which is about $471,000 per unit.

Neisen Kasdin, Attorney: Addressed the economic hardship on the individual shareholders, indicating that many of them are on a fixed income and cannot afford what would be required to adequately repair the building. Many of the owners have overwhelming personal needs, which require the sale of these units so that they can support their costs and are counting on this sale to occur. The building cannot be feasibly and economically used for any other purposes, but in addition, if the sale does not take place, a number of shareholders will be in extreme economic hardship. He then indicated that four of the shareholders would speak briefly as to their individual economic hardships.

Chair Novick: Indicated that Mr. Kasdin is given an additional 10 minutes and that other speakers should limit their comments to 2 minutes and 15 seconds each.

Robert Kolbert, 1135 103rd Street, Bay Harbor Islands, FL: He is the President of Bay Harbor Continental and a WWII Veteran and is the oldest resident of Bay Harbor Continental. His parents bought the apartment two years after the building was built and has been visiting since his Mother passed away in 1985. He and his wife took possession of the apartment and they have lived through all of the problems. Most of the original offers the building has solicited and we had 86% of the shareholders in favor of the sale. We have a lot of personal economic problems as well as hardship in the building. We have people in nursing homes, with Parkinson's disease whom have been long time residents of the building and he is no longer making trips down here as he has permanent residence in New York. He is 85 years of age and can't make the trips to Bay Harbor Islands any longer because it is a hardship to come back and forth with a limited income and this building takes 1/3rd of his income. He hopes that the Board will consider everything and realize that the building maintenance could double or even triple and most of the shareholders in the building are elderly and can't afford to retain ownership of the building.

Kathleen Weinstein, 1135 103rd Street, Apt. A-4, Bay Harbor Islands, FL: Indicated that a letter from her was submitted with the economic hardship materials. She explained several personal issues that have led to major financial burdens and that if the pending sale does not go through, an undue economic hardship will be placed on her. She also spoke to the cost of renovating the building is beyond anything the co-op Board is able to finance. She indicated that the individuals who petitioned the Board are not really placed in a position of economic hardship if the designation does not occur, but rather they were unhappy with the tax structure associated with the sale and are operating out of greed.

June Lantz, 1135 103rd Street, Bay Harbor Islands, FL: 20-year resident of Bay Harbor Continental. She is a disabled senior citizen who, not by choice, is unemployed. The completion of the sale of said building is imperative as not to become homeless. I cannot stress enough the economic hardship it is for me. Would like to point out that there are more than 50% senior citizens that live at the Bay Harbor Continental and most of them are in dire straits. Asks the Board not to designate the building historic.

Chair Novick: Indicated the Mr. Kasdin had about 3-4 additional minutes for his presentation.

Neisen Kasdin, Attorney: Appreciates that the Chair is facilitating this discussion. There are additional statements and testimony that was handed to the Board and was included as part of the hardship affidavits. Mr. Kasdin called forward two professional architects who examined the building and the proprietary designation.

Laurinda Spear, Architect, 2900 Oak Avenue, Miami, FL 33133: Registered architect and landscape architect. She served on the County HP Board in the 1980s and designated a lot of properties. She stated that the architect, though an interesting and sad story, McKirahan is not a prominent or well-known architect. She further noted that the only architecturally significant element of the building is the concrete and glass block screens and perhaps the Board could preserve that screen and integrate it into a new building. She spoke to the lack of a planned landscape design for the property. Given the economic hardship argument, she recommends asking the architect to preserve some attributes of the existing building in the new building design, rather than designate the building in its entirety.

Robert Chisholm, FALA, Architect, 4921 SW 74th Court, Miami, FL: Has been practicing architecture since the early 1970s and has a long background in historic preservation because, as an architect and urban planner, he was a member of the Miami-Dade County Historic Preservation Board. He was involved in the hiring of key historic preservation personnel, and in the creating of the Miami Beach Master Plan for the Art Deco District. He did the original restoration of the Biltmore Hotel in 1986 and a few years ago received an award from the Dade Heritage Trust. He spoke to the need to be realistic and to deal with the issues fairly. For example, the art deco movement is very significant in South Florida because of its high concentration of buildings of its type in this particular location and its content of the entire creation that goes with it. He spoke to the lack of uniqueness of this particular building, which he finds to be somewhat more of the same in that it was designed towards the end of the MiMo period and uses items and details that had already been used many times. Overall he finds the building and site plan not significant and unimpactful.

Neisen Kasdin, Attorney: Would like to briefly summarize by saying that any merit in terms of preservation is greatly outweighed by the income infeasibility, the pure cost of bringing it up to code and making it useful for any other purpose and the physical burden that it imposes on the owners of the building. If they have to undertake that cost, it will be impossible and unfair. For that reason we ask that you do not go forward. He indicated that in addition to the binder that summarizes this portion of the proceedings, that the Board also examine the rendering of the proposed new building, designed by Pininfarina, a globally-recognized Italian design firm.

With regards to incorporating the fine elements and features of the MiMo architecture in the building, he thinks there is a solution to end up with a great piece of architecture that will also have the to make the lives of those individual shareholders much easier and that it would be the fair thing to do.

Chief Kauffman: Mr. Chair for clarification, there is another economic hardship case that was submitted. You just heard the hardship case for the people who do not want the designation. There is another case that has been submitted by people who do want the designation.

Chair Novick let's hear the people speak that are against the designation first before we go forward with the other speakers. Chair Novick requested that those wanting to speak please focus on information outside of what Mr. Kasdin already presented. He requested that anyone wishing to speak against the designation, please state their name and present their position.

ADDTIIONAL SPEAKERS AGAINST THE DESIGNATION:

Stephanie Bruder, 1281 94th Street, Bay Harbor Islands, FL: Is a Town Council member for the Town of Bay Harbor and also a property owner, though is speaking on her own behalf today, not on behalf of the Town. She feels that the Board has a very difficult job ahead of them, as the hardship arguments have been very difficult to watch. She understands that the architects are willing to include a piece of the MiMo era in their building, which is the ultimate goal and to keep MiMo alive, and that is the absolute goal by allowing the sale to go through and by allowing the architects to add that MiMo inspiration. On top of that, the Town of Bay Harbor is also impacted. The appraised value of the existing property in 2014 was $3,842,000, the tax revenue to the County is $67,319. The Bay Harbor tax revenue is $10,771. The anticipated value of the new development is over $108M dollars. The potential tax revenue is $1,892,319. The Bay Harbor revenue is estimated at over $300,000.

Chair Novick: Reminds speakers that they have 2 minutes each.

Morris Broad, 1030 Hardee Road, Coral Gables, FL: His Father was Shepard Broad, the founder of Bay Harbor Islands. Wanted to reference one point that there has been a major transition in Bay Harbor since the advent of students whom moved into Bay Harbor. We have over 1200 students there. Bay Harbor has migrated from an older community to a very young community. We now need larger units instead of smaller units and would follow what a visionary his father was. He would say including the 21st century, what these developers are now doing, is developing less units than what exists, meaning they are under the square-foot maximum provided by the Town's zoning, which is the first time that he has heard of a developer doing this. He is against the designation.

Jeffrey Koster, 1135 103rd Street, Bay Harbor Islands, FL: He indicated that he submitted a letter to the Board in the economic hardship submission and that the people that are going to speak for designation all signed the contract to sell. He feels the reason they submitted the petition to the Board is simply out of greed, because they aren't going to receive as much money as they originally thought. He also indicated that he was able to find a comparable property that he will be able to purchase with the money gained from the sale of the Continental.

Kathleen Kennedy, 9721 East Bay Harbor Drive, Bay Harbor Islands, FL: She was on the fence for this building because her mother was a long time resident of Bay Harbor

Islands. When she went and met some of the older ladies, not too long ago, she walked through the building and could not believe what she was looking at. She is very sad to hear that these developers have been bullied in spending their money. There are some beautiful MiMo buildings in Bay Harbor and she is all for it saving those, but this building (the Continental) is in poor condition. She feels there are other great MiMo buildings, but this one in particular is not a good one.

David E. Gross, 1135 103rd Street, Bay Harbor Islands, FL: Is an architect with over 30 years of experience and lives in the building. He stated that one point needs to be emphasized here and that is the structural viability of the building. Since the building codes have changed drastically in the flood zone areas, this building is not equipped to be adapted to the 21st century. He does believe that there was an engineering test that showed that the slab itself would not meet the current code and is unsafe. Feels that the building is pretty, but there are much deeper issues here from the physical attractiveness of the building. Feels it goes into the safety and welfare of people's lives and also feels that landmark is a much deeper thing.

Paul Basile, 9240 W. Bay Harbor Drive, Bay Harbor Islands, FL: He works with the developer, in the interest of full disclosure, and he bought property on the island 10 years ago because of the MiMo structures. He is from Boston and appreciates, respects, and is not against historic preservation. He bought on the Town because of the character and is well-known in town for fighting development. However, he feels that this group is different, as they are planning to build a significant, beautiful building with low impact. He urged the Board to listen to the owners, and see what the Town is becoming before making a decision.

Chair Novick: Confirmed that there was no one remaining who wished to speak against the designation.

Sarah Cody, Staff: Indicated that some of the individual owners submitted materials to argue an economic hardship, and will be making a brief presentation.

Chair Novick: Confirmed that the economic hardship presentation could be made first, and then public comment in favor of the designation would be heard. **Maurice Kirksey** responded that he would need a few minutes, about 2 minutes, for his presentation.

ECONOMIC HARDSHIP CASE IN FAVOR OF DESIGNATION:

Maurice Kirksey, 1135 103rd Street, Bay Harbor Islands, FL: His mother is a unit owner in the building and he would like to take a moment to review some of the numbers. The initial purchase figure of $16,500,000 would have paid my Mother around $40,000 per share, initially. However, we eventually found out that the real number was only half of that amount. After the stamp surtax, broker commissions, and attorney's fees are taken out, that amount is lowered by almost a $1M dollars. Other costs, such as

mortgage value based taxes and withholdings for corporate expenses, reduced this amount almost an additional $2M dollars. However, the damages in costs would be a corporate federal income tax, which will take out an additional $5,413,465. Now this tax will reduce our per share evaluation by 50% to $20,234.22. With an average amount of money received it's a $242,811 for a 1 bedroom, which would be nearly impossible to purchase a similar home in Bay Harbor Islands where the average price for a 1 bedroom is $316,000. Now the economic impact of being forcibly displaced from their homes would be substantial because residents will receive below fair market value for their units at this point. He argues this is a classic case of gentrification, by displacing residents to make room for more development and he implores the Board to intervene today to make this a historic property and he believes that there are full0time residents that are being forced out by self-interested parties looking to make some fast cash. He also encourages the Board that any research presented by those with an invested interest in the outcome of these deliberations be weighed with a critical eye.

Chair Novick: Requested that Mr. Kirksey further clarify the tax implication.

Maurice Kirksey initially the co-op Board and law firm that was in charge of this transaction neglected to do serious due diligence with regards to the tax credit and when it was finally given to them, they realized that the amount that was going to be received was not going to be enough to find his mother a like apartment in the same neighborhood. The majority of the people that are in favor that have primary residences elsewhere, some out of the country, some inside the country, this is his mother's primary residence and so first and foremost in their minds, would like to find a like property with similar features and at the current price, that would be impossible. Again, this is a corporate surtax.

Chair Novick: Clarified with Mr. Kirksey that this is a corporate surtax because the building is a co-op, as opposed to a condominium.

Maurice Kirksey: Concluded his presentation with pictures of some of the units, where owners have invested money in renovating and maintaining their interiors.

Neisen Kasdin, Attorney: Requested that he be allowed to briefly cross-examine Mr. Kirksey at this time.

Craig Coller, County Attorney: Clarifies for the Chair that as this is a quasi-judicial hearing, it is like being in court. He indicated that everyone will be given the respect that is due when they are at the podium to speak, regardless of whether they are for or against the designation. He requested that the members of the public in the audience remain quiet and not shout out during the testimony. He further indicated that as a quasi-judicial hearing, Mr. Kasdin is entitled to cross-examination but that Chair Novick has discretion as to when that cross-examination happens. He may choose to allow the cross-examination on rebuttal of Mr. Kasdin or now, but he is entitled to cross-examination.

Chair Novick: Asked Mr. Kasdin whether he would be cross-examining each speaker. Mr. Kasdin replied no, so Chair Novick indicated he could proceed to cross-examine Mr. Kirksey at this time.

Neisen Kasdin, Attorney, cross-examined Mr. Kirksey: Asked Mr. Kirksey how many shares his mother owns. Chair Novick interjected, requesting clarification on how many shares are typically owned, per unit. Mr. Kasdin clarified that each unit is 10 shares or more, depending on size of the unit. Mr. Kasdin also questioned if Mr. Kirksey was aware that the sale had been delayed due to tax issues, and if Mr. Kirksey is aware of the specifics of the tax mitigation plan. Mr. Kirksey indicated that he is aware that there is a tax mitigation plan that holds no certainty that the shareholders won't be held accountable for the full tax amount at some point in the future. Mr. Kasdin further questioned Mr. Kirksey about his knowledge of the specifics of the tax mitigation plan. In closing, Mr. Kasdin argued that Mr. Kirksey provided testimony related to the tax consequence of the sale, but yet he has not been able to testify as to the specifics of the tax mitigation plan about which he's talking.

Leonor Kirksey, 1135 103rd Street, Bay Harbor Islands, FL: Has been living in Bay Harbor Islands over 16 years and she bought a unit in her building due to the fact that this building was in good structural condition. She recognized that this building is a jewel on the island, the building has maintained itself, and the building has undergone over $300,000 in renovations and the building, she feels, is in very good shape. Unfortunately, the maintenance company and the co-op Board have not kept much attention to the maintenance in the building. She feels that the building is in very good condition and is very pleased to live in the island. There are also a lot of elderly people that live in the building and would like the Board to consider that.

Enid Pinkney, Board Member: indicated that she needed to leave the meeting. Chair Novick confirmed with Staff that the Board would still have quorum if Dr. Pinkney leaves.

Paul Pellicar, 2717 NE 10th Terrace, Ft. Lauderdale, FL: He would like to present an article that was been passed out to the Board. This local architectural magazine has an article that describes why the architect Charles McKirahan deserves historic designation.

Carlos de la Torre, 1135 103rd Street, Apt. G-1, Bay Harbor Islands, FL: He reminded the Board that he was one of the parties that initially requested designation and then was served with a lawsuit because he petitioned the Board. Recently, he started to circulate a petition at the neighboring properties in support of the designation of the Bay Harbor Continental, but people were afraid to sign anything because felt that they were going to get sued. People in neighboring buildings also stated that if Bay Harbor Continental would actually be demolished, they would sell and move because they didn't want to live near a building with a huge footprint and would obstruct their views. He feels this shows the impact on the surrounding property owners. With regard to the

economic hardship, he recognizes the arguments from both sides and feels it is not right to penalize people who have maintained and invested in their apartments to accept less than market value. He further stated that the fact is that this is a MiMo building, designed by Charles McKirahan. It is a beautiful building and a historical gem. The maintenance right now in the building is between $312 to $350 per unit, per month, and almost everyone in that building has paid off their apartment.

He provided further information that there is no longer 86% of the owners in favor of the sale and, in fact, there is now less than 75% in favor, which was the minimum required to approve the sale.

Brian Mulheren, 10245 Collins Avenue, Bal Harbour, FL: As a neighbor in Bal Halbour, Florida, he went to Bay Harbor yesterday and indicated you couldn't move from all of the traffic and feels that it is a beautiful community and should be preserved. He asked the Board to consider what happened in Sunny Isles, where development came in and destroyed the town. He feels the building should be preserved and money shouldn't be a factor. If people want to sell their units, they will be able to find buyers. He urged the Board to keep the Town's history and that this building truly is a gem.

Craig Coller, County Attorney: Reminded Chair Novick that even though he is limiting the testimony to 2 minutes each, we still need to give equal time to both sides. Since the other side was allotted additional time, if somebody needs to speak a bit longer in favor of making it historic, we need to give them extra time. He confirmed that so far, no one had been cut off, but wanted to clarify the time issue.

J. Bruce Ehrenhoft, Dade Heritage Trust, 190 SE 12th Terrace, Miami, FL: He is a member for the Advocacy Committee of Dade Heritage Trust. Dade Heritage Trust is the largest historic preservation in Miami-Dade County and it has been advocating to save our special resources for the last 43 years. He mentioned that a copy of DHT's 2014 list of the top ten endangered historic sites in Miami-Dade County has been submitted and that list included Bay Harbor Islands. Both the Continental and the Bay Harbor Club, which has been deferred, are historically significant as your staff documented, but have not been given historic designation. Other MiMo structures are all endangered. DHT urges the Board to protect these structures so that Bay Harbor will retain its unique amenities and unique character. Experiences have taught us that it can be economically beneficial in itself. Laura Lavernia, who is the new Executive Director for DHT, has asked him to add additional comments that the mid-century period for South Florida was a period of tremendous growth and retooling of collective identity with true modern architecture. Miami architects developed the language that made the South Florida environment. The same way that we recognize revivalist architecture of the boom from the 1920s, which led to great growth of this community, this period is equally worthy of merit, designation, and further study. We have structures for the public's benefit so that they can prosper specific pride and ask that they serve as an educational tool for the community and tell the story of Miami.

Frances Griffith (Mother) and Frank Griffith (Son), 1135 103rd Street, Apt #D-3, Bay Harbor Continental: Son spoke on behalf of his mother, Frances Griffith, who turned 87 years old yesterday. He is a native Miamian who grew up in Miami Beach and is sorry to see the destruction of this. He described the current state of Bay Harbor Islands as a war zone. He thought the intent of the HP Board was to prevent what is going on with the island right now. He doesn't know what the master plan is for Bay Harbor, but you know it's going to be called Bay Charlotte. If you have been to Charlotte, North Carolina there is no historic preservation there. He comes from the banking world and all of these improvements can be refinanced and it can always be bought out. There are 35 units in the building, but there are only 18 permanent residents there. Those who spoke against the preservation are seasonal residents, except for one. He thinks that this should be taken into consideration as well and feels there are a lot of experts here today that have been paid and if he had the money, he would call a lawyer and architect and dispute everything that was said today. This will cause him an economic hardship because with the proceeds of the buyer's closing, his mother will have to move in with him because she will not be able to replicate what she has now. He is a native Miamian, native Floridian, and wants to preserve the building and wants his grandchildren to see that it is a beautiful building and it can be repaired.

Teri D'Amico, 9101 East Bay Harbor Drive, Bay Harbor Islands, FL: Someone spoke to the fact that the Bay Harbor Club and Bay Harbor Continental have been identified as some of the significant buildings in the East Island, but they have also appeared in dozens of publications all over the world representing MiMo, Miami Modern, architecture. Randal Robinson and Teri coined the term "MiMo" in 1998, in her home about a block away from this building because they were surrounded by these wonderful examples. In 2006, the State required a historic survey for the Town and the report recommended that the Town educate, give incentives, and integrate preservation into the town planning. Since then, the Town officials have been abusive and malicious and used misleading scare tactics on the residents, misinforming them on the benefits of restoration and preservation. They refused to even acknowledge the great potential or our architecture on the island, even after the National Trust. Both buildings are in District 3. They are in the north tip and south tip of the island. She lives on the south tip. It is completely zoned and these tips were supposed to be the divas of the island. They have the grandest views and have beautiful mid-century details and were designed by unbelievable architects at the time. She argued that the reasons for economic hardship are invalid and grossly exaggerated. She lives in a building same on the south side and her building repaired their seawall for $220,000. You don't have to replace the seawall, you can repair it. They have TDR money and thinks that they have 9 TDRs that they can use approximately $300,000 to $350,000 that they can use towards this and of course you know that they can sell. They didn't show you what they are going to put into this place. You know I have been to a lot of meetings on this and if you could please pass around the elevation.

Craig Coller, County Attorney: Interjected that some of the Board members were speaking amongst themselves, off the record, about whether Dr. Pinkney could leave the meeting early. Mr. Coller stated that Staff confirmed there will be a quorum and Dr. Pinkney is welcome to leave she needs. Dr. Paul George indicated that he needed to leave in about 50 minutes, at 5:00 pm. Chair Novick encouraged speakers to sum up there comments so that the hearing could be concluded before Dr. George had to leave, otherwise quorum would be lost at that point. Mr. Coller reminded Chair Novick that they need to give each side equal time, so he needs to be flexible on the 2 minutes. Chair Novick confirmed.

Teri D'Amico, 9101 East Bay Harbor Drive, Bay Harbor Islands, FL: If you can take a look at the proposed new building, they are claiming that this has MiMo style, there is nothing MiMo about this building and you can use all these combinations of features, but it doesn't make this a MiMo building. You can see how grossly massive this is and how it is going to affect the neighborhood, but our Town is protecting people that want to move, they are not protecting the people that want to stay.

Salomon Nehmad, 1135 103rd Street, Bay Harbor Island, FL: He is 83 years old and had advanced cancer. They are trying to sell the building and he doesn't understand all of the people that have come tonight to say bad things about the building. The building is like a rock. When he lived in New York, he was a building manager and there will always be problems in buildings. His building is a beautiful building and it needs fixing, but these are things that can be done. Doesn't understand what the other people are talking about that the building is falling apart, hasn't heard anything like that in his life. He asked the Historic Preservation Board to come look at the building floor, by floor.

Albert Nehmad, 18-05 215th Street, Queens, NY 11360: He came for this special meeting and also attending a meeting at the Bay Harbor Town Hall and have been attending these meetings to support the people in the building and to support his father, Salomon Nehmad. He feels the building is structurally sound - the walls are good around the water, the pool is good it needs TLC. He is a property manager and building engineer in Manhattan and the Bronx and attends to many different buildings. His professional opinion is that there is nothing wrong with this building, it just needs some repairs.

Tina Paul, 9225 Collins Avenue, Surfside, FL: If the owners want to sell their units they can. Selling their units has nothing to do with historic preservation of the building and the developer that wants to buy the building should not buy with the intent to destroy it. Someone will buy the building and restore it and honor its design and integrity. It is a desirable property and it is a beautiful property in Bay Harbor Islands and there is no need to tear it down.

Patricia Lawrence, 10350 W. Bay Harbor Drive, Apt. 2L, Bay Harbor Islands, FL: Lives two buildings down from this one and walks her dog every day and feels that this building is very beautiful. Doesn't know the architect and doesn't know if it's real MiMo

or not, but the glass is beautiful, the breezeway blocks are beautiful, it's just her point of view that it's a very beautiful building. It looks old to her, but it appears to be well maintained. The neighborhood is filled with people that walk, ride bikes, and exercise. Almost everyone stops to look at the beauty of that building. She hopes that we will be able to preserve it.

Clotilde Luce, 301 Ocean Drive, Miami Beach, FL: MiMo has become extremely trendy with regards to the press. She speaks to the emotionality of what has been presented today. This has been presented as nice developers saving nice people. This building is unique and extremely valuable; it has great value and things that are not replicable anywhere else take on great value.

Lillian Hart, 1135 103rd Street, #C-2, Bay Harbor Islands, FL: Lives in Bay Harbor Continental and she is 80 years old. She bought her co-op because it was a good investment. The corporation owns the land. Now again she's caught in the middle of a problem. The owners are on one side and the historic preservation on the other side. Please be considerate of the senior citizens in her building like herself who want to sell to the investors to get out of this disturbing situation, please help us. Against designation.

Chair Novick: Thanked Ms. Hart for her comments and reminded the public speakers that the Board took comments from those against the designation already.

Name inaudible: Speaking on behalf of her mother, a 20-year resident of Bay Harbor Continental that was unable to attend the meeting due to a doctor's appointment. The stress of the sales being delayed has caused additional medical issues and she is against the designation.

Chair Novick: Interjected to remind the speaker that the Board is taking testimony from the other side now and that she had an opportunity to speak earlier and chose not to.

Alexander Adams, 36 Palermo Avenue, Coral Gables, FL: Speaking for himself and also part of the Dade Heritage Trust. He was previously the historic preservation officer for the City of Miami and also in Monroe County and now doing private consulting, preservation, and urban design. Historic preservation does not take away your zoning and that is a myth. Your rights and ability to build is still viable. They can come back to this board in the future to ask for additional square footage on the property. You know the Standards that the Secretary of Interior sets up. Historic preservation does place a high priority on the quality and not the quantity and it will insure that you would have a cohesive neighborhood because you do have the Secretary of Interior's Standards and historic guidelines. Even new corridors like Miracle Mile sets up architectural standards because they want that quality. He hasn't seen a historic district in South Florida that has lost money. Historic districts in South Florida have done very well all the way from South Beach to the socially economic areas across demographics from MiMo to Coral Gables to South Beach – it works. Unfortunately, we get into a lot of arguments about

other things than what we are here for. This Board is really here to determine does it meet the Secretary of Interior's Standards; that's really what you are here to do. They can appeal to the commission and go to court. Other boards and courts decide economic hardships and other things. Your job is to designate criteria. The architect that originally spoke said that this has merit, but it is at the end of its time period. So please look to see if this indeed has merit and should it move forward.

Neisen Kasdin, Attorney requested cross-examination of Alexander Adams. **Chair Novick** granted the cross-examination.

Neisen Kasdin, Attorney: asked if Mr. Adams had physically examine the building, been on property, and looked at the physical condition of the building, as described by the expert testimony. Mr. Adams indicated that he is speaking about historic preservation in general across South Florida, not this specific building. Mr. Kasdin further questioned Mr. Adams' familiarity with the County Historic Preservation code and if it was true that the code provides that if economic hardship is established, that is a basis for not designating the building. Mr. Adams restates that he is simply urging the Board to look at the building on its architectural merits. When pressed, Mr. Adams states that he would leave interpretation of the code to the County Attorney.

Craig Coller, County Attorney: Interjects that if there is an issue with the ordinance, he will be happy to respond.

Neisen Kasdin continued his cross-examination, asking Mr. Adams if he has examined the code of the Town of Bay Harbor Islands including the zoning code and the building code to see what is required if they renovate this building? Mr. Adams stated that he has not reviewed the Town's code with respect to this particular building, but that he has worked in municipalities all across South Florida...and there is always a way to potentially add on to historic buildings.

Lisa Bortman, 10350 W. Bay Harbor Drive: She lives at Island Pointe and has over 80 signatures of people in the building that are against knocking down the Bay Harbor Continental. They are very afraid with regards to the new building that is going to be going up that is going from one lot line to another and all of the greenway is going to be removed. The building that they want to build should be on Collins Avenue. They've seen it a hundred times before it is going to ruin the integrity of Bay Harbor and all she have to say is please save this building.

Nina Korman, 1700 NE 105th Street, Miami Shores, FL: She's a journalist and author of the Charles McKirahan article in the current issue of Tropic magazine, there might be a misprint but she is the actual author. She is a Miami native and grew up across the bay from Bay Harbor Islands. She expressed disappointment in the remarks of Laurinda Spears, who wrote the introduction to her MiMo book. On the matter of hardship of the residents of the Bay Harbor Continental, she indicates that some of the people claiming

hardship against the designation are wealthy. She has been working for an architecture firm since 2006 with Teri D'Amico. There was a 50-year survey of the buildings on the island and five of them were recommended for the National Register listing and 80 were recommended as local historic landmarks. She further explains the excitement of herself and Teri D'Amico when the Town provided them with a list of the original architects who designed on the island. They could not believe the names on the list. They knew this was a special place, but they did not know that many of the original architects were people who are known on an international level, including Charles McKirahan. He wasn't just designing in South Florida. She indicated that the Town Council did not share in their excitement over the prominent architects who helped design in the town. Since that time, Bay Harbor has done zoning changes. Now buildings can cover 85% that's a lot. This building that is being proposed looks like it covers 85%, which is a lot and there is no room for a swimming pool aside from on the roof. Also in Bay Harbor there has been a Transfer of Development Rights program instituted and she doesn't feel that program is doing what it is supposed to be doing. She urged the Board to use their power to put a stop to what is going on in the Town.

Lisa Mann, 1135 103rd Street, Bay Harbor Islands, FL: She stated that a lot has been said on both sides, but asked the Board to focus on the building and not let the taxes and lawyers cloud their decision to preserve the building.

Craig Coller, County Attorney: Confirmed that the parties against the designation had their opportunity to speak already and asked Chair Novick to confirm if there were other parties wishing to speak in favor and that the Board needed to give them time to speak.

Joan Carney, 1135 103rd Street, Bay Harbor Islands, FL: She had requested someone to speak on her behalf, but instead came on her vacation time to come and speak before the Board. She feels the Bay Harbor Continental is beautiful and a unique retro building. She appreciates the way the building sparkles, the way the trees move, and the way the shadows cast. Asked the Board to please preserve the building.

Chair Novick: Confirmed that all those wishing to speak in favor had done so.

Ruth Campbell moved the Motion to close the public hearing. **Mitch Novick** seconded the motion. Motion was approved by group vote.

Gary Appel	Absent
Ruth Campbell	Yes
Adriana Cantillo	Absent
Rick Cohen	Yes
Paul George	Yes
Mitch S. Novick	Yes
JoEllen Phillips	Yes
Enid Pinkney	Absent

Ronda Vangates Absent

Chair Novick: Deferred to his fellow Board members for discussion

BOARD DISCUSSION:

Richard Cohen, Board Member: This is without a doubt the most difficult issue that has come before us in my experience being on this Board. We have worked very hard as a Board and taken into consideration all sides of the story, we fully understand the implications and the repercussions here. We do believe in our mission that we have to take a narrow view at times and take recommendations from Staff as well as listen to the testimony from the public and make our determination whether or not the building or site meets the criteria and from what I have seen so far, it probably does.

However, the economic hardship aspect is a very important consideration that has to be examined very carefully. I truly believe that the speakers here on both sides have been sincere and there are implications on both sides of this issue and this is what makes it more difficult for our determination. In certain respects regarding economic hardship, this site in almost any set of circumstances and conditions, I believe, will always maintain a high level of value and that, in turn, plays into the difficulty of determining the hardship aspect, but I believe that everyone that spoke today does have sincere concerns. One of the things that we have tried to do as a Board in the past is try and find some common ground where satisfaction can be met from all parties.

We got a chance today to see the Pininfarina design and I felt that it had a lot of reminiscent characteristics and aspects similar to the building and has found in the past that there has been some situations where new buildings were designed to be reminiscent or buildings are built in complement to what was existing. I feel that it is possible that a compromise can be perhaps found with the developer that can maintain reminiscent aspect of the architecture and the design and maintain that degree of integrity. It could not be what it was, but it can be close and acceptable. More recently, I took a look at the Surf Club where the new building was built around the existing historic building and it complements it and there are other buildings around the country that complement historic structures. I would like to say that I recognize and all should recognize that historic preservation is widely documented to maintain value in a community.

I had three problems on objectivity with regards to the experts and engineers, but at the same time it didn't seem outside of general opinion and we did not have expert testimony to contradict the testimony about the condition of the building that was presented by experts today. Ultimately, I feel that the market place could resolve all of the concerns regarding the right level of price to make all of the owners willing sellers and again to work on a design plan that complements the existing facility and satisfy those concerns.

JoEllen Phillips, Board Member: I have concerns with regards to the economic hardship of the owners. There are some questions that are not answered right now and I feel that they should be answered and Rick just brought up some additional ones. Also, by seeing this lovely rendering, then hearing about the footprint there are just a lot of questions still that are here as far as being able to make a good determination. I'll go back to the question or statement that Board Member Enid Pinkney raised awhile back and she said "what are we here for?" We are here for historic preservation, but that also goes hand-in-hand with the economy. I would like to ask the attorney please, if we defer what happens here?

Neisen Kasdin, Attorney: Interjected to clarify to Chair Novick that the new building is not covering 85% of the lot, it is 40% and would like to the Board to have the correct information.

Craig Coller, County Attorney: The question that is pending is what happens if you defer? If you defer to a date certain then there will be no further notice. However, if it is your intent to ask members that have made presentations to come back, it may require opening up the entire public hearing again if you choose to do that. I don't know if what the purpose of your deferral is, but it can be deferred to a date certain. You've closed the public hearing, but based upon, if for example you ask Mr. Kasdin a question with regards to the cost and the hardship, then you are going to have to allow someone that is in favor of the designation to come up and say why they believe it is not a hardship. Just so you understand you can defer, but that may be the consequence.

JoEllen Phillips, Board Member: Indicated she would like to hear what the other board members have to say.

Dr. Paul George, Board Member: This, I have to say, has been one of the most difficult items I have had in about 18 years, but I also look at the criteria. This property does fulfil certain criteria that we look at every time that we judge a building. Tempers are hot and there are a lot of people involved in this, we have a lot of responsibility and asking about deferral because we need time to think it through, we have had a lot of information to look through. Mr. Kasdin is a friend of mine and there have also been a lot of people that have been very articulate on both sides of this issue and this is a very, very difficult situation. I feel that there is criteria that apply and I would like to designate the building at this point.

Ruth Campbell, Board Member: She feels that between what Rick and Paul said, that covers her concerns.

Chair Novick: I believe that we should move forward today with designation and believe that this is the Board's charge. I believe firmly that the building meets the criteria for designation and we would be remiss if we should move in another direction, so with that I would entertain a motion to move forward with designation.

Craig Coller, County Attorney: Clarifies, that as the Chair, he would entertain a motion either way. Chair Novick confirms.

Ruth Campbell, Board Member moves to designate the property that we have seen today. She asked Staff to read the motion into the record.

Chief Kauffman: She (Ruth) would be making a motion to designate the Bay Harbor Continental as a historic site. **Chair Novick** that's right I would second it.

Eddie Kirtley, County Attorney: Suggested to Chair Novick that he include language in the motion to stay the moratorium, in the event of an appeal.

Chair Novick: Adds to the motion: if we should proceed with designation and the matter should be appealed, which is likely, we would request a moratorium to be put in place as part of our motion to protect the building from demolition and the decision of this Board would be stayed pending the appeal.

The motion was approved by roll call vote.

Gary Appel	Absent
Ruth Campbell	Yes
Adriana Cantillo	Absent
Rick Cohen	Yes
Paul George	Yes
Mitch S. Novick	Yes
JoEllen Phillips	Yes
Enid Pinkney	Absent
Ronda Vangates	Absent

Exhibit 21:

Letter, dated April 17, 2015, to Property Owners Notifying them of Outcome of Public Hearing to Consider Designation

(Identical letter sent to all unit owners)

MIAMI-DADE COUNTY
miamidade.gov

Regulatory and Economic Resources Department
Office of Historic Preservation
111 NW 1st Street, Mailbox 114 • 12th Floor
Miami, Florida 33128
T 305-375-4958

April 17, 2015

Joan Carney
1135 103 Street Unit A1
Bay Harbor Islands, FL 33154

RE: Historic Designation of Bay Harbor Continental

Dear Ms. Carney:

On April 15, 2015, the Miami-Dade County Historic Preservation Board held a quasi-judicial public hearing to determine whether the Bay Harbor Continental, located at 1135 103rd Street, Bay Harbor Islands, FL, meets the criteria for local historic designation. The Board voted to designate the Bay Harbor Continental as a Miami-Dade County Historic Site. Enclosed please find a copy of the designation resolution.

As determined by the Board, the Bay Harbor Continental is representative of the pattern of development in Bay Harbor Islands and contributes to a better understanding of the architectural heritage of the Town. It is also significant as the building embodies distinct characteristics of the significant Miami Modern, or MiMo, style and is one of a limited number of extant works by Charles F. McKirahan, a recognized architectural master.

Please do not hesitate to contact our office with any questions.

Sincerely,

Sarah K. Cody

Sarah K. Cody
Historic Preservation Planner

Cc: Ron Wasson, Town Manager, Bay Harbor Islands

THE ATTACHMENTS TO EXHIBITS 1 & 2 ARE AVAILABLE FOR INSPECTION OR COPYING FROM THE CLERK OF THE BOARD LOCATED AT:

Stephen P. Clark Center
111 NW 1st Street
17th Floor
Miami, FL 33128