

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

RK ASSOCIATES, #2 INC., 17070 COLLINS
AVENUE SHOPPING CENTER, LTD., and RK
17534 COLLINS, LLC,

CASE NO.:

Plaintiffs,

v.

CITY OF SUNNY ISLES BEACH, FLORIDA,
MAYOR GEORGE "BUD" SCHOLL, VICE
MAYOR LARISA SVECHIN, COMMISSIONER
JENIFFER VISCARRA COMMISSIONER ALEX
LAMA, CITY MANAGER CHRISTOPHER J.
RUSSO, CITY CLERK MAURICIO BETANCUR,
CITY PLANNER CLAUDIA HASBUN, and
LYNN DANNHEISSER, CITY'S CONSULTANT

Defendants.

**COMPLAINT FOR INJUNCTIVE AND DECLARATORY
RELIEF FOR VIOLATING FLORIDA'S OPEN GOVERNMENTS LAWS**

Plaintiff RK Associates #2, Inc., 17070 Collins Avenue Shopping Center, Ltd., and RK 17534 Collins, LLC ("Plaintiffs"), by and through undersigned counsel, sue Defendants City of Sunny Isles Beach, Florida (the "City"), Mayor George "Bud" Scholl ("Mayor Scholl"), Vice Mayor Larisa Svechin, Commissioner Jeniffer Viscarra, Commissioner Alex Lama (together, the "Commissioners"), City Manager Christopher J. Russo ("City Manager"), City Clerk Mauricio Betancur ("City Clerk"), City Planner Claudia Hasbun ("City Planner"), and City Consultant Lynn Dannheisser ("Legal Consultant"), and states as follows:

NATURE OF THIS ACTION

1. This is an action to protect the residents and business owners of the City from shadowy, unlawful actions by City officials. The Defendants have disregarded the well-

established safeguards requiring “sunshine” on the governmental deliberative process. Instead, they have cloaked their activities in secret and hidden from the public their efforts to benefit certain developers at the expense of the safety and wellbeing of the City residents and those who visit there. Specifically, Mayor Scholl, the Commissioners, and the City Manager have scheduled a legally-deficient public hearing to radically amend the “land use constitution” of the City. Defendants seek to gift these developers with the unlawful ability to construct an additional 1000 residential units and more than 8000 hotel units within the limits of the City, an already-overcrowded high coastal hazard barrier island located in the mandatory Hurricane Evacuation Zone of Miami-Dade County. By doing so, Defendants have placed their constituents in grave harm and have sacrificed their quality of life, making an already-crowded City unbearably dense.

2. By this action, Plaintiffs seek to enforce the public hearing requirements under Fla. Stat. § 163.3174 and City Code § 265.10. Plaintiffs also seek to enforce Fla. Stat. Chap. 119, the Florida Public Records Law, Fla. Stat. § 66.041(3)(c), which is the public notice law for municipalities that governs the City.

3. Through this suit, Plaintiffs will show that the City, its Mayor, Commissioners, City Manager, City Clerk, and Legal Consultant have disregarded their well-known requirements of transparency in an effort to keep their backroom decision “in the back” and away from public scrutiny. Defendants’ conduct is prohibited by Florida law, and Plaintiffs therefore seek relief from this Court.

VENUE, JURISDICTION, AND PARTIES

4. The City Commission, its elected officials, and other city officials are subject to the requirements of Fla. Stat. §§ 119.01, 163.3174, 166.041(3)(c) (the “State Laws”).

5. This Court has jurisdiction to issue an injunction and writ of mandamus to enforce the State Laws.

6. Similarly, pursuant to the Declaratory Judgment Act, Fla. Stat. Chap. 86, this Court has jurisdiction to declare the parties' rights and responsibilities under, and otherwise interpret, the State Laws and the City Code.

7. Jurisdiction and venue are proper in this Court as the actions that form the basis of this suit occurred in Miami-Dade County.

8. Plaintiffs are the owner of three large shopping centers located in the Town Center District of the City.

9. The City is a Florida municipal corporation located on a barrier island in northeast Miami-Dade County.

10. Mayor Scholl is the term-limited Mayor of the City who previously served as a City Commissioner for six years.

11. Vice Mayor Svechin is a first-term City Commissioner who is currently serving as Vice Mayor.

12. Commissioner Jeniffer Viscarra is a first term Commissioner.

13. Commissioner Alex Lama is also a first term Commissioner.

14. The City Manager is an experienced government official with 30 years of experience in managing local governments.

15. The City Clerk is newly-appointed to the position.

16. The City Planner has worked at the City for nearly fifteen years.

17. The Legal Consultant is the former City Attorney of City of the City. She currently serves as the “Special Advisor” to the City Manager and has acted as the de facto City Attorney since January 2019.

GENERAL ALLEGATIONS

I. PROTECTION OF PROPERTY RIGHTS AND REQUEST TO BE HEARD

18. Plaintiff is the owner of three large shopping centers in the City that are together worth more than one billion dollars. Plaintiff is seeking to protect its property rights from a massive, controversial, and improper plan to increase density and intensity in the City’s Town Center District. This misbegotten plan benefits only one—the developer of a mixed-use project known as the Infinity Development Project—while flatly violating the City’s Comprehensive Plan, the supreme law of the City as relates to land development.

19. The City residents’ and businesses’ opposition to the plan is well-known and vocal. On December 20, 2018, Plaintiffs and City residents appeared at a public hearing to protest the illegal Infinity Development Project. In the face of this overwhelming objection, the City Commission deferred the public hearing of the project until a future Commission meeting.

20. Since that time, Plaintiffs have repeatedly put the City on notice that the Infinity Development Project is illegal under Policies 14A and 14B of the City’s Comprehensive Plan. Plaintiffs even hired a planning expert to inform City officials that the density and intensity proposed for the Infinity Development Project were not permitted under the Comprehensive Plan.

21. To protect their due process rights to be heard, on February 14, 2019, Plaintiffs requested by email that the City Clerk of the City of Sunny Isles Beach send them all future Commission agendas so that they could monitor matters that the Commission might address that impacted their valuable property rights. A copy of this email is attached hereto as Exhibit A.

22. Because of the sustained objections to the Infinity Development Project, the Commission deferred the public hearing on the project at least six more times since its originally-scheduled date in December 2018.

23. Recognizing that the Infinity Development Project was illegal under the Comprehensive Plan but wishing to allow it to go forward nonetheless, the Commission decided to move into the shadows through an end-around. Their unlawful solution to public opposition was to amend the Comprehensive Plan such that the Infinity Development Plan fit the density and intensity limitations, all without the proper legal notice and a robust public discussion that is required under Florida law. This sneaky plan would swell the small barrier island City with an additional 1,000 residential dwelling units and 8,000 hotel units.

II. THE COMPREHENSIVE PLAN IS THE CITY'S "LAND USE CONSTITUTION."

24. Under Fla. Stat. Chap. 163, local governments in Florida are required to adopt a comprehensive plan to regulate development within their territorial boundaries.

25. In Florida, the comprehensive plan is, in essence, the local government's "constitution" for controlling and directing the type and amount of land development allowed and encouraged in that community.

26. In discussing local governments' comprehensive plans, the State of Florida Department of Environmental Agency states "the importance of comprehensive planning cannot be overstressed, because it results in decisions regarding long-term issues such as environmental protection and economic development." *See*

<https://floridadep.gov/oip/oip/content/comprehensive-plan> (last accessed on July 18, 2019).

27. Like the United States Constitution and Florida's Constitution, local governments cannot enact laws which are inconsistent with the "land use constitution," their comprehensive plans.

28. And like the United States Constitution and Florida's Constitution, a change, especially a major density and intensity increase, requires a robust public discussion where residents and stakeholders can discuss the appropriate vision of the City.

III. DEFENDANTS ARE NOT FOLLOWING THE LAW REGARDING PROPOSED AMENDMENTS TO THE CITY'S PLAN.

29. Florida Stat. § 163.3174(4)(a) provides that during "the preparation of the [comprehensive] plan or plan amendment and prior to any recommendation to the governing body, the local governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment."

30. Similarly, Section 265-10 of the City Code requires a public hearing before the local planning agency before a proposed amendment to the City's Plan is presented to the Commission. The purpose of the pre-Commission public hearing before the local planning agency is to permit a robust discussion with residents and stakeholders prior to consideration of an amendment to the Plan by the elected legislative body.

31. On July 7, 2019, the City published a notice in the Miami Herald regarding a plan to amend the Comprehensive Plan without the required public hearing before the local planning agency. The deficient notice is attached hereto as Exhibit B. By this unlawful maneuver, Defendants are seeking to sneak through a major Plan amendment without following the requirements of state law and its own Code.

32. Additionally, even were the notice sufficient, the City has not demonstrated that a representative of the Miami-Dade School District is a non-voting member of the local planning

agency in accordance with Fla. Stat. § 163.3174(1). Thus, Defendants are at least two necessary steps removed from properly noticing the proposed Plan amendment.

IV. THE NOTICE ITSELF IS DEFICIENT

33. Florida Stat. § 166.041(3)(c) provides that notices to amend a comprehensive plan must “clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.”

34. In construing the statutory notice requirements for land use ordinances, Florida courts have consistently held that ordinances which fall within the ambit of § 166.041(3) must be enacted in strict compliance with notice provisions or they are null and void. *See Coleman v. City of Key West*, 807 So. 2d 84 (Fla. 3d DCA 2002). As explained by Florida’s Third District Court of Appeal:

notices are mandated in order to protect interested persons, who are thus given an opportunity to learn of proposed ordinances; given the time to study the proposals for any negative or positive effects that they might have if enacted; and given notice so that they can attend the hearings and speak out to inform the commissioners that they can attend the hearings and speak out to inform the city commissioners prior to the ordinance enactment. Noncompliance with the notice provisions takes away or reduces these opportunities.

Id. at 85.

35. In sum, in the context of comprehensive plans, strict enforcement of notice requirements under § 166.041(3) is mandatory. *See Anderson v. City of St. Pete Beach*, 161 So. 3d 548, (Fla. 2d DCA 2014) (holding that a city commission’s failure to comply with notice provisions rendered an ordinance that purported to amend the City’s Comprehensive Plan null and void).

36. In their efforts to keep affected property owners uninformed about their intention to increase density and intensity in the Town Center District, the City's notice mailed to residents of the City, attached hereto as Exhibit C, contains the following opaque language:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, ADOPTING THE CITY OF SUNNY ISLES BEACH COMPREHENSIVE PLAN TEXT-BASED AMENDMENTS; APPROVING THE TRANSMITTAL OF THE AMENDMENTS TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY AND REVIEWING AGENCIES IN ACCORDANCE WITH SECTION 163.3184, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

37. This language does not inform residents and property owners that the Commission intends to increase the density and intensity in the Town Center District to permit the construction of more than 1,000 residential units and more than 8,000 hotel units. The notice issued by the City is therefore defective on its face. The notice clearly did not convey information for interested persons to determine if they should attend a public meeting. Such notice is a direct attempt to mislead interested persons and violation of the law.

38. Similarly, the published notice in the Miami Herald did not contain any information alerting an affected party of the extreme manner in which the City was proposing to radically amend its land use constitution.

39. The published notice also did not contain a map of the impacted area as required under Fla. Stat. § 166.041(3)(c).

40. Notice requirements imposed by statutes, charters, codes must be strictly observed. See, 32 Government-In-The-Sunshine-Manual 50 (ed. 2010) (citing *Inf. Op. to Mr. Michael Mattimore*, 1996 WL 33417238 (Op. Att'y Gen. Fla. Feb 6, 1996)); *Yarbrough v. Young*, 462 So.

2d 515, 517, n. 1 (Fla. DCA 1985) (noting that the legislature has required specific notice requirements for certain subjects). Here, the City has failed to comply with its statutory duty.

V. THE CITY'S FAILURE TO PRODUCE PUBLIC RECORDS

41. Since the initial, aborted public hearing held on December 20, 2018 to approve the Infinity Development Project, Plaintiffs have sought necessary public records to protect its property rights from illegal conduct by the Mayor and other city officials.

42. Based on information and belief, city officials, especially Mayor Scholl, have used text messages as the primary means of communicating with each other to circumvent the Florida Government in the Sunshine Laws.

43. Florida's Public Records Law, Fla. Stat. Chap. 119, "provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. In the absence of statutory exemption, this right of access applies to all materials made or received by an agency in connection with the transaction of official business which are used to perpetuate, communicate or formalize knowledge. Access to public records has been described as a cornerstone of our political culture." *In Re Report & Recommendations of Judicial Mgmt. Council of Fla. on Privacy & Elec. Access to Court Records*, 832 So. 2d 712, 713 (Fla. 2002).

44. Notwithstanding the clear mandate in the law that requires the City to produce public records unless the records are specifically exempted, the City has failed to produce the records and is in violation of the law.

45. Almost four months ago, on March 20, 2019, Plaintiffs requested specific emails and texts from elected officials and city officials relating to the Infinity Development Project. This public records request is attached as Exhibit D. The City has provided numerous excuses to

Plaintiffs for failing to produce these public records, such as the City Clerk's vacation schedule and workload. As of the date of this Complaint, the City has not produced the records

46. Two days after its first request, on March 22, 2019, Plaintiffs requested specific emails and texts relating to communications that city officials had with the developer of the Infinity Development Project. This public records request is attached as Exhibit E. As of the date of this Complaint, the City has not produced these records either.

47. A month later, on April 19, 2019, Plaintiffs requested, among other things, specific documents generated by and sent to and from the City's Legal Consultant relating to the City Development Project. This public records request is attached as Exhibit F. As of the date of this Complaint, the City has not produced these records either.

48. Upon information and belief, Plaintiffs believe that the City Clerk has been instructed to refuse or delay providing affected parties, including Plaintiffs, documents relating the Infinity Development Project and the efforts to amend the Comprehensive Plan.

49. Upon information and belief, Plaintiffs believe that city officials have destroyed relevant public records to deny the public the right to access to their government.

50. All conditions precedent to this action have been performed, have occurred, or have been waived.

CAUSES OF ACTION

COUNT I

VIOLATION OF THE LOCAL PLANNING AGENCY LAW AND CITY CODE

51. Plaintiffs incorporate and re-allege the allegations preceding the first count of this Complaint as if fully set forth herein.

52. Pursuant to Florida's Declaratory Judgment Act, this Court has jurisdiction to declare the parties' rights and responsibilities under, and otherwise interpret, Fla. Stat. § 163.3174.

53. Plaintiffs contend that, through its proposed amendments to the City's Comprehensive Plan, the City has failed to comply with Fla. Stat. § 163.3174 by, among other things, issuing defective notices and failing to first notice a recommendation hearing before the local planning agency.

54. Upon information and belief, Defendants contend that they have complied with Fla. Stat. § 163.3174.

55. There is therefore a bona fide dispute between the parties; Plaintiffs have a justiciable question as to the existence or non-existence of some right, status, immunity, power, or privilege, or some fact upon which their existence may depend; Plaintiffs are in doubt as to the right, status, immunity, power, or privilege; and there is a bona fide, actual, and present need for the declaration.

56. Further, all antagonistic and adverse interests are all before the court, and the relief sought is not merely the giving of legal advice by the courts or the answers to questions propounded from sheer curiosity.

WHEREFORE, Plaintiffs demand a judgment in their favor as follows:

- A. Declaring that Defendants Mayor Scholl, the Commissioners, City Manager, and City Clerk have violated Florida law for the reasons and in the manner set forth herein;
- B. Declaring void any action with respect to the Plan taken by the Commission at the public hearing on July 18, 2019;
- C. Enjoining the Commission from holding any meetings without proper notice under Florida law;

- D. Awarding Plaintiffs their attorneys' fees and costs incurred in this litigation, either from the City, Mayor Scholl, the Commissioners, City Manager, and City Clerk as permitted by law and as this Court may deem appropriate; and
- E. Awarding such other relief and equitable adjustments as the Court deems warranted.

COUNT II
VIOLATIONS OF STATUTORY NOTICE REQUIREMENTS

57. Plaintiffs incorporate and re-allege the allegations preceding the first count of this Complaint as if fully set forth herein.

58. This Court has jurisdiction to enforce violation of the statutory notice requirements for land use ordinances set forth in Fla. Stat. § 166.041(3), pursuant to this Court's general equity jurisdiction. Additionally pursuant to Florida's Declaratory Judgment Act, this Court has jurisdiction to declare the parties' rights and responsibilities under, and otherwise interpret, Fla. Stat. § 163.3174.

59. Plaintiffs contend that Defendants Mayor Scholl, the Commissioners, City Manager, and the City Clerk have knowingly omitted significant facts in the defective notices for the public hearing to amend the Comprehensive Plan to permit higher density and intensity in the Town Center District. Both the mailed notice and the published newspaper notice are deficient under the law. Specifically, Plaintiffs and members of the general public were entitled to a notice which timely informed them of "the time, place and nature" of the matters that the Commission planned to discuss at the public hearing on July 18, 2019.

60. Upon information and belief, Defendants contend that they have complied with their statutory notice requirements.

61. There is therefore a bona fide dispute between the parties; Plaintiffs have a justiciable question as to the existence or non-existence of some right, status, immunity, power, or

privilege, or some fact upon which their existence may depend; Plaintiffs are in doubt as to the right, status, immunity, power, or privilege; and there is a bona fide, actual, and present need for the declaration.

62. Further, all antagonistic and adverse interests are all before the court, and the relief sought is not merely the giving of legal advice by the courts or the answers to questions propounded from sheer curiosity.

WHEREFORE, Plaintiffs demand a judgment in their favor as follows:

- A. Declaring that Defendants Mayor Scholl, the Commissioners, City Manager, City Clerk, and City Consultant have violated the notice requirements set forth in Fla. Stat. § 166.041(3);
- B. Declaring that any action taking by the Commission at the public hearing on July 18, 2019 to be null and void;
- C. Enjoining the City Commission from further statutory notice violations in the manner discussed herein;
- D. Awarding Plaintiffs their attorneys' fees and costs incurred in this litigation from the City, Mayor Scholl, the Commissioners, City Manager, and City Clerk as permitted by law and as this Court may deem appropriate; and
- E. Awarding such other relief and equitable adjustments as the Court deems warranted.

**COUNT III
VIOLATIONS OF FLORIDA PUBLIC RECORDS LAW**

63. Plaintiffs incorporate and re-allege the allegations preceding the first count of this Complaint as if fully set forth herein.

64. Section 119.07(1)(a), Florida Statutes, provides” Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so,

at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.”

65. Defendants Mayor Scholl, the Commissioners, City Manager, the Legal Consultant, the City Planner, and other city officials have received public records responsive to Plaintiffs’ public records requests.

66. Upon information and belief, and in violation of Fla. Stat. § 119.07(1)(a), Defendants Mayor Scholl, the Commissioners, City Manager, Legal Consultant, and City Planner have not conducted an adequate search to locate the records requested. Specifically, the City Clerk has not demanded that the Mayor and these other defendants produce emails and texts on their cell phones that are responsive to the public records request.

67. Plaintiffs request an immediate hearing pursuant to Fla. Stat. § 119.11(1).

WHEREFORE, Plaintiffs demand a judgment in their favor as follows:

- A. Directing Defendants Mayor Scholl, the Commissioners, City Manager, City Clerk, Legal Consultant, and the City Planner to appear at the hearing set pursuant to §119.11(1), and to show whether they have conducted an adequate search for the requested records, including by examination of text messages and other data maintained on the cell phones of relevant city officials, and to show cause why the records requested by Plaintiffs have not been produced;
- B. Directing the Defendants Mayor Scholl, the Commissioners, City Manager, City Clerk, Legal Consultant, and the City Planner to conduct an adequate search for responsive records, including search of all cell phones of the Defendants in this lawsuit;

- C. Directing Defendants City, Mayor Scholl, City Commissioners, City Manager, City Clerk, and City's Legal Consultant, by writ of mandamus or otherwise, to produce to Plaintiffs all of the records requested that have not already been produced;
- D. Awarding Plaintiffs their attorneys' fees and costs incurred in this litigation, from Defendants City, Mayor Scholl, City Commissioners, City Manager, City Clerk, and City's Legal Consultant as permitted by law and as this Court may deem appropriate; and
- E. Awarding such other relief and equitable adjustments as the Court deems warranted.

Dated: July 18, 2019.

Respectfully submitted,

By: /s/ Benjamin H. Brodsky
BRODSKY FOTIU-WOJTOWICZ, PLLC
Benjamin H. Brodsky, Esq., FBN 73748
bbrodsky@bfwlegal.com
docketing@bfwlegal.com
Counsel for Plaintiffs
200 SE 1st Street, Suite 400
Miami, Florida 33131
Tel: 305-503-5054

-and-

Hans Ottinot, Esq., FBN 77577
OTTINOT LAW, P.A.
Counsel of Petitioner
17524 N.W. 61ST Court
Hialeah, Florida 33015
Tel: (786) 202-1136
HOttinot@hotmail.com

EXHIBIT "A"

Hans Ottinot

From: Andrew Zidar
Sent: Thursday, February 14, 2019 5:43 PM
To: MBentacur@sibfl.net
Cc: Dan Katz; Lindsay Davis; Courtney Crush
Subject: City of Sunny Isles Beach - March Commission Meeting Agenda

Mauricio,

I am following the City Commission Agenda for development purposes, so I would appreciate it if you can send me and Dan Katz (copied herein) any commission Agenda that has been or may be issued and prepared by your office. We would like an email copy of the Agenda at the time the Agenda is made available to City Officials and the public. We are not asking for the agenda items and backup materials, but merely the Agenda itself. If there are any revisions to the Agenda after you provided us with a copy, I would appreciate a copy of any revised agendas and supporting documents.

Thanks,

Andrew Zidar

RK Centers 17100 Collins Avenue, Suite 225 | Sunny Isles Beach, Florida 33160
Tel: (305) 949-4110 | Fax: (305) 948-3410 | Email: azidar@rkcenters.com | Website: www.rkcenters.com

EXHIBIT "B"



CITY OF SUNNY ISLES BEACH NOTICE OF PUBLIC HEARING ON THE CITY OF SUNNY ISLES BEACH COMPREHENSIVE PLAN TEXT-BASED AMENDMENTS

NOTICE IS HEREBY GIVEN that the City Commission, also sitting as the Local Planning Agency, of the City of Sunny Isles Beach, Florida, will hold a public hearing in the Sunny Isles Beach Government Center, David P. Samson Commission Chambers, 18070 Collins Avenue, Sunny Isles Beach, Florida, on Thursday, July 18, 2019, at 6:30 p.m., to consider on first reading the following proposed Ordinance:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, ADOPTING THE CITY OF SUNNY ISLES BEACH COMPREHENSIVE PLAN TEXT-BASED AMENDMENTS; APPROVING THE TRANSMITTAL OF THE AMENDMENTS TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY AND REVIEWING AGENCIES IN ACCORDANCE WITH SECTION 163.3184, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

The City proposes to transmit the draft Comprehensive Plan Text-Based Amendments to the Florida Department of Economic Opportunity and reviewing agencies for preliminary review, pursuant to the requirements of Section 163.3184, Florida Statutes.

The proposed amendments affect the following property area which is generally described as: the centerline of 172nd Street to the North; Collins Avenue to the East; the centerline of the Canal/Waterway to the South of Sunny Isles Beach Boulevard; and, the Mixed-Use Business Land Use western boundary to the West. The area under consideration for amendments consists of 23 properties totaling 32.71 acres (1,424,596 Sq. Ft.).

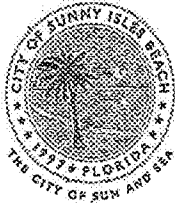
Inquiries regarding this item may be directed to the City Clerk at 305-792-1703. A copy of these documents is available for public inspection during normal business hours in City Hall.

Mauricio Betancur, CMC, City Clerk

All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Commission c/o the City Clerk, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, Florida, 33160. Any person wishing to address the City Commission at a public hearing is asked to register with the City Clerk by completing a public speakers' card prior to the item being heard. The hearing on these matters may be continued at this meeting and under such circumstances, additional legal notices would not be provided. If a person desires to appeal any decision made by the City Commission with respect to any matter considered at such meeting, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the City Manager at 305-947-0606, no later than 48 hours prior to the proceedings.

CITY OF SUNNY ISLES BEACH

EXHIBIT "C"



CITY OF SUNNY ISLES BEACH
NOTICE OF PUBLIC HEARING ON THE CITY OF
SUNNY ISLES BEACH COMPREHENSIVE PLAN TEXT-
BASED AMENDMENTS

NOTICE IS HEREBY GIVEN that the City Commission, also sitting as the Local Planning Agency, of the City of Sunny Isles Beach, Florida, will hold a public hearing in the Sunny Isles Beach Government Center, David P. Samson Commission Chambers, 18070 Collins Avenue, Sunny Isles Beach, Florida, on **Thursday, July 18, 2019, at 6:30 p.m.**, to consider on first reading the following proposed Ordinance:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, ADOPTING THE CITY OF SUNNY ISLES BEACH COMPREHENSIVE PLAN TEXT-BASED AMENDMENTS; APPROVING THE TRANSMITTAL OF THE AMENDMENTS TO THE DEPARTMENT OF ECONOMIC OPPORTUNITY AND REVIEWING AGENCIES IN ACCORDANCE WITH SECTION 163.3184, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

The City proposes to transmit the draft Comprehensive Plan Text-Based Amendments to the Florida Department of Economic Opportunity and reviewing agencies for preliminary review, pursuant to the requirements of Section 163.3184, Florida Statutes.

The proposed amendments affect the following property area which is generally described as: the centerline of 172nd Street to the North; Collins Avenue to the East; the centerline of the Canal/Waterway to the South of Sunny Isles Beach Boulevard; and, the Mixed-Use Business Land Use western boundary to the West. The area under consideration for amendments consists of 23 properties totaling 32.71 acres (1,424,596 Sq. Ft.).

Inquiries regarding this item may be directed to the City Clerk at 305-792-1703. A copy of these documents is available for public inspection during normal business hours in City Hall.

Mauricio Betancur, CMC, City Clerk

All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Commission c/o the City Clerk, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, Florida, 33160. Any person wishing to address the City Commission at a public hearing is asked to register with the City Clerk by completing a public speakers' card prior to the item being heard. The hearing on these matters may be continued at this meeting and under such circumstances, additional legal notice would not be provided. If a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the City Manager at 305-947-0606, no later than 48 hours prior to the proceedings.

EXHIBIT "D"

1

Hans Ottinot

From: Hans Ottinot
Sent: Wednesday, March 20, 2019 10:40 AM
To: 'MBetancur@sibfl.net'; 'cityclerk@sibfl.net'
Cc: Raanan Katz; Dan Katz; Andrew Zidar; Lindsay Davis; 'Courtney Crush'; 'crusso@sibfl.net'; 'jgrachova@sibfl.net'; 'chasbun@sibfl.net'
Subject: Public Records Request Pursuant to Chapter 119, Florida Statutes date of request March 20, 2019

Mauricio:

I hope all is well. In addition to the public records requests previously requested, please provide me with the opportunity to review and inspect the following emails, correspondences, and texts:

Emails and Correspondences

- (1) All emails or correspondences between Claudia Hasbun and officials of Florida Department of Transportation (FDOT) regarding traffic issues for the Infinity Project from the date of December 20, 2018;
- (2) All emails or correspondences between Claudia Hasbun and Planning Consultant Alex David regarding the Infinity Project from date of December 20, 2018;
- (3) All emails or correspondences between Claudia Hasbun and Christopher Russo regarding the Infinity Project from date of December 20, 2018;
- (4) All emails or correspondences between Claudia Hasbun and Lynn Dannheisser regarding the Infinity Project from the date of December 20, 2018;
- (5) All emails or correspondences between Lynn Dannheisser and Christopher Russo regarding the Infinity Project from the date of December 20, 2018;
- (6) All emails or correspondences generated by Alex David relating to the Infinity Project from the date of December 20, 2018;
- (7) All emails or correspondences between Claudia Hasbun and Jennifer Lu-Chong relating to the Infinity Project from the date of December 20, 2018;
- (8) All emails or correspondences from Claudia Hasbun regarding the 2016 EAR Amendments filed with the State of Florida;
- (9) All emails or correspondences between Planning Consultant Alex David and former Planning Consultant Jerry Bell relating to the City of Sunny Isles Beach Comprehensive Plan from January 1, 2016 to current date;
- (10) All emails or correspondences from Claudia Hasbun or any Planning Consultant hired by the City requesting Comprehensive Plan Amendments to increase density and intensity for Town Center District;
- (11) All emails or correspondences from the State of Florida or a state agency denying or approving density and intensity increases for properties located in the Town Center District.
- (12) All emails or correspondences between Claudia Hasbun and the Developer Phillip Aginsky or his consultants or representatives from the date of December 20, 2018.

Texts

- (1) All texts between Christopher Russo and Claudia Hasbun from the date of December 20, 2018 relating to official business of the City;
- (2) All texts between Christopher Russo and Lynn Dannheisser from the date of December 20, 2018 relating to official business of the City;
- (3) All texts between Claudia Hasbun and Lynn Dannheisser from the date of December 20, 2018 relating to official business of the City;

- (4) All texts between Claudia Hasbun and Alex David from the date of December 20, 2018 relating to official business of the City;
- (5) All texts between Christopher Russo and Phillip Aginsky from the date of December 20, 2018 relating to official business of the City.

I do not believe any of the request above is subject to any exemption under the Florida Sunshine Law. If you intend to raise any exemption, please specify the exemption in your response. Please send me an email confirming receipt of this public records request. If you are not able to comply with the request, please advise in writing. Thank you for your prompt attention to this matter.

Regards,

Hans

EXHIBIT "E"

#2

Hans Ottinot

From: Hans Ottinot
Sent: Friday, March 22, 2019 7:05 PM
To: 'Mauricio Betancur'; City Clerk
Cc: Raanan Katz; Dan Katz; Andrew Zidar; Lindsay Davis; 'Courtney Crush'; Christopher Russo; Julia Grachova; Claudia Hasbun; 'gscholl@sibfl.net'; 'lsvechin@sibfl.net'; 'dgoldman@sibfl.net'; 'jviscarra@sibfl.net'; 'alama@sibfl.net'
Subject: New Public Records Request Pursuant to Chapter 119, Florida Statutes

Mauricio:

I hope all is well. It was a pleasure to see you recently. I wish you the best over the weekend. I await responses to the delayed public records requests next week. Please provide a date and time for review of public records in the immediate future. Pursuant to Chapter 119, Florida Statutes, please provide me with an opportunity to review and inspect the following emails, correspondences, and texts:

Emails and Correspondences:

- (1) Any email or correspondences from members of the City Commission, City Manager, Lynn Dannheisser, or anyone relating or requesting the Special Commission meeting on March 20, 2019.
- (2) Any email or correspondences from the City Clerk relating to the Special Commission meeting on March 20, 2019.
- (3) Any email or correspondences between Christopher Russo and Claudia Hasbun and Attorney Javier Avino relating to a case study for the Town Center District by Urban Land Institute.
- (4) Any email or correspondences between Mayor Scholl and Christopher Russo relating to the Infinity Project or any official business of the City from December 20, 2018.
- (5) Any email or correspondences between Mayor Scholl and Claudia Hasbun relating to the Infinity Project or any official business of the City from December 20, 2018.
- (6) Any email or correspondences between Mayor Scholl and Phillip Aginsky relating to the Infinity Project or any official business of the City from December 20, 2018.
- (7) Any email or correspondences between Mayor Scholl and Lynn Dannheisser relating to the Infinity Project or any official business of the City from December 20, 2018.
- (8) Any email or correspondences from Mayor Scholl relating to the Infinity Project or any official business of the City from December 20, 2018.
- (9) Any email or correspondences between Mayor Scholl and any member of the City Commission from December 20, 2018.
- (10) Any email or correspondences between Vice Mayor Larisa Svechin and Christopher Russo relating to the Infinity Project or any official business of the City from December 20, 2018.
- (11) Any email or correspondences between Vice Mayor Svechin and Claudia Hasbun relating to the Infinity Project or any official business of the City from December 20, 2018.
- (12) Any email or correspondences between Vice Mayor Svechin and Phillip Aginsky relating to the Infinity Project or any official business of the City from December 20, 2018.
- (13) Any email or correspondences between Vice Mayor Svechin and Lynn Dannheisser relating to the Infinity Project or any official business of the City from December 20, 2018.
- (14) Any email or correspondences from Vice Mayor Svechin relating to the Infinity Project or any official business of the City from December 20, 2018.
- (15) Any email or correspondences between current members of the City Commission to Christopher Russo relating to the Infinity Project or any official business of the City from December 20, 2018.

- (16) Any email or correspondences between current members of the City Commission to Claudia Hasbun relating to the Infinity Project or any official business of the City from December 20, 2018.
- (17) Any email or correspondences between current members of the City Commission to Phillip Aginsky relating to the Infinity Project or any official business of the City from December 20, 2018.
- (18) Any email or correspondences between current members of the City Commission to Lynn Dannheisser relating to the Infinity Project or any official business of the City from December 20, 2018.
- (19) Any email or correspondences between current members of the City Commission relating to the Infinity Project or any official business of the City from December 20, 2018.
- (20) Any email or correspondences between city officials and Infinity Project's attorney Clifford Schulman relating to the Infinity Project or any official business of the City from December 20, 2018.
- (21) Any email or correspondences to or from Mayor Scholl regarding case study by Urban Land Institute.

Texts

- (1) Any text from any city official or legal consultant relating to the Special Commission Meeting on March 20, 2019.
- (2) Any text between Mayor Scholl and Christopher Russo relating to the Infinity Project or any official business of the City from December 20, 2018.
- (3) Any text between Mayor Scholl and Claudia Hasbun relating to the Infinity Project or any official business of the City from December 20, 2018.
- (4) Any text between Mayor Scholl and Lynn Dannheisser relating to the Infinity Project or any official business of the City from December 20, 2018.
- (5) Any text between Mayor Scholl and Vice Mayor Svechin relating to the Infinity Project or any official business of the City from December 20, 2018.
- (6) Any text between Mayor Scholl and Commissioner Dana Goldman relating to the Infinity Project or any official business of the City from December 20, 2018.
- (7) Any text between Mayor Scholl and Commissioner Jeniffer Viscarra relating to the Infinity Project or any official business of the City from December 20, 2018.
- (8) Any text between Mayor Scholl and Commissioner Alex Lama relating to the Infinity Project or any official business of the City from December 20, 2018.
- (9) Any text between any current member of the City Commission relating to the Infinity Project or any official business of the City from December 20, 2018.
- (10) Any text from Christopher Russo relating to the Infinity Project or any official business of the City from December 20, 2018.
- (11) Any text from Claudia Hasbun relating to the Infinity Project or any official business of the City from December 20, 2018.
- (12) Any text from Lynn Dannheisser relating to the Infinity Project or any official business of the City from December 20, 2018.
- (13) Any text between members of the City Commission and Phillip Aginsky from December 20, 2018.
- (14) Any text between city officials and consultants hired by the City relating to the Infinity Project from December 20, 2018.

EXHIBIT "F"

#3

Hans Ottinot

From: Hans Ottinot
Sent: Friday, April 19, 2019 5:13 PM
To: 'Mauricio Betancur'; 'City Clerk'
Cc: Raanan Katz; Dan Katz; Andrew Zidar; Lindsay Davis; 'Courtney Crush'; 'George "Bud" Scholl'; 'Larisa Svechin'; 'Dana Goldman'; 'Alex Lama'; 'edion@ngnlaw.com'; lynn@danneisser-law.com; 'Jeniffer Viscarra'; 'Norman Edelcup'; 'magg747@gmail.com'; 'Claudia Hasbun'
Subject: Public Records Request No. 7 -Lynn Dannheisser's Documents
Attachments: SKM_C45819041916150.pdf; SKM_C45819041916151.pdf; SKM_C45819041916430.pdf

Mauricio:

I hope all is well and Happy Easter to you and your family.

On a different note, after reviewing some of documents you provided to me in response to a public records requests, I am extremely concerned that I have not received all the documents, letters, memorandum, emails and texts, etc., from Lynn Dannheisser's relating to the Infinity Project. Specifically, in the attached email, Ms. Dannheisser indicated that she did not feel a need to provide a legal response to a letter from attorney Courtney Crush wherein Ms. Crush provided evidence that the Infinity Project is inconsistent with the City's Comprehensive Plan. The email also indicated that the City Manager, Christopher Russo, had designated Ms. Dannheisser as the attorney responsible for the Infinity Project.

While the previously mentioned email indicated that Ms. Dannheisser was not going to provide a legal response to Ms. Crush's letter, her invoice for \$16,940.00 of legal services for 3 weeks of work indicated that Ms. Dannheisser had "render[ed] an opinion on the correctness of the Planner's analysis" relating to the Infinity Project. See, block billing entry dated January 16, 2019. This block billing entry contradicts your response to the public records request which sought legal opinions issued by Ms. Dannheisser. See, attached email.

Ms. Dannheisser is a highly paid legal consultant and it would be an absolute abdication of her duty to her clients and the City for her to refuse to provide a written legal opinion relating to the Infinity Project in light of Ms. Crush's letter. I certainly believe that Ms. Dannheisser has provided a written legal opinion on this matter. If not, the payment of the legal fees are not warranted. As such, I will repeat my public records request again for review and inspection of the following documents:

- (1) All legal opinions issued by Lynn Dannheisser to any city official or developer or developer's representatives relating to the Infinity Project;
- (2) All invoices, purchase orders, checks issued for Legal consultant services provided by Lynn Dannheisser from December 31, 2018. (I only received one invoice);
- (3) All notes and draft memorandums prepared by Lynn Dannheisser relating to the Infinity Project;
- (4) Any agreement or resolution relating to Lynn Dannheisser's contract to provide legal services from December 31, 2018..

Thank you for your cooperation. As you know, public records are a serious matter. Please send me an email confirming receipt of this public records request.

Regards,

Hans