

**CITY OF CORAL GABLES, FLORIDA**

**RESOLUTION NO. 2010-198**

RESOLUTION REMANDING AGENDA ITEM E-1 BACK TO THE HISTORIC PRESERVATION BOARD FOR FURTHER RECONSIDERATION AND REVIEW OF SAME; MORE PARTICULARLY PROVIDING THE FOLLOWING SPECIFIC INSTRUCTIONS TO THE HISTORIC PRESERVATION BOARD: (1) ASCERTAIN WHETHER THE BOARD HAS DETERMINED SUBSTANTIALLY THE SAME FACTS ON MAY 20, 2010 FOR DE-DESIGNATION AS WAS HEARD BY THE BOARD AT ITS JUNE 21, 2007 MEETING IF IT IS CONCLUDED IN THE AFFIRMATIVE, THEN THE HISTORIC PRESERVATION BOARD IS BARRED FROM HEARING THIS CASE AGAIN BASED ON THE PRINCIPLES OF COLLATERAL ESTOPPEL AND RES JUDICATA, AND SUBSEQUENTLY DISMISSAL SHOULD FOLLOW, THEREBY ALLOWING FOR THE ATTORNEY ON BEHALF OF THE APPLICANT (JEMIMA AND WALDO TOYOS), LOWELL KUVIN, ESQUIRE WOULD PRESERVE HIS RIGHT FOR AN APPEAL BEFORE THE CORAL GABLES CITY COMMISSION; (2) FURTHER STIPULATING THAT IF IT IS DETERMINED THAT THERE ARE SUBSTANTIALLY NEW FACTS THAT ARE PRESENTED BEFORE THE HISTORIC PRESERVATION BOARD THAT WERE NOT DECIDED BEFORE, THEN CITY STAFF WILL HAVE AN OPPORTUNITY TO APPEAL SAME BEFORE THE CORAL GABLES CITY COMMISSION.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1:** That the City Commission does hereby remand the Agenda Item E-1 back to the Historic Preservation Board for the reasons more particularly referenced above.

**SECTION 2.** That said resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS FOURTEENTH DAY OF SEPTEMBER A.D., 2010.

(Moved: Anderson/ Seconded: Kerdyk)

(Yeas: Anderson, Cabrera, Kerdyk, Withers, Slesnick)

(Unanimous: 5-0 Vote)

(Agenda Item: E-1)

APPROVED:

  
DONALD D. SLESNICK II  
MAYOR

ATTEST:

  
WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
ELIZABETH M. HERNANDEZ  
CITY ATTORNEY