

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2021-33

A RESOLUTION OF THE CITY COMMISSION PURSUANT TO SECTION 14-214.5 OF THE ZONING CODE APPROVING THE AMENDED AND RESTATED DISPUTE RESOLUTION AGREEMENT REGARDING THE PROPERTY LOCATED AT 701 AND 711 VALENCIA AND LEGALLY DESCRIBED AS LOTS 23, 24, 25, 26, 27, AND 28, BLOCK 10, OF "CORAL GABLES BILTMORE SECTION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, AT PAGE 28, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, WHICH PROVIDES, IN PART, THAT THE OWNER IS ENTITLED TO DEVELOP THE PROPERTY WITH A MAXIMUM RESIDENTIAL DENSITY OF 65 UNITS PER ACRE, CONSISTING OF 25 RESIDENTIAL DWELLING UNITS, SUBJECT TO ADDITIONAL TERMS AND CONDITIONS IN THE DISPUTE RESOLUTION AGREEMENT.

WHEREAS, Biltmore Development, LLC (the "Owner") owns certain real property located at 701-711 Valencia Avenue, identified by Miami-Dade County Property Tax Folio Identification Nos. 03-4117-059-0010, 03-4117-008-1780 and 03-4117-008-1790, and legally described as:

Lots 23, 24, 25, 26, 27, and 28, Block 10, of "CORAL GABLES BILTMORE SECTION", according to the Plat thereof, as recorded in Plat Book 20, at Page 28, of the Public Records of Miami-Dade County, Florida (the "Valencia Property"); and

WHEREAS, the David William Hotel Condominium Association is the association for the condominium located at 700 Biltmore Way and Jorge M. Guarch, Jr. lives and resides at 700 Biltmore Way Unit 1201 (collectively, the "700 Biltmore Way Property"); and

WHEREAS, in 2017, the zoning on the Valencia Property was Multi-Family Special Area ("MFSA") District pursuant to the City of Coral Gables Zoning Map; and

WHEREAS, the City Attorney's Office has opined that the site-specific regulations govern the permissible height that can be developed on the Valencia Property, such that the maximum height is 150 feet (see history of opinion at CAO 2017-13); and

WHEREAS, as reconfirmed in CAO 2017-13, Owner relied on an official Zoning Verification Letter issued by the City on March 23, 2007, in purchasing the Valencia Property in 2015-16 (under the same zoning classifications as described in the Zoning Verification Letter) for an amount in excess of \$2.5 million and thereafter engaged several professionals to design an 11-story, 124-foot high condominium project based on the opinion determining a maximum height of 150 feet; and

WHEREAS, the Board of Architects subsequently approved Owner’s proposed design for the Valencia Property; and

WHEREAS, a dispute arose between the City and David William Hotel Condominium Association and Jorge M. Guarch, Jr. (collectively, “Plaintiffs”) regarding development approvals related to Owner’s proposed project on the Valencia Property; and

WHEREAS, Plaintiffs filed a lawsuit against the City styled David William Hotel Condominium Association and Jorge M. Guarch, Jr. v. City of Coral Gables, Case No. 2018-26167 CA 34 for a writ of mandamus, or in the alternative, for declaratory judgment and injunctive relief (the “Litigation”); and

WHEREAS, the City denied all of the allegations and claims made against it by Plaintiffs, but nonetheless, Plaintiffs and the City desired to amicably resolve the Litigation to avoid the uncertainties and expense of further litigation; and

WHEREAS, pursuant to discussions with Plaintiffs and the City, Owner agreed to redesign the proposed project to reduce the height of the building, however, Owner alleged and continues to maintain that reducing the project’s height would disproportionately and inordinately burden the Owner’s property rights in violation of Section 14-214¹ of the City of Coral Gables Zoning Code and the Bert J. Harris Act as codified in Section 70.001 of the Florida Statutes; and

WHEREAS, Article 14², Section 14-214 of the City of Coral Gables Zoning Code ("Section 14-214") entitled, "Protection of Landowners' Rights; Relief from Inordinate Burdens," is intended to protect landowners' rights and provide relief from inordinate burdens; and

WHEREAS, pursuant to Section 14-214.2(B) of the City of Coral Gables Zoning Code, City Staff initiated this procedure to settle this pending Litigation; and

WHEREAS, pursuant to Section 14-214.1 of the City of Coral Gables Zoning Code, the City may grant relief pursuant to this section when it is demonstrated that the applicant for said relief has been unfairly, disproportionately, or inordinately burdened by a final order of the City and

WHEREAS, pursuant to Section 14-214.1 of the City of Coral Gables Zoning Code, if the City demonstrates that a settlement would avoid, mitigate, or remedy an unfair, disproportionate, or inordinate burden to a property owner, the City Commission may grant appropriate relief; and

WHEREAS, pursuant to Section 14-214.3(B) of the City of Coral Gables Zoning Code, the decision to grant such relief rests in the sound discretion of the City Commission in the exercise of its inherent sovereign powers to settle legitimate disputes; and

¹ Previously Article 3, Division 17 of the City of Coral Gables Zoning Code.

² Previously Article 3 of the City of Coral Gables Zoning Code.

WHEREAS, pursuant to Section 14-214.3(B) of the City of Coral Gables Zoning Code, the City’s policy is to fashion a proposal for resolving a dispute based on a considered balance of the following factors: (1) the degree of burden suffered by the applicant or property owners; (2) the nature and significance of the public interest that is served by the application of the regulation to the property; and (3) the likelihood of litigation, and its likely cost, the City’s potential exposure, the uncertainty of the outcome, the timetable for resolving disputes, and whether there is a perceived need for a judicial determination of the issues raised by the application; and

WHEREAS, pursuant to Section 14-214.3(B) of the City of Coral Gables Zoning Code, all relief granted pursuant to Section 14-214 is conditioned upon the execution of a release of all claims that may arise from or relate to the application of the land development regulations that allegedly created the unfair, disproportionate or inordinate burden; and

WHEREAS, the Bert J. Harris, Jr. Private Property Protection Act (the “Bert J. Harris Act”) as codified in Section 70.001 of the Florida Statutes defines the term “inordinately burden” to include the use of real property such that the property owner is unable to obtain reasonable, investment-backed expectations for the use of the subject property; and

WHEREAS, Owner agreed, as part of the settlement, to reduce the height of the building so that it will not exceed seventy-five (75) feet with a limitation of ten (10) feet for the enclosed architectural feature, in exchange for an increase in the floor area ratio (“FAR”) from what is currently allowed, 2.0, to 2.7; and

WHEREAS, the City Commission found sufficient evidence in the record to justify a settlement pursuant to Section 14-214 of the City of Coral Gables Zoning Code and the Bert J. Harris Act as codified in Section 70.001 of the Florida Statutes; and

WHEREAS, pursuant to Section 14-214 of the City of Coral Gables Zoning Code and the Bert J. Harris Act, as codified in Section 70.001 of the Florida Statutes, the parties entered into a prior dispute resolution agreement to settle the Litigation (the “Original Agreement”); and

WHEREAS, the Original Agreement was reviewed and approved pursuant to Resolution No. 2019-84, after public hearing, by the City Commission on March 12, 2019 and as required by Section 14-214.5 of the City of Coral Gables Zoning Code, was ratified on March 26, 2019 pursuant to Resolution No. 2019-95 and subsequently recorded on April 3, 2019 at Official Records Book 31388, Page 4108 of the Miami Dade County Public Records; and

WHEREAS, upon approval of the Original Agreement, Owner filed with the City a permit application to build a structure that is less than seventy-five (75) feet in height and with an FAR that is lower than 2.7, consisting of 25 residential dwelling units; and

WHEREAS, Owner relied on various City Staff written confirmations that the Coral Gables Mediterranean Style residential density bonus of an additional fifteen (15) units was available for a total of seventy-five (75) units per acre in the MFSA (see history of City Staff communications) in accepting the Original Agreement and hiring professionals to prepare revised plans; and

WHEREAS, the City Attorney and current City Staff determined that prior City interpretations were incorrect and that the applicable residential density was only sixty (60) units per acre, such that the Valencia Property could only have 23 units and not the 25 units proposed by Owner; and

WHEREAS, the loss of these two (2) dwelling units would significantly diminish Owner's reasonable anticipated benefits and investment-backed expectations in pursuing this investment and the Valencia Property, thereby constituting an additional claim for relief by Owner under the Bert J. Harris Act, and the City Commission determines that Owner has a good faith belief in such claims; and

WHEREAS, on March 8, 2021, counsel for Owner filed a "Statement in Support of its Claims of Takings and Vested Rights on 701-711 Valencia Avenue" (the "Statement") setting forth the facts and circumstances surrounding Owner's claims against the City (attached as **Exhibit A**) which was made part of the record; and

WHEREAS, after reviewing the Statement and hearing from Owner's counsel, the City Commission finds sufficient evidence in the record to justify a settlement of the original underlying dispute, as well as this additional dispute, pursuant to Section 14-214 of the City of Coral Gables Zoning Code and the Bert J. Harris Act, as codified in Section 70.001 of the Florida Statutes; and

WHEREAS, Owner and City have reached an agreement as to the original underlying dispute as well as this additional dispute, and the parties desire to amend and restate the Original Agreement by entering into an Amended and Restated Dispute Resolution Agreement ("Amended and Restated Agreement"), substantially in the form attached as **Exhibit B**; and

WHEREAS, among other things, the Amended and Restated Agreement provides that:

1. Owner agrees that the maximum height of any development on the Valencia Property shall be no greater than seventy-five (75) feet exclusive of architectural features.
2. Owner agrees that the additional rooftop architectural and features permitted by the City Zoning Code Section 5-201(B)(1) shall not be greater in height than 10 feet. This limitation shall not apply to the elevator shaft and associated equipment.
3. Owner agrees that the rooftop uses shall be limited to an enclosed cabana which shall be no more than 2,500 square feet. This enclosure shall not count as part of the building's FAR.
4. The City agrees, pursuant to Section 14-214.3(A)(2) of the Zoning Code, that Owner is entitled to develop the Valencia Property with an FAR of up to 2.7 and a maximum residential density of 65 units per acre, consisting of 25 residential dwelling units.

5. Owner shall not request or apply for bonuses for height, setbacks, or stepbacks pursuant to the City Zoning Code Section 5-201 or any other applicable section of the City Zoning Code.
6. Owner agrees that any proposed development on the Valencia Property shall be subject to all reviews, including review by the Development Review Committee, Board of Architects, and all other applicable reviews. The City recognizes that the Owner has experienced delays and will use its best efforts to expedite all such applicable reviews.
7. The Amended and Restated Agreement settles and resolves all disputes, disagreements, claims, and conflicts relating to the Litigation and Plaintiffs agree to dismiss the Litigation with prejudice, upon approval of the Agreement and expiration of applicable appeal periods.

WHEREAS, as required by Section 14-214.3(E) of the Coral Gables Zoning Code, the Amended and Restated Agreement provides that Owner releases the City from any claims related to the dispute, including a Bert J. Harris Act claim or any other takings or property rights claim; and

WHEREAS, notice was mailed to the property owners within a one thousand (1,000) foot radius of the Valencia Property (see Affidavit Attesting to Public Notice of Zoning Application, attached as **Exhibit C**; and

WHEREAS, on March 9, 2021, the City Commission reviewed and approved the Amended and Restated Agreement in substantial form, as attached as **Exhibit B**, after public hearing, pursuant to Section 14-214.5 of the City of Coral Gables Zoning Code; and

WHEREAS, Section 14-214.5 of the Zoning Code requires that once executed by the City Manager, the dispute resolution agreement shall be placed on the next available consent agenda of the City Commission for ratification and shall not be pulled from the consent agenda except by supermajority vote of the entire membership of the City Commission.

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

SECTION 1. That the foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon the adoption hereof.

SECTION 2. That the Amended and Restated Dispute Resolution Agreement attached as **Exhibit B** is approved by the City Commission, with such modifications as approved by the City Manager and the City Attorney, consistent with the approval of the City Commission.

SECTION 3. That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS NINTH DAY OF MARCH, A.D., 2021.

(Moved: Keon / Seconded: Mena)

(Yeas: Fors, Jr., Keon, Lago, Mena, Valdes-Fauli)

(Unanimous: 5-0 Vote)

(Agenda Item: F-11)

APPROVED:

A large, stylized handwritten signature in black ink, consisting of a large loop and a vertical stroke, positioned over the word 'APPROVED'.

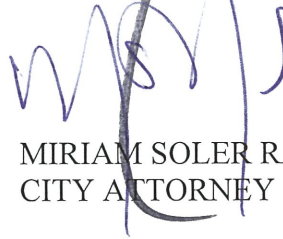
RAUL VALDES-FAULI
MAYOR

ATTEST:

A handwritten signature in black ink, appearing to be 'B. Y. Urquia', written in a cursive style.

BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

A handwritten signature in blue ink, appearing to be 'M. Soler Ramos', written in a cursive style.

MIRIAM SOLER RAMOS
CITY ATTORNEY



Augusto E. Maxwell

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Three Brickell City Centre
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F: 305 374 5095

augusto.maxwell@akerman.com

March 8, 2021

VIA HAND DELIVERY

Miriam Ramos, City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

Re: Biltmore Development, LLC's ("Biltmore") Statement in Support of its Claims of Takings and Vested Rights on 701-711 Valencia Avenue ("the Property")

Dear Ms. Ramos:

Introduction

Biltmore files this Statement to support its Claims of Takings and Vested Rights. It describes Biltmore's long engagement with City of Coral Gables Staff ("City Staff") and its reliance on written City Staff confirmations of the Property's allowable height of 150 feet and a potential density of 75 units an acre. The Statement also provides Biltmore's good faith but *preliminary* estimates of its out of pocket reliance at approximately \$3,897,000.00 and takings losses estimated at \$1,000,000.00 for the loss of height and \$2,643,500.00 for the loss of density.

Facts and Procedure

As you know, on March 23, 2007 City Staff issued a zoning confirmation letter that stated the Property had a permissible height of 150 feet under the City Zoning Code's Site Specific provisions for Biltmore Section found at §A-12(B)(2)(e). Please See Tab A. In reliance on that confirmation and other City Staff representations, in February 2015, Biltmore commenced purchasing the lots that constitute the Property for an amount in excess of \$2,850,00.00 Please see Tab B. Biltmore thereafter, retained a number of professionals to design a building that conformed to the City's Zoning Code. Please see Tab C.

On March 8, 2018, the City's Board of Architects approved Biltmore's proposed plans for an 11 story, 124 foot building. Nevertheless, City Staff questioned their earlier 2007 height

akerman.com

determination such that Biltmore retained additional counsel to assist in resolving that dispute. On July 2, 2018, you confirmed a series of prior City Attorney Opinions that the site specific entitlement of 150 feet governed.

On August 1, 2018, the David William challenged that approval, arguing the City Attorney opinions regarding the 150 foot height allowance were incorrect. To explore a possible compromise, in March 2019, you and City Staff hosted a series of meetings between Biltmore and the David William. These meetings resulted in a proposed tradeoff whereby the 701 Valencia building height was reduced to only 75 feet in exchange for an increase in the floor area ratio from 2.0 to 2.7.

On March 12, 2019, the City Commission approved the Settlement under the City's Article 3, Division 17 "Protection of Landowner's Rights; Relief from Inordinate Burdens."

In reliance on the new Settlement parameters, Biltmore directed its professional to re-design its proposed building and in July 2019 submitted a revised site plan consisting of **25 units**. The City's Board of Architects again approved. Please see Tab D. However, City Staff determined that independently of the height and FAR limitations, the Property was also subject to a density limitation of 60 units per acre which only allowed for **23 units**.

Biltmore rejected that interpretation and demonstrated its reliance on a May 2, 2017 City Staff written confirmation that the Property qualified for the Mediterranean Design Bonus. Please see Tab E. In September 2019, you determined that prior City Staff advice, on which Biltmore relied, was incorrect and not legally binding.

Argument

City reversal of its written Staff opinions and Board of Architects' two approvals regarding the Property's height and density limitations would be inconsistent with the express provisions of the City's Code and black letter land use law.

I. Biltmore's Vested Rights Claim

As explained by the Florida Third District Court of Appeals in *Monroe County v. Ambrose*, 866 So. 2d 707 (Fla. 3d DCA 2003):

Florida common law provides that vested rights may be established if a property owner or developer has (1) in good faith reliance, (2) upon some act or omission of government, (3) made such a substantial change in position or has incurred such extensive obligations and expenses (4) that it would make it highly inequitable to interfere with the acquired right. *See Hollywood Beach Hotel Co. v. City of Hollywood*, 329 So.2d 10 (Fla. 1976); *Sakolsky v. City of Coral Gables*, 151 So.2d 433 (Fla. 1963); *Equity Res., Inc. v. County of Leon*, 643 So.2d 1112 (Fla. 1st DCA 1994); *Harbor Course Club, Inc., v. Dep't of Cmty.*

Affairs, 510 So.2d 915 (Fla. 3d DCA 1987); *Dade County v. United Res., Inc.*, 374 So.2d 1046 (Fla. 3d DCA 1979).

...

The theory behind vested rights is that “a citizen is entitled to rely on the assurances and commitments of a zoning authority and if he does, the zoning authority is bound by its representations.” *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).

Monroe County and the cases it cites provide the basic paradigm for a vested rights claim. A property owner seeks and obtains properly issued entitlements from a local government to develop his or her property and in turn expends significant time and energy on the development when that approval is thereafter revoked, either by direct governmental action or by general change to the applicable land development regulations. This is precisely what would happen if the City modifies or reverses Board of Architects approval of Biltmore's proposed 25 unit plans.

A. Biltmore has acquired vested rights in the City's Approvals.

It is beyond dispute that Biltmore has in good faith relied on various City written representations, and Code provisions to purchase the Property. It thereafter it has worked with City Staff *for over five years* to secure positive approvals for its proposed development. This was not an easy task, and Biltmore expended considerable time and money in *twice* securing it. In so doing Biltmore can document that it expended at least Biltmore Developers can document that since 2015 it has out of pocket expenses of approximately **\$2,850,000.00** to acquire the Property and over **\$1,047,000.00** in expenses to professional services and permit fees. These professionals successfully designed two different building plans that each met the criteria of the Zoning Code and received all required approvals with the exception of the density issue.

Biltmore's extensive and expensive efforts to work with City Staff to secure its approvals are the sort of efforts that Courts often recognize as a basis for claims of equitable estoppel or vested rights. For example in *Metropolitan Dade County v. Lutz*, 314 So.2d 815 (Fla. 3d DCA 1975) the Third District found for the developer where it has expended similar extended energy in securing its entitlements as follows:

The record in the subject case establishes that Petitioners incurred extensive financial obligations and expenses in reliance upon rezoning of their property which zoning was granted only after Petitioners had negotiated, planned and fulfilled county requirements in activities lasting over one year. In a day and age when governmental restrictions and requirements pertaining to land development are extraordinarily extensive and zoning classifications allowing development are granted grudgingly and after exhaustive efforts by a developer, government may not casually ignore the individual landowner's rights when formulating large-scale zoning plans.

Under the particular facts of this case, it would be inequitable and unjust to deny the

relief sought.

See also, 4 Rathkopf's *The Law of Zoning and Planning* § 70:28 (4th ed.), § 70:19. Intermediate view: Expenditures before issuance of permit.

II. Biltmore's Takings Claim

The Fifth Amendment to the United States Constitution prohibits the government from taking private property “for public use without just compensation.” Notably, even where the government does not take physical control of property it may nevertheless effectuate an inverse condemnation, which is defined as “a cause of action by a property owner to recover the value of property that has been *de facto* taken by an agency having the power of eminent domain where no formal exercise of that power has been undertaken.” *Ocean Palm Golf Club P'ship v. City of Flagler Beach*, 139 So.3d 463, 471 (Fla. 5th DCA 2014). A regulatory taking can be either total or partial. In a “total” or “*per se*” taking, the government's regulations effectively deny *all* economically beneficial or productive use of the property. In a “partial” or “as-applied” taking under *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978), the court must evaluate: “(1) the economic impact of the regulation on [the property owner]; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the governmental action.”

Here, the City's actions threaten to take significant entitlements from the Property. In the first instance, it sought to arbitrarily reduce the allowable height by 50%, from 150 feet to 75 feet. Then, after Biltmore agreed to the lower height (with a commensurate adjustment to its allowable FAR), the City then threatened to arbitrarily reduce the allowable units by 8% from 25 to 23.

A. Any reduction in the permissible height or density will constitute a partial taking.

As noted above, there is no legal basis for the City to reduce the approval issued by the Board of Architects such that any reduction would deprive Biltmore of its investment backed expectations. As noted above, Biltmore has expended over **\$3,897,000.00** to purchase the Property and then sustained years of work required to obtain its City approvals. See *Lucas v. South Coastal Council*, 112 S.Ct 2866 (1992); *City of New York*, 98 S. Ct. 2646 (1978).

With respect to the loss of its reasonable investment backed expectations for reducing its building height from the 124 height approved by the Board of Architects to 75 feet, Biltmore has made a preliminary estimate of a loss of approximately **\$1,000,000.00**.

With respect to the loss of its reasonable investment backed expectations from losing two units in its current building, Biltmore has made a preliminary estimate of a loss of approximately **\$2,643,500.00**. Both estimates are based on a conservative fair market value of \$850.00 per square foot.

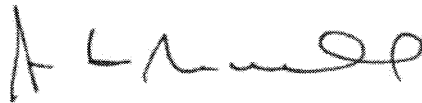
Please note that the lost profit loss of two large units is larger than losing five stories as a taller building involves significantly greater construction costs. Finally, please note that these estimates are preliminary, and Biltmore Developers reserve its rights to further supplement these estimates and provide alternative measures of loss including the lost opportunity costs associated with the project extended by at least five years.

CONCLUSION

In summary, Biltmore has demonstrated that it has, for over six years, acted in good faith and in reliance with express City written representations and Code provisions to *twice* successfully show compliance with the City's zoning criteria for its development. To modify the most recent approvals for 25 units would abrogate Biltmore's vested rights and constitute a significant taking of its property rights.

I hereby certify that I have reviewed the foregoing statement and that, to the best of my knowledge, the facts recited herein are true and correct and is supported by good and proper grounds and has not been presented for delay.

Respectfully Submitted



Augusto E. Maxwell

AEM/mg

Enclosures

EXHIBIT A



The City of Coral Gables

*Building and Zoning Department
ISO Class 1*

CITY HALL 405 BILTMORE WAY
CORAL GABLES, FLORIDA 33134

March 23, 2007

VIA FACSIMILE

Mr. Clifford A. Schulman
Greenberg Traurig
1221 Brickell Avenue
Miami, Florida 33131

Re: 701 Valencia Ave / Folio Numbers 03-4117-008-1770 and 03-4117-008-1780 / Request for Zoning Verification and Rights of Owner

Dear Mr. Schulman:

I am in receipt of your letter dated April 12, 2006, regarding the above referenced property, seeking verification of its zoning designation and development rights. Because this letter is being issued in settlement of a dispute, the City has agreed to waive the fee for issuing the letter. In exchange, the City has received an executed general release from your client, a copy of which is attached hereto.

Presently, 701 Valencia Avenue (the "Property") is designated Multi-Family High Density Residential ("RMH") on the City of Coral Gables Future Land Use Map, and is zoned "MFSA" Multi-Family Special Area. On January 9, 2007, the City of Coral Gables Commission adopted a new "Zoning Code for the City of Coral Gables.

According to the City of Coral Gables Comprehensive Plan, the RMH designation allows for multi-family residential units with a maximum density of 60 units per gross acres. The maximum permitted height is 13 stories. If architectural incentives are provided, the density increases to a maximum of 75 units per gross acre and the maximum height is 16 stories.

The City of Coral Gables Zoning Code designates the Property as "MFSA" Multi-Family Special Area. Below is the estimated development potential of the site:

- *Density:* maximum 75 dwelling units per acre.
- *FAR:* Floor areas ratio shall not exceed 2.0.

Clifford Schulman
March 23, 2007
Page 2

- *Height:* If the parcel is between 10,000 and 20,000 square feet in area, the maximum permitted height is 70 feet.
- *Parking, setbacks, landscape requirements etc.* Please see copy of attached Section 4-104 Multi-family Special Area (MFSA) District of the "Zoning Code" for additional zoning regulations pertaining to the property. For purposes of determining setbacks, the south side of the Property, which fronts Valencia Avenue, would be designated as the front and southeastern side which fronts Biltmore Court would be considered a front and the eastern side which fronts Cardena Street would be considered a side property line.
- *Lot 26, Block 10 of the Coral Gables Biltmore Section:* The portion of the Property which is designated as Lot 26, Block 10 of the Coral Gables Biltmore Section (Folio No. 03-4117-008-1780) and is 2,800 square feet in size may be developed as a "stand alone" townhome.

Please be advised that this determination does not constitute a development order. If you need additional information in regard to this matter please do not hesitate to contact me.

Sincerely,



Dennis S. Smith, C.B.O., MCP
Assistant Building & Zoning Director

cc: Elizabeth M. Hernandez, City Attorney
Susan L. Trevarthen, Attorney
Martha Salazar-Blanco, Zoning Administrator

EXHIBIT B

OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 3/8/2021

Property Information	
Folio:	03-4117-059-0010
Property Address:	701 VALENCIA AVE UNIT: 1 Coral Gables, FL 33134-5665
Owner	BILTMORE DEVELOPMENT LLC
Mailing Address	9100 S DADELAND BLVD 901 MIAMI, FL 33156 USA
PA Primary Zone	5000 HOTELS & MOTELS - GENERAL
Primary Land Use	0407 RESIDENTIAL - TOTAL VALUE : CONDOMINIUM - RESIDENTIAL
Beds / Baths / Half	2 / 1 / 0
Floors	0
Living Units	1
Actual Area	Sq.Ft
Living Area	776 Sq.Ft
Adjusted Area	776 Sq.Ft
Lot Size	0 Sq.Ft
Year Built	1949



Assessment Information			
Year	2020	2019	2018
Land Value	\$0	\$0	\$0
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$174,915	\$174,915	\$163,472
Assessed Value	\$174,915	\$174,915	\$163,472

Benefits Information				
Benefit	Type	2020	2019	2018
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
701 VALENCIA CONDO UNIT 1 UNDIV 0.1505% INT IN COMMON ELEMENTS OFF REC 25219-3835

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$174,915	\$174,915	\$163,472
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$174,915	\$174,915	\$163,472
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$174,915	\$174,915	\$163,472
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$174,915	\$174,915	\$163,472

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
02/06/2015	\$1,601,800	29508-0265	Qual on DOS, multi-parcel sale

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at <http://www.miamidade.gov/info/disclaimer.asp>

Version:

OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 3/8/2021

Property Information	
Folio:	03-4117-008-1780
Property Address:	
Owner	BILTMORE DEVELOPMENT LLC
Mailing Address	9100 S DADELAND BLVD STE 901 MIAMI, FL 33156 USA
PA Primary Zone	5000 HOTELS & MOTELS - GENERAL
Primary Land Use	1081 VACANT LAND - COMMERCIAL : VACANT LAND
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	2,800 Sq.Ft
Year Built	0



Assessment Information			
Year	2020	2019	2018
Land Value	\$322,000	\$280,000	\$280,000
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$322,000	\$280,000	\$280,000
Assessed Value	\$286,963	\$260,876	\$237,160

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$35,037	\$19,124	\$42,840

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
17 54 41 PB 20-28 CORAL GABLES BILTMORE SEC LOT 26 BLK 10 LOT SIZE 25.000 X 112 OR 19351-2201/19380-884 1000 2 2

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$286,963	\$260,876	\$237,160
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$322,000	\$280,000	\$280,000
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$286,963	\$260,876	\$237,160
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$286,963	\$260,876	\$237,160

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
02/06/2015	\$373,300	29508-0263	Qual by exam of deed
10/01/2000	\$0	00000-00000	Sales which are disqualified as a result of examination of the deed
11/01/1996	\$23,200	17417-4426	Other disqualified
09/01/1976	\$5,200	00000-00000	Sales which are disqualified as a result of examination of the deed

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Version:



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 3/8/2021

Property Information	
Folio:	03-4117-008-1790
Property Address:	711 VALENCIA AVE Coral Gables, FL 33134-5639
Owner	BILTMORE DEVELOPMENT LLC
Mailing Address	1390 S DIXIE HWY 1105 CORAL GABLES, FL 33146 USA
PA Primary Zone	5000 HOTELS & MOTELS - GENERAL
Primary Land Use	0802 MULTIFAMILY 2-9 UNITS : 2 LIVING UNITS
Beds / Baths / Half	2 / 2 / 0
Floors	2
Living Units	2
Actual Area	2,541 Sq.Ft
Living Area	2,320 Sq.Ft
Adjusted Area	2,168 Sq.Ft
Lot Size	5,600 Sq.Ft
Year Built	1951



Assessment Information			
Year	2020	2019	2018
Land Value	\$644,000	\$560,000	\$560,000
Building Value	\$37,723	\$33,951	\$33,951
XF Value	\$0	\$0	\$0
Market Value	\$681,723	\$593,951	\$593,951
Assessed Value	\$653,346	\$593,951	\$593,951

Benefits Information				
Benefit	Type	2020	2019	2018
Non-Homestead Cap	Assessment Reduction	\$28,377		

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
CORAL GABLES BILTMORE SEC PB 20-28 LOTS 27 & 28 BLK 10 LOT SIZE 50.000 X 112 OR 18234-2320 0898 1

Taxable Value Information			
	2020	2019	2018
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$653,346	\$593,951	\$593,951
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$681,723	\$593,951	\$593,951
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$653,346	\$593,951	\$593,951
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$653,346	\$593,951	\$593,951

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
12/27/2016	\$0	30381-1547	Corrective, tax or QCD; min consideration
04/27/2016	\$850,000	30067-2614	Qual by exam of deed
08/01/1998	\$215,000	18234-2320	Sales which are qualified
04/01/1992	\$207,000	15467-0428	Sales which are qualified

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Version:

EXHIBIT C



T.A. Builders
Powered by RedTeam

VIEW TEAM

Viewed by: Project 5880003-701 Valencia Multifamily - Pre - Construction

Date: 03/08/2021

Service Provider

No Service provider Members selected for this section

Customer

No Customer Members selected for this section

Third-Party

Akerman, Senterfitt, & Eidson, P.A.
Augusto Maxwell, Counsel
augusto.maxwell@akerman.com

One SE Third Avenue, 25th Fl
Miami, FL 33131

(p): 305-374-5600
(m): 305-755-5827
(f): 305-374-5095

Bellin Pratt & Fuentes Architects LLC
No contact

Bellin Pratt & Fuentes Architects LLC
Glenn Pratt, Architect
glenn@bpfarchitects.com

285 Sevilla Avenue
Coral Gables, Florida 33134-6613

(p): 305-447-1927
(f): 305-443-5986

Guirola & Associates P.A.
David Guirola, President
david@guirolapa.com

884 NW 136 Pl
Miami, Florida 33182

(p): 305.498.9352
(f): 305.553.1994

Third-Party

Other

No Other Members selected for this section

Vendors

Division 01: GENERAL CONDITIONS

AEC Drone Services LLC
Nelson Salazar, President
nelson@aecdroneservices.com

4941 SW 74th Ct
Miami, Fl. 33155

(p): 305.539.9092

Akerman LLP
Augusto Maxwell, Attorney
augusto.maxwell@akerman.com

One Southeast Third Ave
Miami, Fl 33131

(p): 305.755.5827
(m): 305.632.5823
(f): 305.349.4691

American Testing Materials (ATM) Engineering, LLC
Waseem Quadri, Owner/Estimator
waseem@atmeng.com

1950 West 84th Street
Hialeah, Fl 33014

(p): 305-646-1888
(f): 305-646-1887

AMEX
No contact

AMTV, LLC DBA +TOM
Aline Tom, Creative Director | Owner
aline@tomtom.rocks

161 W 10 Street , Suite 3D
New York, NY 10014

(p): 305.215.2130

Bellin Pratt & Fuentes Architects LLC
Marshall Robert Bellin, Architect
marshall@bpfarchitects.com

285 Sevilla Avenue
Coral Gables, Florida 33134-6613

(p): 305-447-1927
(m): 305-274-6000
(f): 305-443-5986

Vendors

Biscayne Engineering Company
Albert Dettbarn
adettbarn@biscayneengineering.com

529 West Flagler Street
Miami, FL 33130

(p): 305-324-7671
(f): 305-324-0809

Camero & Associates, Inc.
Jorge Camero, President
jorge@cameroengineers.com

7400 SW 50th Terrace, Suite 204
Miami, FL 33155

(p): 305-665-7602
(m): 3057207602
(f): not entered - fax

City of Coral Gables
No contact

(p): 305-446-6800
(f): 305-460-5371

Decar Consultants
No contact

Doral Digital Reprographics
No contact

(p): 305-704-3194 OPT 2
(f): 786-264-6643

Eastern Engineering Group
Mario Morales, Engineer
mario@easterneg.com

3401 NW 82nd Ave., Suite 370
Doral, FL 33122

(p): 305 599 8133
(m): 786-259-5940
(f): 305 599 8076

Kabat Schertzer De La Torre & Taraboulos Company
No contact

(p): 305-670-3370
(f): 305-670-3390

Longitude Surveyors, LLC
Eduardo Suarez, President
esuarez@longitudedefl.com

7769 NW 48 Street, suite 375
Doral, FL 33166

(p): 305.463.0912
(m): 786.202.1753
(f): 305.513.5680

Luis Arevalo
No contact

(p): 305.442.4142
(f): 305.442.4377

Miami-Dade Water and Sewer Department
No contact

Vendors

MLL Design, Inc 5880 Collins Ave, # 1006 (p): 305.490.8510
Miriam Llorens
llorensmiriam@gmail.com Miami Beach, FLORIDA (FL) 33140

NV5, Inc 14486 Commerce Way (p): 305-901-2151
Alfredo Budik Miami Lakes, FL 33146 (f): 305.666.3069
Alfredo.budik@nv5.com

Reiner & Reiner, P.A. 9100 South Dadeland Blvd., Suite 901 (p): 305.670.8282
Samuel B. Reiner Miami, FL 33156 (f): 305.670.8989
SBR@reinerslaw.com

U.S South Engineering and Testing Lab Inc 14400 NW 77th Court Suite #201 (p): 305.558.2588
Rama Parast Miami Lakes, FL 33016 (m): 305.525.2910
rama@ussetl.com (f): 305.362.4669

US Engineering Consultants LLC (p): 305-206-2581
No contact

Division 02: SITEWORK

Living Water Irrigation & Lighting, Corp. 14407 NW 88 COURT , (p): 954-643-4490
Juan Quiroz MIAMI LAKES, FL 33018
livingwaterirr@gmail.com

Division 08: DOORS & WINDOWS

Another Garage & Gate Inc. 3771 NW 51 STREET (m): 786-362-4344
Richard Brieva MIAMI, FL 33142
anotherbrieva@gmail.com

Division 09: FINISHES

Interior Production Masters 770 W 56 Street (p): 786 424 2055
Efrain Gil, Estimating Hialeah, FL 33012
interiorproductionmasters@gmail.com

J. Jireh Interiors Inc. (p): 786-444-4508
No contact

Division 16: ELECTRICAL

AT&T

Jaime Lehman, Geo Manager
jl6584@att.com

9500 SW 180 St
Palmetto Bay, FL 33157

(p): 305 971 9103
(m): not entered
(f): 305 971 9083

Integrated Electrical Sevices of Dade
Frank Rodriguez, President
frodriguez@iesofdade.com

4921 SW 74th Ct.
Miami, Fl. 33155

(p): 786 260 3384

Others

Associated Photo Imaging
No contact

(p): 305-373-4774



T.A. Builders
Powered by RedTeam

VIEW TEAM

Viewed by: Project 5880001-701 Valencia Pre Construction

Date: 03/08/2021

Service Provider

No Service provider Members selected for this section

Customer

No Customer Members selected for this section

Third-Party

CC Interior Architecture

Maria Antonia Caicedo, President
antoniam@ccinteriorarchitecture.com

Bogota,

(p): 57 310 250 1650

Fipro Holdings, LLC

Mohamed Fikree
mohammedfikri@hotmail.com

201 Alhambra Circle, Suite 601
Coral Gables, FLORIDA 33134

Henry Paper

Henry Paper
henry.paper@yahoo.com

340 Minorca Ave, ste 9
Coral Gables, FL 33134

Mendez Professional Eng. Corp.

Jose Mendez, President
jose0118@aol.com

1385 Coral Way Suite # 203
Miami, Florida 33145

(p): 305-450-8238
(m): 305 450-8238
(f): 305-856-1797

Third-Party

Other

No Other Members selected for this section

Vendors

Division 01: GENERAL CONDITIONS

Akerman LLP
Augusto Maxwell, Attorney
augusto.maxwell@akerman.com

One Southeast Third Ave
Miami, FL 33131

(p): 305.755.5827
(m): 305.632.5823
(f): 305.349.4691

Alfredo J. Ravinet
No contact

(p): 305-206-2581
(f): 305-220-3198

Chofers.com, LLC
Gus Cifuentes
guscifuentes@live.com

4815 NW 79 Ave #6
Doral, FL 33166

(p): 305.820.7000

City of Coral Gables
No contact

(p): 305-446-6800
(f): 305-460-5371

Decar Consultants
No contact

Doral Digital Reprographics
Gian Carlo Annitto, President
JC@ddrepro.com

8280 NW 27th St. Suite#506
Doral, FL 33122

(p): 305-704-3194 OPT 2
(f): 786-264-6643

Vendors

General Post Tensioning & Engineering Services Inc (GPES) Miguel Collado, President/CEO mcollado@gpesinc.com	1800 NW 96th Avenue Doral, FL 33172	(p): 305.639.4755 (f): 305.639.4739
Guirola & Associates, P.A. David Guirola, President guiro5@aol.com	1150 N.W. 72nd Ave., Suite 451 Miami, FL 33126	(p): 305 513 9665 (f): 305 513 9680
JFS Design, Inc Jimmy Socash, Architect jimmy@jfsdesignfl.com	1833 NW 140 Terrace Pembroke Pines, FL 33028	(p): (954) 447-1852 (f): none
Longitude Surveyors, LLC Eduardo Suarez, President esuarez@longitudedefl.com	7769 NW 48 Street, suite 375 Doral, FL 33166	(p): 305.463.0912 (m): 786.202.1753 (f): 305.513.5680
Miami-Dade Water and Sewer Department No contact		
NV5, Inc Richard Fesdjian Richard.f@nv5.com	14486 Commerce Way Miami Lakes, FL 33146	(p): 305-901-1921 (f): 305.666.3069
NV5, Inc Alfredo Budik Alfredo.budik@nv5.com	14486 Commerce Way Miami Lakes, FL 33146	(p): 305-901-2151 (f): 305.666.3069
NV5, Inc Garfield Wray garfield.wray@nv5.com	14486 Commerce Way Miami Lakes, FL 33146	(p): 305.666.3563 (f): 305.666.3069
Sykes Printing Brian Piper files@sykesprinting.com	222 Andalusia Avenue Coral Gables, FL 33134	(p): 305 444-6505 (f): 305 567-9003
US Engineering Consultants LLC No contact		(p): 305-206-2581

Vendors

VTM Production
No contact

(p): 305-673-6733

Division 02: SITEWORK

**Miami-Dade Water and Sewer
Department**
No contact

Division 07: THERMAL & MOISTURE PROTECTION

Biscayne Construction Co. Inc.
Dave McCaffrey, Vice President Business
Development
DMcCaffrey@biscayneroofting.com

4700 SW 30th Street,
Ft. Lauderdale, FL 33134

(p): (888) 440-7663
(m): 954) 540-0676
(f): (877) 973-7663

Envirotech Roofing Group, Inc
Ernesto Sierra
sierraernesto@bellsouth.net

1372 SW 21 Terrace
Miami, FL 33175

(p): 305 207-4993
(m): 305-987-4412
(f): 305 207-4993

Triple M Roofing
Sam Lee
sam@triplemroofing.com

914 NW 19th Avenue
Ft. Lauderdale, FL 33311

(p): 954-524-7000
(f): (954) 524-0248

Others

ATM Engineering LLC
Waseem Quadri, Professional Engineer
waseem@atmeng.com

1950 West 84 Street
Hialeah, FL 33014

(p): 305-646-1888
(m): 786-777-8178

EXHIBIT D

PAGE 7
BOA MINUTES
 Agenda Date: 07/18/2019

SEQ	BOA #:	STA	OWNER	JOB LOCATION	PROJECT	ARCH/ENG	REMARKS
39 e	AB-19-06-4757	BOA COMPLETE (LESS THAN \$75,000)	SHIRLEY M MAROON TRS	3160 PONCE DE LEON BLVD	COMMERCIAL "NON-ILLUMINATED SIGN(1) "MARIJELL GALLERY" \$850		APPROVED BY C. MINDREAU
40 e	AB-19-06-5290	BOA COMPLETE (LESS THAN \$75,000)	ALFREDO S CARRANZA &W ROSA MAR	1119 OBISPO AVE	RESIDENTIAL "HISTORIC "ALUMINUM IMPACT WINDOW(3)/ DOOR(1) " WHITE FRAMES/ CLEAR GLASS \$22500		DEFERRED BY L. JAUREGUI, J. CARTY
41 e	AB-19-06-5312	BOA COMPLETE (LESS THAN \$75,000)	MERRICK PARK LLC	388 SAN LORENZO AVE	COMMERCIAL "FABRIC AMINING(2) RECOVER FOR "TILY PULITZER" COLOR: SUNBRELLA MANFIELD COLLECTION 4693 PINK (SIGNAGE UNDER SEPERATE PERMIT) \$8000		APPROVED BY C. MINDREAU
42 e	AB-19-06-5487	BOA COMPLETE (LESS THAN \$75,000)	MERRICK PARK LLC	388 SAN LORENZO AVE	COMMERCIAL "REPLAGE LOUVER OPENINGS \$12,500		APPROVED BY C. MINDREAU
43 e	AB-19-06-5668	BOA COMPLETE (LESS THAN \$75,000)	MARC S EPSTEIN	5910 TURIN ST	RESIDENTIAL " ALUMINUM FENCE ADDITION INBETWEEN ALREADY EXISTING CONCRETE COLUMNS \$15,000		APPROVED BY C. MINDREAU
44 e	AB-19-06-5827	BOA PRELIMINARY/MED BONUS/FINAL	BILTMORE DEVELOPMENT LLC	701 VALENCIA AVE	COMMERCIAL "PRELIMINARY "NEW 25 UNIT APARTMENT BUILDING 45,336 SQFT-H/W /TREES/ CD/ POSTED" TIME CERTAIN 11,00AM ** \$7,500,000		APPROVED PRELIMINARY BY FULL BOARD VOTE YAYE, J. RIESCO(1), P. KLIDJIAN(2), D. SAGKMAN, A. ALVAREZ, L. JAUREGUI, H. RODRIGUEZ, J. CARTY, NAYE: NONE
45 e	AB-19-06-5992	BOA COMPLETE (LESS THAN \$75,000)	ENRIQUE J COO &W JEAN	4011 ANDERSON RD	RESIDENTIAL "INSTALL 24" PAVERS AT SIDE AND BACKYARD W/ PEBBLE INFILL (WHITE) \$70,000		APPROVED AS NOTED BY C. MINDREAU

From: Ramos, Miriam <mramos@coralgables.com>
Sent: Tuesday, May 19, 2020 1:56 PM
To: Maxwell, Augusto (Ptnr-Mia) <augusto.maxwell@akerman.com>
Cc: Suarez, Cristina <csuarez@coralgables.com>
Subject: FW: 701 Valencia_BOA Final Review_Request for Med Bonus_04-30-2020 (002).docx

Gus,

The plans have been reviewed by the City Architect who concluded as follows: "Having carefully reviewed the architect's response to the requirements of the Zoning Code of Coral Gables, I can wholeheartedly agree that they comply with the regulations and that the result is a sophisticated design that is clearly grounded in classical design principles. I can give the Board a favorable staff recommendation and recommend approval for compliance with Mediterranean Design."

I have attached his email here. If you need anything additional, please let me know.

Sincerely,

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

Board Certified by the Florida Bar in City, County, and Local Government Law

City of Coral Gables

405 Biltmore Way, 2nd Floor

Coral Gables, FL 33134

(305)460-5084 direct dial



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Confidentiality: The information contained in this transmission may be legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be prohibited.

From: augusto.maxwell@akerman.com <augusto.maxwell@akerman.com>
Sent: Monday, May 4, 2020 2:31 PM
To: Ramos, Miriam <mramos@coralgables.com>
Subject: 701 Valencia_BOA Final Review_Request for Med Bonus_04-30-2020 (002).docx

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700+ Lawyers

25 Offices

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EXHIBIT E



The City of Coral Gables

Planning and Zoning Division

427 BILTMORE WAY, 2ND FLOOR
CORAL GABLES, FLORIDA 33134

May 2, 2017

T.A. Builders
ATTN: Luis Arevalo
1390 South Dixie Hwy, Suite 1105
Coral Gables, FL 33146

Re: Property Address: 701 Valencia Ave, Coral Gables, FL 33134
Folio No.: 03-4117-059-0010, 03-4117-008-1780 and 03-4117-008-1790; Plat Book 20, Page 28
Legal Description: Lots 23-28, Block 10, Coral Gables Biltmore Section

Dear Luis Arevalo:

In response to your request for zoning verification information in regard to the subject property above, after research and study of City records and the information that you provided, the following pertinent information has been determined:

1. Zoning District: MFSA; Multi-Family Special Area District (see Zoning Map Plate 6).
2. Future Land Use Classification: Residential Multi-Family High Density (see Future Land Use Map Plate 6).
3. Coral Gables Zoning Code permitted uses and performance standards can be found in Article 4, Section 4-104. Multi-Family Special Area (MFSA) District.
4. Subject property may qualify for Mediterranean Design Bonus; see Coral Gables Zoning Code Article 5, Section 5-604 and Section 5-605 for rules and regulations.
5. Site Specifics apply to the subject property, see Zoning Code Appendix A – Site Specific Zoning Regulations, Section A-12 – Biltmore Section for applicable regulations.
6. Permissible height is pursuant to City of Coral Gables Deputy City Attorney letter dated August 25, 2015, "RE: 701 Valencia Avenue - Zoning."

Please be advised that Zoning Code provisions have been adopted by the City Commission to implement the Comprehensive Plan and must be considered with all requirements, processes or regulations applicable to the development of a parcel in the City. Prior approvals and certain characteristics of the site or its vicinity may place further limits on the development potential, including density, intensity, lot coverage, setbacks, height and permitted uses. It is recommended that you consult qualified professionals should you require accurate information about the development potential of the parcel. **This letter does not constitute a development order, convey any development rights or describe the specific type, intensity or form of development that may be approved for the site.**

If you have any questions in regard to this matter please do not hesitate to contact the Development Services Department at (305) 460-5211.

Sincerely,

A handwritten signature in black ink that reads "Ramon Trias".

Ramon Trias, AIA AICP LEED AP
Director of Planning and Zoning

cc: Charles K. Wu, AICP CUD, CNU-A, Interim Development Services Director

Note: View the Coral Gables Zoning Map, Future Land Use Map, and Zoning Code at: www.coralgables.com.
Pursuant to Ordinance No. 2004-35, Section 6-128 a disclosure report may be obtained from the City of Coral Gables which provides additional information on the property.

This instrument is prepared by Annie Gamez, Esq.
(and after recording)
please return this instrument to:
City Attorney
405 Biltmore Way, Second Floor
Coral Gables, Florida 33134

Folio 03-4117-059-0010;
03-4117-008-1780;
03-4117-008-1790
Reserved for Recording

AMENDED AND RESTATED DISPUTE RESOLUTION AGREEMENT

This Amended and Restated Dispute Resolution Agreement (hereinafter the "Agreement") is made and entered into by and among the David William Hotel Condominium Association, Inc. and Jorge M. Guarch, Jr. ("Plaintiffs"), BILTMORE DEVELOPMENT, LLC ("Owner"), and the CITY OF CORAL GABLES, a Florida municipality ("City") (Plaintiffs, Owner and City are collectively referred to herein as the "Parties").

WITNESSETH

WHEREAS, the Owner owns certain real property located at 701 - 711 Valencia Avenue, identified by Miami-Dade County Property Tax Folio Identification Nos. 03-4117-059-0010, 03-4117-008-1780 and 03-4117-008-1790 and legally described as:

Lots 23, 24, 25, 26, 27, and 28, Block 10, of "CORAL GABLES BILTMORE SECTION", according to the Plat thereof, as recorded in Plat Book 20, at Page 28, of the Public Records of Miami-Dade County, Florida (the "Valencia Property"); and

WHEREAS, the David William Hotel Condominium Association, Inc. is the association for the condominium located at 700 Biltmore Way and Jorge M. Guarch, Jr. lives and resides at 700 Biltmore Way Unit 1201 (collectively, the "700 Biltmore Way Property");

WHEREAS, the Valencia Property is currently zoned as Multi-Family Special Area ("MFSA") District pursuant to the City of Coral Gables Zoning Map; and

WHEREAS, the City Attorney's Office has opined that the site specific regulations govern the permissible height that can be developed on the Valencia Property, such that the maximum height is 150 feet (see history of opinion at CAO 2017-13); and

WHEREAS, as reconfirmed in CAO 2017-13, Owner relied on an official Zoning Verification Letter issued by the City on March 23, 2007, in purchasing the Valencia

Property in 2015-16 (under the same zoning classifications as described in the Zoning Verification Letter) for an excess of \$2.5 million and thereafter engaged several professionals to design an 11-story, 124-foot high condominium project based on the opinion determining a maximum height of 150 feet; and

WHEREAS, the City of Coral Gables Board of Architects subsequently approved Owner's proposed design for the Valencia Property; and

WHEREAS, a dispute arose between the City and Plaintiffs regarding development approvals related to Owner's proposed project on the Valencia Property; and

WHEREAS, Plaintiffs filed a lawsuit against the City styled David William Hotel Condominium Association and Jorge M. Guarch, Jr. v. City of Coral Gables, Case No. 2018-26167 CA 34 for a writ of mandamus, or in the alternative, for declaratory judgment and injunctive relief (the "Litigation"); and

WHEREAS, the City denied all of the allegations and claims made against it by Plaintiffs, but nonetheless, Plaintiffs and the City desire to amicably resolve the Litigation to avoid the uncertainties and expense of further litigation; and

WHEREAS, pursuant to discussions with Plaintiffs and the City, Owner agreed to redesign the proposed project to reduce the height of the building, however, Owner alleged and continues to maintain that reducing the project's height would disproportionately and inordinately burden the Owner's property rights in violation of Section 14-214¹ of the City of Coral Gables Zoning Code and the Bert J. Harris Act as codified in Section 70.001 of the Florida Statutes; and

WHEREAS, Article 14², Section 14-214 of the City of Coral Gables Zoning Code ("Section 14-214") entitled, "Protection of Landowners' Rights; Relief from Inordinate Burdens," is intended to protect landowners' rights and provide relief from inordinate burdens; and

WHEREAS, pursuant to Section 14-214.2(B) of the City of Coral Gables Zoning Code, City Staff initiated this procedure to settle this pending Litigation; and

WHEREAS, pursuant to Section 14-214.1 of the City of Coral Gables Zoning Code, the City may grant relief pursuant to this section when it is demonstrated that the applicant for said relief has been unfairly, disproportionately, or inordinately burdened by a final order of the City; and

WHEREAS, pursuant to Section 14-214.1(A) of the City of Coral Gables Zoning Code, if the City demonstrates that a settlement would avoid, mitigate, or remedy an unfair,

¹ Previously Division 17 of the City of Coral Gables Zoning Code.

² Previously Article 3 of the City of Coral Gables Zoning Code.

disproportionate, or inordinate burden to a property owner, the City Commission may grant appropriate relief; and

WHEREAS, pursuant to Section 14-214.3(B) of the City of Coral Gables Zoning Code, the decision to grant such relief rests in the sound discretion of the City Commission in the exercise of its inherent sovereign powers to settle legitimate disputes; and

WHEREAS, pursuant to Section 14-214.3(B) of the City of Coral Gables Zoning Code, the City's policy is to fashion a proposal for resolving a dispute based on a considered balance of the following factors: (1) the degree of burden suffered by the applicant or property owners; (2) the nature and significance of the public interest that is served by the application of the regulation to the property; and (3) the likelihood of litigation, and its likely cost, the City's potential exposure, the uncertainty of the outcome, the timetable for resolving disputes, and whether there is a perceived need for a judicial determination of the issues raised by the application; and

WHEREAS, pursuant to Section 14-214.3(B) of the City of Coral Gables Zoning Code, all relief granted pursuant to Section 14-214 is conditioned upon the execution of a release of all claims that may arise from or relate to the application of the land development regulations that allegedly created the unfair, disproportionate or inordinate burden; and

WHEREAS, the Bert J. Harris, Jr. Private Property Protection Act (the "Bert J. Harris Act") as codified in Section 70.001 of the Florida Statutes defines the term "inordinately burden" to include the use of real property such that the property owner is unable to obtain reasonable, investment-backed expectations for the use of the subject property; and

WHEREAS, Owner agreed, as part of the settlement, to reduce the height of the building so that it will not exceed seventy-five (75) feet with a limitation of 10 feet for the enclosed architectural feature, in exchange for an increase in the floor area ratio ("FAR") from what is currently allowed, 2.0, to 2.7; and

WHEREAS, the City Commission found sufficient evidence in the record to justify a settlement pursuant to Section 14-214 of the City of Coral Gables Zoning Code and the Bert J. Harris Act as codified in Section 70.001 of the Florida Statutes; and

WHEREAS, pursuant to Section 14-214 of the City of Coral Gables Zoning Code and the Bert J. Harris Act as codified in Section 70.001 of the Florida Statutes, the Parties entered into a prior dispute resolution agreement to settle the Litigation (the "Original Agreement"); and

WHEREAS, on March 12, 2019 the City Commission reviewed and approved the Original Agreement (attached hereto as Exhibit A), after public hearing, and on March 26, 2019, the City Commission ratified the Original Agreement, pursuant to Section 14-214.5 of the

City of Coral Gables Zoning Code, which was then recorded on April 3, 2019 at Official Records Book 31388, Page 4108 of the Miami-Dade County Public Records; and

WHEREAS, upon approval of the Original Agreement, Owner filed with the City a permit application to build a structure that is less than seventy-five (75) feet in height and with an FAR that is lower than 2.7, consisting of 25 residential dwelling units; and

WHEREAS, Owner relied on various City Staff written confirmations that the Coral Gables Mediterranean Style residential density bonus of an additional fifteen (15) units was available for a total of seventy-five (75) units per acre in the MFSA (see history of City Staff communications) in accepting the Original Agreement and hiring professionals to prepare revised plans; and

WHEREAS, the City Attorney and current City Staff determined that prior City interpretations were incorrect and that the applicable residential density was only sixty (60) units per acre, such that the Valencia Property could only have 23 units and not the 25 units proposed by Owner; and

WHEREAS, the loss of these two (2) dwelling units would significantly diminish Owner's reasonable anticipated benefits and investment-backed expectations in pursuing this investment and the Valencia Property, thereby constituting an additional claim for relief by Owner under the Bert J. Harris Act, and the City Commission determines that Owner has a good faith belief in such claims; and

WHEREAS, the Parties collectively desire and deem it in their best interests to amend and restate the Original Agreement in its entirety on the terms and conditions set forth in this Agreement, in order to better reflect the history and nature of Owner's investment in the Valencia Property, the external conditions surrounding the Original Agreement, and the settlement of the Litigation, and this Agreement shall supersede and replace the Original Agreement upon becoming effective as set forth herein; and

WHEREAS, on February 24, 2021 the City Commission reviewed and approved this Agreement in substantial form, after public hearing, pursuant to Section 14-214.5 of the City of Coral Gables Zoning Code; and

WHEREAS, Owner and the City have reached an agreement as to this additional dispute and they desire to fully and finally resolve any and all claims against each other and their respective agents, employees, officers, elected and appointed officials, independent contractors, and representatives concerning, relating to, or in any way arising out of their dispute, and entered into this Agreement to completely settle and dispose of all claims or disputes of whatever kind or nature, including, but not limited to, the Bert J. Harris Act claim, any takings or property rights claim, any petitions for certiorari, or any other matter regarding the subject matter of this Agreement whether actually asserted by Owner, or as may have been asserted, whether known or unknown, against the City; and

WHEREAS, this Agreement between the Parties shall fully resolve all of Owner's claims pursuant to Section 14-214 of the City of Coral Gables Zoning Code and the Bert J. Harris Act as codified in Section 70.001 of the Florida Statutes, which were, or could have been noticed, plead, or initiated, and any other matters described and/or defined herein.

WHEREAS, this Agreement between the Parties shall fully resolve all of Plaintiffs' claims against the City arising out of or relating to the Litigation, Plaintiffs and City have agreed to fully and irrevocably settle all claims and disputes between them arising out of or relating to the Litigation in accordance with the terms and conditions set forth herein, in reliance upon the promises, representations, acknowledgments, agreements and warranties of the Parties contained herein and for other consideration.

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is agreed between the Parties as follows:

1. The foregoing recitals are true and correct and incorporated herein as if fully set forth.
2. The Parties and all signatories hereto represent and warrant that they have full authorization and legal authority to establish the legally binding rights, obligations, and duties as expressed herein or contemplated hereby.
3. Owner hereby agrees that the maximum height of any development on the Valencia Property shall be no greater than seventy-five (75) feet exclusive of architectural features set forth in City Zoning Code Section 5-201(B)(1).
4. Owner agrees that the additional rooftop architectural features permitted by the City Zoning Code Section 5-201(B)(1) shall not be greater in height than 10 feet. This limitation shall not apply to the elevator shaft and associated equipment.
5. Owner agrees that the rooftop architectural feature shall be limited to an enclosed cabana which shall be no more than 2,500 square feet. This enclosure shall not count as part of the building's FAR.
6. The City, hereby agrees, pursuant to Section 14-214.3(A)(2) of the City of Coral Gables Zoning Code, that Owner is entitled to develop the Valencia Property with an FAR of up to 2.7 and a maximum residential density of 65 units per acre, consisting of 25 residential dwelling units.
7. Owner shall not request or apply for any bonuses for height, setbacks, or stepbacks pursuant to City Zoning Code Section 5-201 or any other applicable section of the City Zoning Code.

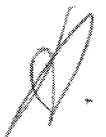


8. Owner agrees that any proposed development on the Valencia Property shall be subject to all reviews, including review by the Development Review Committee, Board of Architects, and all other applicable reviews. Plaintiffs reserve all rights otherwise afforded to them to participate in the review process for the revised project on the Valencia Property as set forth herein. The City recognizes that the Owner has experienced delays and will use its best efforts to expedite all such applicable reviews.
9. This Agreement settles and resolves all disputes, disagreements, claims, and conflicts between the Parties arising out of or relating to the Litigation. Plaintiffs, collectively and individually, and their respective successors and assigns, administrators, executors, heirs, affiliates, parent, related entities and any persons or business entities they represent or acting by and through them do hereby completely, unconditionally and irrevocably remise, release, discharge, satisfy and forever acquit City, and its respective employees, officers, directors, managers, agents, trustees, fiduciaries, representatives, insurers, guarantors, indemnitors, attorneys, and administrators, of and from any and all actions, causes of action, claims, suits and debts, sums of money, accounts, bonds, bills, covenants, contracts, breaches of fiduciary duty, fraud, tortious interference, breach of duty of good faith, settlements, promises, variances, damages, judgments, executions and demands, whatsoever, in law or in equity, whether known or unknown, suspected or unsuspected which any of the parties, or any one or more of them, ever has, had or now has or which they or any personal representative, successor, heir or assign thereof hereafter can, shall or may have, arising out of any event, action, viable contract, settlement, matter, omission or thing connected with or derived from the Litigation, which has occurred as of the date of this Agreement, or previously existed. Notwithstanding anything contained in this Agreement to the contrary, none of the Parties are released from their obligations under this Agreement. Upon the City's approval and execution of this Agreement and expiration of applicable appeal periods, Plaintiffs shall dismiss the Litigation with prejudice.
10. The Parties understand and agree that no Party admits liability of any sort by reason of the above incidents, acts, casualties, actions, events, representations, omissions, conduct, or interpretation.
11. As required by Section 14-214.3(E) of the Coral Gables Zoning Code, the Owner hereby releases the City of Coral Gables, including its agents, employees, officers, elected and appointed officials, independent contractors, and representatives for any claims concerning, relating to, or in any way arising out of their dispute, including, but not limited to, the Bert J. Harris Act claim, any takings or property rights claim, any petition for certiorari, or any matter regarding the subject matter of this Agreement, whether actually asserted by Owner, or as may have been asserted, and whether known or unknown.



12. The Parties warrant and represent that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demand, obligations, or causes of action referred to in this Agreement. Further, the Parties recognize that this matter is solely unique to the circumstances arising from any potential claims pursuant to the Bert J, Harris Act and/or Section 14-214 of the City of Coral Gables Zoning Code, and Owners may not assign, transfer, convey, or otherwise dispose of their obligations under this Agreement.
13. The Parties declare and represent that they were not induced to enter into this Agreement by any representations respecting the nature and extent of any damages, legal liability, or financial responsibility made by any Party or their representatives.
14. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
15. The Parties acknowledge that this Agreement constitutes the entire Agreement entered into by the Parties. The Parties further acknowledge that they have read it and understand it; that the terms and conditions of this Agreement were arrived at in arm's-length negotiations between the Parties with all Parties provided the opportunity to seek the advice of legal counsel; that each Party's legal counsel did or could have reviewed this Agreement; and that each of the Parties have given due and full consideration to the legal position of the other in regard to the provisions contained herein.
16. This Agreement sets forth the entire Agreement and understanding among the Parties relating in any way to the subject matter contained herein and merges all prior discussions between the Owner and the City. This Agreement may be amended or modified by written instrument signed by both Parties.
17. As established in Section 14-214.6 of the Coral Gables Zoning Code, this Agreement shall not become effective until the Agreement is executed by the City Manager, ratified by the City Commission, and executed by an authorized representative of the Owner.
18. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if delivered by hand, sent by a recognized courier (such as FedEx) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope and addressed as follows:

If to the City: City Mayor
 Office of the Mayor
 405 Biltmore Way, Second Floor



Coral Gables, Florida 33134

With Copies to: City Manager
405 Biltmore Way, First Floor
Coral Gables, Florida 33134

If to the Owner: Biltmore Development, LLC
9100 S. Dadeland Boulevard, Suite 901
Miami, Florida 33156

With Copies to: Augusto Maxwell, Esq.
Akerman LLP
98 Southeast Seventh Street, Suite 1100
Miami, Florida 33131

If to the Plaintiffs: The David William Hotel Condominium Association, Inc.
700 Biltmore Way
Coral Gables, Florida 33134

With Copies to: Amanda Quirke Hand, Esq.
AQH Law
1395 Brickell Avenue, Suite 800
Miami, Florida 33131

19. This Agreement shall be construed, enforced, and interpreted in accordance with the laws of the State of Florida. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if crafted jointly by each of the Parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of the Agreement. The Parties jointly conclude that, should this Agreement be challenged by any of the Parties, venue to bring such challenges shall be proper in Miami-Dade County, Florida.
20. The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the Parties intends to directly or substantially benefit a third party by this Agreement. The Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement. Nothing herein shall be construed as consent by either of the Parties to be sued by third parties in any manner arising out of this Agreement, or other obligations, whether known or unknown to the Parties.

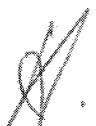


21. For breach of any provision of this Agreement, the Parties shall provide notice, a reasonable time to cure, and will have such remedies and rights as are available at law or in equity.
22. The waiver by any Party of a breach of any provision of this Agreement by any other Party shall not operate or be interpreted as a waiver of any later breach of that provision or any other provision.
23. The Parties agree that if any provision of this Agreement is held to be invalid, illegal or unenforceable, either legislatively or judicially, that provision will be severed from the Agreement and the remainder of this Agreement shall not be effected thereby and will continue to be valid and enforceable to the fullest extent permitted by law, unless such determination of invalidity shall deprive any party of the substantial benefit of this bargain.
24. The term Owner shall include the Owner, its heirs, successors, and assigns. The term Plaintiffs shall include the Plaintiffs, their successors and assigns.
25. **Covenant Running with the Land.** This Agreement shall constitute a covenant running with the Valencia Property and shall be recorded, by the Owner and at Owner's expense, in the Public Records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the Owner, and its successors and assigns until such time as the Agreement is terminated, modified or released.
26. **Term of Covenant.** The provisions of this Agreement shall become effective upon its recordation in the Public Records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, and shall be automatically renewed for successive 10 year periods unless Owner gives written notice of the non-renewal within 30 days of the expiration of the Agreement.
27. **Modification, Amendment, Release.** This Agreement may be modified, amended or released solely by the City, after a public hearing before the City Commission. Owner agrees that in addition to any required notice provided by the City, notice of any public hearing to modify, amend, or release this Agreement shall be mailed by Owner at least 10 days prior to the public hearing to Plaintiffs.

WHEREFORE, on the effective date as established in paragraph 17 and Section 14-214.6 of the Zoning Code, the Parties and signatories hereto acknowledge this Agreement and represent and warrant their authority to enter into this Agreement and do so jointly and severally for all purposes specified.



[Signature pages to follow]

A handwritten signature or mark, possibly initials, located in the bottom right corner of the page.

The City's execution of this Dispute Resolution Agreement is subject to Ratification by the City Commission pursuant to Section 14-214.5(D) of the City of Coral Gables Zoning Code.

CITY

ATTEST:

CITY OF CORAL GABLES

By: _____
Billy Y. Urquia
City Clerk

By: _____
Peter J. Iglesias, P.E.
City Manager

Dated ____ day of _____, 2021

Approved as to form and legal sufficiency:

By: _____
Miriam Soler Ramos
City Attorney

WITNESSES

Jorge M. Guarch

[Signature]
Signature
BRAD WILLIAMS
Print Name

[Signature]

STATE OF FLORIDA)
 MOADROE) ss:
COUNTY OF ~~MIAMI-DADE~~

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 28 day of February, 2021, by Jorge M. Guarch, who is personally known to me or who has produced _____ as identification.

[NOTARIAL SEAL]



V'Ann B. Kostick
Comm. #HH035544
Expires: Sept. 21, 2024
Bonded Thru Aaron Notary

V'Ann B. Kostick
Print Name: V'Ann B. Kostick
Notary Public, State of Florida
Commission #: HH035544
My Commission Expires: 9/21/24

EXHIBIT A
Original Agreement

See attached.

A handwritten signature in black ink, consisting of a stylized, cursive letter 'A' followed by a small horizontal dash.