



MIAMIBEACH

OFFICE OF THE CITY MANAGER
NO. ~~089~~-2006

LETTER TO COMMISSION

TO: Mayor David Dermer and Members of the City Commission

FROM: City Manager Jorge M. Gonzalez

DATE: April 3, 2006

SUBJECT: 900 Collins Avenue – Avery Smith/Coral Rock House
Demolition Status Report

This LTC provides the status of the matter since the Miami-Dade County Unsafe Structures Board (USB) on February 16, 2005 found that there was no feasible alternative to demolition, and ordered that the Avery Smith/Coral Rock House at 900 Collins Avenue be demolished within sixty (60) days of the issuance of a demolition permit.

The City appealed this decision of the USB to the Appellate Division of the Circuit Court, and obtained a stay of the demolition order. Oral argument was held on July 6, 2005, and the Court issued its decision on October 4, 2005. The USB had refused to include within its order of February 16th the grace period requested by the City's Historic Preservation Board, and if so requested required by the Miami-Dade County Code, that the property owner be provided with no less than 120 days within which to obtain a permit to repair the premises, and no less than 180 days to complete the repairs. The Court agreed that the grace period once requested by an historic preservation board, was required, and therefore vacated the USB's decision and remanded the matter back to the USB.

On May 3, 2005, the City's Historic Preservation Board heard an application presented by the property owner for a Certificate of Appropriateness to restore the Coral Rock House, and a Certificate of Appropriateness for Demolition of portions of the House, the entire garage structure on the property, and portions of the adjoining structure to the west located at 209 9th Street, also owned by the same property owner and located on the same lot. (HPB File No. 2887).

The Coral Rock Structure survived three hurricanes during the 2005 hurricane season, but suffered further roof damage/collapse, as evidenced by visual examination from nearby structures. Doug Wood, the structural engineer who had worked on behalf of the City preparing structural plans for the shoring, bracing and restoration of the House, worked with the Building Department throughout the Spring and resolved all of the Department's comments on his plans, except for the two tests that needed to be performed on the property, specifically, the soil test (to test the ability of the soils on site to withstand loads necessary for shoring and bracing), and a load test (to test the ability of the coral rock within the structure to also withstand anticipated structural stress during shoring, bracing and restoration). The property owner never gave his permission for any City representative or Doug Wood or other City consultant to come on to the property to perform these tests, and to our knowledge has not performed these tests themselves. The tests are the last remaining pieces to the design and approval of plans for shoring, bracing and restoration.

The Acting Building Official, Hamid Dolikhani, met with a structural engineer who had been involved with the restoration of the Pentagon after "9/11". This engineer provided alternative conceptual plans for the shoring and bracing of the House, which the engineer stated were significantly less expensive than the ones prepared previously for the City. The City was in the process of hiring this engineer when the property owner hired him instead. While the engineer was supposed to prepare more definitive plans for shoring, bracing and restoration of the House before the USB hearing, they have not been presented to the City as yet for review.

On Wednesday, November 16, 2005, the Miami-Dade County USB met to consider amending its order of February 16, 2005, as required by Court Order. The USB took testimony, deliberated, and amended its order in accordance with the Court Order, adding 120 days to obtain a permit, and 180 days to perform work under the permit for shoring, bracing and repairing the structure. If no permit is obtained within the 120 day period, the structure is to be demolished, either by the Building Official, or by the property owner. During the hearing, members of the USB were sharply critical of the City's not stepping forward to contribute financially to the restoration of the property, and its delay in hiring an engineer who could prepare plans that were less costly than the plans previously presented, upon which the determination that no feasible alternative to demolition existed and demolition was warranted. The USB retains jurisdiction to extend the 120/180 day periods.

On December 5, 2005, the Planning Director formally requested permission from the property owner to inspect the property under the Minimum Maintenance Standards/Demolition by Neglect section of the City Code, to determine whether the necessary shoring and bracing plans, and ultimately a more comprehensive repair and restoration plan, consistent with the Certificate of Appropriateness issued by the Historic Preservation Board on May 3, 2005 can be implemented. Through their attorney, on December 14, 2005 the property owner denied the request.

On January 25, 2006, the City Attorney, on behalf of the Administration, filed suit in Circuit Court to compel the property owner to allow an inspection, for the Court to retain jurisdiction to oversee the City's administration of the Minimum Maintenance Standards/Demolition by Neglect Ordinance, and if the inspection results in engineering analyses that indicate the property could be repaired, to require the owner to stabilize, shore, repair and restore the existing coral rock structure. The City has moved for a temporary injunction, and that hearing is scheduled to be held shortly. Discovery is underway.

On March 16, 2006, the Miami-Dade County Board of Rules and Appeals (BORA) heard a request for interpretation by the Miami Beach Building Official regarding his administrative duties and responsibilities under Chapter 8 of the Miami-Dade County Code as to his specific obligations in enforcing the Unsafe Structures Board order. The BORA concluded that the Building Official has an obligation to proceed with demolition within a reasonable time, but also that local ordinances, including the requirement of the City Code to obtain a certificate of appropriateness for demolition, must be observed. Following the City's rejection of the property owner's application for a demolition permit because it was not accompanied by the required certificate of appropriateness, on March 17, 2006 the property owner sued the City for the Court to issue a writ of mandamus directing the Building Official to issue a demolition permit without the certificate of appropriateness, arguing that an exemption applied. The Building Official had determined that the exemption from obtaining the certificate did not apply. The City's response to the Complaint is due in April.

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The Administration will further update the Commission on this matter as it progresses and as more information regarding the intentions of the property owner becomes available. If you have any questions relative to this property, or need additional information, please contact me.

JMG: ~~WJ~~JGG:TRM
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c: Murray Dubbin, City Attorney
Gary Held, First Assistant City Attorney
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