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Gregg H. Glickstein, Esquire

March 23, 2018

Mayor Gail L. Coniglio, Town of Palm Beach
c/o Kirk Blouin, Town Manager and
Jay Boodheshwar, Deputy Town Manager (via email)
360 S. County Road
Palm Beach, FL 33480

Re: Palm House Receiver's Fourth Request for Extension of Abatement Period for Conditional Abatement of Daily Non-completion Fee for the Palm House Project

Dear Mayor Coniglio and Town Council Members:

Cary Glickstein, as Receiver for the Palm House Property/Project located at 160 Royal Palm Way, respectfully requests the opportunity to show the Council that good cause exists for extending the Town's 120-day abatement period for the conditional abatement of the \$2,000 per day daily fee, originally effective as of December 14, 2016, that was most recently extended by the Council on December 12, 2017 for an additional 120-day period.

As stated in the attached letter from John (Skip) Randolph for the Town, dated January 20, 2017:

On the Receiver's request, a motion was initially made at the Town Council meeting in November 2016 and modified by the Town on December 14, 2016, to reflect the Town's decision to abate the \$2,000 per day daily fee otherwise accruing in accordance with Mr. Page's letter, effective December 14, 2016, contingent upon the utilization of the Funds, as described in the Agreed Order and consistent with the Receivership Order. In the event, however, the Funds are used in a manner inconsistent with the Receivership Order, the abatement shall end; the entire abated amount of daily fees retroactive to December 14, 2016 shall be reinstated; and, daily fees of \$2,000 per day for each day that a violation exists shall continue to accrue in accordance with Mr. Page's letter of February 22, 2013. Subject to the conditions imposed by the Town for abatement of the daily fees, the abatement shall remain in effect for a period of 120 days subject to an extension, for good cause shown, on motion made and approved by the Town Council before the abatement period expires.

As further stated in the attached letter from John Page for the Town, dated April 18, 2017:

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The Town Council, at its April 12, 2017 meeting, heard a presentation from Palm House Receiver Cary Glickstein, relative to a request for extension of the conditional fine abatement previously approved on December 14, 2016. At said December meeting the Council temporarily suspended tolling of a \$2,000 daily fine resulting from failure to complete the Palm House project in accordance with previously approved Agreements. The suspension was conditional with a provision for retroactive application of the daily fine if funds were used inconsistently with the receivership order.

Following presentation from Cary Glickstein on April 12, the Town Council approved a "second" 120-day extension of daily fine abatement subject to all of the identical provisions as were imposed on December 14, 2016.

On December 12, 2017, the Receiver appeared before the Town Council in support of the Receiver's November 17, 2017 written request for a second extension of the abatement period set forth in Mr. Randolph's letter, which was unanimously approved by the Council.

Before addressing the Receiver's request for a fourth extension of the abatement period set forth in Mr. Randolph's letter, the Receiver confirms to the Council adherence to the conditions imposed by the Council for the abatement granted as of December 14, 2016.

The initial impetus for the Receiver's efforts to pursue a conditional abatement in October 2016 was the Receiver's anticipated receipt of funds described in that certain Agreed Order Granting Plaintiff's Motion for Appointment of Receiver to Take Custody of Funds in the Federal Court's Registry, dated September 22, 2016, in *Palm House Hotel, LLLP v. Robert Matthews, et al.*, Case No.: 502015CA014480XXXXMB AB, pending in the Circuit Court of Palm Beach County, Florida (the "Agreed Order"). This action is a separate but related action from *Ryan Black v. Gerry Matthews and Palm House, LLC*, Case No.: 502014CA014846XXXXMB AG (the "Receivership Action") in which Cary Glickstein was appointed as receiver for the Palm House Project/Property in July 2015 based on an amended agreed order appointing receiver (the "Receivership Order").

Pursuant to the Agreed Order, proceeds from the private sale of the yacht known as the M/Y ALIBI (the 'Yacht') in the approximate amount of \$2,323,179.95 (the 'Funds') that were previously deposited into the Registry of the Federal Court in Case No. 9:15 CV-81606-KAM, United States District Court for the Southern District of Florida (the 'Federal Case') were delivered to the Receiver.

The Agreed Order appoints Cary Glickstein as Receiver for the Funds. Pursuant to paragraph 5 of the Agreed Order, the Receiver may apply to the Court for utilization of the funds for "reasonable purposes." Based on the Town Council meeting in September 2016, the Receiver intended to apply to the Court, pursuant to the Agreed Order, to utilize the funds to correct the "public safety issues" that were the subject of the Town Council Actions for that Town Council meeting.

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Based on the September 2016 Town Council meeting, the Receiver authorized the Town to inspect the Palm House site and identify public safety issues in need of correction. Mr. Randolph provided the Receiver with a report for that inspection, which is attached to the Receiver's Fourth Quarterly Receiver's Report filed in the Receivership action on October 17, 2016.

Thereafter discussion ensued between the Receiver, Tom Bradford and Eric Brown in an effort to better identify the scope of the work necessary to correct the public safety issues outlined in the Town's inspection report and the estimated cost to complete that corrective work. The Receiver's expressed his intent to incorporate that scope of work and cost information in a motion to the court seeking court permission to use the Funds to reimburse the Town for emergency work completed on its behalf in October 2016 and to pay for completion of the remaining necessary work. In November 2016 the Receiver sought a cost proposal from the Town for completing the balance of work directed to public safety issues/conditions but got no further than an estimate prepared by Hedrick Brothers for the Town for preparing an estimate for that work, as reflected in the a separate exhibit to the Receiver's quarterly report.

As was discussed at that time, the Funds represent a potential source of funding for payment of and/or reimbursement for the cost of the work necessary to correct the subject public safety issues. The Funds also represent a source of funding for the receivership for the non-incoming producing Property that the Receiver has, by and large, been without for the duration of the receivership since July 2015.

In an effort to secure the Funds for purposes of the receivership, the Receiver sought from the Council an abatement of the daily fee being assessed against the Palm House Property for an initial term, with possible extensions, conditioned on utilization of the Funds for purposes consistent with the Receivership Order, as it may be amended.

Consistent with the Receiver's objectives with regard to the Funds and the conditions imposed by the Council on the use of the Funds for abatement purposes, the Receiver has filed successive motions with the court to fund public safety remediation (Hedrick Brothers Construction Estimate) \$345,446.00, Town Code Enforcement Fines (CE 14-1091- \$19,150.00, CE 14-1212-\$ 169,400.00 (unpaid balance: \$16,400); real estate taxes for 2016 and 2017, electric and water utility services, property, windstorm and liability insurance premiums and ongoing property maintenance.

Following the Receiver's appearance before the Council in December 2017, and consistent with the Receiver's earlier motions to secure authority to market the Property for sale, the Receiver also secured funding authority to pay for a title commitment, phase 1 environmental report, property condition report, appraisal, updated survey, zoning opinion, and marketing expenses

The Receiver now has authority to professionally market the Palm House Property to prospective purchasers and a motion is currently pending to authorize the Receiver to enter into an exclusive listing agreement for the marketing of the Property by Holiday Fenogilo Fowler, L.P. d/b/a HFF.

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As the Council is aware, there are a number of obstacles to the sale of the Property, most of which are self-inflicted by its owner. Aside from the daily fee for project non-completion and code enforcement violations for nonconforming construction directly pertinent to the Town, there is a pending mortgage foreclosure action by the current owner's predecessor in interest, numerous judgments and lawsuits arising from non-payment for construction labor, services or supplies, and for misappropriation of loan proceeds provided by foreign investors seeking immigration into the United States through the EB-5 program. However, perhaps the biggest obstacle to completion of the Project as authorized by the Town, by a bona fide developer, has been the refusal of the property owner to authorize a sale of the Property.

As the Council is also probably aware federal criminal proceeding were initiated earlier this month against Gerry and Robert Matthews, Nicholas Laudano and Les Evans relating to the Palm House Project. The Receiver understands further federal prosecutions may be forthcoming. These federal criminal proceedings are dramatic and it is the Receiver's desire that these events will dislodge the impasse in sale authority for the Property and create an opportunity for a long overdue resolution of the Palm House Hotel saga.

In support of the renewed motion to the Council for abatement of the daily fee in December 2016, the Receiver pointed out that the abatement sought by the Receiver was based on the premise that attainment of the Receiver's objectives as stated in the Receivership Order (which have been reaffirmed and expanded in subsequent orders and as may be further expanded based on recent event) are aligned with the Town's interests for the Property/Project. The continuation of the abatements are critical to the Receiver's ability court prospective purchasers and the absence of the conditional abatement, together with all of the obstacles to a sale of the Property, may be an represent an insurmountable deterrent to a prospective purchaser's willingness to invest the time and money required to pursue the purchase of the Property and completion of the Project.

The Receiver believes that the conditional abatement the Council granted in December 2016 and extended in April 2017, August 2017 and December 2017 has been a deterrent to the motions seeking to use the funds for purposes that are not consistent with the objectives set forth the receivership orders will continue to be a deterrent so long as it remains in effect.

Furthermore and more importantly, the conditional abatement remains a compelling, persuasive argument for securing funds to pay to maintain the Property, prevent reoccurrence of unsafe and unsightly Project site conditions that initially confronted the Receiver and took over 18 months to satisfactorily correct, fully satisfy Town Code Enforcement fines and, more continue to expand the Receiver's authority further to a prospective sale of the Property to a qualified developer. The Receiver has consistently informed the court in his motions for funding authority and in the Receiver's quarterly receiver's reports that the abatement conferred by the Council is conditional,

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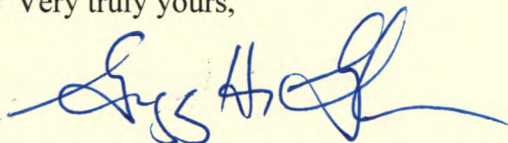
temporary and subject to expiration absent a sufficient showing to the Council of good cause for further extension.

The argument remains that abatement of the daily fine represents a loss of leverage in favor of the Town to compel completion of the Project. However, as reflected in the Receivership Order, completion of the Project is the primary objective of the receivership. The Receiver's view has been and continues to be that the conditional abatement of the daily fee is a better utilization of that leverage further to Town's objectives for which there is no prejudice to the Town if the conditions for abatement are not fulfilled.

Accordingly, the Receiver respectfully submits that the same reasons that supported the Town's conditional abatement in December 2016, its extension in April 2017, its extension in August 2017 and its extension in December 2017 remain in full force and effect at this time and those reasons constitute good cause for the Council's extension of the abatement period for an additional 120-day abatement period or for such other abatement period as the Council determines is warranted at this time.

Thank you for the opportunity to present this motion and for your consideration of its merits.

Very truly yours,



Gregg H. Glickstein
Counsel for Receiver, Cary Glickstein
Attachments

cc: John (Skip) Randolph, Esquire (via email)
Cary Glickstein, Receiver (via email)