

From: [Joshua Martin](#)
Cc: [Joshua Martin](#)
Subject: FW: Notice Pursuant to Florida Statutes 119.112 and Demand for Rehearing
Date: Tuesday, August 27, 2019 2:50:04 PM
Attachments: [image001.png](#)

Mayor and Town Council Members:

Good afternoon. I hope this email finds each of you well.

Just FYI regarding the upcoming September TC DR meeting agenda—this rehearing will be conducted during this meeting.

Thank you,
Josh

Josh Martin, AICP, CNU-A
Director

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From: Randolph, John C. <JRandolph@jonesfoster.com>
Sent: Tuesday, August 27, 2019 2:39 PM
To: Jeffrey C. Schneider <jcs@lklsg.com>
Cc: Amanda Quirke <AQuirke@Lehtinen-Schultz.com>; Jezabel Lima <jl@lklsg.com>; Mark Timothy Hanlon <tim.hanlon@amrl.com>; James J. McGuire <jmcguire@bartonesq.com>; Robert D. Critton Jr. <RCritton@lawclc.com>; Kathleen Dominguez <KDominguez@TownofPalmBeach.com>; Joshua Martin <jmartin@TownOfPalmBeach.com>
Subject: RE: Notice Pursuant to Florida Statutes 119.112 and Demand for Rehearing

Mr. Schneider,

In light of what you indicate, in your attached email of August 26th, is additional information you or Amanda did not have an opportunity to address on behalf of your client at the August 14th hearing regarding the appeal on the hitting wall, I have recommended, and it has been approved by Josh Martin, that your request for a rehearing on the hitting wall be granted. The rehearing has been scheduled to be heard at the Town Council meeting of September 11, 2019. The rehearing will be confined to presentations and arguments related to what you claim to be additional information that the Council did not have an opportunity to consider at its previous hearing.

If you and/or Mr. Hanlon wish to present written memoranda in regard to your respective positions on this matter, please file same with the Town Clerk no later than 5:00 p.m. on the Friday before the meeting, i.e., September 6, 2019.

Please do not hesitate to contact me if you have any comments or questions in regard to this matter.

Thank you.

John C. Randolph

Attorney
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From: Jeffrey C. Schneider <jcs@klsg.com>

Sent: Monday, August 26, 2019 10:33 AM

To: kdominguez@townofpalmbeach.com; Randolph, John C. <JRandolph@jonesfoster.com>

Cc: Amanda Quirke <AQuirke@Lehtinen-Schultz.com>; Jezabel Lima <jl@klsg.com>; Mark Timothy Hanlon <tim.hanlon@amrl.com>; James J. McGuire <jmcguire@bartonesq.com>; Robert D. Critton Jr. <RCritton@lawcl.com>

Subject: Notice Pursuant to Florida Statutes 119.112 and Demand for Rehearing

This Message originated outside your organization.

Dear Ms. Dominguez and Mr. Randolph:

I, along with Amanda Hand and Jezabel Lima, represent 100 Emerald Beach Way, LC.

On August 14, 2019, Town Council heard 100 Emerald Beach Way's appeal regarding an illegal hitting wall at 1236 South Ocean Boulevard. At that hearing, sworn representations were made by the Thorntons' counsel that there was no original application for a hitting wall and that the subject wall was never intended to be a hitting wall. These sworn representations were demonstrably false. Indeed, the attached correspondence – which was received by 100 Emerald Beachy Way on August

16, 2019 – demonstrates that Dustin Mizell submitted plans for “STAFF APPROVAL REQUEST” for a “hitting wall” at 1236 S Ocean Boulevard. John Lindgren specifically asked Mr. Mizell if this was for a “[t]ennis hitting wall?” Dustin Mizell responded unambiguously: “Correct.” When John Lindgren told Mr. Mizell that it would require a special exception, and cited the statute, Mr. Mizell responded as follows:

This is disappointing because when we left the meeting you shared that this could be staff approved. Can we call it a privacy wall and courtyard? If the child hits some balls against the wall and someone hears it and calls the Town, isn't this a code compliance issue then?

In other words, the Thorntons did, in fact, apply for a hitting wall. The wall was, in fact, intended to be used as a hitting wall. The Thorntons, in fact, built a hitting wall. But rather than obtain the necessary special exception, they just shamelessly called it a “privacy wall” and left it to code enforcement to bring an action after it was built when someone complained, knowing full well that when code enforcement asked to inspect the property, they would refuse.

We received the attached correspondence on August 16, 2019 in response to a Federal subpoena to Alley, Mass, Rogers and Lindsey. With the exception of AMRL-00125, this is the first time that we have seen any of these emails, but the attached emails are clearly within the scope of the numerous public records requests that have been made to the Town of Palm Beach, including the first request on January 10, 2019 for: “All documents and correspondence related to 1236 South Ocean Boulevard since May, 2017.” (PZB-23-2019) The correspondence between Dustin Mizell and John Lindgren even has “1236 S Ocean Boulevard” in the subject line of the emails and should have been produced.

Clearly, we have not received responsive records in response to the PZB-23-2019 request, which has already directly impacted the substantive and procedural due process rights of 100 Emerald Beach Way. Please accept this email as a renewed request and notice pursuant to Florida Statutes Section 119.12 that we intend to pursue this action in a court of competent jurisdiction and will seek attorneys’ fees and costs.

Because 100 Emerald Beach Way, LC did not have the attached evidence at the hearing on August 14, 2019, and because there may be more missing documents that disprove the sworn representations made by the Thorntons’ representative, 100 Emerald Beach Way, LC demands a rehearing on the hitting wall appeal for the next Town Council meeting. Please let me know the Town’s response to the request.

Thank you.

Jeffrey C. Schneider, PA
Partner



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