

From: [Wayne Bergman](#)
To: [Donald Lunny](#); [Kelly Churney](#); [Paul Castro](#); [James Murphy](#); [David Rivera](#)
Cc: [John Eubanks Jr](#); [John \(Skip\) C. Randolph](#); [Legal](#); [Town Attorney](#)
Subject: RE: E-mail to Town re Appeal Dismissal Simmons, Virginia/Zoning Matter - The Palm Hotel:
Date: Friday, January 7, 2022 10:57:35 AM

Thanks Don.

Kelly – this will be withdrawn at the start of the meeting next week. Please notice the Mayor and Town Council. Thanks.

Wayne Bergman, MCP, LEED® AP
Director

Town of Palm Beach
Planning, Zoning, Building
360 S. County Road
Palm Beach, FL 33480
Office: 561-227-6426
www.townofpalmbeach.com

From: Donald Lunny <Donald.Lunny@brinkleymorgan.com>
Sent: Friday, January 07, 2022 10:45 AM
To: Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: Re: E-mail to Town re Appeal Dismissal Simmons, Virginia/Zoning Matter - The Palm Hotel:

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Dear Mr. Bergman:
Please see below.

DONALD J. LUNNY, JR. | PARTNER
BRINKLEY MORGAN

100 SE Third Ave., 23rd Floor, Ft. Lauderdale, FL 33394
Main: 954.522.2200 | Fax: 954.522.9123
donald.lunny@brinkleymorgan.com

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From: Donald Lunny
Sent: Tuesday, December 14, 2021 7:53 PM
To: Randolph, John C. <JRandolph@jonesfoster.com>
Cc: Wayne Bergman <wbergman@townofpalmbeach.com>; Maura Ziska <MZiska@floridawills.com>; John Eubanks Jr <jeubanks@sniffenlaw.com>
Subject: Re: EX Re: Simmons, Virginia/Zoning Matter - The Palm Hotel:

Skip: I just landed in Phoenix. I am trying to get a message to the town given the last set of emails that the Simmons appeal of the ARCOM decision is hereby dismissed. When I return on December 20, I'll be happy to file a notice of dismissal if required.

My client thanks the Town for the courtesies extended.

Sent from my iPhone

On Dec 14, 2021, at 5:42 PM, Donald Lunny <Donald.Lunny@brinkleymorgan.com> wrote:

In phoenix. We dismiss if Town has approved opinions

Sent from my iPhone

On Dec 14, 2021, at 3:10 PM, Randolph, John C. <JRandolph@jonesfoster.com> wrote:

Thanks, Wayne.

From: Wayne Bergman <wbergman@TownOfPalmBeach.com>
Sent: Tuesday, December 14, 2021 4:53:52 PM
To: Maura Ziska <MZiska@floridawills.com>
Cc: Randolph, John C. <JRandolph@jonesfoster.com>; Donald Lunny <Donald.Lunny@brinkleymorgan.com>; John Eubanks Jr <jeubanks@sniffenlaw.com>
Subject: Re: Simmons, Virginia/Zoning Matter - The Palm Hotel:

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Paul is fine with this, let's get it wrapped up and done. Thanks.

Wayne Bergman
Sent from my iPhone

On Dec 14, 2021, at 4:29 PM, Maura Ziska <MZiska@floridawills.com> wrote:

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Don and John should you dismiss the appeal?

Maura A. Ziska, Esq.
Kochman & Ziska PLC
[222 Lakeview Avenue, Suite 1500](#)
[West Palm Beach, FL 33401](#)
[561-802-8960](tel:561-802-8960) (telephone)
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On Dec 14, 2021, at 4:19 PM, Randolph, John C.
<JRandolph@jonesfoster.com> wrote:

I am sure he will be fine with it.

From: Donald Lunny <Donald.Lunny@brinkleymorgan.com>
Sent: Tuesday, December 14, 2021 2:30:22 PM
To: John Eubanks Jr <jeubanks@sniffenlaw.com>
Cc: Randolph, John C. <JRandolph@jonesfoster.com>; Maura Ziska <MZiska@floridawills.com>; Wayne Bergman <wbergman@townofpalmbeach.com>
Subject: Re: Simmons, Virginia/Zoning Matter - The Palm Hotel:

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I have not.

Sent from my iPhone

On Dec 14, 2021, at 9:54 AM, John Eubanks Jr
<jeubanks@sniffenlaw.com> wrote:

Have we heard back from Paul Castro on this issue?

John R Eubanks, Jr.

SNIFFEN & SPELLMAN, P.A.

605 North Olive Avenue, 2nd Floor
West Palm Beach, Florida 33401
T (561) 721-4000 / F (561) 721-4001 / D (561) 721-4002
E-mail: jeubanks@sniffenlaw.com
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From: Donald Lunny
<Donald.Lunny@brinkleymorgan.com>
Sent: Friday, December 10, 2021 5:25 PM
To: Randolph, John C. <JRandolph@jonesfoster.com>
Cc: Maura Ziska <MZiska@floridawills.com>; John Eubanks Jr <jeubanks@sniffenlaw.com>; Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: RE: Simmons, Virginia/Zoning Matter - The Palm Hotel:

Does he need to additionally "sign off" before we can assume the opinions have been accepted and approved by the Town?

DONALD J. LUNNY, JR. | PARTNER
BRINKLEY MORGAN

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From: Randolph, John C.
<JRandolph@jonesfoster.com>
Sent: Friday, December 10, 2021 3:48 PM
To: Donald Lunny
<Donald.Lunny@brinkleymorgan.com>
Cc: Maura Ziska <MZiska@floridawills.com>; John Eubanks Jr <jeubanks@sniffenlaw.com>; Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: EX Re: Simmons, Virginia/Zoning Matter - The Palm Hotel:

I have reviewed and approved. Haven't heard from Paul Castro.

From: Donald Lunny
<Donald.Lunny@brinkleymorgan.com>
Sent: Wednesday, December 8, 2021 2:40:56 PM
To: Randolph, John C. <JRandolph@jonesfoster.com>
Cc: Maura Ziska <MZiska@floridawills.com>; John Eubanks Jr <jeubanks@sniffenlaw.com>; Wayne Bergman <wbergman@TownOfPalmBeach.com>
Subject: Simmons, Virginia/Zoning Matter - The Palm Hotel:

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Dear Skip:

You might remember that the Simmons Appeal of the ARCOM approval is to be dismissed once the Town receives and approves two "comfort opinions; the first of which opines that the Declaration of Use Agreement was duly authorized and executed by the Limited Liability Company (i.e. execution and delivery), and the second of which opines that as of the date the Declaration of Use Agreement was recorded, the same was executed by the record owner of the land affected, and that either there were no mortgage liens or all prior mortgagees have joined in and consented thereto.

Over the past few days, I have approved scans of the proposed Opinions and it is my understanding that they are in the process of being sent to you. I've attached scans of the documents I have approved.

Once you receive the originals of the Opinions, if they meet with your approval, please let me know, and I will send Mr. Bergman a confirmation that the Simmons Appeal has been dismissed. I'm assuming that e-mail advice will be sufficient for this purpose, but if the Town requires a more formal Notice of Dismissal, please let me know.

It is my understanding that Mr. Eubanks also needs the same confirmation that you have received and approved the originals so that he can dismiss his clients' pending, companion Appeal. Thus please also copy John with the same notice once you get the original opinions.

Thank you for your assistance in this regard. If you have any questions or comments, please let me know.

Don

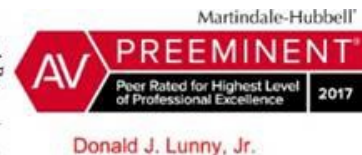
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