DEMOLITION ORDER APPEAL

2251 S Old Dixie Hwy LLC

January 13, 2025



Flagler County Code of Ordinances (pre-November 4, 2024)

Sec. 8-56. - International Property Maintenance Code.

The 2021 International Property Maintenance Code (IPMC), <u>as subsequently amended</u>, is hereby adopted, together with its Appendix A, Boarding Standard, and any such reference is hereby deemed to refer to the most current IPMC as amended and subsequently adopted by the county.



2021 International Property Maintenance Code

113.1 General.

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The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.



2021 International Property Maintenance Code

Where there is a premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy:

Scenario One: And the structure is unreasonable to repair

Only Option: Demolish and remove

Scenario Two: And the structure is capable of being made safe by repairs

- 1. <u>Repair and make safe and sanitary</u>, or
- 2. Board up and hold for future repair, or
- 3. Demolish and remove

Scenario Three: And there has been a cessation of normal construction of any structure for a period of more than two years

- 1. Demolish and remove or
- 2. Board up until future repair



2024 International Property Maintenance Code

111.1 General. INSIGHTS

When the code official determines any structure is so old, dilapidated or has become so out of repair and is dangerous, unsafe, insanitary and otherwise unfit for human habitation or occupancy the code official can order either of the following:

- The code official is permitted to authorize the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary. Where there has been a cessation of construction repairs of any structure for a period of more than 2 years the structure will be ordered demolished and removed.
- 2. The code official is permitted to order the owner or owner's authorized agent to demolish and remove any such structure.



Flagler County Code of Ordinances (post-November 4, 2024)

Section 8-104. – **General.** When the Chief Building Official determines any structure is so old, dilapidated or has become so out of repair and is dangerous, unsafe, unsanitary and otherwise unfit for human habitation or occupancy, the Chief Building Official can order either of the following:

- a. The Chief Building Official is permitted to authorize the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary. Where there has been a cessation of construction repairs of any structure for a period of more than 2 years, the structure will be ordered demolished and removed.
- b. The Chief Building Official is permitted to order the owner or owner's authorized agent to demolish and remove any such structure.



2024 International Property Maintenance Code and Flagler County Code of Ordinances (post-November 4, 2024)

Only scenario: When the code official determines any structure is so old, dilapidated or has become so out of repair and is dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy:

Option 1: Authorize the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary or

Option 2: Demolish and remove



NEW Demolition Order (August 26, 2024) (Exhibit 1)

ABATEMENT ORDER

The Flagler County Chief Building Official has determined after review that - in accordance with IPMC Section 109.9 and Section 111.1 - the structure is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary, and otherwise unfit for human habitation or occupancy, that the Chief Building Official hereby authorizes the owner or owner's authorized agent to make the structure safe by repairs in order to make the structure safe and sanitary.

CORRECTION ORDER: The structures located on the subject parcel and determined to be unsafe by the Chief Building Official are permitted to be restored to a safe condition. The owner or owner's authorized agent shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

The Chief Building Official, pursuant to authority provided in IPMC Section 109, hereby orders the owner or owner's authorized agent to abate or correct the unsafe conditions <u>according to the attached schedule</u>, which is made a material part hereof.

FAILURE TO COMPLY WITH ABATEMENT ORDER: If the owner of a premises or owner's authorized agent fails to comply with an abatement order within the time prescribed, the Chief Building Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate in accordance with IPMC Section 107.3.

Option 1

Option 2

Owner Lacks Authenticity and Demonstrated Ability to Refurbish Structure

- Owner originally executed agreement with deadlines that have long since passed
- Substitute timeline provided by architect in September 2021 with a Biketoberfest (October) 2022 opening date, identifying a roughly one-year timeline for completion
- Third timeline provided following first Special Magistrate hearing with an October 28, 2024 date for receiving all permits, allowing almost five months to do so
- Owner did not submit for building permits, and then only partial permits, until the end of December and beginning of January
- Building permit application filed before commercial site development permit application
- Property not currently being maintained



Original Agreement (Exhibit 2)

AGREEMENT

FLAGLER COUNTY (hereinafter referred to as "County") and 2251 S OLD DIXIE HWY LLC (hereinafter referred to as "Company") hereby agree on this <u>13^{**}</u> day of May, 2021, to the following terms and condition to an unit of repair the in Flagler County of S51 South Old Dixie specificanty described in Flagler County of the property, more specificanty described in Flagler County of the property in the property of the specific and the second seco

below, such that, in the County's sole determination, the public nuisance on the Property no longer exists.

A. On or before June 3, 2021, Company will:

- Remove all litter and debris from the Property;
- ii.) Drain or repair and secure the pool; and
- iii.) Erect a fence on the Property to prevent the access of trespassers to the dilapidated motel site.
- **B.** On or before August 20, 2021, Company will satisfactorily pass an "all rough" inspection to include specifically inspection of:
 - Electrical rough;
 - ii.) Mechanical rough;
 - iii.) Second rough plumbing; and
 - iii.) Framing.
- 4. A. In consideration of Company paying the taxes and fines and diligently pursuing and performing the remedial tasks, as described in Sections 2 and 3 above, the County will not schedule the Lawsuit for hearing or, if a hearing is set by the Court, the County will seek a continuance to allow Company time to make the necessary repairs and improvements.
 - B. If Company does not complete the remedial tasks outlined above prior to August 20, 2021, Company shall provide a cash deposit of \$250,000.00 to the Flagler County Clerk of Court as security for the abatement of the public health and Building Code violations which exist on the Property ("Cash Bond"). Upon satisfactory completion of the tasks outlined in Sections 2 or 3

Previously Provided Schedule (Exhibit 3)



5 Utility Drive - Suite 2D Palm Coast, FL 32137 Phone: 386-237-0328 Email: jim@albanodesignstudios.com CBC050078

The Henry Hotel Tentative Timeline of Construction

September 2021 through December 2021 - Architectural Design / Construction Documents

January 2022 - Apply for Phase I permits - Lobby Building / Swimming Pool and deck - Apply for Phase II permits - Hotel Room Refurbishment

February 2022 - Commence Construction on Phase I

April / May 2022 - Commence Construction on Phase II (30-week lead-time for Roofing)

September 2022 - Certificate of Occupancy - Phase I

October 2022 - Certificate of Occupancy - Phase II

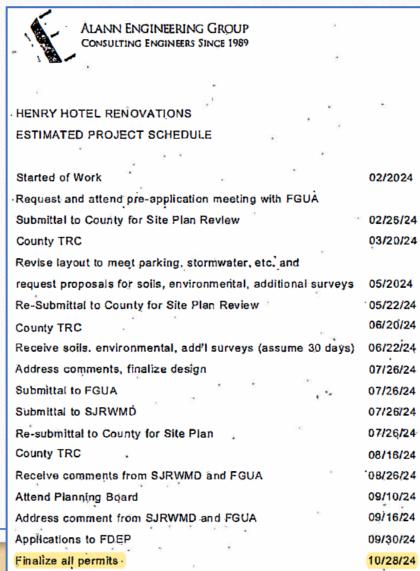
Biketoberfest 2022 - Tentative Grand Opening of all amenities

Note:

We will update the schedule as we proceed through the various stages of design and permitting. It is

our goal to fast-track this project based on the availability of construction materials and tradesman.

Demolition Order Schedule (Exhibit 4)



Permit Plan Reviews Summary Report (Exhibit 5)

| 🚷 Home Plan Re | views for Pe | rmit # 2 | 2025010 | 055 | Plan Review Report | i |
|--|--------------|----------|-----------|----------|--------------------|---|
| Review Department | Rev # Status | In Date | Out Date | Due By | Release User | - |
| BUILDING DEPARTMENT (386-313-4003) | REJECT | 1/7/2025 | 1/14/2025 | 2/5/2025 | | |
| CENTRAL PERMITTING (386-313-4003) | REJECT | 1/7/2025 | 1/7/2025 | 2/5/2025 | | |
| DEVELOPMENT ENGINEERING (386-313-4082) | REJECT | 1/8/2025 | 1/8/2025 | 2/6/2025 | | |
| ZONING (386-313-4009) | REJECT | 1/7/2025 | 1/8/2025 | 2/5/2025 | | |
| BUILDING DEPARTMENT (386-313-4003) | PENDING | | | | | |

April 2024 Financial Statement (Exhibit 6)

Costs Spent to Date

<u>The Henry extended stay</u>

| ltem | Cost | |
|--|------|-----------|
| nis contrctors | \$ | 50,000 |
| Architecture - Jim Albano | \$ | 100,000 |
| General Contractor - Tom Seaman | \$ | 70,000 |
| Roof | \$ | 578,000 |
| Demolitions | \$ | 367,450 |
| Foundation reinforcement | \$ | 50,000 |
| Signage | \$ | 5,000 |
| Fencing | \$ | 25,000 |
| nsurance | \$ | 97,000 |
| Engineering/MEP | \$ | 125,000 |
| Legal | \$ | 50,000 |
| Hotel Consulting | \$ | 15,000 |
| Design fee | \$ | 15,000 |
| Survey | \$ | 8,000 |
| Dumpsters | \$ | 110,000 |
| lot clearing | \$ | 70,000 |
| Construction Management | \$ | 15,000 |
| otal Out of Pocket | \$ | 1,750,450 |
| Land purchase inc expensess and interest | \$ | 940,000 |
| | \$ | 2,690,450 |

Network:Jan 13, 2025 at 2:08:17 PM EST /Local.Jan 13, 2025 at 2:08:17 PM EST N 29° 24' 14:496", W 81° 9' 36.931" Garoline St

Flagler County



Network:Jan 13, 2025 at 2:14:57 PM EST Local:Jan 13, 2025 at 2:14:57 PM EST N 29° 24' 16.782", W 81° 9' 36.768" 2251 S Old Dixie Hwy Flagler County

Owner Lacks Finances to Refurbish Structure

- Documentation provided at prior hearing was not executed by bank though assertion made that funding had been obtained
- Motion to Vacate and Dissolve Contempt Order filed asserting owner's inability to furnish either \$250,000 cash bond or \$1,000 per day fine
- Court required financial statements showing assets and liabilities; document filed only provides past liabilities and no assets
- Only disclosed existence of checking account with \$109.07
- Costs to date reported as \$8,200,450 and loan documents only disclose \$2,400,000 in funding; total funding in hand appears to be \$300,000



Defendant's Motion to Vacate (Exhibit 7)

Filing # 210963888 E-Filed 11/14/2024 03:25:35 PM

FLAGLER COUNTY,

Plaintiff,

V.

AJMAL M. ZULALI and ZUBAIR M. ZULALI and 2251 S OLD DIXIE HWY LLC,

Defendants.

IN THE CIRCUIT COURT OF THE 7th JUDICIAL CIRCUIT, IN AND FOR FLAGLER COUNTY, FLORIDA

CASE NO.: 2021 CA 000109 DIVISION: Christopher A. France

DEFENDANT'S MOTION TO VACATE AND DISSOLVE CONTEMPT ORDER

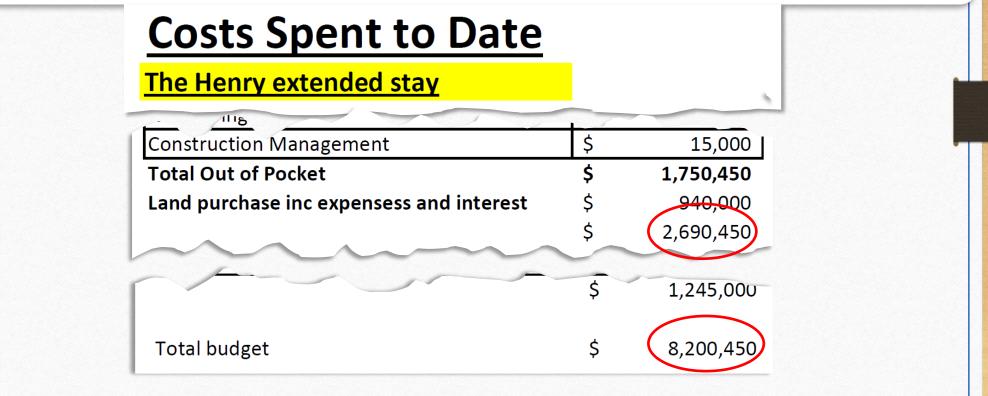
Defendant, 2251 S OLD DIXIE HWY LLC, ("Defendant"), by and through its undersigned counsel and pursuant to applicable rules, hereby files its *Motion to Vacate and Dissolve Contempt Order*, (the "Motion"), and in support thereof, states as follows:

1. The Court should vacate and dissolve the *Order Finding Civil Contempt* issued on November 1, 2024, as (a) the Defendant complied with the non-monetary terms of said order, (b) the penalty of \$1,000 per day is excessive, and (c) the Defendant lacks ability to pay for the same, which makes the civil contempt order improper for lack of a realistic purge provision.

2. The per diem fine was imposed without evidentiary hearing as to Defendant's ability to furnish the same. To date, Defendant has provided its financial disclosures and supporting documentation evidencing its illiquid position and inability to furnish either the \$250,000 cash bond or the \$1,000 per day fine for failure to do the same.

April 2024 Financial Statement (Exhibit 6)

7. Financial statements as to the entity's <u>assets</u>, <u>liabilities</u>, and <u>owner's equity</u> prepared within the 12 months immediately preceding the service date of this Fact Information Sheet. <u>E-Served via e-mail contemporaneously herewith</u>.



Loan Documentation (Exhibit 8)

A&S CAPITAL LLC 2999 NE 191ST ST., #808 MIAMI, FL 33180

December 15, 2021

VIA ELECTRONIC MAIL

To: LAW OFFICE OF VALERIA SCHVARTZMAN, P.A.

Re:

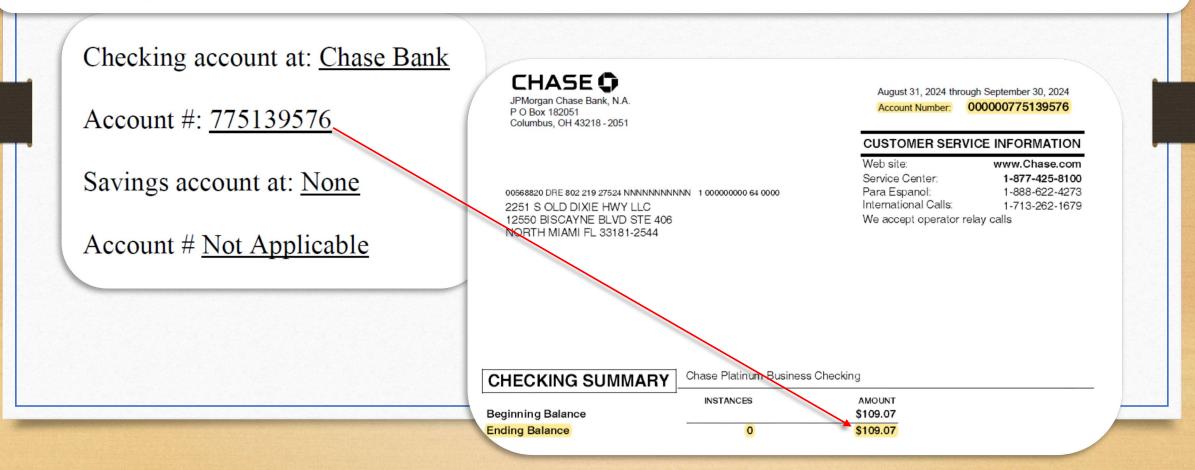
| Property Address: | 2251 S. OLD DIXIE HIGHWAY, BUNNELL, FL 32110 ("Property") |
|-------------------|--|
| Borrower: | 2251 S OLD DIXIE HWY LLC, a Florida limited liability company ("Borrower") |
| Lender: | A&S CAPITAL LLC, a Florida limited liability company ISAOA/ATIMA ("Lender") |

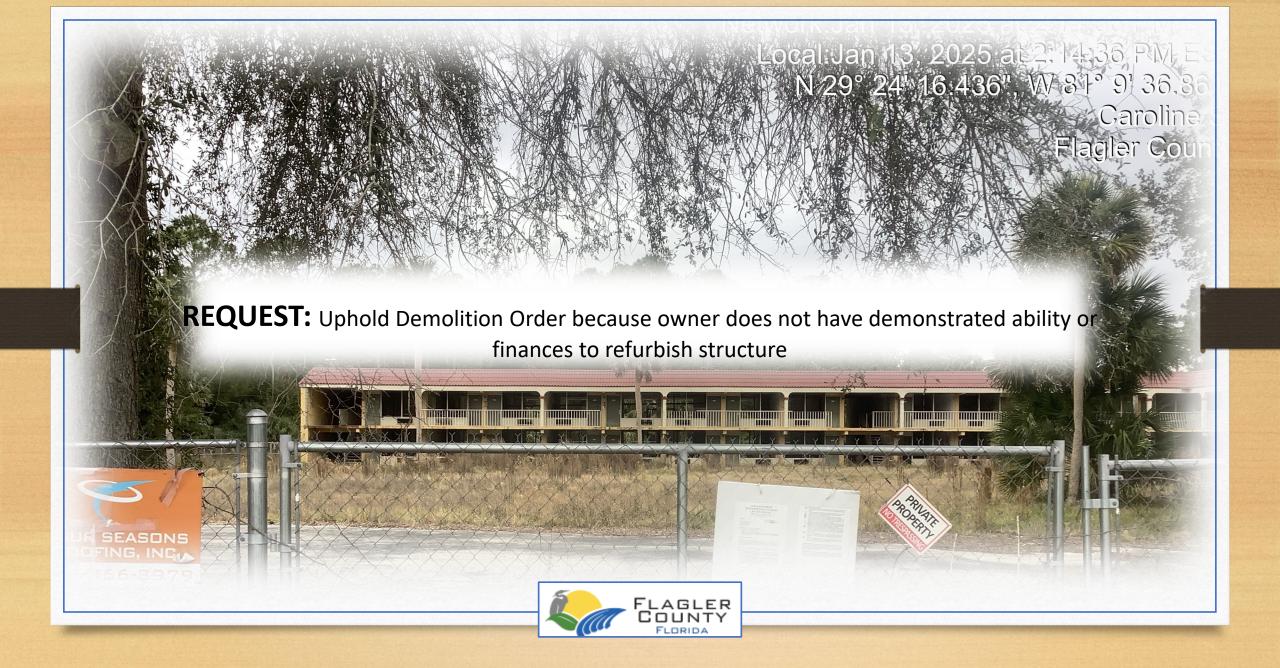
Dear Sir/Madam:

Lender has prepared loan documents in connection with a loan in the maximum principal amount of **Two Million Four Hundred Thousand and 00/100 Dollars (\$2,400,000.00)** to be made to Borrower as evidenced by that certain Note secured by a Mortgage dated **DECEMBER 15, 2021** ("Note"). Borrower's repayment of the Note is secured by the Property, as more particularly described in the Legal Description of the Preliminary Report, and in Exhibit "A" of that certain Mortgage, Assignment of Rents and Security Agreement dated **DECEMBER 15, 2021** (the "Mortgage").

Checking Account Statement (Exhibit 9)

2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years. <u>E-served via e-mail on.10.30.24</u>





Localidan 13, 2025 at 2:07:04 PM ES N 29° 24' 15:868", W 81° 9' 37.79 2251 S Old Dixie Hw Flagler Coun

ALTERNATIVE REQUEST: If Demolition Order is not upheld, impose a per day fine tied to reasonable timeline





PowerPoint presentation to be submitted as Exhibit 10