

OFFICE OF THE CITY ATTORNEY

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October 5, 2020

Madam Mayor and Commissioners

RE: Letter of Joe Walsh dated Oct. 5, 2020

Madam Mayor and Commissioners:

In response to Mr. Walsh's letter in opposition to item 14 on the October 6, 2020 Agenda, and in the order presented.

- 1. The lease approval of April 2019 was withdrawn by the legal department once it was discovered that the kitchen had been removed subsequent to the Planning Board's approval and the lease, as written, appeared to contemplate delivery to the site of meals prepared off site. No lease has been presented to or approved by the Commission.**
- 2. The Court's finding of a lack of standing has been appealed. The Planning Board's Resolution requiring a resolution of the property disputed is advisory only to the Commission.**
- 3. The City has received no written communication from Mr. Walsh relating to the vacation of 402 Wall Street which occurred on or about September 29, 2020 when Tropical Soup was observed removing the contents and transferring them to Red Fish Blue Fish Restaurant. (Photos attached).**
- 4. Beginning on May 27, 2020 the City has repeatedly requested the Letter of Credit be replaced pending and since the expiration on August 25, 2020. The City has not received a replacement letter of credit. (See email exchange attached.)**

Sincerely,

A handwritten signature in blue ink, appearing to read "George B. Wallace", is written over a horizontal line.

**George B. Wallace
Assistant City Attorney
Cc: Gregory Veliz
Shawn D. Smith**

Cheri Smith

From: George Wallace
Sent: Friday, September 18, 2020 1:41 PM
To: Joe Walsh
Cc: Greg Veliz; Patti McLauchlin; Shawn D. Smith; Van Fischer
Subject: RE: LOC for Waterfront Brewery

Joe, Please have your Banker provide and update on this. It has been 5 business days.
thanks

From: Joe Walsh <tropicalsoup1@gmail.com>
Sent: Friday, September 11, 2020 6:38 AM
To: George Wallace <gwallace@cityofkeywest-fl.gov>
Cc: Greg Veliz <gveliz@cityofkeywest-fl.gov>; Patti McLauchlin <pmclauchlin@cityofkeywest-fl.gov>; Shawn D. Smith <sdsmith@cityofkeywest-fl.gov>
Subject: Re: LOC for Waterfront Brewery

George,

Waterfront Brewery has undertaken vigorous affirmative actions to secure a new letter of credit from its bank. Waterfront Brewery expects to have this within the next five business days, and the bank officer working on the loan has expressed a willingness to affirm these actions if necessary. The new loan approval time has been extended by requests for financial documents from related entities as well as clarity about the tenant's arrearages as well as damages and concessions due from the landlord.

Sections 1.7 and 5 of the lease require the Tenant to maintain a letter of credit as security for payments of amounts due under the lease. On March 17, 2020 the City of Key West ordered the tenant to close to the public. This put the landlord in violation of paragraph 7, the Covenant of Quiet Possession section of the lease. In response to the Landlord's action and the massive financial costs that those actions caused, the tenant requested that its bank release the funds securing its letter of credit so that it could make payroll and other financial obligations. The bank refused to do this without cancelling the Letter of credit. This caused the present efforts to secure a new letter of credit and new bank.

Thanks for your assistance with this. The bank will send the LOC to your attention as soon as it is finalized.

Regards,

Joe Walsh

305-731-9972

Waterfront Brewery

On Thu, Sep 10, 2020 at 9:19 AM George Wallace <gwallace@cityofkeywest-fl.gov> wrote:

Joe,

It appears the default letter was received on August 29, 2010. The 10 day cure period provided in the lease will expire on the 11th.

Can you provide an update on this?

George

From: Joe Walsh <tropicalsoup1@gmail.com>

Sent: Friday, May 29, 2020 11:02 AM

To: George Wallace <gwallace@cityofkeywest-fl.gov>

Cc: Greg Veliz <gveliz@cityofkeywest-fl.gov>; Patti McLauchlin <pmclauchlin@cityofkeywest-fl.gov>; Shawn D. Smith <sdsmith@cityofkeywest-fl.gov>

Subject: Re: LOC for Waterfront Brewery

George,

We are changing banks and expect to have the expiring letter (August 25) replaced with a new one soon.

The bank was quite concerned about the violations of Section 7 of the lease, but we believe that we should be able to secure a new letter of credit despite that problem.

Joe Walsh

Waterfront Brewery

305-731-9972

On Wed, May 27, 2020, 11:22 AM George Wallace <gwallace@cityofkeywest-fl.gov> wrote:

Joe, the City has received the attached notice of cancellation.

Will you be having a replacement sent to the City?

George B. Wallace

Assistant City Attorney

City of Key West

305-809-3774





