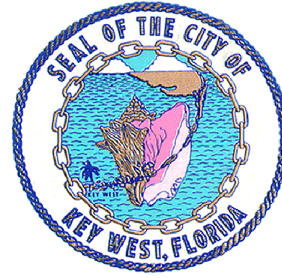


Executive Summary



TO: City Commission

CC: Jim Scholl

FR: Marilyn Wilbarger, RPA, CCIM

DT: July 30, 2015

RE: Simonton Beach Lease Amendment

ACTION STATEMENT

This is a request to approve a lease amendment to provide a one-time rent abatement for Simonton Beach Enterprises, LLC for the premises located on Simonton Street Beach.

HISTORY

The City entered into a lease agreement per Resolution 11-089 for the building located on Simonton Beach which is now operated as Lagerhead's Beach Bar and Watersports. In August 2014, the City notified the tenant that they would have to fully close their business while the City completed the Simonton Street storm water outfall project. Two weeks later they were closed for all of September and most of October as reflected in their loss of sales and the ensuing four month period that it took for sales to return to the level that they were achieving prior to and after the closure. According to the tenant's calculations they suffered a loss of \$182,453.87 as shown on their attached letter.

The tenant has submitted a request to the City for a rent credit in the amount of \$19,944.28 which is the amount of rent owed from the date of the closure through June of this year.

The lease does not provide for an abatement of rent as stated in Section 14 of the lease excerpted below as follows:

In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Demised Premises or of the property (unless the same result from TENANT'S act, neglect, default or mode of operation, in which event LANDLORD shall make all such repairs, alterations or improvements at TENANT'S sole cost and expense), then the same shall be made by LANDLORD with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Demised Premises, such interference shall not relieve TENANT from the performance of its obligations hereunder nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental.

Therefore, this is a request to amend the lease to provide a one-time abatement of rent as requested by the Tenant to compensate them for a portion of their losses.

FINANCIAL STATEMENT:

This lease calls for rent to be calculated at 6% of their sales which was approximately \$16,783.62 in year one of the lease that commenced October 1, 2013. The tenant paid rent as required up until the closure.

CONCLUSION: Although the lease does not provide for an abatement of rent due to interference with the Tenants business, a complete closure that results in substantial losses warrants consideration of such an abatement through a lease amendment that provides a one-time rent credit.

ATTACHMENTS:

Lease Amendment

Lease

Tenant Letter