March 8, 2012
Jimmy Lane
Key West Bight Management District Board

Dear Jimmy,

The comparables supplied in the market rent study are not equivalent to properties in the Bight. Among them are many locations which were vacant for long periods before the study and continue to be so. The Kino Plaza entries are not triple net but net in the analogy the report admits there are no common area maintenance (CAM) charges but estimates in the opinion of the appraiser how much CAM would be if it was assessed. Only one, a vacant property in the actual bight area was listed, the former PT's, although there are numerous examples of existing businesses.

The overwhelming majority of the comparables listed benefit from the cruise ship traffic in the downtown "high rent" district where sales to cruise-ship passengers typically represent 50-60% of all sales. The bight has very few, in any, visits by cruise ship passengers. Many of the rents downtown were lowered because of the decrease in sales in Key West and ability to pay the high rents demanded. The market study does not indicate percentage rents for retail in any of the examples.

The DR 15 Sale Comparison report from 2000-2011 does not generally indicate great increases in sales in the bight and shows many decreases from prior years. There are nine businesses which have statistics for all of the years on the chart .Five of them have the highest sales in the last year 2011 ,four of them do not, but in 2004,2006, and 2008.Those four have not regained sales to those levels since those high years.

Another factor is the recent survey of the bight, which in most cases increases billable square footage by 11% or more. Cost of occupancy i.e. Base rent, plus percentage rent, plus CAM plus sales tax increased much faster than the market for true comparable businesses in Key West.

Included with this letter is a spreadsheet indicating a comparison of rents based upon CPI-U, 3% annual and 5% annual over a ten year period. Considering these factors alone, one can surmise that the total increases for the period are CPI-22.99%, 3% - 30.48% and 5% - 55.13%. It is easy to see we are way above curve and have been for several years. This level of rent escalation will cause many businesses to fail, just as it has in shopping centers all across America. Going forward we feel that a 3% annual increase is within the current market parameters. Late fees should bear resemblance to the actual damages the landlord suffers when tenants pay late. Courts are increasingly invalidating excessive late fees that can't be justified by hard evidence. After contacting local and other real estate agents who specialize in commercial leases, we found that 5% after ten days is the industry standard for late fees. After searching the internet for states with landlord tenant laws governing commercial leases we found that 5% or less after 7 or 10 days was the most common practice. We propose that that the late fees be 5% after 10 days.

We appreciate your expertise in these matters and hope that the Board can come to a long term equitable solution that provides for a sustainable framework for years to come.

Regards,

Jack Anderson – President
On behalf of the KWBPA Board