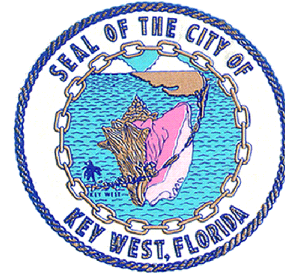


Executive Summary



TO: Key West Bight Board

CC: David Fernandez

FR: Marilyn Wilbarger, RPA, CCIM

DT: October 28, 2012

RE: Lease Assignments for Turtle Kraals and the Half Shell Raw Bar

ACTION STATEMENT

This is a request to approve lease assignments from the Smithburg, Inc. to Moro Management, a Limited Liability Company whose sole principal is Pat Croce.

HISTORY

The CRA entered into a twenty-year lease for both restaurants that will expire on March 31, 2016. The current tenant, Smithburg, Inc. is requesting a simple assignment meaning that no terms or conditions of the lease change for the remainder of the lease term.

The leases provide for the assignments as described in Section 8 and state that the Tenant shall have the right to assign the leases with the written consent of the Landlord only to a qualified tenant that meets specific requirements excerpted here, as follows:

8. ASSIGNMENT AND HYPOTHECATION - TENANT shall have the right to assign the Lease only to a qualified tenant and with the written consent of the LANDLORD, which consent shall be based upon consideration of the proposed tenant's background, current financial statements, and expertise in the restaurant business. In the event of such an assignment by the Tenant to a qualified tenant, the annual Base Rent for the assignee shall be increased to an amount equal to five percent (5%) of the prior year's Gross Sales. TENANT may not sublet the Premises or any part thereof.

Any assignment or sub-letting, even with LANDLORD's consent shall not relieve TENANT from liability for payment of Rent or from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of the agreements of this Lease or to be consent to the assignment for the benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of LANDLORD. In the event TENANT wishes to assign this Lease and LANDLORD consents to such assignment, LANDLORD may charge a fee **in the amount of 5% of the current Annual Base Rent.**

To facilitate this request and ensure that the city retains a viable tenant there have been changes incorporated into the lease assignments as follows:

1. The assignee will provide letters of credit equal to six months total rent for each lease that must be valid throughout the term of the lease.
2. The bankruptcy language adopted by the city has been added.
3. The lease assignment re-states the terms of the current lease wherein the current tenant is not released from obligations for rent should the assignee default.
4. The Personal Guaranty of Pat Croce

FINANCIAL STATEMENT:

The current tenant has met all of the financial obligations of the leases and the rents will continue pursuant to the existing leases. The additional financial safeguards in the lease assignments will provide additional security to ensure that rent will be paid for an adequate period of time to regain possession in the event of a default. Also, as excerpted from the lease and restated above, the transfer triggers fees and adjustments as follows:

1. In the event of such an assignment by the tenant to a qualified tenant, the annual Base Rent for the assignee shall be increased to an amount equal to five percent (5%) of the prior year's Gross Sales.
2. The Landlord may charge an assignment fee in the amount equal to 5% of the current annual base rent.

CONCLUSION:

Pat Croce has stated that he is currently the majority stock holder in The Green Parrot Bar, The Rum Barrel, Island Dogs, and Charlie Macs providing the requisite expertise in the restaurant business. Staff has not received financial statements other than a letter stating the amount of his current liquid assets and the associated disclosure statement as required by city ordinance. In the case of lease assignments the current tenant is not relieved from liability if the assignee defaults in its obligations under the terms of the lease therefore the financial risk is minimized.

ATTACHMENTS:

Leases: City resolutions 97-344, 97-345

Lease modifications: City resolutions 03-088, 03-089

Settlement Agreement dated September 2, 2011

Lease Assignments

Email from Smithburg, Inc. requesting the lease assignments

Email from Moro Management Inc.

Disclosure Statement Moro Management

Personal Guarantee of Pat Croce, Chairman, Moro Management, LLC