



THE CITY OF KEY WEST

POST OFFICE BOX 1409
KEY WEST, FL 33041-1409
WWW.KEYWESTCITY.COM

EXECUTIVE SUMMARY

To: The City Commission for the City of Key West

From: Ron Ramsingh, Assistant City Attorney

Date: June 27, 2014

RE: New lease and Settlement Agreement for Chianya LLC d/b/a Thai Life Restaurant at Slip #1 Bonita Pier, Garrison Bight.

Action statement:

This is a proposed new Commercial Dockage Agreement and Settlement Agreement to be entered into between the owner/operators of Chianya LLC d/b/a Thai Life Restaurant and the City of Key West. Additionally, there are substantial code compliance fines that have been reduced to liens regarding previously existing violations concerning these structures and a previous owner and previous business partner, Harvey Johnson.

Background:

From 1998-2008 The City has had a lease with Harvey Johnson/ Captain Runaground's Restaurant. Since that time, Johnson has been a month-to-month tenant on paper. Johnson subleased the slip and sold the floating structures to Chianya LLC b/d/a Thai Life Floating Restaurant without the consent of the City of Key West pursuant to the lease. The City has been in litigation with Johnson since 2006 concerning post-Hurricane Wilma construction work done without permits. Johnson has accrued approximately \$1,136,550.00 in recorded fines that have been reduced to a lien. This proposal seeks to recoup a portion of the City's costs of litigation thus far in the amount of \$10,000.00 and enter into a new, ten (10) year lease with Chianya, LLC, solely, thus legitimizing their arguable tenancy and relationship with the City of Key West. The recorded lien against Johnson will remain intact and the litigation therewith will proceed.

The other issue of concern is that there is a waiting list for slips at Garrison Bight Marina. Johnson, as the listed tenant with the City, *does not* now have a current lease, and is in fact a month-to-month tenant since 2008. However, Sec. 2-941(c) allows the city to waive the bidding/RFP process if the City Commission finds that it is in the city's best interests to waive the bidding process, and if the City Manager recommends a waiver in consideration of the economic interests of the city. The City Manager has recommended such a waiver due to the challenges to safe navigation that this slip presents with typical daily charter-type tenants at Garrison Bight. Specifically, there is a submerged natural ledge immediately adjacent to Slip #1 on the south side that has been determined to be a hazard to any mobile vessel or structure. Additionally, although the lease assignment was done without city approval the City recognizes the positive contribution that the new operator, Thai Life Floating Restaurant has made to the commercial fabric of Garrison Bight thus far, as well as well as the efforts that Chianyai LLC has made to bring long standing environmental concerns into compliance with these floating structures.

Options:

1. To accept the proposed \$10,000.00 from Chianyai, LLC as partial reimbursement of the fees and costs thus far accrued from 8 years of litigation. This also contemplates that a new 10 year lease will be entered into between the City and Chianyai, LLC, waiving the bidding/RFP process pursuant to Sec. 2-941(c). Additionally, the City will continue to pursue its lien against Johnson in the amount of approximately \$1,136,550.00 and continue the litigation concerning the code cases in appellate court.
2. To decline the offer of a 10 year lease to Chianyai, LLC. The current occupants will be evicted and the slip will be re-leased in accordance with the city's ordinances. Additionally, the City will continue to pursue its lien against Johnson in the amount of approximately \$1,136,550.00 and continue the litigation concerning the code cases in appellate court.

Reccomendation:

Option #1.