



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

MEMORANDUM

EXECUTIVE SUMMARY

To: Community Redevelopment Agency

CC: Bogdan Vitas

From: Marilyn Wilbarger, RPA, CCIM

Date: December 18, 2012

Reference: Key West Ice Cream Factory Rent Abatement

ACTION:

This is a request to approve rent abatement for the Key West Ice Cream Factory which was approved by the Key West Bight Board due to building repairs that rendered the demised premises unusable for five day period in June.

BACKGROUND:

The upland leases in the Key West Bight include the following terms in Section 14 excerpted here 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.

The lease does not provide for rent abatement during periods of repairs, alterations, removal, reconstruction or improvements therefore the matter was brought before the Bight Board for their consideration.

Pursuant to the Bight Board meeting minutes from August 15, 2012 it was moved by Ms. Ovide and seconded by Mr. Henson to approve abatement for lost sales, for the time period the business was closed, in the amount of \$4,839.00. The Board voted 6-0 in favor of the rent abatement.

Attachment:
First Amendment to Lease Agreement

Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.