



888 SE 3rd Ave., Suite 400
Fort Lauderdale, FL 33316
Office: 954.332.2358
Email: rabrams@abrams-law.com
Website: www.abrams-law.com

July 30, 2025

VIA EMAIL

To:
Interim City Attorney
Kendal Lyn Harden, Esq.

CC:
Mayor Danise Henriquez
Commissioner Monica Haskell
Commissioner Lissette Carey
Commissioner Samuel Kaufman
Commissioner Mary Lou Hoover
Commissioner Donald Lee
Commissioner Aaron Castillo
Hank's Hair of the Dog Saloon c/o Bart Smith, Esq.

Re: Request for Party Status, and Objection to Continuance of Board of Adjustment Appeal Hearing Currently Scheduled for August 6, 2025 (Appeal of Interpretation regarding Hank's Hair of the Dog Saloon)

Dear Mayor and Commissioners:

This firm represents Heritage House Key West, LLC ("Heritage House"). On behalf of Heritage House, I respectfully submit this letter to object to the requested continuance of the Board of Adjustment appeal hearing currently scheduled for August 6, 2025. Heritage House also respectfully requests to be granted party status to the appeal. The appeal concerns the Planning Director, Katie Halloran's, interpretation that the issuance of an entertainment license expands a legal nonconforming use at the restaurant Hank's Hair of the Dog Saloon ("Hanks"), located at 409 Caroline St., Key West, Florida 33040.

In May 2025, Heritage House requested an interpretation from Ms. Halloran regarding whether the issuance of an entertainment license to a restaurant, Hank's Hair of the Dog Saloon, constituted an expansion or intensification of a legal nonconforming use under section 122-26 of the City Code. On June 13, 2025, Ms. Halloran issued a determination correctly concluding that such issuance could constitute an increase in intensity of the nonconforming restaurant use. The

Planning Director issued this interpretation pursuant to her authority under sections 90-301 and 90-304 of the City Code.

Hanks subsequently appealed this determination to the Board of Adjustment. The appeal is currently scheduled to be heard August 6, 2025. However, Hanks and LKT Services & Companies, LLC, have now also filed a lawsuit requesting issuance of a writ of mandamus or, in the alternative, certiorari, challenging Ms. Halloran's authority to issue the interpretation. That lawsuit is pending and appellants are suing Ms. Halloran personally, as well as the City of Key West. Because of that pending litigation, our understanding is that Hanks is seeking a continuance of the Board of Adjustment appeal hearing until at least December 2025.

We respectfully object to any continuance of the August 6th hearing. Under Section 90-431(2) of the City Code, appeals to the Board of Adjustment "shall be heard at the next regularly scheduled meeting of the city commission, board of adjustment or special magistrate, as the case may be, after the filing of the notice of appeal, unless the parties mutually agree to another date."

From a practical standpoint, by requesting a continuance until December, the Appellants are attempting to use their appeal to create an indefinite stay of the Planning Director's interpretation without having the Board of Adjustment hear and decide the appeal. Section 90-431(6) of the City Code provides that appeals "shall, upon filing, stay all work on the premises and all proceedings in furtherance of the order, requirement, decision or determination appealed from."

This delay tactic will suspend the enforcement of Ms. Halloran's interpretation for at least six months.

If the Commission chooses to hear the appeal in August, the Commission could clarify the City's position on entertainment license expansion and nonconforming uses and affirm the Planning Director's interpretation. Importantly, if the City Commission decides to reverse Ms. Halloran's interpretation, that would moot the pending litigation entirely. The delay of this appeal is not in the best interest of any party.

The Board of Adjustment can hear and decide the appeal regardless of the pending litigation, as Section 90-431(4) of the City Code provides that the Board "shall be limited to review of the documents, plans, papers or other materials constituting the record upon which the action was taken" and may "reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination made by... the city planner." The Board can review the Planning Director's interpretation as prescribed by the Code, and the standard on review is unrelated to pending litigation.

Ms. Halloran issued a thoughtful and well-reasoned interpretation based on the applicable Code provisions regarding nonconforming uses. Rather than allowing this determination to be

undermined and stayed by delay tactics, the City should support its staff and ensure that zoning matters are resolved promptly and fairly. We respectfully urge the Commission to reject any motion for continuance of the August 6, 2025 hearing.

REQUEST FOR PARTY STATUS

The undersigned, on behalf of Heritage House, respectfully requests that the City recognize Heritage House as a uniquely situated and adversely affected party entitled to full party status in this proceeding. Heritage House owns the property directly across the street from Hanks, located at 410 Caroline Street in Key West. It was Heritage House that submitted the request for interpretation, which led to the issuance of the interpretation now under appeal by Hanks. As the originator of the interpretation and the most directly affected neighboring property, Heritage House is a necessary and indispensable party to this matter. Accordingly, Heritage House must be afforded full rights granted to parties in quasi-judicial proceedings, including the rights to present evidence, cross-examine witnesses, and offer legal argument. Denying party status would improperly exclude a directly impacted property owner with a clear legal interest in the outcome of the appeal. *See Jennings v. Dade County*, 589 So. 2d 1337, 1340 (Fla. 3d DCA 1991); *Carillon Community Residential v. Seminole County*, 45 So. 3d 7, 9 (Fla. 5th DCA 2010).

Thank you for your time and consideration. I will be in attendance at the August 6 hearing, and we are hopeful that the City Commission will not yield to Hank's strategy of delay. If you have any questions, I am available at your convenience.

Sincerely,

/s/ Ryan A. Abrams, Esq.
Ryan A. Abrams