

This instrument prepared by:
James Saunders III, Assistant City Attorney
City of Pompano Beach
100 W. Atlantic Boulevard, Ste. 467
Pompano Beach, Florida 33060

TERMINATION AND RELEASE OF SPECIAL EXCEPTION AGREEMENT

THIS TERMINATION AND RELEASE OF SPECIAL EXCEPTION AGREEMENT (the "Termination") is entered into this ____ day of _____, 20____, by and between the City of Pompano Beach, a Florida municipal corporation, ("CITY") and 3400 ATLANTIC LLC, a Florida limited liability company ("OWNER").

WHEREAS, the CITY entered into a Special Exception Agreement on June 2, 1981 with Frank's Ristorante, which operated a restaurant upon a portion of the following described property:

Lot 3 and Lots 18 through 28, inclusive, in Block 6 of POMPANO BEACH BLOUNT BROS. REALTY CO.'S SUBDIVISION, excepting therefrom the West 15 feet of Lots 18, 19 and 20, in Block 6 of POMPANO BEACH BLOUNT BROS. REALTY CO.'S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 2, Page 43, of the Public Records of Broward County, Florida.

and

Lot 29, less the East 16 inches thereof and less State Road right-of-way, in Block 6 of POMPANO BEACH BLOUNT BROS. REALTY CO.'S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 2, Page 43, of the Public Records of Broward County, Florida ("Subject Property").

also less

The State Road right-of-way on the North portion of said Lots 20 through 28 inclusive.

Said land lying and being in the City of Pompano Beach, Broward County, Florida.

WHEREAS, the CITY enacted Ordinance No. 81-37 providing for the joint use of parking facilities by businesses under certain conditions and Frank Ristorante, Inc. applied and was granted such special parking exception; and

WHEREAS, the Special Exception Agreement contained covenants running with the land that benefited and bound the Parties to that Agreement and persons claiming under them; and

WHEREAS, Frank's Ristorante, Inc. was the successor by merger to Plaza Del Mare, Inc., a Florida corporation, that owned the Subject Property, which later transferred such property to Plaza Del Sol, Inc., a Florida corporation, on or about May 9, 1991, evidenced by the Warranty Deed executed and recorded in Official Records Book 18376, Page 282 – 284 in the Public Records of Broward County, Florida; and

WHEREAS, Plaza Del Sol, Inc. transferred the Subject Property to DiMaria Properties, LLC, a Florida limited liability company, on or about November 29, 2006, evidenced by the Warranty Deed recorded in Official Records Book 43256, Page 1115 in the Public Records of Broward County, Florida; and

WHEREAS, DiMaria Properties, LLC, subject to the jurisdiction of the U.S. Bankruptcy Court in the Southern District of Florida, Broward Division, in Case No. 13-22403-JKO, Chapter 11 (Reorganization), executed a Deed In Lieu of Foreclosure in favor of 3400 Atlantic LLC, a Florida limited liability company and senior creditor, pursuant to DiMaria Properties' Plan of Reorganization, and subsequently defaulted on the Plan; and

WHEREAS, OWNER is currently the titled owner of the Subject Property; and

WHEREAS, the Parties acknowledge that the Special Exception Agreement is no longer necessary to provide joint parking facilities and restrict the percentage of parking spaces to be occupied by certain uses based upon the time of day, in light of the Development Standards in the Atlantic Boulevard Overlay District and as further described in Section 155.3703.E., City Code;

WHEREAS, the OWNER has requested, and the CITY does not object, that the Special Exception Agreement be terminated.

NOW THEREFORE, the Recitals set forth above are incorporated in this Termination. The Parties terminate and release each other from the Special Exception Agreement.

The Termination will be recorded in the Public Records of Broward County at OWNER's expense, which will terminate the Special Exception Agreement as to the Subject Property. Nothing contained in this Termination is intended or shall be construed to terminate or release any restrictions or conditions affecting any property other than the property more particularly described as the Subject Property.

IN WITNESS WHEREOF, the Parties have executed this Termination and Release of the Special Exception Agreement on the date set forth above.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

"CITY":

Witnesses:

CITY OF POMPANO BEACH

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2019 by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"OWNER":

Witnesses:

Leslie Haber
LESLIE HABER

Print Name

Hal Cohen
HAL COHEN

Print Name

3400 ATLANTIC LLC
a Florida limited liability company

By: Alan H. Gross
ALAN H. GROSS, Manager

By: Adam J. Reiss
ADAM J. REISS, Manager

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 2nd day of October, 2019 by **ALAN H. GROSS and ADAM J. REISS**, as Managers of 3400 ATLANTIC LLC, a Florida limited liability company, who are personally known to me or who have produced _____ (type of identification) as identification.

NOTARY'S SEAL:



Karen Kay Lavandosky
NOTARY PUBLIC, STATE OF FLORIDA

Karen Kay Lavandosky
(Name of Acknowledger Typed, Printed or Stamped)

GG 134848
Commission Number

JES:jrm
9/23/19
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