

# **DAVID J. WINKER, P.A.**

**4720 S. LeJeune Rd  
Coral Gables, Fl 33146  
305 801 8700  
*dwinker@dwrlc.com***

February 24, 2022

*Via Email*

Kathy Charles  
Board Administrator  
Miami-Dade Regulatory and Economic  
Resources Board Administration Section  
11805 SW 26<sup>th</sup> Street, Room 230  
Miami, Florida 33175

RE: Appeal of Demolition Order- Deauville Beach Resort

Dear Ms. Charles:

The Miami Design Preservation League (“MDPL”), by and through the undersigned attorney, files this appeal of the Order of Demolition on the Deauville Beach Resort (“the Deauville”) at 6701 Collins Avenue, Miami Beach owned by Deauville Associates LLC (the “Developer”).

The Miami Design Preservation League is a non-profit resource for historic preservation and enhancement of Miami Beach’s unique architectural and cultural identity. The Miami Design Preservation League is recognized as one of two entities with appellate standing to review decisions regarding historic properties in Miami Beach, which rights are set forth in the Miami Beach Municipal Code. (*Sec. 118-9. - Rehearing and appeal procedures*).

The Order of Demolition was issued on January 19 2022 by Miami Beach Building Director Ana Salgueiro and a screenshot from the City's EGov permit system at <https://eservices.miamibeachfl.gov/EnerGovProd/SelfService#/home> is attached as Exhibit A.<sup>1</sup>

This appeal is based upon the following:

1. Developer's failure to comply with the Court's order in *CITY OF MIAMI BEACH v. DEAUVILLE ASSOCIATES LLC, ET AL*, 2019-003653-CA-01 (the "Litigation");
2. Developer's failure to comply with the City's Code requirements; and
3. Inconsistencies in the December 15, 2021 Structural Condition Assessment provided by Anesta Consulting, Inc. on behalf of Developer to the City of Miami Beach.

#### **DEVELOPER'S FAILURE TO COMPLY WITH THE COURT'S ORDER**

The City has been involved in litigation regarding the Developer's failure to maintain the Deauville since unpermitted electrical work by the Developer resulted in a fire that closed the hotel in 2017.

In response to the Judge's October 5 2021 Order, Developer filed application materials on December 15, 2021 for the total demolition of the Deauville, but the application contained obvious and material defects, including the fact that the applicant was not even the property owner.

Despite these inconsistencies, Miami Beach Building Director Ana Salgueiro entered an Order of Demolition on January 19 2022.

---

<sup>1</sup> Undersigned counsel has been unable to find any formal written Demolition Order other than the entry attached as Exhibit A.

## **DEVELOPER’S FAILURE TO COMPLY WITH THE CITY’S CODE REQUIREMENTS**

The City provided written notice of missing materials to Developer on January 28, 2022.

In conjunction with the processing of the demolition application in the ordinary course, the City requested access to the building for evaluation by a licensed independent structural engineer with experience in historic structures. See January 26, 2022 Letter, attached as Exhibit A.

The City also notified the applicant that, pursuant to Section 118-503(b)(1), an “after-the-fact” application for a certificate of appropriateness for demolition to the Historic Preservation Board (“HPB”) was due on or before February 3, 2022. See February 9, 2022 Letter, attached as Exhibit C.

Developer has not submitted the application for a certificate of appropriateness as required.

The City is processing the application for total demolition of the Deauville in the normal course. That process entitles the City to (a) retain a licensed structural engineer with expertise in historic structures to perform an independent evaluation; and (b) require the applicant to file an after-the-fact application for a certificate of appropriateness of demolition of a historic structure within 15 days of the order of the building official.

### **EXCEPTIONS TO STRUCTURAL CONDITION ASSESSMENT**

1. The finding that the “main result of the compression tests indicated that the strength of the concrete throughout the columns was inconsistent (nonuniform) and the results of the compression tests could not be relied upon within structural design analysis since structural theory depends on a consistent (uniform) compressive strength throughout the member” (**Testing Summary E(b)**) is likely the result of extraction/testing method and cracking in the samples.
2. The finding that “water-soluble chloride intrusion into the Ground Level columns and beams exceeded the threshold set forth by ACI 318-14 within the reinforcement layer of the tested columns” (**Testing Summary E(c)**) fails to take into consideration ACI 201 and other ACI guidelines that should be considered.

3. There is not basis provided for the finding that the “Deauville handrails and its adjacent structural components would require an increase of applied load by a factor of 2.5” **(Testing Summary F(a))**.

4. The finding that “analysis of the Deauville for current wind speeds would generate an approximate 32.7% increase in wind pressures as compared to its original design wind speed, at a minimum” **(Testing Summary F(b))** fails to take into consideration the windload at the time of construction, which must be considered.

5. There is not basis provided for the finding that “Due to the extent of the construction defects, corrosion, and deterioration discussed within this report, the Deauville was not able to be analyzed by strength evaluation or load test as described within ACI 318-14, and as such cannot be returned to service.” **(Testing Summary G(a))**

6. There is no basis provided for the finding that “The nature of the construction defects within the reinforced concrete system makes it infeasible to analyze and therefore repair the structure in order to withstand its original or current design load requirements.” **(Testing Summary G(b))**

7. There is no basis provided for the finding that “The recommended 5-year cycle of corrosion repairs, the chloride ion content measured in select columns, and the magnitude of deterioration of steel and concrete observed during our inspections indicates that the building as a whole is in distress and has exceeded its service life.” **(Testing Summary G(c))**

8. There is no basis provided for the finding that “Due to the presence of transfer slabs and the lack of isolation joints, areas of potential localized collapse are likely to cause progressive collapse to the remainder of the adjacent continuous structure either north or south of the isolation joint.” **(Testing Summary H(a))**

9. It is absurd to argue that “The entirety of the interior non-structural elements of the Deauville would need to be removed, and the entirety of the structure would need to be inspected relative to the visible and hidden reinforced concrete conditions. Such an inspection, and its resultant repairs, would require a tremendous expenditure of time and costs, would be intrusive,

and may cause sudden local and/or progressive collapse. The hidden nature of the construction defects, and the observed conditions during our scope of work, also presents a high risk of uncertainty during and following the repair and rehabilitation” because removal of non-structural elements does not lead to progressive collapse. **(Testing Summary J(a))**

10. We disagree with the conclusion that “It is our opinion that the only rehabilitation approach which could potentially extend the service life of the Deauville is to essentially rebuild the reinforced concrete structural system in a controlled and segmented manner. As such, we do not recommend rehabilitation or repair of the Deauville” because it has been done before. **(Testing Summary J(b))**

In conclusion, there is nothing in the Structural Condition Assessment that states that the building cannot be repaired. The bottom line is that repairs more extensive than this have been done before and this building does not need to be demolished. This has been done before.

Please contact me if I can provide any further materials or answer any questions.

Sincerely,

          s/djw            
David Winker, Esq.

# EXHIBIT A

The screenshot displays the EnerGov-PROD web application interface. The browser address bar shows the URL: <https://energovapp.miamibeach.gov/EnerGovProd/EnerGov/>. The application title is "EnerGov-PROD".

The main content area is titled "Manage Permit BC2116167" and includes the address "6701 COLLINS AVE 1000". The "Permit Details" section shows the following information:

- Permit Type: Building - Commercial
- Work Class: Demolition
- Permit Status: Applied
- Description: US2017-01686/ US2018-02859 Tota
- IVR Number: 160064
- Project: [Redacted]
- District: RM-3
- Assigned To: [Redacted]
- Square Feet: 595,788
- Valuation: \$2,364,000.00
- Application Date: 04/23/2021
- Issue Date: Enter date
- Expiration Date: Enter date
- Last Inspection Date: Enter date
- Final Date: Enter date

Below the permit details is a table of notes:

Text	Created By	Date Created
The 1st submittal was not complete set as per Ar	Blatch, RaShonda	12/07/2021 3:21:49 PM
There are several permits because of a configura	Tormo Calatayud, Joana	12/10/2021 1:58:12 PM
Unsafe per B.O. Review of report by Heather Ane	Salgueiro, Ana	12/15/2021 4:48:33 PM
Building Official Order to demolish. Unsafe struc	Salgueiro, Ana	01/19/2022 7:51:07 PM

The bottom of the application shows the version "2020.1.2.53" and the last change by "Salgueiro, Ana on Wednesday, January 19, 2022 7:51 PM". The Windows taskbar at the bottom indicates the system time is 7:51 PM on 01/19/2022.