

ATTACHMENT I

Appeal Application

PLANNING DIVISION



2600 Hollywood Boulevard Room 315
Hollywood, FL 33022

File No. (internal use only): _____

GENERAL APPLICATION



Tel: (954) 921-3471

Fax: (954) 921-3347

This application must be completed in full and submitted with all documents to be placed on a Board or Committee's agenda.

The applicant is responsible for obtaining the appropriate checklist for each type of application.

Applicant(s) or their authorized legal agent must be present at all Board or Committee meetings.

At least one set of the submitted plans for each application must be signed and sealed (i.e. Architect or Engineer).

Documents and forms can be accessed on the City's website at

<http://www.hollywoodfl.org/DocumentCenter/Home/View/21>



APPLICATION TYPE (CHECK ONE):

- ☐ Technical Advisory Committee ☐ Historic Preservation Board
☒ City Commission ☐ Planning and Development Board

Date of Application: 3/19/18

Location Address: 2057 Coolidge St., Hollywood, FL 33020

Lot(s): Lot 1; W 28ft of Lot 2; E 32ft of Lot 2; Lot 3 Block(s): 12 Subdivision: North Hollywood

Folio Number(s): 5142 03 10 0780

Zoning Classification: DH-3* Land Use Classification: RAC*

Existing Property Use: Alzheimer's Center or Similar Use Sq Ft/Number of Units: 18597/48

Is the request the result of a violation notice? () Yes (x) No If yes, attach a copy of violation.

Has this property been presented to the City before? If yes, check all that apply and provide File Number(s) and Resolution(s): Resolution 09-S-36; File No. 17-AP-57

- ☐ Economic Roundtable ☐ Technical Advisory Committee ☐ Historic Preservation Board
☐ City Commission ☒ Planning and Development

Explanation of Request: See Attached Letter

Number of units/rooms: 48 Units (89 Beds) Sq Ft: 18,597

Value of Improvement: N/A Estimated Date of Completion: N/A

Will Project be Phased? () Yes (x) No If Phased, Estimated Completion of Each Phase

Name of Current Property Owner: 2057 Coolidge Associates LLC

Address of Property Owner: 7700 W. Camino Real #200, Boca Raton, FL 33433

Telephone: 561-952-2501 Fax: _____ Email Address: donny@privcapcompanies.com

Name of Consultant/Representative/Tenant (circle one): Michael S. Weiner, Esq

Address: 6111 Broken Sound Pkwy NW #200, Boca Raton, FL 33487 Telephone: 561-994-4499

Fax: 561-994-4985 Email Address: mweiner@ssclawfirm.com

Date of Purchase: N/A Is there an option to purchase the Property? Yes () No ()
If Yes, Attach Copy of the Contract.

List Anyone Else Who Should Receive Notice of the Hearing: _____

Address: _____

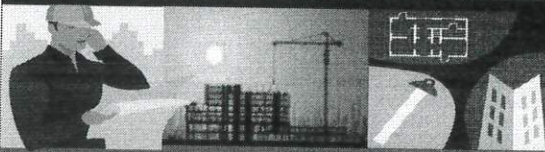
Email Address: _____

*to the best of our belief

MAR 19 10:14 AM 2018

MAR 19 10:14 AM 2018

PLANNING DIVISION



File No. (internal use only): _____

2600 Hollywood Boulevard Room 315
Hollywood, FL 33022

GENERAL APPLICATION

CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

The applicant/owner(s) signature certifies that he/she has been made aware of the criteria, regulations and guidelines applicable to the request. This information can be obtained in Room 315 of City Hall or on our website at www.hollywoodfl.org. The owner(s) further certifies that when required by applicable law, including but not limited to the City's Zoning and Land Development Regulations, they will post the site with a sign provided by the Office of Planning and Development Services. The owner(s) will photograph the sign the day of posting and submit photographs to the Office of Planning and Development Services as required by applicable law. Failure to post the sign will result in violation of State and Municipal Notification Requirements and Laws.

(I)(We) certify that (I) (we) understand and will comply with the provisions and regulations of the City's Zoning and Land Development Regulations, Design Guidelines, Design Guidelines for Historic Properties and City's Comprehensive Plan as they apply to this project. (I)(We) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my)(our) knowledge. (I)(We) understand that the application and attachments become part of the official public records of the City and are not returnable.

Signature of Current Owner: *[Signature]*

Date: 3/19/18

PRINT NAME: Daniel Cohen

Date: 3/19/18

Signature of Consultant/Representative: _____

Date: _____

PRINT NAME: _____

Date: _____

Signature of Tenant: _____

Date: _____

PRINT NAME: _____

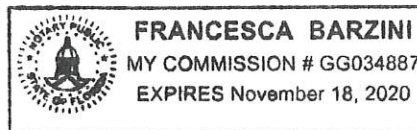
Date: _____

Current Owner Power of Attorney

I am the current owner of the described real property and that I am aware of the nature and effect the request for Zoning relief to my property, which is hereby made by me or I am hereby authorizing Michael Weiner, Esq. to be my legal representative before the City Commission (Board and/or Committee) relative to all matters concerning this application.

Sworn to and subscribed before me
this 19th day of March 2018

[Signature]
Notary Public
State of Florida



[Signature]
Signature of Current Owner

Daniel Cohen
Print Name

My Commission Expires: _____ (Check One) ☒ Personally known to me; OR ☐ Produced Identification _____



PrivCap Holdings

JPMORGAN CHASE

1105

3/16/2018

PAY TO THE
ORDER OF

City of Hollywood

\$ **4,636.00

Four Thousand Six Hundred Thirty-Six and 00/100***** DOLLARS

City of Hollywood

MEMO

AUTHORIZED SIGNATURE



SECURITY FEATURES INCLUDED. DETAILS ON BACK



⑈001105⑈ ⑆267084131⑆ 573736316⑈

PrivCap Holdings

City of Hollywood

CHECKOMATIC.COM - (800) 555-6374

3/16/2018

1105

4,636.00

Business Chase Chec

4,636.00

PrivCap Holdings

City of Hollywood

3/16/2018

1105

4,636.00

Business Chase Chec

4,636.00

SACHS SAX CAPLAN

ATTORNEYS AT LAW

SUITE 200
6111 BROKEN SOUND PARKWAY NW
BOCA RATON, FLORIDA 33487

TELEPHONE (561) 994-4499
DIRECT LINE (561) 237-6819
FACSIMILE (561) 994-4985

MICHAEL S. WEINER, ESQ.
MWEINER@SSCLAWFIRM.COM

March 19, 2018

Via Hand Delivery

Ms. Leslie Del Monte
Planning Manager
City of Hollywood
2600 Hollywood Blvd.
Room 315
Hollywood, FL 33020

Ms. Patricia Cerny
City Clerk
City of Hollywood
2600 Hollywood Blvd.
Room 221
Hollywood, FL 33020

**Re: 2057 Coolidge St., Appeal of the Planning and Development Board
Decision, File: 17-AP-57**

Dear Ms. Del Monte and Ms. Cerny:

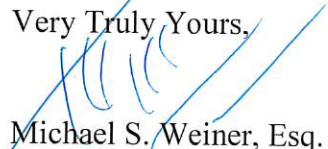
On behalf of my client, 2057 Coolidge Associates, LLC, (my "Client"), I am submitting an Appeal to the City Commission of the Planning and Development Board (the "Board") Decision on March 8, 2018 in File Number 17-AP-57. This letter accompanies the Appeal form provided by the Department of Planning and Development Services, as required by Section 5.7(A)(3) of the City of Hollywood Zoning and Land Development Regulations (the "Hollywood Code"). We are submitting copies of this letter to both the Department of Planning and Development Services and the City Clerk's office. The check for the City Commission Appeal fee in the amount of \$4,636.00 is enclosed with the letter submitted to the Department of Planning and Development Services.

We are filing this appeal in reliance on emails from Debra Reese, Esq. and Ms. Leslie Del Monte (attached as Exhibits A and B).

My Client appealed an administration decision regarding the non-conforming use at 2057 Coolidge Street, which has not been abandoned. The Board denied the Appeal at its hearing on March 8, 2018. Attached to this letter as Exhibits C and D are the appeal packets submitted by my Client on July 6, 2017 and September 25, 2017. Attached as Exhibit E is a letter to the City Attorney on January 29, 2018 supplementing the Appeal and attached as Exhibit F is the Applicant's presentation at the Board hearing.

We reserve all rights, including the right to supplement this Appeal with additional documentation and/or information prior to the hearing.

Very Truly Yours,



Michael S. Weiner, Esq.
MSW/rz

Attachments

Rebecca Zissel

From: Debra Reese <drees@hollywoodfl.org>
Sent: Wednesday, March 14, 2018 9:52 AM
To: Rebecca Zissel; Michael Weiner
Cc: Douglas Gonzales; Leslie A. Del Monte
Subject: 2057 Coolidge

Good morning Ms.

I am in receipt of Mr. Weiner's letter regarding the above-captioned matter. The relevant Section of the City's Zoning and Land Development Regulations relating to the above-captioned matter is below. As you are aware, the Planning and Development Board's decision was on March 8, 2018. In accordance with the highlighted areas below, in computing the time period of time prescribed to appeal the Board's decision, the day of the Board's decision from which the designated period of time begins to run shall not be included. Thus, the ten days run from March 9, 2018.

As to the filing fee and application, City Planning staff will provide said information.

§ 5.7. Appeal Procedures relating to Decisions of the Planning and Development Board, Historic Preservation Board, and Administrative Decisions.

A. Appeal of a Planning and Development Board decision. Except as provided in § 5.6 above, any appeal of a decision by the Planning and Development Board must be made as follows:

1. The City Manager, or the Executive Director of the CRA when the decision involves a project within the Executive Director's said CRA District, may file an appeal within ten days of the date of such decision or ruling. In computing the period of time prescribed, the day of the Board's decision or ruling from which the designated period of time begins to run shall not be included. If the tenth day falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. On the day following the Board meeting, the Department of Planning and Development Services shall notify each member of the City Commission of a decision of the Board. Should the City Manager or the Executive Director of the CRA wish to appeal a decision of the Board, a notice must be filed with the Department of Planning and Development Services within the aforementioned ten-day period. Upon receipt of such notice, the Department of Planning and Development Services will notify the City Clerk who shall schedule the appeal before the City Commission. Public notice requirements shall be the same as those set forth in § 5.7.F. of this Article. Should a member of the Commission wish to review a Board's decision, he/she shall follow the CRR procedure set forth in § 5.6 above.

2. Any person who appeared on the record at the Board meeting and who has filed written notice of his/her position prior to the Board's ruling may file an appeal of an adverse ruling as set forth in division A.5. below.

3. Any appeal filed pursuant to divisions A.1 or A.2 above must be made on a form provided by the Department of Planning and Development Services and, if filed pursuant to division A.2 above, be accompanied by the applicable filing fee as established by resolution of the City Commission.

4. In the absence of any CRR or timely appeal pursuant to division A.1 or A.2 above, the decision or ruling of the Board shall be final.

5. Appeals brought pursuant to division A.2 above shall be processed as follows:

a. An appeal of a ruling of the Board which results in the requested development being allowed to go forward as requested in the application shall be to a court of competent jurisdiction by petition for writ of certiorari within 30 days of the Board's decision.

b. An appeal relating to a ruling of the Board which results in the requested development not being allowed to go forward shall be to the City Commission and must be filed within ten days of the date of such decision. **In computing the period of time prescribed, the day of the Board's decision or ruling from which the designated period of time begins**

to run shall not be included. If the tenth day falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

c. A reversal or modification of a ruling of the Board, including those relating to stipulations or conditions, shall require a five-sevenths vote of the City Commission. An affirmance of a ruling of the Board shall require a three-sevenths vote of the City Commission. All applicable criteria relative to the original petition shall apply.

d. Once filed, an appeal pursuant to the provisions of this section may not be withdrawn without approval of the City Commission at a duly advertised public meeting.

6. When an appeal is filed, the appeal will be heard de novo and the same criteria applied by the Board below are applicable to the City Commission in hearing the matter.

7. An appeal of a City Commission decision shall be to the circuit court by writ of certiorari within 30 days of the City Commission's decision.

B. Appeal of decisions by the Planning and Development Board relating to Variances. Any appeal of a decision by the Planning and Development Board relating to Variances shall be in accordance with the procedures set forth in § 5.7.A. of this Article.

C. Appeal of decisions by the Historic Preservation Board. Any appeal of a decision of the Historic Preservation Board shall be in accordance with the procedures set forth in § 5.7.A. of this Article.

D. Appeals of an administrative decision by the Director. Any party in interest aggrieved by an administrative decision by the Director authorized under this Article, may file an appeal to the applicable Board. Such appeal must be filed within 30 days of the administrative decision, shall be in writing, on a form provided by the Department of Planning and Development Services and shall specify the grounds for such appeal. The appeal form shall be accompanied by the applicable fee as established by resolution of the City Commission. Upon receiving an appeal from an administrative decision, the Department of Planning and Development Services shall schedule a public hearing before the applicable Board. Notice of the public hearing shall be as prescribed in § 5.7.F. of this Article.

1. Stay of proceedings. An appeal of an administrative decision by a party of interest, other than the city, shall not automatically stay proceedings in furtherance of the action appealed. However, an appellant may file a request to stay proceedings pending the appeal. Upon receiving such request for a stay, the Board, in its discretion, may grant, modify or deny such relief. The Board may in its discretion require the applicant to post a bond which complies with the requirements set forth in Rule 9.130, Florida Rule of Appellate Procedure, during the pendency of the appeal.

2. Decision of the Board. The applicable Board shall hold a public hearing on an appeal from an administrative decision, and may reverse or affirm, wholly or in part, or may modify the administrative decision appealed as is deemed to be proper, and to that end shall have all the powers of the official from whom the appeal is taken. The Board shall adopt a resolution setting forth the action of the Board, including any requirement or interpretation made by the Board relative to the case. A copy of the resolution shall be mailed to the appellant and submitted to the City Clerk. Such resolution shall be authorization for any approval, permit or license incidental to any use of the land or building as set forth in the resolution. The decision of the Board may be appealed to the City Commission pursuant to § 5.7.A. of this Article.

Sincerely,

Debra-Ann Reese
Sr. Asst. City Attorney
2600 Hollywood Blvd., Rm. 407
Hollywood, FL 33020
(954)921-3435
Fax: (954) 921-3081

Debra Reese
Senior Assistant City Attorney
City of Hollywood
Office of the City Attorney
2600 Hollywood Blvd Suite 407
P.O. Box 229045

Hollywood, FL 33022-9045
Office: 954-921-3435 x6684
E-mail: dreese@hollywoodfl.org



Notice: Florida has a broad public records law. All correspondence sent to City personnel via e-mail may be subject to disclosure as a matter of public record. This e-mail from the City of Hollywood Office of the City Attorney contains a communication protected by the attorney-client privilege or constitutes work product. If you do not expect such a communication please delete this message without reading it or any attachment and then notify the sender of this inadvertent delivery.

Rebecca Zissel

From: Leslie A. Del Monte <LDELMONTE@hollywoodfl.org>
Sent: Wednesday, March 14, 2018 8:33 PM
To: Debra Reese; Rebecca Zissel; Michael Weiner
Cc: Douglas Gonzales
Subject: RE: 2057 Coolidge

Good morning,

The City Commission Appeal fee is \$4,636. The application is the same as previously used; and may be found here:
<http://www.hollywoodfl.org/DocumentCenter/View/21>

Let me know if you have any questions,

Leslie

From: Debra Reese
Sent: Wednesday, March 14, 2018 9:52 AM
To: rzissel@ssclawfirm.com; Michael Weiner
Cc: Douglas Gonzales; Leslie A. Del Monte
Subject: 2057 Coolidge

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Sincerely,

Debra-Ann Reese
Sr. Asst. City Attorney
2600 Hollywood Blvd., Rm. 407
Hollywood, FL 33020
(954)921-3435
Fax: (954) 921-3081

Leslie A. Del Monte
Planning Manager
City of Hollywood
Department of Development Services
2600 Hollywood Blvd, Suite 315
P.O. Box 229045
Hollywood, FL 33022-9045
Office: 954-921-3471
E-mail: LDELMONTE@hollywoodfl.org



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PLANNING DIVISION



File No. (internal use only): _____

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Fax: (954) 921-3347

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☒ City Commission ☐ Planning and Development Board

Date of Application: 7/6/17

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Folio Number(s): 5142 03 10 0780

Zoning Classification: IM-1 Land Use Classification: TOD

Existing Property Use: Alzheimer's Center or similar use Sq Ft/Number of Units: 18597 / 48 units

Is the request the result of a violation notice? () Yes (X) No If yes, attach a copy of violation.

Has this property been presented to the City before? If yes, check all that apply and provide File Number(s) and Resolution(s): Resolution No. 09-S-36

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Explanation of Request: See attached letter

Number of units/rooms: 48 units (99 Beds) Sq Ft: 18,597

Value of Improvement: N/A Estimated Date of Completion: N/A

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Name of Current Property Owner: 2057 Coolidge Associates LLC

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Telephone: 561-952-2501 Fax: _____ Email Address: Donny@privcapcompanies.com

Name of Consultant/Representative/Tenant (circle one): Michael S. Weiner, Esq.

Address: 611 Broken Sound Pkwy # 200 Boca Raton, FL 33487 Telephone: 561-994-4499

Fax: 561-994-4985 Email Address: MWeiner@ssclawfirm.com

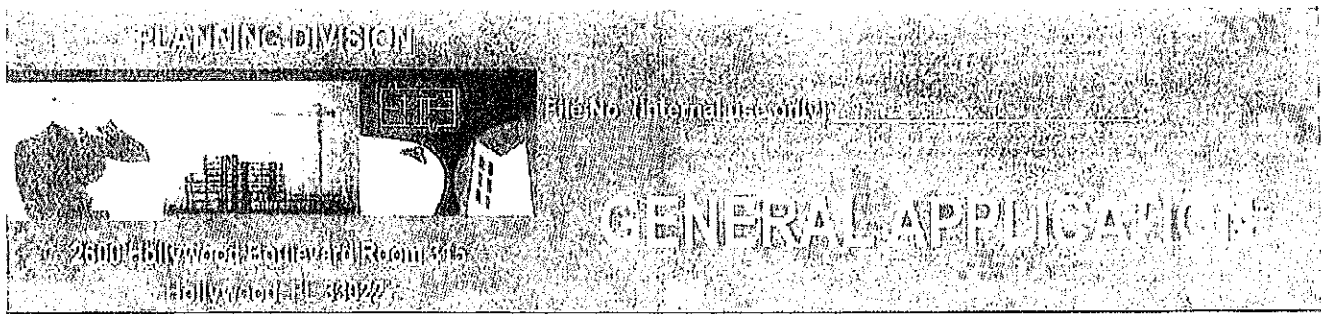
Date of Purchase: N/A Is there an option to purchase the Property? Yes () No (X)

If Yes, Attach Copy of the Contract.

List Anyone Else Who Should Receive Notice of the Hearing: _____

Address: _____

Email Address: _____



CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

The applicant/owner(s) signature certifies that he/she has been made aware of the criteria, regulations and guidelines applicable to the request. This information can be obtained in Room 315 of City Hall or on our website at www.hollywoodfl.org. The owner(s) further certifies that when required by applicable law, including but not limited to the City's Zoning and Land Development Regulations, they will post the site with a sign provided by the Office of Planning and Development Services. The owner(s) will photograph the sign the day of posting and submit photographs to the Office of Planning and Development Services as required by applicable law. Failure to post the sign will result in violation of State and Municipal Notification Requirements and Laws.

(I)(We) certify that (I) (we) understand and will comply with the provisions and regulations of the City's Zoning and Land Development Regulations, Design Guidelines, Design Guidelines for Historic Properties and City's Comprehensive Plan as they apply to this project. (I)(We) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of (my)(our) knowledge. (I)(We) understand that the application and attachments become part of the official public records of the City and are not returnable.

Signature of Current Owner: *Daniel Cohen* Date: 7/6/17

PRINT NAME: Daniel Cohen Date: _____

Signature of Consultant/Representative: _____ Date: _____

PRINT NAME: _____ Date: _____

Signature of Tenant: _____ Date: _____

PRINT NAME: _____ Date: _____

Current Owner Power of Attorney

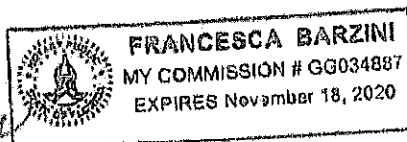
I am the current owner of the described real property and that I am aware of the nature and effect the request for Zoning Relief to my property, which is hereby made by me or I am hereby authorizing Michael Weiner, Esq. to be my legal representative before the City Commission (Board and/or Committee) relative to all matters concerning this application.

Sworn to and subscribed before me
this 6 day of July

Francesca Barzini
Notary Public

State of Florida

My Commission Expires: _____ (Check One) ☒ Personally known to me; OR ☐ Produced Identification _____



Daniel Cohen
Signature of Current Owner

Daniel Cohen
Print Name

SACHS SAX CAPLAN

ATTORNEYS AT LAW

SUITE 200
6111 BROKEN SOUND PARKWAY NW
BOCA RATON, FLORIDA 33487

TELEPHONE (561) 994-4499
DIRECT LINE (561) 237-6819
FACSIMILE (561) 994-4985

MICHAEL S. WEINER, ESQ.
mweiner@ssclawfirm.com

July 6, 2017

Via Hand Delivery and Email

Ms. Patricia Cerny
City Clerk
City of Hollywood
2600 Hollywood Blvd.
Hollywood, FL 33022
Email: pcerny@chollywoodfl.org

Re: General Application, 2057 Coolidge Street

Dear Ms. Cerny:

This letter contains the Explanation of Request for the General Application submitted for the property located at 2057 Coolidge Street (the "Property"). The undersigned represents 2057 Coolidge Associates LLC, the Owner of the Property (the "Applicant").

The General Application is submitted pursuant to Section 5.8 of the City of Hollywood Zoning and Land Development Regulations (the "Code"), which details the Zoning Relief Procedures.

The specific action which we are appealing is the June 8, 2017 email from Alan Fallik, Esq., Acting City Attorney for City of Hollywood (the "City") denying the request for a Certificate of Use at the Property. A copy of this email is attached as Exhibit A. As this email constitutes an "order, decision or interpretation by the pertinent officials of the city," we are appealing pursuant to Section 5.3(L) of the Code, which specifies that appeals from administrative decisions shall be made pursuant to Section 5.8 of the Code.

As the undersigned noted in a letter to Mr. Fallik dated June 28, 2017 (attached to this letter as Exhibit B), Section 5.7(D) of the Code is inapplicable to this situation since no decision has been made by the Director of Development Services. Accordingly, the procedures detailed in Section 5.8, not the procedures detailed in Section 5.7(D) apply to this appeal.

Pursuant to Section 5.8, we are submitting the General Application Form made available by the Department of Planning and Development Services. Applicant believes in good faith that the City, through implementation of its Zoning and Land Development Regulations as applied to 2057 Coolidge Street, has violated its own Code by refusing to apply the relevant Resolution. If there should be an interpretation to the contrary, Applicant believes in good faith that the City, through implementation of its Zoning and Land Development Regulations as applied to 2057 Coolidge Street, has violated federal law, including the Federal Fair Housing Act, 42 U.S.C. § 3601-3631 ("FHA") and the Americans With Disabilities Act, 42 U.S.C. § 12101 ("ADA").

I. Violation of City Code and Ordinances

As further explained in the attached letters to Mr. Shiv Newaldass on April 12, 2017 and Debra Reese, Esq. on May 3, 2017 (Exhibits C and D), the City failed to recognize the applicability of Resolution No. 09-S-36 (the "2009 Resolution").

In the 2009 Resolution, the Planning and Zoning Board approved a Special Exception to allow for a nonconforming use in a lawful nonconforming building. The Resolution stated that the Special Exception "is specifically for the proposed Alzheimer's Center or a similar use." The proposed Residential Detoxification Center is a "similar use" to the Alzheimer's Center.

Both facilities involve 24-hour, 7-day a week medically supervised programs. In both facilities, individuals are monitored by doctors and nurses according to their specific medical needs. Both facilities provide residential facilities with meals three times a day, group activities, and medication dispensed to residents on-site. Both facilities admit people who may not be capable of assuming full responsibility and care for themselves. Accordingly, the 2009 Resolution's approval of "the Alzheimer's Center or a similar use" would cover the approval of the proposed Residential Detoxification Center, and the City failed to properly recognize the effect of the 2009 Resolution when it denied the Certificate of Use.

In addition, the City improperly determined that the Property had been "abandoned." For a nonconforming use to be considered abandoned, there must be proof of intent to abandon. "Abandonment occurs when the landowner 'intentionally and voluntarily foregoes further nonconforming use of the property.'" *Hobbs v. Department of Transp.*, 831 So.2d 745 (Fla. 5th DCA 2002), citing *Lewis v. City of Atlantic Beach*, 467 So.2d 751 (Fla. 1st DCA 1985). For the Property at issue here, no owner exhibited such intent at any point.

Although the City cited water usage numbers and Fire and Police Department statements, any indication of temporary vacancy is not enough to show abandonment. "Temporary cessation of a nonconforming use or the temporary vacancy of buildings used for the nonconforming use does not operate to effect abandonment of the nonconforming use." *See Lewis, supra*.

In addition to the lack of intent to abandon, the specific facts concerning this Property show that the parties took timely action to prevent any assertion of abandonment. They filed timely applications with the City of Hollywood for the required Certificate of Use. Specifically, a prior potential

purchaser of the property obtained a Certificate of Use on September 22, 2016. After this potential purchaser decided not to go through with the purchase, the Owner applied for a Certificate of Use in the Owner's name on December 14, 2016. This application was filed within 90 days of the prior grant of the Certificate of Use. Despite repeated attempts by the Owner and real estate broker to follow-up with the City regarding the application for a Certificate of Use in the Owner's name, including multiple phone calls as well as emails on January 10, 2017, January 11, 2017, January 18, 2017, January 23, 2017, January 24, 2017, January 26, 2017, and January 30, 2017, the City did not respond until February 14, 2017. Throughout this time period, the Owner was actively pursuing an application with the City in order to obtain the required Certificate of Use. Despite receiving a preliminary indication of a possible denial from the City on February 14, 2017, the Owner continued efforts to obtain the Conditional Use resulting in the meeting of April 26, 2017 and the follow-up letters on May 3, 2017 and June 28, 2017, as well as additional emails and phone calls.

As the facts above demonstrate, at no time did the Owner stop their efforts to obtain the necessary approval from the City of Hollywood. As was true in the *Hobbs* case cited above, the parties were only prevented from continuing the nonconforming use because they were unable to obtain the necessary approval. As in *Hobbs*, there is no evidence that the parties desired to abandon their right to operate the nonconforming use. Also like in *Hobbs*, there was in fact no abandonment.

Accordingly, based on both the lack of intent to abandon and continuing efforts to obtain the necessary approvals, the Property was not abandoned and the use was not discontinued. The Owner should not need to seek a Special Exception determination to reinstate the use since the Property was not abandoned. In denying the Certificate of Use based on an improper determination of abandonment, the City improperly applied its Code and the relevant Ordinance.

II. Violations of FHA and ADA

The City has violated the Federal Fair Housing Act and the Americans with Disabilities Act by improperly denying a Certificate of Use for the Property. The FHA was originally enacted to prohibit discrimination in housing practices on the basis of race, color, religion, or national origin. *Elliott v. Sherwood Manor Mobile Home Park*, 947 F. Supp. 1574, 1576 (M.D. Fla. 1996). In 1988, Congress extended coverage to people with disabilities. See Fair Housing Amendments Act of 1988 ("FHAA"), Pub. L. No. 100-430, 102 Stat. 1620, 1622, 1623 & 1636 (1988), codified at 42 U.S.C. § 3601 *et seq.* Courts have recognized this expansion as "a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream." *Hovsons, Inc. v. Twp. of Brick*, 89 F.3d 1096, 1105 (3d Cir. 1996) (quoting *Helen L. v. DiDario*, 46 F.3d at 333 n. 14). The FHA is to be broadly construed to effectuate the goal of eradicating housing discrimination. *Id.* at 1105 (citing *Trafficante v. Met. Life Ins. Co.*, 409 U.S. 205, 209 (1972)). Congress intended the FHA to "apply to state or local land-use ... laws, regulations, practices or decisions which discriminate against individuals with handicaps." H.R. Rep. No. 100-711, at 25, 1988 U.S.C.C.A.N. at 2185.¹

¹ Both the FHA and ADA apply to zoning and land use ordinances, codes and decisions. See, e.g., *Innov. Health Sys.*, 117 F.3d at 44; *Bay Area Addiction Res. & Treatment, Inc. v. City of Antioch*, 179 F.3d 725, 732 (9th Cir.

This law "is intended to prohibit the application of special requirements through land-use regulations . . . that have the effect of limiting the ability of such individuals to live *in the residence of their choice in the community*." H.R. Rep. No. 711, 100th Cong. 2d Sess. 18, reprinted in 1988 U.S.C.C.A.N. 2173, 2185 (emphasis added).

Similarly, in enacting the Americans with Disabilities Act ("ADA"), Congress found that "[h]istorically, society has tended to isolate and segregate individuals with disabilities, and ... such forms of discrimination ... continue to be a serious and pervasive social problem." 42 U.S.C. § 12101(a)(2). Congress recognized that "[i]ndividuals with disabilities continually encounter various forms of discrimination, including ... segregation..." 42 U.S.C. § 12101(a)(5). To further the goal of eliminating discrimination against the disabled, Congress stated that "the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals[.]" 42 U.S.C. § 12101(a)(8). In response to its mandate, the United States Department of Justice has stated that "[i]ntegration is fundamental to the purposes of the [ADA]." 28 C.F.R. Part 333 35, App. A. § 35.130. This integration mandate is contained in 28 C.F.R. § 35.130, entitled "[g]eneral prohibitions against discrimination."

Under the FHA and ADA, persons in recovery from alcohol or other substance abuse are considered disabled and thus entitled to the statutes' protections. *Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339, 1346-7 (S.D. Fla. 2007); *MX Group, Inc. v. City of Covington*, 293 F.3d 326, 336-340 (6th Cir. 2002); *Innovative Health Sys. v. City of White Plains*, 117 F.3d 37, 48-49 (2d Cir. 1997); 42 U.S.C. § 12210(b); and 28 C.F.R. § 35.104(A)(ii) (listing "drug addiction" as a physiological impairment). Congress intended the FHA to protect the rights of handicapped persons to live in a residence of their choice in the community. *Bryant Woods Inn, Inc. v. Howard County, Md.*, 911 F.Supp. 918, 946 (D.Md. 1996) (citation omitted); see also *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 806 (9th Cir. 1994), *aff'd*, 115 S. Ct. 1776 (1995).

By applying the 2009 Resolution differently to the proposed use, despite the fact that the proposed use is a "similar use" to the Alzheimer's Center previously granted a Special Exception by the City of Hollywood, the City is applying its land use regulations in a manner that will exclude people with disabilities and discriminate against them.

1999); *Lakeside Resort Enters., LP v. Board of Sup'rs of Palmyra Twp.*, 455 F.3d 154 (3d Cir. 2006); *Dr. Gertrude A. Barber Center, Inc. v. Peters Twp.*, 273 F. Supp. 2d 643, 652 (W.D. Pa. 2003); *Tsombanidis v. West Haven Fire Dept.*, 352 F.3d 565, 573 (2d Cir. 2003); *N.J. Coalition of Rooming and Boarding House Owners v. Mayor and Council of the City of Asbury Park*, Civ. No. 94-5134 (D.N.J. 1997), *aff'd in part and rev'd in part*, 152 F.3d 217 (3d Cir. 1998); *Oxford House, Inc. v. Twp. of Cherry Hill*, 799 F. Supp. 450 (D.N.J. 1992); *ReMed Recovery Care Centers v. Twp. of Willistown*, 36 F. Supp. 2d 676 (E.D. Pa. 1999).

III. Standing

As the Owner of the Property, Applicant is a potential claimant under local, federal or state law. Additionally, Applicant has standing because Applicant proposes to provide housing to "qualified individuals" with disabilities, and therefore has standing as a "person alleging discrimination on the basis of disability" under the ADA. 42 U.S.C. § 12133 and 28 C.F.R. § 35.130(b)(6); *A Helping Hand, LLC v. Baltimore County, Md.*, 515 F.3d 356, 364 (4th Cir. 2008). Similarly, since Applicant wishes to provide housing for handicapped persons, Applicant has standing under the FHA. See, e.g., *Judy B. v. Borough of Tioga*, 889 F. Supp. 792, 797 (M.D. Pa. 1995); *North Shore-Chicago Rehab., Inc. v. Village of Skokie*, 827 F. Supp. 497, 507 n.3 (N.D. Ill. 1993); *Horizon House Dev. Servs., Inc. v. Twp. of Upper Southampton*, 804 F. Supp. 683, 692 (E.D. Pa. 1992), *aff'd mem.*, 995 F.2d 217 (3d Cir. 1993).

Pursuant to your procedure at a hearing duly called, we shall establish all of the relevant criteria required under Section 5.8 of the Code. Upon your receipt of these materials, if you believe any additional documentation is required, please contact us. We reserve all rights, including but not limited to the right to submit additional evidence in support of this appeal at or prior to the City Commission hearing.

Very truly yours,

SACHS SAX CAPLAN

/s/ *Michael S. Weiner*

Michael S. Weiner

Enclosures
MSW/RZ

CC: Alan Fallik, Esq., Acting City Attorney (via email)
Ms. Leslie Del Monte, Planning Manager (via email)

Rebecca Zissel

From: Alan Fallik <AFALLIK@hollywoodfl.org>
Sent: Thursday, June 08, 2017 5:09 PM
To: Michael Weiner
Cc: Thomas Robertson; 'david burstyn (davidaburstyn@gmail.com)'; Rebecca Zissel
Subject: RE: 2057 Coolidge Street

Dear Michael:

On April 4, 2017, Chief Development Officer Shiv Newaldass sent an e-mail to Gary Smith and John DeMarco regarding the property located at the above-captioned address. After careful analysis of the situation, I fully support his conclusions, even if we accept your legal argument that abandonment of a nonconforming use includes an element of intent.

In addition, City staff firmly believes that the proposed use of this property is not similar to the previous use. Without going into all of the reasons, let me simply say that the previous use does not involve medical care, while the proposed use does involve medical care.

Sincerely,

Alan

Alan Fallik
Acting City Attorney
2600 Hollywood Blvd.
Hollywood, FL 33020
(telephone) (954) 921-3435
(facsimile) (954) 921-3081

From: Michael Weiner [<mailto:mweiner@ssclawfirm.com>]
Sent: Friday, June 02, 2017 4:03 PM
To: Alan Fallik
Cc: Thomas Robertson; 'david burstyn (davidaburstyn@gmail.com)'; Rebecca Zissel
Subject: 2057 Coolidge Street

Alan:

I thought I would drop you a quick note on how you were coming in respect of your review of the issues. Is it possible to hear from you next week? Thanks very much for your attention to these matters.

Michael S. Weiner, Esquire

Sachs Sax Caplan, P.L.
6111 Broken Sound Parkway NW, Suite 200, Boca Raton, FL 33487
mweiner@ssclawfirm.com www.ssclawfirm.com
561-994-4499
561-994-4985 Fax

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Alan Fallik

Interim City Attorney
City of Hollywood
Office of the City Attorney
2600 Hollywood Blvd Suite 407
P.O. Box 229045
Hollywood, FL 33022-9045
Office: 954-921-3435
E-mail: AFALLIK@hollywoodfl.org



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FACSIMILE (561) 994-4985

MICHAEL S. WEINER, ESQ.
mweiner@ssclawfirm.com

June 28, 2017

Via Email

Alan Fallik, Esq.
Acting City Attorney
City of Hollywood
2600 Hollywood Blvd.
Hollywood, FL 33022
Email: AFALLIK@hollywoodfl.org

Re: 2057 Coolidge Street

Dear Alan:

I am writing to you regarding the property located at 2057 Coolidge Street ("Property"). In your email dated June 8, 2017, you wrote that you agree with previous comments from Mr. Shiv Newaldass regarding the abandonment of a nonconforming use and the similarity of the proposed use to the previous use.

We are writing to confirm that your June 8, 2017 email is a final denial of the request for a Certificate of Use at the Property. We shall appeal this administrative decision to the City Commission. As your email constitutes an "order, decision or interpretation by the pertinent officials of the city," we will appeal pursuant to Section 5.3 of the City of Hollywood Code of Ordinances (the "Code") using procedures detailed in Section 5.8 of the Code. By contrast, since no decision has been made by the Director of Development Services, the procedures established in Section 5.7(D) of the Code do not apply to the determination at issue.

Letter to Alan Fallik, Esq.
Re: 2037 Coolidge Street
June 28, 2017
Page 2 of 2

By confirming this with you and proceeding as outlined, we shall be exhausting our administrative remedies. We hope this proves fruitful. Again, we appreciate your acknowledgement and know that the City shall accept the appeal as outlined. We look forward to your response.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner

Michael S. Weiner

MSW/RZ

SACHS SAX CAPLAN

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MICHAEL S. WEINER, ESQ.
mweiner@ssclawfirm.com

April 12, 2017

Via Email

Mr. Shiv Newaldass
Chief Development Officer
City of Hollywood
Office of the City Manager
2600 Hollywood Blvd.
Hollywood, FL 33022
Email: SNEWALDASS@hollywoodfl.org

RE: 2057 Coolidge Street

Dear Mr. Newaldass:

I am writing to you regarding the property located at 2057 Coolidge Street ("2057 Coolidge Property"). My Client, GR Keystone LLC, is the purchaser of the 2057 Coolidge Property.

As shown in the attached Resolution No. 09-S-36 ("2009 Resolution"), the Planning and Zoning Board approved a Special Exception to allow for a nonconforming use in a lawful nonconforming building. The Resolution included language stating that the Special Exception "is specifically for the proposed Alzheimer's Center or a similar use as approved by the City of Hollywood."

The proposed Alzheimer's Center discussed in the 2009 Resolution involved renovating and converting the subject property into a 48 unit (89 beds) Community Residential Facility. The current proposal is to use the property for a Residential Detoxification Center. This proposed use is a "similar use" to the use granted in the 2009 Resolution. Both the Alzheimer's Center and the Residential Detoxification Center are medical facilities licensed by the State of Florida that provide medical and clinical care to patients who live on the premises.

Generally, Section 3.12.G.4 of the City of Hollywood Zoning and Land Development Regulations ("Zoning and Land Development Regulations") provides that a Special Exception for the Establishment of a nonconforming use within a lawfully nonconforming building can be granted based upon findings of the Planning and Development Board (as detailed in Section

Letter to Mr. Shiv Newaldass

April 12, 2017

Page 2

3.12.H, Zoning and Land Development Regulations) and according to the criteria set forth in Article 5, Zoning and Land Development Regulations.

In this case, since the 2009 Resolution already granted a Special Exception that covers the proposed use, a repeat of this process is not necessary. We request a meeting with you to discuss this Resolution and its effect on my client's request.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner

Michael S. Weiner

CC : Debra Reese, Esq.

Attachments

MSW/rz

CITY OF HOLLYWOOD
PLANNING AND ZONING BOARD

RESOLUTION NO. 09-S-36

A RESOLUTION OF THE CITY OF HOLLYWOOD PLANNING AND ZONING BOARD APPROVING A SPECIAL EXCEPTION WITH CONDITIONS TO ALLOW FOR THE ESTABLISHMENT OF A NONCONFORMING USE (ALZHEIMER'S CENTER) WITHIN A LAWFUL NONCONFORMING BUILDING LOCATED AT 2055-57 COOLIDGE STREET, HOLLYWOOD, FLORIDA, PURSUANT TO THE PROVISIONS OF SECTION 3.12 H. OF THE ZONING AND LAND DEVELOPMENT REGULATIONS.

WHEREAS, Section 3.12.G.4 of the City's Zoning and Land Development Regulations provides that an application for a Special Exception may be filed to establish a nonconforming use within a lawfully nonconforming building which, because of its unique design or orientation or location, is appropriate for such use; and

WHEREAS, the Starting Place, Inc., as applicant/property owner for the property located at 2055-57 Coolidge Street, has applied for a Special Exception to establish a nonconforming use (Alzheimer's Center) within a lawfully nonconforming building at the subject property in order to renovate and convert the existing building into a 48 unit (89 beds) Community Residential Facility specializing in Alzheimer's and dementia care; and

WHEREAS, the Director of the Office of Planning and Planning staff, following an analysis of the application and its associated documents have determined that the proposed request for a Special Exception does meet the criteria set forth in

Return to: Office of Planning
City of Hollywood
2600 Hollywood Blvd, Rm 315
Hollywood, FL 33020

Section 3.12.H of the Zoning and Land Development Regulations and have therefore recommended that it be approved with the following conditions:

- (1) That a Unity of Title, in a form acceptable to the City Attorney's Office, must be submitted prior to the issuance of any building permits and shall be recorded in the Public Records of Broward County, Florida, prior to the issuance of a Certificate of Occupancy (C/O) or Certificate of Completion (C/C); and
- (2) That the Applicant must obtain all applicable permits, agreements, licenses for the proposed improvements (i.e. – interior renovations, re-striping of parking areas, right-of-way improvements, landscaping, fencing, paved areas, etc.) as shown on the attached plans dated 6/8/2009 denoted as Exhibit "A", prior to the issuance of a Certificate of Occupancy (C/O) or Certificate of Completion (C/C) and establishing/operating a Alzheimer's Center; and
- (3) That this Special Exception is specifically for the proposed Alzheimer's Center or a similar use as approved by the City of Hollywood and cannot be combined with other lots for expansion/intensification.

; and

WHEREAS, Section 3.12.H of the Zoning and Land Development Regulations states that any approval of G.1 through G.5 shall be based upon the Planning and Zoning Board determining that the following criteria have been met:

1. The approval of the application is necessary for the preservation and enjoyment of substantial property rights of the applicant.
2. The approval will not, under any circumstances of the particular case, be detrimental to the health, safety and general welfare of persons working or residing within the vicinity.
3. The approval will not be detrimental or injurious to property and improvements in the vicinity or to the general welfare of the city.
4. The approval will, to the maximum extent possible, bring the use or building and the site upon which it is located into compliance with the city regulations; and

WHEREAS, on July 20, 2009, the Planning and Zoning Board met and held an advertised public hearing to consider the Special Exception request and the Board determined that the criteria set forth in Section 3.12.H of the Zoning and Land Development Regulations have been met and therefore approve the Special Exception with the aforementioned conditions recommended by City staff to allow the establishment of a nonconforming use (Alzheimer's Center) within a lawfully nonconforming building at the subject property as specifically outlined in the Office of Planning staff report and the Applicant's application package;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING BOARD OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That following review of the Office of Planning staff report, the Applicant's application and supporting documents and materials, all submitted written and oral testimony received during the public hearing, the consideration of the criteria listed herein for approving/denying the requested Special Exception for the property located at 2055-57 Coolidge Street, Hollywood, Florida, and its findings set forth above, the Board hereby approves the Special Exception with the conditions set forth below to establish a nonconforming use (Alzheimer's Center) within a lawful nonconforming building at the subject property which will be renovated and converted into a 48 unit (89 beds) Community Residential Facility specializing in Alzheimer's and dementia care. The Applicant shall comply with the following conditions:

- (1) That a Unity of Title, in a form acceptable to the City Attorney's Office, must be submitted prior to the issuance of any building permits and shall be recorded in the Public Records of Broward County, Florida, prior to the issuance of a Certificate of Occupancy (C/O) or Certificate of Completion (C/C); and
- (2) That the Applicant must obtain all applicable permits, agreements, licenses for the proposed improvements (i.e. -- interior renovations, re-striping of parking areas, right-of-way improvements, landscaping, fencing, paved areas, etc.) as shown on the attached plans dated 6/8/2009 denoted as Exhibit "A", prior to the issuance of a Certificate

of Occupancy (C/O) or Certificate of Completion (C/C) and establishing/operating a Alzheimer's Center; and

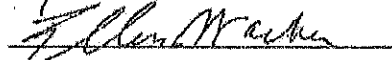
- (3) That this Special Exception is specifically for the proposed Alzheimer's Center or a similar use as approved by the City of Hollywood and cannot be combined with other lots for expansion/intensification.

Section 2: That the approval by the Board granting the Special Exception shall become null and void unless the applicant obtains all appropriate building or other permit(s) or license(s) within 18 months of the Board's approval. Said 18 months shall commence upon passage and adoption of this Resolution.

Section 3: That the Office of Planning is hereby directed to forward a copy of this resolution to the applicant and the owner of the property upon which the request was made and a copy shall be recorded in the Public Records of Broward County, Florida, as provided by the applicable provisions of Article 5 in the Zoning and Land Development Regulations.

PASSED AND ADOPTED THIS 20th DAY OF July, 2009.

RENDERED this 23rd day of July, 2009.


ELLEN WACHER, CHAIR

ATTEST:


ANDREW ZULLO, SECRETARY

APPROVED AS TO FORM & LEGALITY
for the use reliance of the Planning and
Zoning Board of the City of Hollywood,
Florida, only.


JEFFREY P. SHEFFEL, BOARD COUNSEL

SACHS SAX CAPLAN

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MICHAEL S. WEINER, ESQ.
mweiner@ssclawfirm.com

May 3, 2017

Via Email

Debra Reese, Esq.
Office of the City Attorney
City of Hollywood
2600 Hollywood Blvd.
Room 407
Hollywood, FL 33022

Re: 2057 Coolidge Street

Dear Ms. Reese:

I am writing to follow up on our meeting on April 26, 2017 concerning the property located at 2057 Coolidge Street ("Property") that my Client, GR Keystone LLC, is purchasing.

You indicated that you had made a preliminary analysis and you stated you would consider additional information. This letter provides to you that additional information as to the rights of my Client with respect to Resolution No. 09-S-36 ("2009 Resolution").

At no point in time did the owner of 2057 Coolidge Street "abandon" the property. In an email dated April 4, 2017, Mr. Shiv Newaldass, Chief Development Officer, discussed water usage decline and statements by the Fire and Police Departments concerning whether the building was vacant. Despite these water usage numbers and statements, there was not an abandonment of the property. Such data cannot, standing alone, establish an abandonment of a nonconforming use.

For a nonconforming use to be considered abandoned, there must be proof of intent to abandon. "Abandonment occurs when the landowner 'intentionally and voluntarily foregoes further non-conforming use of the property.'" *Hobbs v. Department of Transp.*, 831 So.2d 745 (Fla. 5th DCA 2002), citing *Lewis v. City of Atlantic Beach*, 467 So.2d 751 (Fla. 1st DCA 1985). For the Property at issue here, no owner exhibited such intent at any point.

The water usage numbers and Fire and Police Department statements may give some indication as to temporary vacancy; however, temporary vacancy alone is not enough to show

Letter to: Debra Reese, Esq.
Re: 2037 Coolidge Street
May 3, 2017
Page 2 of 3

abandonment. "Temporary cessation of a nonconforming use or the temporary vacancy of buildings used for the nonconforming use does not operate to effect abandonment of the nonconforming use." *See Lewis, supra.*

In addition to the lack of intent to abandon, the specific facts concerning this Property show that the owners and my Client took timely action to prevent any assertion of abandonment. They filed timely applications with the City of Hollywood for the required Certificate of Use. Specifically, a prior potential purchaser of the property obtained a Certificate of Use on September 22, 2016. After this potential purchaser decided not to go through with the purchase, the seller of the property applied for a Certificate of Use in the seller's name on December 14, 2016. This application was filed within 90 days of the prior grant of the Certificate of Use. Despite repeated attempts by the owner and real estate broker to follow-up with the City regarding the application for a Certificate of Use in the seller's name, including multiple phone calls as well as emails on January 10, 2017, January 11, 2017, January 18, 2017, January 23, 2017, January 24, 2017, January 26, 2017, and January 30, 2017, the City did not respond until February 14, 2017. Throughout this time period, the owner of the property was actively pursuing an application with the City in order to obtain the required Certificate of Use. Despite receiving a preliminary indication of a possible denial from the City on February 14, 2017, the property owner and my Client continued efforts to obtain the Conditional Use resulting in the meeting of April 26, 2017.

As the facts above demonstrate, at no time did the owners or purchasers of the Property stop their efforts to obtain the necessary approval from the City of Hollywood. As was true in the *Hobbs* case cited above, the parties were only prevented from continuing the nonconforming use because they were unable to obtain the necessary approval. As in *Hobbs*, there is no evidence that the parties desired to abandon their right to operate the nonconforming use. Also like in *Hobbs*, there was in fact no abandonment.

Accordingly, based on both the lack of intent to abandon and continuing efforts to obtain the necessary approvals, the Property was not abandoned and the use was not discontinued. My Client should not need to seek a Special Exception determination to reinstate the use since the Property was not abandoned.

In addition, it is important to note that an Alzheimer's Center and a Residential Detoxification Center are similar uses. Both facilities involve 24-hour, 7-day a week medically supervised programs. In both facilities, individuals are monitored by doctors and nurses according to their specific medical needs. Both facilities provide residential facilities with meals three times a day, group activities, and medication dispensed to residents on-site. Both facilities admit people who may not be capable of assuming full responsibility and care for themselves. Accordingly, the 2009 Resolution's approval of "the Alzheimer's Center or a similar use" (emphasis added) would cover the approval of the proposed Residential Detoxification Center.

Letter to: Debra Reese, Esq.
Re: 2037 Coolidge Street
May 3, 2017
Page 3 of 3

If I can provide any additional information, please contact my office. We look forward to your response.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner

Michael S. Weiner

MSW/RZ: mf

SACHS SAX CAPLAN
ATTORNEYS AT LAW

SUITE 200
6111 BROKEN SOUND PARKWAY NW
BOCA RATON, FLORIDA 33487

TELEPHONE (561) 994-4499
DIRECT LINE (561) 237-6819
FACSIMILE (561) 994-4985

MICHAEL S. WEINER, ESQ.
MWEINER@SSCLAWFIRM.COM

September 25, 2017

Via: Hand Delivery

Ms. Alexandra Carcamo
Principal Planner
City of Hollywood
Department of Development Services, Planning Division
2600 Hollywood Blvd., Room 315
Hollywood, FL 33022
Email: acarcamo@hollywoodfl.org

Re: Appeal Submission, 2057 Coolidge St.

Dear Alexandra:

Enclosed is the General Application form along with the required documents. Per your instructions, we are submitting the following items in addition to the General Application: a survey; the warranty deed; and a letter documenting the appeal request.

Also enclosed are two checks which total \$2,559.00 made payable to the City of Hollywood to cover the fee for an appeal to be heard by the Planning and Development Board on November 9, 2017.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner
Michael S. Weiner

EXHIBIT D

PLANNING DIVISION



File No. (internal use only): _____

2600 Hollywood Boulevard Room 315
Hollywood, FL 33022

GENERAL APPLICATION



Tel: (954) 921-3471

Fax: (954) 921-3347

This application must be completed in full and submitted with all documents to be placed on a Board or Committee's agenda.

The applicant is responsible for obtaining the appropriate checklist for each type of application.

Applicant(s) or their authorized legal agent must be present at all Board or Committee meetings.

At least one set of the submitted plans for each application must be signed and sealed (i.e. Architect or Engineer).

Documents and forms can be accessed on the City's website at

<http://www.hollywoodfl.org/DocumentCenter/Home/View/21>



APPLICATION TYPE (CHECK ONE):

- ☐ Technical Advisory Committee ☐ Historic Preservation Board
☒ City Commission ☐ Planning and Development Board

Date of Application: 7/6/17 and 9/25/17

Location Address: 2057 Coolidge St. Hollywood, FL 33020

Lot(s): 1, 2, 3 Block(s): 12 Subdivision: North Hollywood

Folio Number(s): 5142 03 10 0780

Zoning Classification: IM-1 Land Use Classification: TOD

Existing Property Use: Alzheimer's Center or similar use Sq Ft/Number of Units: 18597/48 units

Is the request the result of a violation notice? () Yes (☒) No If yes, attach a copy of violation.

Has this property been presented to the City before? If yes, check all that apply and provide File Number(s) and Resolution(s): Resolution No. 09-S-36

- ☐ Economic Roundtable ☐ Technical Advisory Committee ☐ Historic Preservation Board
☐ City Commission ☒ Planning and Development

Explanation of Request: See attached letter

Number of units/rooms: 48 units (89 beds) Sq Ft: 18,597

Value of Improvement: N/A Estimated Date of Completion: N/A

Will Project be Phased? () Yes (☒) No If Phased, Estimated Completion of Each Phase

Name of Current Property Owner: 2057 Coolidge Associates LLC

Address of Property Owner: 7200 W Camino Real # 200 Boca Raton, FL 33433

Telephone: 561-952-2501 Fax: _____ Email Address: Danny@privcapcompanies.com

Name of Consultant/Representative/tenant (circle one): Michael S. Weiner, Esq.

Address: Celli Broker Sound Pkwy # 200 Boca Raton, FL 33433 Telephone: 561-994-4499

Fax: 561-994-4485 Email Address: MWeiner@ssclawfirm.com

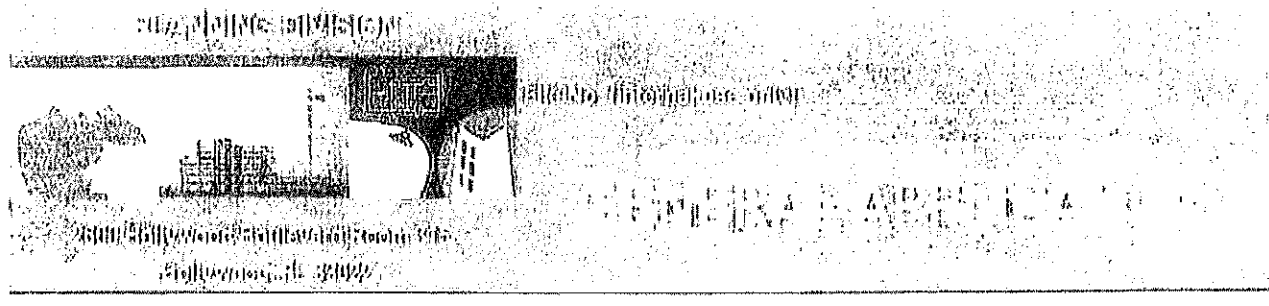
Date of Purchase: N/A Is there an option to purchase the Property? Yes () No (☒)

If Yes, Attach Copy of the Contract.

List Anyone Else Who Should Receive Notice of the Hearing: _____

Address: _____

Email Address: _____



CERTIFICATION OF COMPLIANCE WITH APPLICABLE REGULATIONS

The applicant/owner(s) signature certifies that he/she has been made aware of the criteria, regulations and guidelines applicable to the request. This information can be obtained in Room 315 of City Hall or on our website at www.hollywoodfl.org. The owner(s) further certifies that when required by applicable law, including but not limited to the City's Zoning and Land Development Regulations, they will post the site with a sign provided by the Office of Planning and Development Services. The owner(s) will photograph the sign the day of posting and submit photographs to the Office of Planning and Development Services as required by applicable law. Failure to post the sign will result in violation of State and Municipal Notification Requirements and Laws.

I/(We) certify that I/ (we) understand and will comply with the provisions and regulations of the City's Zoning and Land Development Regulations, Design Guidelines, Design Guidelines for Historic Properties and City's Comprehensive Plan as they apply to this project. I/(We) further certify that the above statements and drawings made on any paper or plans submitted herewith are true to the best of my/our knowledge. I/(We) understand that the application and attachments become part of the official public records of the City and are not returnable.

Signature of Current Owner: *Daniel Cohen* Date: 7/6/17

PRINT NAME: Daniel Cohen Date: _____

Signature of Consultant/Representative: _____ Date: _____

PRINT NAME: _____ Date: _____

Signature of Tenant: _____ Date: _____

PRINT NAME: _____ Date: _____

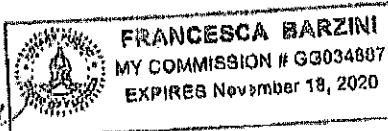
Current Owner Power of Attorney

I am the current owner of the described real property and that I am aware of the nature and effect the request for Zoning Relief to my property, which is hereby made by me or I am hereby authorizing Michael Weiner, Esq. to be my legal representative before the City Commission (Board and/or Committee) relative to all matters concerning this application.

Sworn to and subscribed before me

this 6 day of July

Francesca Barzini
Notary Public
State of Florida



Daniel Cohen
Signature of Current Owner

Daniel Cohen
Print Name

My Commission Expires: _____ (Check One) ☒ Personally known to me; OR ☐ Produced Identification _____

CITY OF HOLLYWOOD
PLANNING AND ZONING BOARD

RESOLUTION NO. 09-S-36

A RESOLUTION OF THE CITY OF HOLLYWOOD PLANNING AND ZONING BOARD APPROVING A SPECIAL EXCEPTION WITH CONDITIONS TO ALLOW FOR THE ESTABLISHMENT OF A NONCONFORMING USE (ALZHEIMER'S CENTER) WITHIN A LAWFUL NONCONFORMING BUILDING LOCATED AT 2055-57 COOLIDGE STREET, HOLLYWOOD, FLORIDA, PURSUANT TO THE PROVISIONS OF SECTION 3.12 H. OF THE ZONING AND LAND DEVELOPMENT REGULATIONS.

WHEREAS, Section 3.12.G.4 of the City's Zoning and Land Development Regulations provides that an application for a Special Exception may be filed to establish a nonconforming use within a lawfully nonconforming building which, because of its unique design or orientation or location, is appropriate for such use; and

WHEREAS, the Starting Place, Inc., as applicant/property owner for the property located at 2055-57 Coolidge Street, has applied for a Special Exception to establish a nonconforming use (Alzheimer's Center) within a lawfully nonconforming building at the subject property in order to renovate and convert the existing building into a 48 unit (89 beds) Community Residential Facility specializing in Alzheimer's and dementia care; and

WHEREAS, the Director of the Office of Planning and Planning staff, following an analysis of the application and its associated documents have determined that the proposed request for a Special Exception does meet the criteria set forth in

Return to: Office of Planning
City of Hollywood
2600 Hollywood Blvd, Rm 315
Hollywood, FL 33020

Section 3.12.H of the Zoning and Land Development Regulations and have therefore recommended that it be approved with the following conditions:

- (1) That a Unity of Title, in a form acceptable to the City Attorney's Office, must be submitted prior to the issuance of any building permits and shall be recorded in the Public Records of Broward County, Florida, prior to the issuance of a Certificate of Occupancy (C/O) or Certificate of Completion (C/C); and
- (2) That the Applicant must obtain all applicable permits, agreements, licenses for the proposed improvements (i.e. - interior renovations, re-striping of parking areas, right-of-way improvements, landscaping, fencing, paved areas, etc.) as shown on the attached plans dated 6/8/2009 denoted as Exhibit "A", prior to the issuance of a Certificate of Occupancy (C/O) or Certificate of Completion (C/C) and establishing/operating a Alzheimer's Center; and
- (3) That this Special Exception is specifically for the proposed Alzheimer's Center or a similar use as approved by the City of Hollywood and cannot be combined with other lots for expansion/intensification.

; and

WHEREAS, Section 3.12.H of the Zoning and Land Development Regulations states that any approval of G.1 through G.5 shall be based upon the Planning and Zoning Board determining that the following criteria have been met:

1. The approval of the application is necessary for the preservation and enjoyment of substantial property rights of the applicant.
2. The approval will not, under any circumstances of the particular case, be detrimental to the health, safety and general welfare of persons working or residing within the vicinity.
3. The approval will not be detrimental or injurious to property and improvements in the vicinity or to the general welfare of the city.
4. The approval will, to the maximum extent possible, bring the use or building and the site upon which it is located into compliance with the city regulations; and

WHEREAS, on July 20, 2009, the Planning and Zoning Board met and held an advertised public hearing to consider the Special Exception request and the Board determined that the criteria set forth in Section 3.12.H of the Zoning and Land Development Regulations have been met and therefore approve the Special Exception with the aforementioned conditions recommended by City staff to allow the establishment of a nonconforming use (Alzheimer's Center) within a lawfully nonconforming building at the subject property as specifically outlined in the Office of Planning staff report and the Applicant's application package;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING BOARD OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That following review of the Office of Planning staff report, the Applicant's application and supporting documents and materials, all submitted written and oral testimony received during the public hearing, the consideration of the criteria listed herein for approving/denying the requested Special Exception for the property located at 2055-57 Coolidge Street, Hollywood, Florida, and its findings set forth above, the Board hereby approves the Special Exception with the conditions set forth below to establish a nonconforming use (Alzheimer's Center) within a lawful nonconforming building at the subject property which will be renovated and converted into a 48 unit (89 beds) Community Residential Facility specializing in Alzheimer's and dementia care. The Applicant shall comply with the following conditions:

- (1) That a Unity of Title, in a form acceptable to the City Attorney's Office, must be submitted prior to the issuance of any building permits and shall be recorded in the Public Records of Broward County, Florida, prior to the issuance of a Certificate of Occupancy (C/O) or Certificate of Completion (C/C); and
- (2) That the Applicant must obtain all applicable permits, agreements, licenses for the proposed improvements (i.e. -- interior renovations, re-striping of parking areas, right-of-way improvements, landscaping, fencing, paved areas, etc.) as shown on the attached plans dated 6/8/2009 denoted as Exhibit "A", prior to the issuance of a Certificate

of Occupancy (C/O) or Certificate of Completion (C/C) and establishing/operating a Alzheimer's Center; and

- (3) That this Special Exception is specifically for the proposed Alzheimer's Center or a similar use as approved by the City of Hollywood and cannot be combined with other lots for expansion/intensification.

Section 2: That the approval by the Board granting the Special Exception shall become null and void unless the applicant obtains all appropriate building or other permit(s) or license(s) within 18 months of the Board's approval. Said 18 months shall commence upon passage and adoption of this Resolution.

Section 3: That the Office of Planning is hereby directed to forward a copy of this resolution to the applicant and the owner of the property upon which the request was made and a copy shall be recorded in the Public Records of Broward County, Florida, as provided by the applicable provisions of Article 5 in the Zoning and Land Development Regulations.

PASSED AND ADOPTED THIS 20th DAY OF July, 2009.

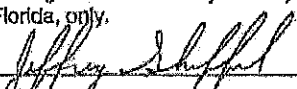
RENDERED this 23rd day of July, 2009.


ELLEN WACHER, CHAIR

ATTEST:


ANDREW ZULLO, SECRETARY

APPROVED AS TO FORM & LEGALITY
for the use reliance of the Planning and
Zoning Board of the City of Hollywood,
Florida, only.


JEFFREY P. SHEFFEL, BOARD COUNSEL

SACHS SAX CAPLAN
ATTORNEYS AT LAW

SUITE 200
6111 BROKEN SOUND PARKWAY NW
BOCA RATON, FLORIDA 33487

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MICHAEL S. WEINER, ESQ.
MWEINER@SSCLAWFIRM.COM

September 25, 2017

Via: Hand Delivery

Ms. Alexandra Carcamo
Principal Planner
City of Hollywood
Department of Development Services, Planning Division
2600 Hollywood Blvd., Room 315
Hollywood, FL 33022
Email: acarcamo@hollywoodfl.org

Re: Appeal Submission, 2057 Coolidge St.

Dear Alexandra:

This letter contains the detailed Explanation of the Request for General Application submitted for the property located at 2057 Coolidge Street (the "Property"). The undersigned represents 2057 Coolidge Associates LLC, the Owner of the Property (the "Applicant").

I. Background

We are submitting the General Application as part of our appeal of the decision contained in the June 8, 2017 email from Alan Fallik, Esq., Acting City Attorney for City of Hollywood (the "City") denying the request for a Certificate of Use at the Property. We confirmed via email on June 28, 2017 that the June 8, 2017 email from Alan Fallik, Esq. was a final denial of the request for a Certificate of Use at the Property. Accordingly, we submitted an appeal on July 6, 2017. Since that date, we have had numerous communications with City staff, including the following:

- Meeting with City staff on July 26, 2017 to discuss the appeal
- PACO submission via email on August 28, 2017
- PACO meeting on September 5, 2017

In addition to these dates, we have had numerous communications with City staff via email and telephone to confirm the progress of the appeal through the appropriate channels. Based on instruction from City staff, we are now filing an additional General Application

dated today, September 25, 2017, in order to have the appeal heard by the Planning and Development Board at its November 9, 2017 meeting. We are delivering this letter as part of a submittal meeting scheduled for 2:00 pm on September 25, 2017.

This appeal concerns the Property that was the subject of Resolution No. 09-S-36 in 2009 (the "2009 Resolution"). In the 2009 Resolution, the Planning and Zoning Board approved a Special Exception to allow for a nonconforming use within a lawful nonconforming building. The Resolution stated that the Special Exception "is specifically for the proposed Alzheimer's Center or a similar use."

II. Similar Use

So that there is no misunderstanding, the Applicant has consistently maintained that the proposed Residential Detoxification Center is a "similar use" to the Alzheimer's Center. Proof of the similarity of use was submitted as a part of the initial appeal submitted to the City staff. Submission of this information was, in part, based upon the position taken by Alan Fallik, Esq., wherein in an email dated June 8, 2017, the statement was made that "City staff firmly believes that the proposed use of this property is not similar to the previous one."

At the PACO meeting on September 5, 2017, City staff expressed agreement with Applicant's interpretation, stating that the City agreed that the proposed use is in fact a "similar use" to the Alzheimer's Center approved in the 2009 Resolution. According to the information presented by City staff at the PACO meeting, the only issue relevant to this appeal is whether the approved non-conforming use was "discontinued" or "abandoned," and the issue regarding similarity of use is no longer a point of disagreement. In reliance on these statements by City staff, we focus this appeal on the lack of abandonment. However, we reserve all rights to supplement with additional information to support the position that the proposed use is similar to the previously approved use.

III. Lack of Abandonment

It is our understanding that the City's position is that the nonconforming use was "abandoned." We understand that this interpretation is what resulted in the email from Alan Fallik, Esq. denying the request for a Certificate of Use and the statements by City staff that Applicant should instead seek a new special exception. This appeal concerns this interpretation. It is Applicant's position that the non-conforming use was not abandoned, and therefore the Certificate of Use should continue in full force and effect.

For a nonconforming use to be considered abandoned, there must be proof of intent to abandon. "Abandonment occurs when the landowner 'intentionally and voluntarily foregoes further non-conforming use of the property.'" *Hobbs v. Department of Transp.*, 831 So.2d 745 (Fla. 5th DCA 2002), citing *Lewis v. City of Atlantic Beach*, 467 So.2d 751 (Fla. 1st DCA 1985). For the Property at issue here, no owner exhibited such intent at any point.

Although the City cited water usage numbers and Fire and Police Department statements,

any indication of temporary vacancy is not enough to show abandonment. "Temporary cessation of a nonconforming use or the temporary vacancy of buildings used for the nonconforming use does not operate to effect abandonment of the nonconforming use." See *Lewis*, supra.

In addition to the lack of intent to abandon, the specific facts concerning this Property show that the parties took timely action to prevent any assertion of abandonment. They filed timely applications with the City of Hollywood for the required Certificate of Use. Specifically, a prior potential purchaser of the property obtained a Certificate of Use on September 22, 2016. After this potential purchaser decided not to go through with the purchase, the Owner applied for a Certificate of Use in the Owner's name on December 14, 2016. This application was filed within 90 days of the prior grant of the Certificate of Use. Despite repeated attempts by the Owner and real estate broker to follow-up with the City regarding the application for a Certificate of Use in the Owner's name, including multiple phone calls as well as emails on January 10, 2017, January 11, 2017, January 18, 2017, January 23, 2017, January 24, 2017, January 26, 2017, and January 30, 2017, the City did not respond until February 14, 2017. Throughout this time period, the Owner was actively pursuing an application with the City in order to obtain the required Certificate of Use. Despite receiving a preliminary indication of a possible denial from the City on February 14, 2017, the Owner continued its efforts resulting in the meeting of April 26, 2017 and the follow-up letters on May 3, 2017 and June 28, 2017, as well as additional emails and phone calls.

As the facts above demonstrate, at no time did the Owner stop their efforts to obtain the necessary approval from the City of Hollywood. As was true in the *Hobbs* case cited above, the parties were only prevented from continuing the nonconforming use because they were unable to obtain the necessary additional approvals. As in *Hobbs*, there is no evidence that the parties desired to abandon their right to operate the nonconforming use. Also like in *Hobbs*, there was in fact no abandonment.

Accordingly, based on both the lack of intent to abandon and continuing efforts to obtain the necessary approvals, the Property was not abandoned and the use was not discontinued. The Owner should not need to seek a Special Exception determination to reinstate the use since the Property was not abandoned. In denying the Certificate of Use based on an improper determination of abandonment, the City improperly applied its Code and the relevant Ordinance.

IV. FHA and ADA Considerations

As we have explained in previous letters to the City, the improper denial of the Certificate of Use violated the Federal Fair Housing Act and the Americans with Disabilities Act. The FHA was originally enacted to prohibit discrimination in housing practices on the basis of race, color, religion, or national origin. *Elliott v. Sherwood Manor Mobile Home Park*, 947 F. Supp. 1574, 1576 (M.D. Fla. 1996). In 1988, Congress extended coverage to people with disabilities. See Fair Housing Amendments Act of 1988 ("FHAA"), Pub. L. No. 100-430, 102 Stat. 1620, 1622, 1623 & 1636 (1988), codified at 42 U.S.C. § 3601 et seq. Courts have recognized this expansion as "a clear pronouncement of a national commitment to end the

unnecessary exclusion of persons with handicaps from the American mainstream.” *Hovsons, Inc. v. Twp. of Brick*, 89 F.3d 1096, 1105 (3d Cir. 1996) (quoting *Helen L. v. DiDario*, 46 F.3d at 333 n. 14). The FHA is to be broadly construed to effectuate the goal of eradicating housing discrimination. *Id.* at 1105 (citing *Trafficante v. Met. Life Ins. Co.*, 409 U.S. 205, 209 (1972)). Congress intended the FHA to “apply to state or local land-use ... laws, regulations, practices or decisions which discriminate against individuals with handicaps.” H.R. Rep. No. 100-711, at 25, 1988 U.S.C.C.A.N. at 2185. This law “is intended to prohibit the application of special requirements through land-use regulations . . . that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community.” H.R. Rep. No. 711, 100th Cong. 2d Sess. 18, reprinted in 1988 U.S.C.C.A.N. 2173, 2185.

Similarly, in enacting the Americans with Disabilities Act (“ADA”), Congress found that “[h]istorically, society has tended to isolate and segregate individuals with disabilities, and ... such forms of discrimination ... continue to be a serious and pervasive social problem.” 42 U.S.C. § 12101(a)(2). Congress recognized that “[i]ndividuals with disabilities continually encounter various forms of discrimination, including ... segregation...” 42 U.S.C. § 12101(a)(5). To further the goal of eliminating discrimination against the disabled, Congress stated that “the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals[.]” 42 U.S.C. § 12101(a)(8). In response to its mandate, the United States Department of Justice has stated that “[i]ntegration is fundamental to the purposes of the [ADA].” 28 C.F.R. Part 333 35, App. A. § 35.130. This integration mandate is contained in 28 C.F.R. § 35.130, entitled “[g]eneral prohibitions against discrimination.”

Under the FHA and ADA, persons in recovery from alcohol or other substance abuse are considered disabled and thus entitled to the statutes’ protections. *Jeffrey O. v. City of Boca Raton*, 511 F. Supp. 2d 1339, 1346-7 (S.D. Fla. 2007); *MX Group, Inc. v. City of Covington*, 293 F.3d 326, 336-340 (6th Cir. 2002); *Innovative Health Sys. v. City of White Plains*, 117 F.3d 37, 48-49 (2d Cir. 1997); 42 U.S.C. § 12210(b); and 28 C.F.R. § 35.104(A)(ii) (listing “drug addiction” as a physiological impairment). Congress intended the FHA to protect the rights of handicapped persons to live in a residence of their choice in the community. *Bryant Woods Inn, Inc. v. Howard County, Md.*, 911 F.Supp. 918, 946 (D.Md. 1996) (citation omitted); see also *City of Edmonds v. Washington State Bldg. Code Council*, 18 F.3d 802, 806 (9th Cir. 1994), *aff’d*, 115 S. Ct. 1776 (1995).

By improperly considering the non-conforming use abandoned and/or discontinued, the City is applying its land use regulations in a manner that will exclude people with disabilities and discriminate against them.

V. Standing

As the Owner of the Property, Applicant is a potential claimant under local, federal or state law. Additionally, Applicant has standing because Applicant proposes to provide housing to “qualified individuals” with disabilities, and therefore has standing as a “person alleging discrimination on the basis of disability” under the ADA. 42 U.S.C. § 12133 and 28 C.F.R. § 35.130(b)(6); *A Helping Hand, LLC v. Baltimore County, Md.*, 515 F.3d 356, 364 (4th Cir.

2008). Similarly, since Applicant wishes to provide housing for handicapped persons, Applicant has standing under the FHA. See, e.g., *Judy B. v. Borough of Tioga*, 889 F. Supp. 792, 797 (M.D. Pa. 1995); *North Shore-Chicago Rehab., Inc. v. Village of Skokie*, 827 F. Supp. 497, 507 n.3 (N.D. Ill. 1993); *Horizon House Dev. Servs., Inc. v. Twp. of Upper Southampton*, 804 F. Supp. 683, 692 (E.D. Pa. 1992), *aff'd mem.*, 995 F.2d 217 (3d Cir. 1993).

Pursuant to your procedure at a hearing duly called, we shall establish all of the relevant criteria required under Section 5.8 of the Code. Upon your receipt of these materials, if you believe any additional documentation is required, please contact us. We reserve all rights, including but not limited to the right to submit additional evidence in support of this appeal at or prior to the Planning and Development Board hearing.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner
Michael S. Weiner

This instrument was prepared by:
Gavin S. Banta, Esquire
Angelo & Banta, P.A.
515 East Las Olas Boulevard, Suite 850
Fort Lauderdale, Florida 33301

Record and return to:
Mark S. Meland, Esquire
Meland, Russin & Budwick, P.A.
200 South Biscayne Boulevard, Suite 3000
Miami, Florida 33131

WARRANTY DEED

This Indenture, made this ^{July}~~31~~ day of ~~August~~, 2009 between **THE STARTING PLACE, INC., a Florida non-profit organization**, whose post office address is 351 North State Road 7, #200, Plantation, Florida 33317, hereinafter referred to as the Grantor, and **2057 COOLIDGE ASSOCIATES, LLC, a Florida limited liability company**, whose address is 9344 Bay Drive, Surfside, Florida 33154, hereinafter referred to as the Grantee.

WITNESSETH:

That Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee the real property (the "Property") located in Broward County, Florida, and more particularly described on Exhibit "A" attached hereto and made a part hereof.

- SUBJECT TO: 1. All restrictions, easements and other matters appearing on the plat and/or common to the subdivision;
2. Real estate taxes for the year 2009 and all subsequent years; and
3. Zoning and/or restrictions and prohibitions imposed by governmental authority.

TOGETHER with all the tenements, hereditaments and appurtenances belonging or in any way appertaining to the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

AND GRANTOR hereby covenants with Grantee that Grantor is lawfully seized of the Property in fee simple; that Grantor has good right and lawful authority to sell and convey the Property; and that Grantor does hereby fully warrant the title to the Property and will defend the same against the

lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal as of the day and year first above written.

Signed, sealed and delivered in the presence of these witnesses:

**THE STARTING PLACE, INC., a
Florida non-profit organization**

Witness Print Name:

C. S. L.
Dawn Ann Fontana

By:

Nancy L. Merolla
Nancy L. Merolla, Chief Executive Officer

Witness Print Name:

Dawn Ann Fontana

STATE OF FLORIDA)

) SS:

COUNTY OF BROWARD)

The foregoing instrument was sworn to, subscribed and acknowledged before me this 31 day of July, 2009 by Nancy L. Merolla, Chief Executive Officer of The Starting Place, Inc., a Florida non-profit organization, on behalf of the organization. She is personally known to me or presented Florida Driver's License as identification and did not take an oath.



Dawn Ann Fontana
Notary Public, State of Florida at Large
Printed Name: Dawn Ann Fontana
My Commission Expires: _____

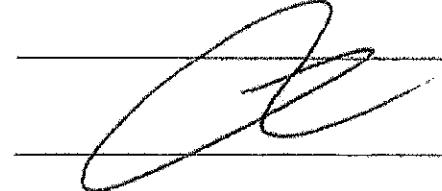
EXHIBIT "A"

Lot 1, the West 28 feet of Lot 2, Block 12, NORTH HOLLYWOOD, according to the plat thereof, recorded in Plat Book 4, Page 1, of the Public Records of Broward County, Florida.

The East 32 feet of Lot 2, and all of Lot 3, Block 12, NORTH HOLLYWOOD, according to the plat thereof, recorded in Plat Book 4, Page 1, of the Public Records of Broward County, Florida.

SACHS SAX CAPLAN, P.L.STONEGATE BANK
BOCA RATON, FL 33431
63-1241-670**636**OPERATING CHECKS
6111 BROKEN SOUND PARKWAY NW
SUITE 200
BOCA RATON, FL 33487CHECK NO. CHECK DATE VENDOR NO.
636 09/25/17 CHWD**PAY**

Fifty and NO/100 Dollars

CHECK AMOUNT
\$50.00TO THE
ORDER
OFCity of Hollywood
2600 Hollywood Blvd.
Room 221
Hollywood, FL 33020

⑈000636⑈ ⑆067015724⑆ 1096577⑈

SACHS SAX CAPLAN, P.L. - Operating Account

CHWD	City of Hollywood			Check No.: 636	
Voucher #:	Your Invoice No.	Reference Number	Invoice Date	Invoice Amount	Amount Paid
120689	13545.1		09/25/17	\$50.00	\$50.00
Appeal Fee for Board (RZ)					

09/25/17 \$50.00

SACHS SAX CAPLAN, P.L.STONEGATE BANK
BOCA RATON, FL 33431**9162**TRUST ACCOUNT
6114 BROKEN SOUND PARKWAY NW
SUITE 200
BOCA RATON, FL 33487CHECK NO. CHECK DATE VENDOR NO.
9162 09/25/17 CHWD**PAY**

Two thousand five hundred nine and NO/100 Dollars

CHECK AMOUNT
\$2,509.00TO THE
ORDER
OFCity of Hollywood
2600 Hollywood Blvd.
Room 221
Hollywood, FL 33020

⑈009162⑈ ⑆067015724⑆ 3201040709⑈

SACHS SAX CAPLAN, P.L. - STONEGATE BANK: Trust Account

CHWD	City of Hollywood	Check No.:	9162
Voucher #:	Your Invoice No.	Inv. Date	Amount Paid
120688	13545.1	09/25/17	\$2,509.00
Appeal Fee for Board (RZ)			

Client/Matter Description
13545 00001 Zoning Matter-2057 CoolidgeTRUST INTRANSIT: 9025- 09/25/17 \$2,509.00
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SACHS SAX CAPLAN
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January 29, 2018

Via Email and US Mail

Douglas R. Gonzales, Esq.
City Attorney
City of Hollywood
2600 Hollywood Boulevard
Room 407
Hollywood, Florida 33022

**Re: 2057 Coolidge St., Appeal of an Administrative Decision,
File: 17-AP-57**

Dear Mr. Gonzales:

Given the extraordinary circumstances that occurred at a duly called public hearing of the Planning and Development Board (the "Board") of the City of Hollywood, Florida (the "City") on January 18, 2018 (the "hearing"), my client, 2057 Coolidge Associates LLC, has requested that I write you. Since many of the actions of the City are unprecedented, my client reserves all rights.

This letter is written to inform you of my client's impressions as to the events that occurred. We look forward to hearing from you as to what you believe the City is about to do next in connection with the above-captioned matter and hope that the rule of law prevails in considering your next steps. My client has requested a transcript of the meeting since the statements made by the City are confusing and contradictory.

DENIAL OF DUE PROCESS

At the hearing, there was a statement that the application was withdrawn by the City. My client, not the City, filed the application. The City cannot withdraw the application. If you believe otherwise, please cite authority for this action. A possible outcome is that one party's unilateral withdrawal from the hearing results in the affirmation of the other party's request. We will look into this issue further.

The meeting was a public hearing, duly convened and noticed. Since the initial filing of the appeal in July 2017, my client has had numerous communications with City staff, has

EXHIBIT E

attended several meetings with City staff, and attended a Pre-Application Conference (PACO) upon staff's instructions. At no time over the past six and a half months did anyone associated with the City inform my client that the application had not been accepted.

The submission of the application, along with the compliance with notice requirements establishes a fair opportunity to be heard in person and through counsel at a public meeting. There is the right to present evidence, and the right to cross-examine adverse witnesses. *Coral Reef Nurseries, Inc. v. Babcock Co.*, 410 So.2d 648, 652 (Fla. 3d DCA 1982). A quasi-judicial hearing generally would meet basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard. In quasi-judicial zoning proceedings, the parties must be able to present evidence, cross-examine witnesses, and be informed of all the facts. *Jennings v. Dade County*, 589 So. 2d 1337, 1340 (Fla. 5th D.C.A. 1991). My client was not given that opportunity. This is in violation of Art I, 9, Fla. Const. and U.S. Const. amend. 14.

A unilateral withdrawal by the City for the City's convenience because of the City's perceived typographical error brought to the attention of my client on the day of the hearing cannot contravene those rights. My client originally submitted an appeal on July 6, 2017, and finalized the submission to the Board on September 25, 2017. My client had the absolute right to go before the Board and state why the hearing should proceed. I personally requested of Senior Assistant City Attorney Debra Reese, Esq. to speak and was told that I was forbidden to do so. Please confirm with Ms. Reese her recollection of this request.

SANCITY OF LOCAL ORDINANCES

As stated, on the day of the hearing, the City first brought to our attention by telephone that Section 5.3 (L) of the City of Hollywood Zoning and Land Development Regulations (the "Code") contained a typographical error. The explanation was that the reference in Section 5.3(L) to Section 5.8 was a typographical error, and that Section 5.3(L) should refer to Section 5.7 instead of Section 5.8. The current version of the Code, as published online by American Legal Publishing Corporation and linked to on the City's website, contains the reference to Section 5.8.

At the hearing, I received for the first time 139 pages of a document purported to be Ordinance No. 0-2011-4 enacted by the City on May 4, 2011 (the "May 4, 2011 Ordinance"). The May 4, 2011 Ordinance did not strike-out the reference in Section 5.3(L) to Section 5.8. Despite this fact, City staff informed me that the reference to Section 5.8 was meant to be stricken and replaced with a reference to Section 5.7. After review of the May 4, 2011 Ordinance and the Code, we find the following:

1. There are other places in the May 4, 2011 Ordinance where Section 5.8 is changed to Section 5.7, so it is very possible that the City Commission meant to retain the reference to Section 5.8 in Section 5.3(L).
2. The May 4, 2011 Ordinance has substantial issues in that there seems to be mistakes, inaccuracies and solecism throughout. Please review Section 5.3(C)(6)(c)(3), Section 4.9(C)(4), Section 5.3(K)(4), Section 5.3(M) and Section 9.5(G). In some instances,

there is a reference to another Code provision that does not exist. In some cases, such as Section 9.5(G), the published Code is different than the May 4, 2011 Ordinance and there seems to be no later amendment. These errors are different than the one you assert, where the error is not apparent on its face and where the published version makes more sense than the contrary interpretation now asserted by the City.

3. On October 19, 2016, the City enacted an Ordinance, which we believe was titled Ordinance No. 2016-19, rezoning 1,125 acres in the City (the "2016 Ordinance"). It is more than 15 months after enactment of the 2016 Ordinance, and the published Code and the published zoning map have not been updated to reflect the changes made in the 2016 Ordinance. The official zoning map still shows my client's property as IM-1, which was the zoning prior to the 2016 Ordinance.

It will be impossible for my client to proceed on a lawful, level playing field if the Code as published is inaccurate, incomplete and fails to meet legal requirements of state law as to its enactment. If the Code can be changed at the whim of the City's Attorney's office, and if the Code is treated with such disdain, showing a failure to respect basic requirements, then my client is at a legal disadvantage that would deny basic rights. What else will be called a typographical error or be rationalized under another excuse at the last minute costing my client time, money and most importantly, denying basic rights?

We suggest to you that if present attorneys and staff worked on the passage of the May 4, 2011 Ordinance that they no longer work on this matter. They may be material witnesses as to the passage of the May 4, 2011 Ordinance as we sort through this and determine what is and what is not a purported "typographical error." We look forward to your input on how the Code can be trusted so that these extraordinary events will not be repeated.

We are considering what might be required to remedy such issues. It may be that the ordinances must be properly re-enacted. It may be that an Attorney General's opinion should be sought on the effect of incorrect ordinances. We have found no precedents for such multiple inaccuracies and failure to publish. Again, will the City assert that other inaccuracies, not readily apparent, also exist? What else, which cannot be easily ascertained, is purportedly wrong with the Code? The "mistake" demonstrated to us was not a "mistake" on its face. How many more of these types of "mistakes" exist?

CONCLUSION AND RESERVATION OF RIGHTS

This letter is not a complete statement of all the rights and remedies of my client. This letter is to inform you as to basic issues that impede an orderly process for a resolution of the matters that impact my client. Further, my client wishes to inform you that it disagrees with the unilateral statements both as to the reasons why the City withdrew and what the future process might be made at the hearing. Again, my client reserves all rights.

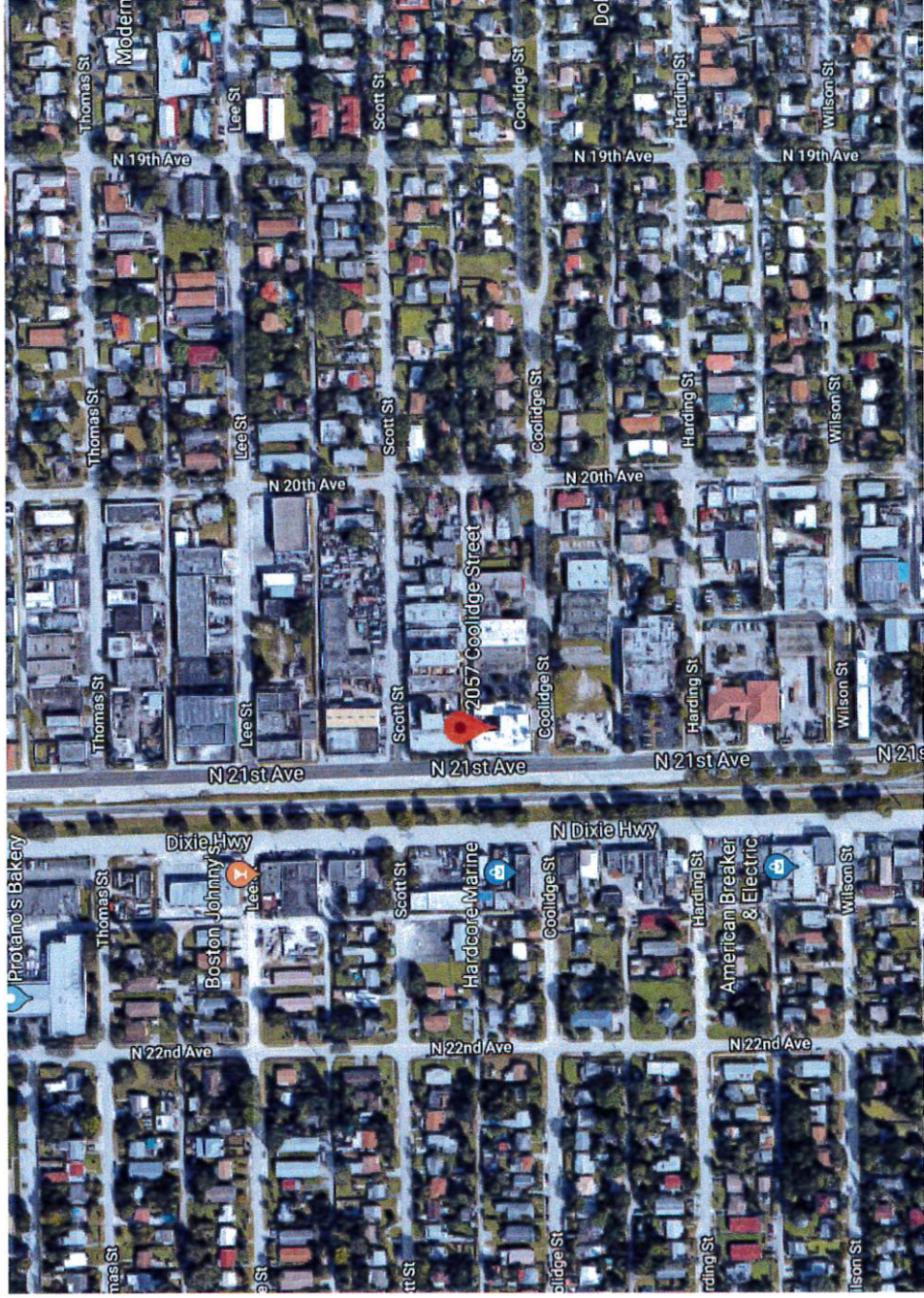
As a courtesy, we are available to meet with you and Planning Department Staff to discuss this matter further. We hope to hear from you shortly.

Very Truly Yours,



Michael S. Weiner, Esq.
MSW/mf

2057 Coolidge St.



The Property



Neighborhood



March 30th Email

From: Debra Reese <dreese@hollywoodfl.org>
Date: March 30, 2017 at 4:58:10 PM EDT
To: 'Gary Smith' <garysmith1946@gmail.com>
Cc: Shiv Newaldass <SNEWALDASS@hollywoodfl.org>, Thomas Barnett <TBARNETT@hollywoodfl.org>
Subject: RE: Coolidge palms review

Mr. Smith – I did meet with staff, however, Shiv, Tom Barnett and myself will be meeting with the Acting City Attorney either Monday or Tuesday in order to provide you with direction.

From: Gary Smith [<mailto:garysmith1946@gmail.com>]
Sent: Thursday, March 30, 2017 3:58 PM
To: Debra Reese
Subject: Coolidge palms review

Debra:

Can I get an update on the staff meeting over the Coolidge Palms Resolution?

I understand you had scheduled it for this week.

thank you

Gary Smith
Broker Sales
RE/MAX 5 Star Realty
4151 Hollywood Boulevard
Hollywood FL 33021
954-558-5554 cell
954-361-0000 office

Section 5.3(L)

Appeal from Administrative Decisions.

The Planning and Development Board shall hear, decide and rule upon appeals filed by any party in interest aggrieved by an order, decision or interpretation by the pertinent officials of the city, in the enforcement of the terms and provisions of any of the Zoning and Land Development Regulations, as amended from time to time.

Section 5.7(D)

Appeals of an administrative decision by the Director.

Any party in interest aggrieved by an administrative decision **by the Director** authorized under this Article, may file an appeal to the applicable Board. Such appeal must be filed within 30 days of the administrative decision, shall be in writing, on a form provided by the Department of Planning and Development Services and shall specify the grounds for such appeal. The appeal form shall be accompanied by the applicable fee as established by resolution of the City Commission. Upon receiving an appeal from an administrative decision, the Department of Planning and Development Services shall schedule a public hearing before the applicable Board. Notice of the public hearing shall be as prescribed in § 5.7.F. of this Article.

“Director”

DIRECTOR. The individual appointed by the City Manager as the Director of the Department of Planning and Development Services. (Section 2.2)

Similarity of Use

Detoxification Facility	Alzheimer's Care Facility
24 hour/7 day a week care	24 hour/7 day a week care
Medically supervised care	Medically supervised care
Monitored by medical staff	Monitored by medical staff
Staff of both doctors and nurses	Staff of both doctors and nurses
Provides residential services, including overnight stay	Provides residential services, including overnight stay
Provides group meetings and other activities	Provides group meetings and other activities
Population admitted cannot take full responsibility for their personal care	Population admitted cannot take full responsibility for their personal care

Similarity of Use, continued

- The International Code Council, which sets codes and standards for safeguards to industries and has been adopted by all states, groups uses as follows:
 - 308.4 Institutional Group I-2. This occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation. This group shall include, but not be limited to, the following:
 - Foster care facilities • Hospitals • Psychiatric hospitals
 - **Detoxification facilities** • **Nursing homes**
- There is no difference in the intensity of use or the type of use. The only difference is in the classification of the disease for which the person is admitted.

Current Zoning

Dixie Highway High Intensity Mixed-Use District (DH-3)

Main Permitted Uses

- Adult Educational Facilities
- Amusement Uses (Indoor and Outdoor)
- Antique, Consignment, Collectible, and Vintage Store
- Artisan and Maker Manufacturing and Space
- Assembly of Premanufactured Parts for Sale on Premises
- Automotive Rental
- Automotive Repair
- Automotive Sales, New and Used
- Bar, Lounge, or Night Club
- Bed and Breakfast Inn
- Cabinet, Furniture, and Upholstery Shop
- Car Wash
- Coin Laundry
- Commercial Uses
- Contractor Show and Storage (Indoor)
- Dry Cleaner
- Food Processing
- Funeral Home
- Hotel
- **Institutional**
- Live-Work
- Microbrewery, Microdistillery, and Microwinery
- Motel
- Multi-Family Residential (with exceptions)
- Museum, Art Gallery, and Similar Cultural Uses
- Office
- Parking Lot and Garages (Commercial)
- Personal Service
- Place of Worship, Meeting Hall, Fraternal Lodge
- Restaurant
- Retail (indoor)
- Schools (Business, Commercial, or Vocational; Recreational or Cultural; and University)
- Self-Storage Facility
- Single-Family Residential (with exceptions)
- Thrift Shop
- Wholesale and Warehousing

Institutional Uses

INSTITUTIONAL USES. A public or private use that provides a service, whether educational, health, religious, charitable or governmental in character, and is operated by a government, utility, college, tax-exempt or private organization, and/or a place of public assembly. Examples include, but are not limited to: public agency, library, public safety and emergency services, charitable, essential and utility services, cultural, service and religious facilities, public/private health facilities or other similar uses. For purposes of this definition, INSTITUTIONAL USES shall not include pre-K-12 schools. (Defined in Section 2.2)

Social Service Facility

SOCIAL SERVICE FACILITY. A facility, for unrelated guests that offers substance abuse counseling, no or nominal cost meals, no or nominal cost lodging or no or nominal cost clothing. This definition includes, but is not limited to, homeless shelters, free restaurants, half-way housing, and Substance Abuse and Rehabilitation Center. **This definition does not include an ALF or CRH that is regulated by** the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, **the Department of Children and Family Services** or Agency for Health Care Administration. (Defined in Section 2.2)