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April 20, 2016

Via E-Mail and Regular U.S. Mail

Timothy Stillings, Director  
City of Delray Beach Planning and Zoning Department  
100 NW First Avenue  
Delray Beach, Florida 33444

RE: RMS Properties IX, LLC / SPRAB Appeal  
Our File No. 16-120

Dear Mr. Stillings:

This law office has been retained by RMS Properties IC, LLC ("RMS"), owner of the SOPRA building located at 110 East Atlantic Avenue, Delray Beach, Florida.

It has come to my client's attention that a tenant of the property, Creations of France, Inc. d/b/a Café de France, has raised objections to the recent approval by SPRAB to the intended re-development and upgrade of the subject property. The purpose of this letter is to address not only specific objections, but to advise the City that the tenant has made severe misrepresentations as to its interest in the property, the status of the landlord-tenant relationship, and the basis upon which it may object to the improvements intended by RMS.

Before addressing any specific objections contained in the letter of appeal filed with the City by the Tenant, it is important to clarify that:

1. Creations of France is a tenant under a valid and existing Lease with RMS, and pursuant to said Lease is granted "use rights" of a specific portion of the property. At no time, either in law or in equity, does the Tenant have any "development rights" as they allege in their various correspondence. Any representation to that effect is false and an attempt by the Tenant to establish standing to object to RMS's site plan application; which it does not have. Their rights are limited to the confines of that portion of the building which they occupy under the Lease.
2. For nearly a year, RMS and the Tenant has been in active negotiations with RMS to terminate its occupancy earlier than as provided in its Lease. Although the City does not have an interest in said negotiations, directly, the objections being filed by the Tenant to the site plan amendment is nothing more than attempt to use said objections as leverage in its private negotiations. **This is certainly something the City should not and cannot involve itself.** Each time it appears that a settlement is in sight, they

withdraw their interest in moving. The site plan amendment is now being seen by the Tenant as a way to seek additional consideration for its early termination.

3. Except for the Tenant's right to use the patio area as approved by the City and contained in its Lease with RMS, the Tenant has no jurisdiction or right to object to any of the improvements RMS, as owner of the property, has the right to do to its own asset. To the degree any such improvements may affect the Tenant, those items seem to fluctuate based upon whether Tenant has an intent and desire to move out of the premises early. Its waivering is, in fact, the cause of the delays that are currently occurring in the approval and re-development of the property, which, if they continue, may result in severe damages for which it may be liable. This is an other example of the Tenant "using the City" for its benefit, and to be brought into a Landlord-Tenant dispute it should not involve itself.

Turning to specific objections, as previously stated, it is questionable, at best, that Tenant even has standing to object to any of the improvements which have been presented and approved by SPRAB under its application, as its "use rights" are limited to their leased space.

1. The following items as listed in the Tenant's written objection have no effect on Tenant, and as a matter of right, RMS has the sole and absolute legal authority to make the following requested changes: (i) Conversion of existing lobby; (ii) convert 3 stairwells; (iii) exterior renovations with canopies, windows, impact glass storefront; (iv) commercial porch along the west and north sides; (v) railing updates; (vi) updated stucco, and building paint; (v) Upgrading and enlarging of elevator and stairs; (vi) re-division of existing tenant space on all floors; (vi) addition of handicap spots; and (vii) relocation of dumpster. All of these items are outside the borders and scope of Tenant's occupancy.
2. As to the porch depth, this matter was presented as part of the site plan amendment in light of the advanced negotiations with the Tenant to vacate the premises it occupies under its lease at a date earlier than the current termination date. Once again, an attempt to leverage its negotiating position after supposedly "acting in good faith" in its negotiations.

It is clear from RMS' application, as well as full review by the City Staff and SPRAB, RMS has a legal right and has met the requirements of the City to make the intended improvements to the property, and that any denial based upon a proper legal basis, both in substance and in standing to even object, would be a denial of its property rights.

It is therefore requested, that any objections, whether written or oral, made by the Tenant, Creations of France, Inc., not be given any legal weight, and that the decision by SPRAB to approve the improvements be confirmed.

Mr. Timothy Stillings  
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Should you wish to discuss further, or have any questions, please do not hesitate to contact me.

Very truly yours,



Les H. Stevens

LHS/ns

cc: RMS Properties IX, LLC (via e-mail)  
Mayor Cary Glickstein (via e-mail)  
Vice Mayor Al Jacquest (via e-mail)  
Commissioner Jodana Jarjura (via e-mail)  
Commissioner Shelly Petrolia (via e-mail)  
Commissioner Mitch Katz (via e-mail)  
Noel Pfeffer, Esquire, City Attorney (via e-mail)  
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