



Cover Memorandum/Staff Report

File #: 18-0750 CRA

Agenda Date: 2/23/2021

Item #: 8C.

TO: CRA Board of Commissioners
FROM: Kim N. Phan, Legal Advisor
THROUGH: Renée A. Jadusingh, Esq., Executive Director
DATE: February 23, 2021

EXTENSION REQUEST BASED ON FORCE MAJEURE - BH3 MANAGEMENT, LLC - SW 600-800 BLOCKS OF W. ATLANTIC AVENUE

Recommended Action:

Board consideration and direction regarding the February 12, 2021 letter from BH3 Management, LLC concerning the invocation of Force Majeure - Section 1.10 in the Purchase & Sale Agreement for the SW 600-800 blocks West Atlantic Avenue Properties.

Background:

At the January 26, 2021 CRA Board Meeting, the CRA Board declared BH3 Management, LLC ("BH3") in default of the, April 22, 2019, Purchase & Sale Agreement ("Agreement") for the SW 600-800 blocks West Atlantic Avenue Properties. Per Section 10 of the Agreement, as amended, BH3's failure to obtain all necessary approvals on or before the Approval Date of January 18, 2021 constituted an event of default. In accordance with the terms of the Agreement, BH3 is afforded a thirty (30) day cure period.

On February 12, 2021, the CRA received a request for a three hundred and eighty-three (383) days extension to the Approval Date and all subsequent dates in the Agreement based on force majeure related to COVID-19. A copy of the letter is attached.

Section 1.10 of the Agreement states:

1.10 Force Majeure: Force Majeure Events include, without limitation, floods, storms, hurricanes, and other acts of God (including reasonable preparation therefore); war, terrorism, riots, civil commotion, fire, and other casualty; strikes, lockouts, labor disputes, and an inability to procure or a general shortage of labor, equipment, facilities, materials, or supplies in the open market; acts of the other party; delays in obtaining permits and approvals from regulatory authorities; and all other causes and circumstances similar to the foregoing. Force Majeure extensions must be approved by the CRA Board of Commissioners and shall not be unreasonably withheld.

At this time, CRA Staff is seeking Board consideration and direction regarding the February 12, 2021 letter from BH3 Management, LLC concerning the invocation of Force Majeure.

Attachment(s): Exhibit A -February 12, 2021 BH3 Letter to CRA; Exhibit B - Purchase and Sale Agreement and Amendments