



## Legislation Details (With Text)

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**File created:** 4/20/2020      **In control:** City Commission  
**On agenda:** 5/5/2020      **Final action:** 5/5/2020  
**Title:** DISCUSSION AND DIRECTION REGARDING THE HANDLING OF REQUESTS RECEIVED FOR EXCUSAL OF PAYMENTS BASED ON INVOCATION OF FORCE MAJEURE CONTRACTUAL PROVISIONS  
**Sponsors:** Finance Department  
**Indexes:**  
**Code sections:**

**Attachments:** 1. Agenda Cover Report, 2. Delray IntraCoastal Cruises Executed Agreement 2018-031, 3. Delray IntraCoastal Cruises Relief Request Letter 3.24.20, 4. RFP 2018-031 - Delray IntraCoastal Cruises, 5. Creative City Collaborative - Arts Garage Agreement, 6. Arts Garage Relief Request 3.31.20, 7. Taverna Opa Parking License Agreement 10.29.19, 8. Taverna Opa Atlantic LLC Amendment No. 1 to the Parking License Agreement, 9. Taverna Opa Relief Request Letter 3.6.20, 10. Cut 432 Parking License Agreement 10.29.19, 11. Cut 432 LLC Amendment No. 1 to the Parking License Agreement, 12. Cut 432 Relief Request Letter 4.15.20

Date	Ver.	Action By	Action	Result
5/5/2020	1	City Commission	approved	Pass

**TO:** Mayor and Commissioners  
**FROM:** Marie Kalka, Finance Director  
**THROUGH:** George Gretsas, City Manager  
**DATE:** May 5, 2020

DISCUSSION AND DIRECTION REGARDING THE HANDLING OF REQUESTS RECEIVED FOR EXCUSAL OF PAYMENTS BASED ON INVOCATION OF FORCE MAJEURE CONTRACTUAL PROVISIONS

### **Recommended Action:**

Staff seeks direction regarding the handling of requests received for excusal of payments based on invocation of force majeure contractual provisions.

### **Background:**

On March 13, 2020, the City of Delray Beach (the City) declared a local state of emergency due to COVID19. Thereafter, on March 20, 2020, the City mandated closure of non-essential commercial and retail establishments. Due to the City's mandates, several businesses have requested excusal of payments owed the City by invoking the Force Majeure provision of their contracts. The businesses currently requesting excusal are as follows:

Delray Yacht Cruises entered into an Agreement with the City on July 19, 2018. Pursuant to the Agreement, Delray Yacht Cruises is required to submit payment to the City in the amount of \$10,000 on a monthly basis. On March 24, 2020, Delray Yacht Cruises submitted a request to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

Creative City Collaborative entered into a Lease Agreement with the City on December 8, 2016. Pursuant to the Lease Agreement, CCC is responsible to pay base annual rent in the amount of \$946.30 on a monthly basis. On March 31, 2020, Marjory Waldo, on behalf of CCC, submitted a request to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

Taverna Opa entered into a Parking License Agreement with the City dated October 29, 2019 and renewed on March 3, 2020. As part of this Agreement, Taverna Opa is required to submit payment each month in the amount of \$1078.56 for its use of six (6) parking spaces located on Atlantic Avenue. On March 6, 2020, Tavern Opa submitted a request to the City to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

Cut 432 entered into a Parking License Agreement with the City dated October 29, 2019 and renewed on March 3, 2020 to provide valet parking services. As part of this Agreement, Cut 432 is required to submit payment each month in the amount of \$539.28 for its use of three (3) parking spaces located on Atlantic Avenue. On April 15, 2020, Cut 432 submitted a request to the City to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

**City Attorney Review:**

Approved as to form and sufficiency.

**Funding Source/Financial Impact:**

Below are the monthly amounts due from each Lessee:

Entity	Monthly Amount
Delray Yacht Cruises	\$10,000
Arts Garage	\$946.30
Taverna Opa	\$1,078.56
Cut 432	539.28

**Timing of Request:**

Payments were due on April 1<sup>st</sup> and have been deferred pending direction from the Commission.