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City of Margate, Florida

February 17, 2010

Rick Wilson
President of Dudley Holdings
President of Summer Rain Commercial Park, LLC
5033 NW 81st Terrace
Coral Springs, Florida 33067

Dear Mr. Wilson;

I have been asked by both the City Planner and the City Manager to respond to your email of this date. It is my understanding that the property owned by you which has been leased to Middleton Pest Control, Inc. and subleased to American International Recovery has been cited for violation of Section 3.10.1 and Section 14-1/2.3 of Appendix A of the Code of the City of Margate (zoning Code). You state that because repossessed vehicles have license tags, that you do not believe that the use on your property is in violation of said code. You further state that you had no knowledge of correspondence determining that the use proposed by the sublessee, American International Recovery, was in violation of the zoning code of the City of Margate.

While it remains to be seen whether the use maintained on your property by the sublessee American International Recovery is in violation of 3.10.1, it is quite clear that said use is in violation of Section 14-1/2.3 of Appendix A of the Code of the City of Margate; and further, that you were aware of same prior to the time that American International Recovery began operation on your property. Section 14-1/2.3 specifically provides:

"no building or structure, or any part thereof, shall be erected, altered or used, or land or water used, in whole or in part, for other than one (1) or more of the following uses:..."

No where in Section 14-1/2.3 is automobile storage "listed as a permitted use" (though same is specifically listed as a permitted use in M-1 districts).

You specifically knew that this violated our zoning code as evidenced in your e-mail to the City Planner dated December 17, 2008. A copy of which I have attached to refresh your recollection. In fact, you argued vociferously that such was the case. In response to your email (also attached) I provide the following language that you expressed to our City planner in said email:

"As it clearly states within his web site (and it is my understanding) that Mr. Hunt's firm is involved in a variety of other recovery efforts other than "vehicles."

As stated in their web site, they are involved in the recovery of such things as:
Semi-tractors, Semi-trailers, Motor homes, boats, computers, heavy equipment, aircraft, atv's, travel trailers, and perhaps the best, **Mobile Homes**.

The reason for my note is simple, that as the owner/landlord of this property I am concerned about allowing this use as I don't think it clearly falls into the Definition of **Article XIV 1/2. Industrial Park M1A District**. As a matter of fact, I don't think it does at

all. For example, do you think the intent of this Zoning was to provide a facility for the "Warehousing-Trucking and distribution" of Mobile Homes? Imagine a couple dozen Mobile homes laying around over there and let's throw in an airplane, boat, or two. Clearly not the image we are interested in portraying and clearly not a welcome addition to that nice Industrial section of our town.

I am sure that Mr. Hunt will assure you that he doesn't participate in anything of than vehicles, but his web site clearly speaks otherwise. I an not interested as a landlord in participating in an effort to remove a tenant from my premises after we find out that he deals in things other than "vehicles" and I am sure you are not interested in trying to enforce such a thing after the fact.

Please review the information and the position I have presented. I respectfully request that you review this info. and reconsider your tentative approval. "

In response to the above, our City Planner emailed to you on December 22, 2008, the following:

"Rick,

Upon further investigation of the proposed use at 5455 NW 24th St, it appears that the use would not qualatify (sic) as warehousing, trucking and distribution. In order for such use to be consistent with the zoning classification for your property, all items would have to be stored entirely indoors and then shipped to the end client. The outdoor storage of any vehicles is stricly (sic) prohibited and is allowed only within the M-1 zoning districts.

Upon further clarification, the M-1A zoning district allows contractors, including service contractors. However, by definition in section 14 1/2 - 2 of the Margate Zoning Code service contractor shall include "air conditioning service and installation, carpet installers, glass and mirro (sic) installers, carpet cleaners, exterminators lawn care companies, and other similar businesses performing work off-premises. This definition specifically excludes automotive and person services."

As represented on the website that you have provided for reference, it has been determined that this proposed use would go beyond the scope of a business office and warehouse. Therefore this use is not consistent with the M-1A zoning district. "

Your claim that you were unaware that this office had rendered an opinion that said use was not allowed, is disingenuous, to say the least, in that you specifically notified the City of the evils of the very use you are now attempting to protect and you were specifically notified by the City Planner that the use was not a permitted use. The City's attempt: now to enforce the very law that you were aware was the very evil that you in your December 2008 email had warned the City of

In keeping with the December correspondence from you to the City Planner and the City Planner to you, the City of Margate has never notified your lessee nor your lessee's sublessee that the use presently residing on your property was permitted under the Code of the City of Margate. On the contrary, in keeping with the December correspondence the City emphatically stated that said use was not permitted in an M-1A district just as you had stated in your correspondence to the City. No occupational license (business tax receipt) has ever been issued to American International Recovery. It would seem that notwithstanding the fact that American International Recovery was denied an occupational license (business tax receipt) it simply determined to begin business operations contrary to City zoning law (a copy of the denial of business tax receipt is attached).

I am sure that as a prudent businessman there is a section contained within your lease of the premises which provides that any use that violates the law is a violation of said lease.

Based upon the above, the City intends to continue the clear, consistent policy that the type of use run by American International Recovery is not permitted in the M-1A zoning district (as so apply put in your December 2008 email).

Should you need additional time to ensure that the prohibited use above provided is no longer doing business on your property I am sure the City of Margate will consider a short, reasonable time in which said use may vacate the premise before this matter is brought to the attention of the City's Special Magistrate.

Very truly yours,



Eugène M. Steinfeld
City Attorney

Cc: City Manager
City Planner