

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2009-165**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING A RELEASE OF AFFORDABLE DEED RESTRICTIONS FOR PROPERTY LOCATED AT 170 63<sup>RD</sup> STREET OCEAN, MARATHON, FLORIDA; FURTHER IDENTIFIED BY REAL ESTATE NO. 00340160-000000; ACCEPTING AN IN LIEU PAYMENT IN THE AMOUNT OF \$20,000.00 FOR THE RELEASE OF THE AFFORDABLE ALLOCATION PREVIOUSLY ISSUED TO THE PROPERTY; COMPLETING A TRANSFERABLE BUILDING RIGHTS PROCESS PURSUANT TO CHAPTER 107, ARTICLE 2 OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS (LDRS), AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, a single family residence was constructed at 170 63<sup>rd</sup> Street, Ocean, Marathon, Florida (RE No. 00340160-000000) utilizing an affordable Building Permit Allocation System (BPAS) award; and

**WHEREAS**, the residence was issued a Certificate of Occupancy (CO) though no "Affordable Deed Restriction" was filed with the Monroe County Clerk of Courts as was a conditional requirement of accepting an affordable BPAS award; and

**WHEREAS**, the original owner of said property applied for a Transfer of Building Rights (TBR) in order to make the property and residence a single family residence a market rate unit; and

**WHEREAS**, the original owner did not complete the requirements of the TBR process, thus the requirement that the residence have an Affordable Deed Restriction remains in the City of Marathon records; and

**WHEREAS**, a new party wishes to purchase said property and wishes to complete the TBR process in order to make the property and residence a market rate unit and to insure a clear title on the property for such a unit.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council hereby approves and accepts the "Release of Affordable Deed Restrictions" for property located at 170 63<sup>rd</sup> Street, Ocean, Marathon, Florida (RE No. 00340160-000000), attached as Exhibit "A."

**Section 3.** Approval of said "Release of Affordable Deed Restriction" completes a Transfer of Building Rights (TBR) process pursuant to Chapter 107, Article 2 of the Land Development Regulations (LDRs), subject to the City's receipt of the required "in lieu" fee of \$20,000.00.

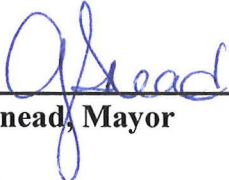
**Section 4.** The Mayor is authorized to execute the Release of Affordable Deed Restrictions on behalf of the City.

**Section 5.** The Owner of said property is responsible for recording the "Release of Deed Restriction" in the public record through the Monroe County Clerk of Court at his/her/its sole expense, and returning a copy of said recordation to the City Clerk of the City of Marathon.

**Section 7.** This resolution shall take effect immediately upon its adoption.


**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 10<sup>th</sup> day of November, 2009.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Ginger Snead, Mayor**

AYES: Cinque, Keating, Ramsay, Worthington, Snead  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

\_\_\_\_\_  
City Attorney

RELEASE OF AFFORDABLE DEED RESTRICTIONS

170 63rd STREET OCEAN  
MARATHON, FLORIDA 33050  
RE # 00340160-000000

1. A single family residential dwelling unit was constructed on the property located at 170 63<sup>rd</sup> Street Ocean, Marathon, Florida, having Real Estate Parcel No. 00340160-000000 (the "Property"), using an affordable Building Permit Allocation System (BPAS) allocation issued by the City of Marathon (the "City"), such Property being more particularly described as follows:

Lot 12, Block D, of SHERYL SUBDIVISION NO. 2, according to the Plat thereof, recorded in Plat Book 4, Page 43, of the Public Records of Monroe County, Florida.

2. The owner of the Property applied for a Transfer of Building Rights ("TBR") to make the Property a Market Rate Single Family Residence ("SFR"). However, the owner did not complete the requirements of the TBR process, and the SFR remains subject to the City's affordable housing restrictions.

3. Due to the TBR process not having been completed, a Declaration of Affordable Housing Restrictions ("Affordable Deed Restrictions"), should have been recorded in the Public Records of Monroe County, Florida prior to issuance of a Certificate of Occupancy, but was not.

4. One of the options to complete the TBR process is the payment of an in lieu fee to the City's affordable housing program. The amount of such payment is currently \$20,000.

5. The Property has been sold and the new owner is completing the process by payment of the in lieu fee.


6. The City acknowledges receipt of the \$20,000 payment and agrees that the TBR process has now been completed

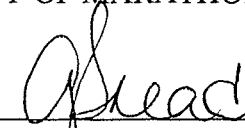
7. In consideration of the in lieu payment of \$20,000, the City hereby releases the Property from any Affordable Deed Restrictions whether recorded or not and acknowledges that the SFR constructed on the Property shall for all purposes be considered a Market Rate Single Family Residence.

EXECUTED this 23 day of ~~October~~<sup>November</sup>, 2009.


ATTEST:

CITY OF MARATHON

  
\_\_\_\_\_  
City Clerk

By:   
\_\_\_\_\_  
Ginger Snead, MAYOR

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF MARATHON, FLORIDA ONLY.

  
\_\_\_\_\_

This document prepared  
by and return to:  
John J. Wolfe  
2955 Overseas Highway  
Marathon, FL 33050

Doc# 1768713  
Bk# 2442 Pg# 1271

RELEASE OF AFFORDABLE DEED RESTRICTIONS

170 63rd STREET OCEAN  
MARATHON, FLORIDA 33050  
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EXECUTED this 23 day of <sup>November</sup> ~~October~~, 2009.

ATTEST:

Diane Claver  
City Clerk

CITY OF MARATHON

By: Ginger Snead  
Ginger Snead, MAYOR

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF MARATHON, FLORIDA ONLY.

[Signature]

MONROE COUNTY  
OFFICIAL RECORDS