

Sponsored by: Hernstadt

CITY OF MARATHON, FLORIDA  
RESOLUTION 2012-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, TAKING NOTICE OF THE SETTLEMENT IN DEPARTMENT OF ADMINISTRATIVE HEARINGS CASE NO 10-0557DRI, APP-09-008, AND APPROVING THE TRANSFER OF TEN (10) TRANSIENT RESIDENTIAL BUILDING RIGHTS (TBRs) FROM PROPERTY LOCATED ON BIG PINE KEY, IDENTIFIED BY REAL ESTATE NUMBER 00110730-000000 (SENDER SITE), TO PROPERTY KNOWN AS SEAWARD LLC, IDENTIFIED BY REAL ESTATE NUMBER 00101050-000000 (RECEIVER SITE); REQUIRING THE RECORDATION OF A WARRANTY DEED IN THE CHAIN OF TITLE OF THE RECIVER SITE PER SECTION 107.17 B. OF THE CITY OF MARATHON LAND DEVELOPMENT REGULATIONS, REQUIRING THAT THIS RESOLUTION BE RECORDED IN THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, REQUIRING THAT A COPY OF THE RECORDED RESOLUTION BE PROVIDED TO THE MONROE COUNTY ATTORNEY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on or about June 22, 2011 a Settlement Agreement ("Settlement") was approved between the Florida Department of Community Affairs, Monroe County (County), Leo F. Winterling, and James A. Winterling in Department of Administrative Hearings Case No. 10-0547DRI, APP-09-008; and

WHEREAS, said Settlement recognizes the existence of ten (10) transient Rate of Growth Ordinance (ROGO) exemptions (TBRs); and

WHEREAS, in accordance the Settlement the TBRs may be transferred to specified locations on Big Pine Key, and to permissible locations within the City of Marathon or the Village of Islamorada upon adoption of a resolution of the governing body approving the transfer of the TBRs; and

WHEREAS, on February 24, 2012 Mr. Brian Schmitt on behalf of Seaward, LLC made a request of the Marathon City Council to allow the transfer of the TBRs as described in the Settlement into the City of Marathon to be placed on the Receiver Site; and

WHEREAS, at its regular meeting of March 13, 2012 the Marathon City Council approved the transfer of the TBRs in accordance with the terms of the Settlement and those of Chapter 107, Article 2 of the City of Marathon Land Development Regulations (LDRs); and

I certify this document to be a True and Correct Copy of the original.

Briane Clavette  
City Clerk/City of Marathon

3/29/12  
Date

**WHEREAS**, the Sender Site is documented in the Settlement and is identified by Real Estate No. 00110730-000000; and

**WHEREAS**, the Receiver Site is identified by Real Estate No. 00101050-000000 and meets the TBR Receiving Site criteria established in Section 107.15 B. of the LDRs.

**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 takes notice of the Settlement and approves the transfer of ten (10) transient TBRs into the City of Marathon from the Sender Site on Big Pine Key to the Receiver Site in Marathon.

**Section 3.** The Receiver Site meets all applicable TBR Receiver Site criteria and transfer requirements set forth in Chapter 107, Article 2 of the City's Land Development Regulations ("LDRs").

**Section 4.** In accordance with Section 107.17 of the LDRs, a warranty deed shall be recorded by Seaward, LLC in the chain of title of the Receiving Site evidencing the transfer of the TBRs; however, all bonds, assessments, back City taxes, fees and liens (other than mortgages) affecting the parcels shall be paid in full prior to recordation of the warranty deed for the transfer of the TBRs.

**Section 5.** At the expense of Seward LLC, the City will record this Resolution in the Public Records of the Monroe County and provide a copy to the Monroe County Attorney and to Seaward LLC.


**Section 6** This resolution shall take effect immediately upon its adoption.

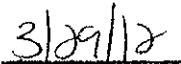
**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 27<sup>th</sup> DAY OF MARCH, 2012.**

THE CITY OF MARATHON, FLORIDA

  
Dick Ramsay, Vice Mayor

I certify this document to be a True and Correct Copy of the original.

  
Diane Clewley  
City Clerk/City of Marathon

  
Date

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

**ATTEST:**

*Diane Clavier*  
Diane Clavier, City Clerk

(City Seal)

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

*[Signature]*  
City Attorney

*Prepared by: John Herin, esq.*

**MONROE COUNTY  
OFFICIAL RECORDS**

#205661 v1

For this document to be a true and correct copy of the original

*Diane Clavier*  
Clerk/City of Marathon

*3/29/12*  
Date