

Jeremy B. Shir, Esq.
Attorney at Law
Phone: (954) 364-6028 Fax: (954) 985-4176
jshir@beckerlawyers.com



Becker & Poliakoff
1 East Broward Blvd., Suite 1800
Ft. Lauderdale, FL 33301

September 14, 2020

Via Email: NMBCOMDEV@citynmb.com

Justin Proffitt
Community Development Director
North Miami Beach
17050 NE 19th Avenue, 1st Floor
North Miami Beach, FL 33162

RE: *Leeward Point Condominium, Inc. ("Leeward Point") Clarification of Position and Withdrawal of Opposition to Variance Application at 16454 NE 27th Pl, Unit #37, located within Leeward Point Condominium in North Miami Beach, Florida*

Dear Mr. Proffitt:

Becker and Poliakoff represents Leeward Point Condominium, Inc. ("Leeward Point" or "The Association"). Previously, we had sent you a letter in opposition to the setback variance application filed at 16454 NE 27th Pl, located within the Leeward Point Condominium. We would like to clarify Leeward Point's position on the matter moving forward.

Firstly, as a clarification, the Association never claimed an ownership interest in the balcony. The balcony is a limited common element, pursuant to the Association's governing documents, and thus the Association does not have any ownership of the subject property.

Secondly, as the Association can only be guided by what is in its governing documents and has no ownership interest in the balcony, what any of the individual unit owners do or do not do concerning the balcony enclosure variance is outside of the scope of the Association's responsibility and reach.

Provided the City will not require Association approval for the enclosure, Leeward Point does not plan on objecting to the variance on technical, legal grounds based on who was or was not joined as a party for the variance.

September 14, 2020

Page 2

Thank you very much for your consideration. We look forward to hearing from you shortly.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jeremy Shir".

Jeremy B. Shir

For the Firm

CC: ***Outside Counsel for City Hillah Mendez, Esq.***
Rob Rubinstein, Esq.
Alberto Olivera, President Leeward Point
City Clerk Andrise Bernard

Jeremy B. Shir, Esq.
Attorney at Law
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Becker

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September 14, 2020

Via Email: NMBCOMDEV@citynmb.com

Justin Proffitt
Community Development Director
North Miami Beach
17050 NE 19th Avenue, 1st Floor
North Miami Beach, FL 33162

RE: Leeward Point Condominium, Inc. ("Leeward Point") Clarification of Position and Withdrawal of Opposition to Variance Application at 16454 NE 27th Pl, Unit #37, located within Leeward Point Condominium in North Miami Beach, Florida

Dear Mr. Proffitt:

Becker and Poliakoff represents Leeward Point Condominium, Inc. ("Leeward Point" or "The Association"). Previously, we had sent you a letter in opposition to the setback variance application filed at 16454 NE 27th Pl, located within the Leeward Point Condominium. We would like to clarify Leeward Point's position on the matter moving forward.

Firstly, as a clarification, the Association never claimed an ownership interest in the balcony. The balcony is a limited common element, pursuant to the Association's governing documents, and thus the Association does not have any ownership of the subject property.

Secondly, as the Association can only be guided by what is in its governing documents and has no ownership interest in the balcony, what any of the individual unit owners do or do not do concerning the balcony enclosure variance is outside of the scope of the Association's responsibility and reach.

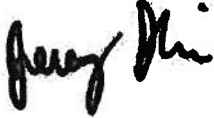
Provided the City will not require Association approval for the enclosure, Leeward Point does not plan on objecting to the variance on technical, legal grounds based on who was or was not joined as a party for the variance.

September 14, 2020

Page 2

Thank you very much for your consideration. We look forward to hearing from you shortly.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeremy Shir". The signature is written in a cursive, slightly slanted style.

Jeremy B. Shir
For the Firm

CC: ***Outside Counsel for City Hillah Mendez, Esq.***
Rob Rubinstein, Esq.
Alberto Olivera, President Leeward Point
City Clerk Andrise Bernard

Jeremy B. Shir, Esq.
Attorney at Law
Phone: (954) 364-6028 Fax: (954) 985-4176
jshir@beckerlawyers.com



Becker & Poliakoff
1 East Broward Blvd., Suite 1800
Ft. Lauderdale, FL 33301

August 10, 2020

Via Email: NMBCOMDEV@citynmb.com

Justin Proffitt
Community Development Director
North Miami Beach
17050 NE 19th Avenue, 1st Floor
North Miami Beach, FL 33162

RE: *Leeward Point Condominium, Inc. ("Leeward Point") Opposition to Variance Application at 16454 NE 27th Pl, Unit #37, located within Leeward Point Condominium in North Miami Beach, Florida*

Dear Mr. Proffitt:

Becker and Poliakoff has recently been retained by Leeward Point Condominium, Inc. ("Leeward Point") in opposition to the setback variance application filed at 16454 NE 27th Pl, located within the Leeward Point Condominium. It is acknowledged by all parties that the subject enclosure was built illegally without permits, city approvals, or condominium approval, and that the applicant is only now coming forward to obtain retroactive permits and approvals for the as-built structure. What is even more troubling however, is the fact that the applicant is not permitted to proceed legally as they are not the owner or a bona fide purchaser of the subject property. The property in question is a balcony that was illegally enclosed and attached to Unit #37; subject to the Governing Documents of Leeward Point, the balcony is considered a "Limited Common Element" and is owned by all of the residents of the community, pursuant to their ownership percentages. Maintenance and liability of portions of the limited common element may be the responsibility of the Association or of the owner. The applicant has not obtained any Condo approval to proceed and thus the application as presented has a material defect and must be denied. We recommend that the applicant meet with the duly elected Board of Directors to determine what options there may be to move forward.

The Governing Documents of the Association clearly state that balconies are considered limited common elements. They require Board approval and possibly resident approval for alterations and changes. The applicant has been noticed of this requirement.

Additionally, Section 24-176 of the City Code specifically states that part of the application package requires verification of the applicant's interest in the property, including verification that he is the legal owner or a prospective owner having a bona fide purchase contract. The applicant is neither in this case, as stated it is a limited common element, not a portion of the unit. There is ample case law regarding failure of local governments to follow their own Code.

The City permit application requires Condo approval, which has not been provided; in the permit form submitted, the applicant clearly states that documents are missing. Selective enforcement of the law is not required and all documents must be submitted. The staff report omits to mention the missing documentation.

Approval of this application would create a bad precedent, incentivizing future applicants to build without approvals and permits, and seek it retroactively. From a planning perspective, we have not seen the site plan of Leeward Point, and thus we do not know if there are any additional restrictions on habitable (residential) space or square footage, or FAR that may be violated. Further research must be done.

With all the aforementioned reasons, we respectfully request that this application be denied.

Thank you very much for your consideration. We look forward to hearing from you shortly.

Very truly yours,



Jeremy B. Shir
For the Firm

CC: **City Attorney Dan Espino, Esq.**
Mario Duron, City Planner
Rob Rubinstein, Esq.
Rachel Streitfeld, Esq.
Alberto Olivera, President Leeward Point
City Clerk Andrise Bernard

From: [Maria Cabada](#)
To: [Maria Cabada](#); [NMBCOMDEV](#)
Subject: Fwd: APPROVAL OF ATRIUM ENCLOSURE -NON USE VARIANCE APPROVAL -16454 NE 27TH , 27 PL. , N MIAMI BEACH, FL. 33160 -PUBLIC HEARING AUGUST 10, 2020
Date: Monday, August 10, 2020 8:05:51 AM

Subject: APPROVAL OF ATRIUM ENCLOSURE -NON USE VARIANCE APPROVAL
-16454 NE 27TH , 27 PL. , N MIAMI BEACH, FL. 33160 -PUBLIC HEARING AUGUST 10,
2020

To: Maria Cabada <mcabada1956@gmail.com>

Dear Sirs;

Before you approve the Non-Use Variance of glass atrium enclosure in unit 16454 NE , 27 Place , owned by Mr. & Mrs. Chamo ,

I would like for the Planning and Zoning Board to verify that the Building Department has inspected this glass atrium enclosure being proposed for a variance to make sure it is a safe glass structure.

This glass atrium was built approximately in 1996 and was not inspected by the building department at that time because it was built without a building permit. The glass on this structure is not impact glass.

We don't know if this structure was designed by a structural engineer or an architect , how it was is secured or attached to the building , etc.

It is quite a large glass atrium structure (as you can see on the pictures below) , not very common , probably more adequate for a private house than for a townhouse in a condominium complex.

This is the only unit, in our 41 units complex , that has a glass atrium enclosure. This enclosure adds approximately 500 SF of living space to the unit.

Many years have passed since this atrium was built and fortunately a hurricane didn't hit our community but I am afraid this structure could implode if hit by strong hurricane winds. I haven't seen any repairs being done to this enclosure (for reinforcement) during the last 20 years. Does the City has a report from an engineer or architect stating that this enclosure(glass and metal framing) is safe?

This structure cannot be protected with plywood or shutters in case a hurricane is approaching our area.

I wish my neighbors the best, my only request is that the City verifies this structure is safe. My townhouse is next door and I worry about my structure being affected if this glass enclosure is not safe and a hurricane hits. If the City feels this glass structure is safe , I will be very relieved. As a matter of fact, I am sure that many of the owners in our community would like to have a similar enclosure attached to their townhouses, if allowed, as they will be able to increase their property values and add additional living space to their units. To protect the integrity of our community we just need to make sure that any additions built and attached to our townhouses are inspected and structurally safe.

Thank you,

Maria Cabada

16462 NE 27 Pl, unit 36

N Miami Beach Fl

33160





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Duron, Mario F.

From: NMBCOMDEV
Sent: Friday, August 07, 2020 4:20 PM
To: 'Hillah Mendez'; 'Rachel Streitfeld'
Subject: FW: 16454 NE 27 Place
Attachments: 0024_200214162642_001.pdf

FYI

Mario Duron, AICP | *Associate Planner*
City of North Miami Beach
Community Development
T (305) 948-2966
F (305) 787-6015



17011 NE 19th Avenue, North Miami Beach, FL 33162 | www.citynmb.com | City NMB on Social Media:   

From: Tracy Leppo [mailto:tracyleppo@bellsouth.net]
Sent: Friday, August 07, 2020 2:27 PM
To: NMBCOMDEV <NMBCOMDEV@citynmb.com>; Tracy Leppo <tracyleppo@bellsouth.net>
Subject: 16454 NE 27 Place

To: City North Miami Beach Code Enforcement

Re: Alan & Vanessa Chamos request for condo variance

I was the manager and owner of the condo management company that serviced Leeward Point Condominium from 2013 thru September 2019.

A group of current owners at Leeward Point approached me and ask me to lay out the facts on this matter. And to express there request for denial. They all were afraid of retaliation if their names were released. Unfortunately this is a matter that Unit #37 owners knew could happen.

At the meeting in which the new owners were approved we discussed in detail the illegal balcony enclosure.

I would like to bring to your attention when Alan & Vanessa Chamos purchased the unit, Vanessa was told that the atrium was illegal and if a city violation occurred in the future she may have to replace it. The Board indicated that they would not report them but that she was aware of the possibility. She did signed a receipt saying she read our condo docs and agrees to abide by them. Leeward Point Condominium Articles has a specific Deed Restriction on any alterations to the second story balcony area. It's in the form of a Deed Restriction that can not ever be changed. (See Exhibit A) attached to email

Subsequent, as a result of a lawsuit against their neighbor, the Board became aware of the Deed Restriction related to the enclosure. Vanessa was also told if city of North Miami Beach notified them that their unit was in violation of code that she may have to restore the property back to what it was originally

She was told 100 % of the unit owners would have to approve the atrium.

I am emailing this letter to the city as a number of unit owners wanted the city to know the truth about the atrium as Leeward Point owners did not want to be compromised

REQUEST DENIAL OF VARIANCE

THANK YOU

Tracy Leppo

Property Manager

T.L. Property Services, Inc.

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From: Juan Pablo <jpcatanzaro@gmail.com>
Sent: Tuesday, July 14, 2020 3:34 PM
To: Proffitt, Justin <Justin.Proffitt@citynmb.com>
Cc: rachel@brightsidelegalfi.com; achamo@gmail.com; vanesapirola@avantiway.com
Subject: Variance for 16454NE 27th Place North Miami Beach fl, 33160

I Juan Pablo reside at 2739 NE 164 th North Miami Beach Beach, Florida 33160.
I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at [16454 NE 27th Place North Miami Beach, Florida 33160](#).
Further, I support the requested variance because any construction activity that may be requires in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of same.

Sincerely,

Juan Pablo.

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From: Katie McCrath <katie.mccrath@gmail.com>
Sent: Tuesday, July 14, 2020 1:21 PM
To: Proffitt, Justin <Justin.Proffitt@citynmb.com>
Subject: Variance for 16454NE 27th Place North Miami Beach fl, 33160

I, Katie McCrath, reside at 2757 NE 165th Terrace North Miami Beach Beach, Florida 33160.

I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at 16454 NE 27th Place North Miami Beach, Florida 33160.

Further, I support the requested variance because any construction activity that may be required in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of same.

Sincerely,

Katie McCrath

--

Katie McCrath
katie.mccrath@gmail.com

"The Glory of God is man fully alive"

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From: Maritza Chilelli <chilelli.mari@gmail.com>
Sent: Tuesday, July 14, 2020 12:57 PM
To: Proffitt, Justin <Justin.Proffitt@citynmb.com>
Cc: rachel@brightsidelegalfl.com; achamo@gmail.com; vanesapirola@avantiway.com
Subject: Variance for 16454NE 27th Place North Miami Beach fl, 33160

I Maritza Chilelli, reside at 16446 NE 27th Pl, unit 38, North Miami Beach Beach, Florida 33160.

I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at 16454 NE 27th Place North Miami Beach, Florida 33160.

Further, I support the requested variance because any construction activity that may be required in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of the same.

Sincerely,

Maritza Chilelli

Maritza Chilelli

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From: sebastian celentano <celentano_seba@hotmail.com>

Sent: Tuesday, July 14, 2020 12:41 PM

To: Proffitt, Justin <Justin.Proffitt@citynmb.com>

Cc: rachel@brightsidelegalfl.com; achamo@gmail.com; vanesapirola@avantiway.com

Subject: Variance for 16454NE 27th Place North Miami Beach fl, 33160

I, Sebastian Celentano reside at 2707 NE 164 st North Miami Beach Beach, Florida 33160.

I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at [16454 NE 27th Place North Miami Beach, Florida 33160](#).

Further, I support the requested variance because any construction activity that may be requires in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of same.

Sincerely,

Sebastian Celentano

Sent from my iPhone

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Duron, Mario F.

From: Rachel Streitfeld <rachel@brightsidelegalfl.com>
Sent: Wednesday, July 15, 2020 11:36 AM
To: Maritza Chilelli
Cc: Proffitt, Justin; Alan Chamo; Vanesa Pirola
Subject: Re: Variance for 16454NE 27th Place North Miami Beach fl, 33160

Received, thank you.

On Tue, Jul 14, 2020 at 12:57 PM Maritza Chilelli <chilelli.mari@gmail.com> wrote:

I Maritza Chilelli, reside at 16446 NE 27th Pl, unit 38, North Miami Beach Beach, Florida 33160. I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at 16454 NE 27th Place North Miami Beach, Florida 33160. Further, I support the requested variance because any construction activity that may be required in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of the same.

Sincerely,

Maritza Chilelli

Maritza Chilelli

--

Rachel A. Streitfeld, Esq.
Founding Partner, Bright Side Legal
1455 N. Treasure Drive
Suite 70
North Bay Village, FL 33141
(954) 290-8600
rachel@brightsidelegalfl.com

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Duron, Mario F.

From: Rachel Streitfeld <rachel@brightsidelegalfl.com>
Sent: Wednesday, July 15, 2020 11:36 AM
To: Mark Pranzini
Cc: Proffitt, Justin; Alan Chamo; Vanesa Pirola
Subject: Re: Variance for 16454NE 27th Place North Miami Beach fl, 33160

Received, thank you.

On Tue, Jul 14, 2020 at 12:55 PM Mark Pranzini <markpranzini@mac.com> wrote:

I Mark Pranzini, reside at 16467 NE 27th Ave, North Miami Beach, Florida 33160. I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at 16454 NE 27th Place, North Miami Beach, FL 33160. Further, I support the requested variance because any construction activity that may be requires in the event the variance is not approved would cause harm to property and disturb my quite enjoyment of the same.

Sincerely,

Mark Pranzini

--

Rachel A. Streitfeld, Esq.
Founding Partner, Bright Side Legal
1455 N. Treasure Drive
Suite 70
North Bay Village, FL 33141
(954) 290-8600
rachel@brightsidelegalfl.com

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Duron, Mario F.

From: Rachel Streitfeld <rachel@brightsidelegalfl.com>
Sent: Wednesday, July 15, 2020 11:36 AM
To: sebastian celentano
Cc: Proffitt, Justin; achamo@gmail.com; vanesapirola@avantiway.com
Subject: Re: Variance for 16454NE 27th Place North Miami Beach fl, 33160

Received, thank you.

On Tue, Jul 14, 2020 at 12:40 PM sebastian celentano <celentano_seba@hotmail.com> wrote:

I, Sebastian Celentano reside at 2707 NE 164 st North Miami Beach Beach, Florida 33160. I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at 16454 NE 27th Place North Miami Beach, Florida 33160. Further, I support the requested variance because any construction activity that may be requires in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of same.

Sincerely,

Sebastian Celentano

Sent from my iPhone

--
Rachel A. Streitfeld, Esq.
Founding Partner, Bright Side Legal
1455 N. Treasure Drive
Suite 70
North Bay Village, FL 33141
(954) 290-8600
rachel@brightsidelegalfl.com

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Duron, Mario F.

From: Rachel Streitfeld <rachel@brightsidelegalfl.com>
Sent: Wednesday, July 15, 2020 11:36 AM
To: gerard etienne zapala
Cc: Proffitt, Justin; Alan Chamo; Vanesa Pirola
Subject: Re: Variance for 16454NE 27th Place North Miami Beach fl, 33160

Received, thank you.

On Tue, Jul 14, 2020 at 1:59 PM gerard etienne zapala <gz@luc.net> wrote:

I Gerard E ZAPALA reside at 16494 NE 27TH PLACE North Miami Beach Beach, Florida 33160. I do hereby waive any all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at 16454 NE 27th Place North Miami Beach, Florida 33160. Further, I support the requested variance because any construction activity that may be requires in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of same.

Envoyé depuis mon mobile.

--

Rachel A. Streitfeld, Esq.
Founding Partner, Bright Side Legal
1455 N. Treasure Drive
Suite 70
North Bay Village, FL 33141
(954) 290-8600
rachel@brightsidelegalfl.com

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Duron, Mario F.

From: jazz shadeandsound.com <jazz@shadeandsound.com>
Sent: Wednesday, July 15, 2020 2:16 PM
To: Proffitt, Justin
Cc: rachel@brightsidelegalfl.com; achamo@gmail.com; vanesapirola@avantiway.com
Subject: Variance for 16454NE 27th Place North Miami Beach fl, 33160

I Jasem Almanla reside at 2719 NE 164th St, North Miami Beach, Florida 33160.

I do hereby waive any and all objections to the variance requested by my neighbors Mr. Alan Chamo and Ms. Vanesa Pirola to legalize the existing rear glass enclosure at their home at [16454 NE 27th Place North Miami Beach, Florida 33160](#).

Further, I support the requested variance because any construction activity that may be required in the event the variance is not approved would cause harm to my property and disturb my quiet enjoyment of same.

Sincerely,

Jasem Almanla



SHADE & SOUND

1830 N.E. 144th St.
North Miami, FL 33181

O: (305) 438-0011

C: (305) 807-1633

jazz@shadeandsound.com

www.shadeandsound.com

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