

MIAMIBEACH

PLANNING DEPARTMENT

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139
Tel: (305) 673-7550

May 21, 2024

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

1100 West Investments LLC
2200 Biscayne Boulevard
Miami, FL 33137

Re: Cure Letter regarding Planning Board File No. PB0616-0034, a.k.a. PB File No. 1898 - 1100 West Avenue.

Dear Sir/Madam:

On October 28, 2008, a Conditional Use Permit (CUP) was issued to the subject property for a Neighborhood Impact Establishment, which was subsequently modified several times. On January 22, 2019, the Planning Board and the applicant agreed to an amendment to the CUP, allowing access to areas subject to the modified CUP for inspection by the city, as a result of a prior Cure Letter (see attached CUP).

On March 28, 2024, a cure letter was issued to the subject property and a progress report was scheduled for the April 25, 2024 Planning Board meeting. Subsequent to the issuance of the cure letter on March 28, 2024, the Planning Department has been made aware of the following violations that have been issued to the subject property:

CUP2024-00072, 4/6/2024, 11:36pm - Status: Appealed

I was dispatched to 1100 West Ave on a noise complaint for loud music. Upon my arrival, I raised CCA Russell to see if the complainant Joell wanted to meet. He did not. I proceeded to survey for loud music from the complainant's address behind 1000 West. I heard loud Latin music immediately when I went behind the building and it grew louder as I walked toward 1100 West. I walked over to 1100 West and spoke with the manager Marc who got the head of security to take me back to where the music was playing. There was a live band playing Latin music with a drummer in the back. While I was there two more loud music complaints came in. They were asked to turn off the music and the hotel staff had it turned off. I advised Marc that the hotel would be getting a noise violation (NC2024-28056) and a Conditional Use Permit violation. He signed for both and I answered his questions. M. Flesher / 762

For the conditional use permit violation, they are in violation of the noise ordinance, in violation of using percussion instruments outside, and for having a live band without a special event permit. M. Flesher / 762

(1) Sections: 142-153, 118-194, 114-8. Failure to operate your business in accordance with your conditional use permit.

REF: Violating the terms of the conditional use permit by violating the noise ordinance,

violating condition J by using percussion instruments outdoors on the premises, violating condition L. by having a live band without a special event permit. 1st offense BWC Used M. Flesher / 762



Photo from code case CUP2024-00072

NC2024-28056, 4/6/2024, 10:28 pm

Arrival time: 10:28 PM

Departure time: 12:30 AM

I was dispatched to 1100 West Ave on a noise complaint for loud music. Upon my arrival, I raised CCA Russell to see if the complainant Joell wanted to meet. He did not. I proceeded to survey for loud music from the complainant's address behind 1000 West. I heard loud Latin music immediately when I went behind the building and it grew louder as I walked toward 1100 West. I walked over to 1100 west and spoke with the manager Marc who got the head of security to take me back to where the music was playing. There was a live band playing Latin music. While I was there two more loud music complaints came in. They were asked to turn off the music and the hotel staff had it turned off. I advised Marc that the hotel would be getting a noise violation and a Conditional Use Permit violation (CUP2024-00072). He signed for both and I answered his questions.

Complainant did not want to meet

Written warning notice

Reference: Unreasonably loud and excessive music heard from behind 1000 west

BWC Used. M. Flesher / 762

CUP2024-00073, 4/27/2024, 5:52pm - Status: Appealed

An inspection, prompted from a phone complaint from Dispatch, revealed the following: Upon my arrival to the complainant's location, 1200 West Ave., I heard no music. I stepped onto the rear

pool area and faint music is heard. I walk through the pool deck towards the shared gate between 1200 and 1100 West Ave. As I approach the gate music is heard but it is not loud or excessive. The complainant did not want to meet. I could not gauge the noise level from their vantage point. As a courtesy, I went to 1100 West Ave. and spoke to the Security Officer, India. India escorted me to the pool area and I observed the DJ lower the music/bass levels.

Due to the presence of a DJ, a Notice of Violation for violating condition 7(n) of the Conditional Use permit is issued.

Sections: 142-153, 118-194, 114-8. Failure to operate your business in accordance with your conditional use permit.

REF: DJ operating in the pool area. This is in violation of condition 7(J) in the Conditional Use Permit (CUP). CUP Condition Notice of Violation issued, Body worn camera footage captured, photos taken,
CCO AL Pena 746



Photo from code case CUP2024-00073

The following conditions of approval contained in the Conditional Use Permit are applicable to the above noted noise complaints:

1. The Planning Board shall maintain jurisdiction of this Conditional Use Permit. The Board reserves the right to modify the Conditional Use approval at the time of a progress report in a non-substantive manner, to impose additional conditions to address possible problems and to determine the timing and need for future progress reports. This Conditional Use is also subject to modification or revocation under City Code Sec. 118-194 (c).
3. The conditions of approval for this Conditional Use Permit are binding on the applicant, the property owners, operators, and all successors in interest and assigns.

5. With respect to the operation of the property, 1100 West Investments, LLC and its affiliates, are in addition to the applicant, responsible for compliance with the conditions.
- 7.i. No speakers shall be affixed to and located on the exterior of the premises, except as may be required for fire or building code purposes, and except for the ground installed speakers such as the Bose FreeSpace 360P Series II Loudspeaker (or substantial equivalent) as described in The Audio Bug, Inc.'s report dated September 19, 2008, intended to limit noise disbursement with the intent to distribute sound within a limited radius of each speaker, with sound projected downward or laterally not vertically. Additional speakers may be added to more evenly distribute sound, provided that:
- (i) Such speakers are consistent with the type of speakers described in the aforementioned report,
 - (ii) The location of such speakers are consistent with The Audio Bug, Inc.'s design plan for the pool deck dated September 10, 2013, and
 - (iii) The volume of the music shall not exceed background levels. For purposes of this provision, "background levels" shall mean levels that do not interfere with normal conversation.

With the exception of the covered areas in the exterior of the Property (including the cabanas), no audio amplified equipment shall be operated on the Pool Deck later than 10:00 p.m. Sundays through Thursdays and 11:00 p.m. Fridays and Saturdays. Audio amplified equipment may also be played until 11:00 p.m. on the Sunday that is closest in time to each of the following holidays: Thanksgiving, Christmas, New Year's Eve, Labor Day, Memorial Day, July 4th and Easter. With respect to said covered areas, no audio amplified equipment shall be operated beyond 2:00 a.m. No speakers shall be located on the property boundaries and all speakers shall be placed in such a way that they direct sound inward away from the neighboring properties.

- 7.j. In the exterior common areas, the use of percussion instruments shall not be permitted on the premises, outdoors on the premises, or on open air portions of the premises, or within any rooms or facilities operating on the premises with doors or windows that open directly onto the exterior except as explicitly permitted under a Special Event permit.
- 7.k. Portable audio or amplified equipment, (inclusive of loudspeakers, radio receivers, television sets, musical instruments, or other machines or devices for the producing or reproducing of sound) shall not be permitted on the pool deck or rooftop. But television sets will be allowed if their sound systems use the sound system described in paragraph 7(i).
- 7.l. No outdoor live music shall be permitted at any time, except as may be permitted in a valid Special Event permit issued by the City with prior notice to the adjoining properties upon application for such a permit and prior to its issuance. No such permit shall include the use of percussion instruments, as described in subsection 7(j), unless it is explicitly approved by the Special Event Permit. Any such Special Event Permit shall be for a private noncommercial party or charitable event and shall be limited to no more than one day in any given month and during national holidays.

- 7.n. Entertainment, as defined in Section 142-1361 of the Code of the City of Miami Beach, Florida, shall be prohibited on exterior portions of the property, except as may be permitted in a Special Event permit issued by the City.
- 7.r. In addition to the limitations specified herein, to the extent permitted by law, the 1100 West and successors and assigns shall prohibit on the premises noise that is prohibited under the City of Miami Beach noise ordinance, Chapter 46, Article IV, as it may be amended from time to time.
10. Only the sound system operated and controlled by hotel management shall be permitted. Any extraneous or independent sound system that may be brought by DJs, promoters, performers or any other individuals shall be strictly prohibited.
21. The Planning Board shall retain the right to call the operators back before them and modify the hours of operation or the occupant load should there be complaints about loud, excessive, unnecessary, or unusual late night noise.
22. A violation of Chapter 46, Article IV, "Noise," of the Code of the City of Miami Beach, Florida (a/k/a "noise ordinance"), as may be amended from time to time, shall be deemed a violation of this Conditional Use Permit and subject to the remedies as described in section 118-194, Code of the City of Miami Beach, Florida.
25. The establishment and operation of this Conditional Use shall comply with all the aforementioned conditions of approval; non-compliance shall constitute a violation of the Code of the City of Miami Beach, Florida, and shall be subject to enforcement procedures set forth in Section 114-7 of the Code and such enforcement procedures as are otherwise available. Any failure by the owner, applicant or operators to comply with the conditions of this Order shall also constitute a basis for consideration by the Planning Board for a revocation of this Conditional Use permit.

In accordance with Condition Nos. 21, 22 & 23 of the CUP, **you are requested to appear at the May 28, 2024 Planning Board hearing** for a verbal progress report.

Please be advised that, at the time of the last progress report on April 25, 2024, in accordance with the provisions of Section 2.5.2.5 of the Land Development Regulations of the City Code (LDR's), the Planning Board set a modification/revocation public hearing for June 25, 2024. Based on substantial competent evidence, the board may consider revoking the approval, modifying the conditions thereof, or imposing additional or supplemental conditions.

If you have any questions, please do not hesitate to contact Michael Belush at (305) 673-7000 ext. 26258 or via email at MichaelBelush@MiamiBeachFL.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tom Mooney', with a stylized flourish at the end.

Thomas R. Mooney, AICP
Planning Director

TRM\MB