

SUPREME COURT OF FLORIDA

CASE NO.: SC13-975, SC12-999
SC12-11 and SC13-333

Consolidated

Lower Tribunal No(s): 3D12-1860,
11-25874/ 3D11-2550/ 3D11-2550,08-40644/ 3D11-2280,11-10779

FILED
THOMAS D. HALL

2013 AUG 13 AM 9:55

CLERK, SUPREME COURT

BY _____

MATTIE LOM AX

Petitioner,

v.

BAYVIEW LOAN SERVICING, LLC

Respondent.

_____ /

PETITIONER'S JURISDICTIONAL BRIEF

MATTIE LOMAX, PRO SE
212 NW 15th STREET, #1
MIAMI, FLORIDA 33136
TELE NO: (305) 573-0702
EMAIL: SOLIDYES63@ATT.NET

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PREFACE

Respondent BAYVIEW LOAN SERVICING, LLC was the Appellees in the lower court and shall be referred to in the Brief as BAYVIEW LOAN SERVICING LLC.

Petitioner MATTIE LOMAX was the Appellant in the lower court and shall be referred to in this Brief as Petitioner.

STATEMENT OF THE FACTS AND THE CASE

BAYVIEW LOAN SERVICING, LLC was the prevailing party in and Landlord and tenant, eviction, foreclosure, injunctive relief and housing Discrimination complaint section 83 Florida Statutes. Following the rendition of the judgments on the merits, BAYVIEW LOAN SERVICING, LLC filed a motion for attorney fees under section 57.105 Florida Statutes.

The Petitioner motions was argued in a evidentiary hearing in the circuit court in which the eviction hearing was a fax hearing on the reference numbers above. At the conclusion of the hearings the trial judge found that the petitioner's complaint did not present a complete absence of any justifiable issue, and rendered an order granting eviction, denying injunctive relief and issuing bonds against Petitioner and dismissing the cases

An appeal was filed to the Third District of Appeal to review the trial Court order denying the respondent's motion for attorney's fees on all the above case's. The district court reverses the order of the trial court. The district court held that the respondent was entitled to fees under section 57.105 because "a substantial portion of this lawsuit and this appeal consisted of a legal controversy in which there was virtually a complete absence of a justifiable issue of either law or fact.

Rehearing was denied on all of the above cases and all of the same nature. Petitioner notice to invoke the discretionary jurisdiction of this court was timely filed on all case's.

SUMMARY OF THE ARGUMENT

In this case, the district court of appeal held that a prevailing party can be entitled to attorney's fees under section 57.105 Florida Statutes if only a part of the controversy was frivolous. The decision of the district court cannot be reconciled with the previous decision of this Court in Whitten v. Progressive Casualty Ins. Co., 410 So.2d 501 (Fla. 1982), wherein the court interpreted section 57.105 to require a complete absence of any justifiable issue. *See* Appendix, App.1, App.2, App.3 and App.4. Thus, the petitioner contends that the decision of the district court expressly and directly conflicts with a previous decision of the Court.

The Florida Supreme Court has discretionary jurisdiction to review a decision of a district court of appeal that expressly and directly conflicts with a decision of the Supreme Court or another district court of appeal on the same point of law. Art.V, § 3(b) (3) Fla.Const. (1980); Flair. App. P.9.030 (a) (2) (A) (iv).

Petitioner contained four counts, alleging nuisance, breach of lease, trespass with malicious injury to property, and eviction.

Where a tort has been committed, individual officers and agents of a corporations are personally liable to any third person even if such acts are performed within the scope of their employment or as corporate officers or agents. *See* Dade Roofing and Insulation Corp. v. Torres, 369 So.2d 98 (Fla. 3d DCA 1979).

ARGUMENT

THE DECISION OF THE DISTRICT COURT OF APPEAL IN THIS CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THE DECISION OF THIS COURT IN WHITTEN V. PROGRESSIVE CASUALTY INS. CO., 410 So.2d 501 (FLA.1982).

The district court of appeal interpreted section 57.105 Florida Statutes, to allow recovery of attorney's fees if only a part of a civil case did not present a justifiable issue. As explained below, the decision of the district court conflicts with a decision of this court holding that section 57.105 can support an award of fees only if there is a complete absence of any justifiable issue.

The petitioner respectfully submits that this court should grant discretionary review and resolve the conflict by quashing the decision of the district court.

In the decision of the district court reported as Muckenfuss v. Deltona Corp., 487 So.2d 1079 (Fla. 5th DCA 1986. In the initial decision of the trial judge was reversed. The district court remanded the case for the assessment of attorney's fees because:

a substantial portion of the lawsuit is against BAYVIEW LOAN SERVICING, LLC of the abandonment, foreclosure proceeding of being drop from any acknowledgement of the proceeding in which the petitioner was evicted from the presences where the violations occur with out a Business license of the property in which the appeal consisted of a legal controversy in which there was virtually a complete absence of a justifiable issue of either law or facts.

Thus, the district court has expressly held that attorney's fees are recoverable under section 57.105, even if only a part of the case meets the statutory standard for an award of fees.

The district court decision is in direct conflict with the decision of this Court in Whitten v. Progressive Casualty Ins. Co., 410 So.2d 501 (Fla.1982), wherein the court expressly stated that attorney's fees cannot be awarded under section 57.107 unless the trial court finds:

a total or absolute lack of a justifiable issue, which is tantamount to a finding that the action is frivolous and so clearly devoid of merit both on the facts and the law as to be completely untenable.

The ruling below is defended on the ground that facts necessary to disregard that corporate entity were not alleged. It is true that no such allegation were made; however, none were necessary; One purpose of the

corporate fiction is to insulate stockholders from liability for corporate acts; However, officers of a corporation are no less personally responsible for third tortuous acts by virtue of those acts having been performed in the corporate name. See Bush v. Belenke, 381 So.2d 315, 316 (Fla. 3d DCA 1980). CIC Leasing Corp. v. Dade County Linen and Furniture Co., 279 So.2d 73 (Fla. 3d DCA 1973).

This court correctly interpreted section 57.105 in *Whitten*, and the court should now reaffirm that interpretation by accepting discretionary review and quashing the contrary decision of the district court below.

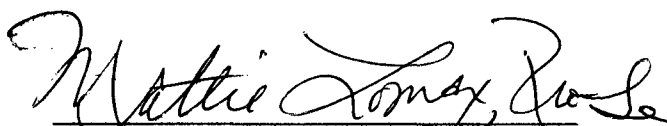
CONCLUSION

This court has discretionary jurisdiction to review the decision below, and the court should exercise that jurisdiction to consider the merits of the petitioners' argument.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this brief was furnished to the following counsel of record in the district court the United States Mail, on this 9th, August, 2013.

JOHN J. SHAHADY, B.C.S.
ATTORNEY FOR THE RESPONDENTS
200 S.W. 1ST AVENUE
SUITE 1200
FORT LAUDERDALE, FL 33301



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212 NW 15th STREET, #1
MIAMI, FLORIDA 33136
TELE NO: (305) 573-0702
EMAIL: SOLIDYES63@ATT.NET

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this brief complies with the font requirements of rule 9.210(a) (2) of the Florida Rules of Appellate Procedure.

A handwritten signature in cursive script that reads "Mattie Lomax Pro Se".

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SUPREME COURT OF FLORIDA

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Petitioner,

v.

BAYVIEW LOAN SERVICING, LLC

Respondent.

_____ /

**APPENDIX TO
PETITIONER'S JURISDICTIONAL BRIEF**

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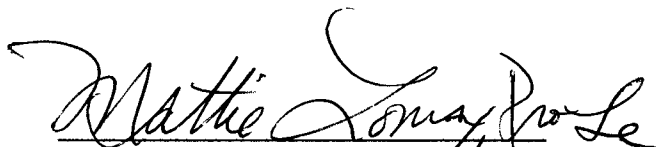
JOHN J. SHAHADY, B.C.S.
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FORT LAUDERDALE, FL 33301



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of rule 9.210(a) (2) of the Florida Rules of Appellate Procedure.



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APP.1

Dec 2, 08

RDOC

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

A

BAYVIEW LOAN SERVICING, LLC, a Delaware
Limited Liability Company,

Plaintiff,

CASE NO.: 13-2008-CA-040644(11)

vs.

LUCIANO MAESTU, UNKNOWN TENANT(S)
IN POSSESSION #1, #2, #3, #4, #5, #6, #7, #8,
#9, #10, #11 and #12, and ALL OTHER
UNKNOWN PARTIES, et.al

Defendant(s).

FILED
DEC 2 2008
CLERK

NOTICE OF DROPPING PARTIES

Plaintiff, BAYVIEW LOAN SERVICING, LLC, a Delaware Limited Liability Company
by and through undersigned counsel, hereby gives Notice of Dropping Defendant(s),
UNKNOWN TENANT(S) IN POSSESSION #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11 and #12,
as a party(s) to the above captioned matter.

Dated: December 2, 2008

POPKIN & ROSALER, P.A.
Attorney for Plaintiff
1701 West Hillsboro Boulevard
Suite 400
Deerfield Beach, FL 33442
Telephone: (954) 360-9030
Facsimile: (954) 420-5187

By:  004-1823
BRIAN L. ROSALER
Florida Bar No.: 0174882

THIS COMMUNICATION, FROM A DEBT COLLECTOR, IS AN ATTEMPT TO COLLECT
A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

APP.2

NOV 10 2009

City of Miami



November 10, 2009

CR: BB2009025952

LUCIANO MAESTU

LUCIANO MAESTU

123-39 NW 15 ST
MIAMI FL

331361913

123-39 NW 15 ST
MIAMI FL

331361913

Police: 0131360510450

Location of Violation: 123 NW 15 ST

NOTICE OF VIOLATION

Dear LUCIANO MAESTU

You are notified that an inspection of the above property discloses that you are in violation of the following laws, including:

VIOL REP# 7688-Failure to maintain a building or structure in a safe condition; failure to maintain devices or safeguards in good worki CHAPTER 8-11 OF THE CODE OF MIAMI-DADE C OUNTY
Correction: NEED TO OBTAIN 40/50 YEARS BUILDING RECERTIFICATION. CALL INSPECTOR JOSE SANCHEZ AT 305 416-1121 IF THERE ARE ANY QUESTIONS.

You are directed to correct said violation(s) by January 05, 2009 and to notify the inspector that the violation(s) has been corrected.

FAILURE TO CORRECT VIOLATION(S) WILL RESULT IN THE ISSUANCE OF A TICKET WHICH CAN PROVIDE A MONETARY PENALTY FROM \$50. UP TO \$500. PER DAY AND ADDITIONAL PENALTIES UP TO \$50. TO \$500. PER DAY FOR EACH DAY A VIOLATION REMAINS UNCORRECTED BEYOND THE TIME PERIOD PROVIDED.

UNPAID PENALTIES UNDER TICKETS ISSUED WILL BECOME A LIEN AGAINST THE PROPERTY. In addition, the Certificate of Use and Occupational License of any business occupying this property may be suspended or withheld. Operating a business without all required licenses is illegal under state and city law, and is punishable by criminal arrest and/or closing the business.

If you have any questions, please contact CEDRIC MAR at or visit him at 444 SW 2nd Ave, 4th floor, Miami, FL 33130.

CEDRIC MAR
Chief, Unsafe Structure Section.

City of Miami



JOSE C. SANCHEZ
Electrical Inspector III / Plans Examiner

DEPARTMENT OF BUILDING
444 S.W. 2nd Avenue, 4th Floor, Miami, FL 33130
(305) 416-1121 Fax: (305) 416-2168

City of Miami



ELISEO ARES
Plumbing Inspector III / Plans Examiner

DEPARTMENT OF BUILDING/Plumbing Section
444 S.W. 2nd Ave., 4th Floor Miami, FL 33130
(305) 416-1152

City of Miami



THOMAS CEDRE
Electrical Inspector III

DEPARTMENT OF BUILDING
444 S.W. 2nd Ave., 4th Floor/Miami, FL 33130
(305) 416-1190

City of Miami



NINO COLL
Chief Plumbing Inspector

DEPARTMENT OF BUILDING / Plumbing Section
444 S.W. 2nd Avenue, 4th Floor, Miami, FL 33130 (305) 416-1155

City of Miami



CEDRIC MAR
Chief

786-251-7179 CELL
DEPARTMENT OF BUILDING / Unsafe Structures
444 S.W. 2nd Avenue, 4th Floor, Miami, FL 33130
(305) 416-1191 Fax: (305) 416-2168

City of Miami



JESUS TARAJANO
Plumbing Inspector III / Plans Examiner

DEPARTMENT OF BUILDING / Plumbing Section
444 S.W. 2nd Avenue, 4th Floor, Miami, FL 33130 (305) 416-1111

City of Miami



MARK BEILMAN
Building Inspector III

DEPARTMENT OF BUILDING
444 S.W. 2nd Avenue 4th Floor Miami, FL 33130
(305) 416-1157 / E-Mail: mbeilman@ci.miami.fl.us

City of Miami



RODGER RETTIG
Plumbing Inspector I

DEPARTMENT OF BUILDING / Plumbing Section
444 S.W. 2nd Ave., 4th Floor Miami, FL 33130
(305) 416-1126 / E-Mail: rrettig@ci.miami.fl.us

786-251-7165
cell phone

786-251-7179
cell phone

APP.3

Aug 29, 11



City of Miami

August 29, 2011

THE CITY OF MIAMI

vs.

Owner/Dueño/ Pwopryetè:
BAYVIEW LOAN SERVICING LLC
4425 PONCE DE LEON BLVD 5TH FL
CORAL GABLES FL 33146

C T CORPORATION SYSTEM
1200 SOUTH PINE ISLAND ROAD
PLANTATION FL 33324 11S

CODE ENFORCEMENT BOARD/ CUMPLIMIENTO
DEL CÓDIGO/
KOMITE DEGZEKISYON

CITY OF MIAMI, FLORIDA

Case No: CE2011016580

Address: 123 NW 15 ST
Zoning: 18
Folio: 0131360510450

Legal: WADDELLS RESUB PB 1-169
LOTS 22 & 23 BLK 38
LOT SIZE 60.000 X 125
OR 12413-1 0285 5
COC 26088-1199 11 2007 1
OR 26088-1199 1107 00

NOTICE OF VIOLATION SUMMONS TO APPEAR

Subject Property: 123 NW 15 ST, Folio: 0131360510450

You are hereby notified that an inspection of the above property discloses that you are in violation the following laws, including
VIOL REF# 2110- No Certificate of Use. Miami 21 ART 4 table 3,7.1.2 City Code 2-207

You were directed to correct said violation(s) by August 29, 2011 and to notify the Inspector that the violation(s) has been corrected. Failure to do so will result in charges being filed against you with the Code Enforcement Board of the City of Miami.
If the violation(s) is (are) not corrected with the approval of the inspector within the specified time period, you are hereby commanded to appear before the Code Enforcement Board for a hearing at the following time and place:

Date/Fecha/Dat: Nov 07, 2011,
Time/Hora/Lé: 09:00 AM
Place/Lugar/Kote a: Commission Chambers, City Hall / Despacho del Concejo, Ayuntamiento
3500 Pan American Drive, Miami, Florida

If you cannot communicate in English, you are responsible for bringing a translator, 18 years of age or over, to the Code Enforcement Board Hearing.

In accordance with the Americans with Disabilities Act of 1990, all persons who require special accommodations in order to participate in this meeting should contact the Office of the City Clerk at (305) 250-5360 at least three business days prior to the proceeding.

THIS IS YOUR NOTICE TO APPEAR AT THAT TIME AND PLACE. FAILURE TO APPEAR WILL RESULT IN THIS MATTER BEING HEARD IN YOUR ABSENCE. IF YOU ARE FOUND GUILTY AND YOU FAIL TO CORRECT SAID VIOLATION, THE CODE ENFORCEMENT BOARD CAN IMPOSE FINES AGAINST YOU OF UP TO \$250 PER DAY, OR \$500 PER DAY FOR A REPEAT VIOLATION. UNPAID FINES WILL BECOME LIENS AGAINST THIS PROPERTY AND ALL PROPERTIES YOU OWN, AND WILL BE RECORDED IN THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA. LIENS WHICH REMAIN UNPAID FOR THREE (3) MONTHS MAY BE FORECLOSED IN COURT. In addition, the Certificate of Use and Occupational License of any business occupying this property may be suspended or withheld. Operating a business without all required licenses is illegal under state and city law, and is punishable by criminal arrest

and/or closing the business.

ESTE ES SU AVISO PARA COMPARECER A LA HORA Y EN EL LUGAR INDICADO ANTERIORMENTE. SI NO COMPARECE, LA VISTA DE ESTA CAUSA SE CELEBRARÁ EN SU AUSENCIA. SI SE DETERMINA QUE ES CULPABLE Y NO SUBSANA DICHA INFRACCIÓN, LA JUNTA DE CUMPLIMIENTO DEL CÓDIGO PODRÁ IMPONERLE MULTAS HASTA DE \$250 DIARIOS O \$500 DIARIOS, SI SE REPITE LA INFRACCIÓN.

LAS MULTAS QUE NO SE PAGUEN SE CONVERTIRÁN EN GRAVÁMENES CONTRA ESTA PROPIEDAD Y CONTRA TODAS LAS PROPIEDADES QUE LE PERTENEZCAN Y SE REGISTRARÁN EN EL ARCHIVO PÚBLICO DEL CONDADO DE MIAMI-DADE, FLORIDA. LOS GRAVÁMENES QUE PERMANEZCAN SIN PAGAR DURANTE TRES (3) MESES PODRÁN EJECUTARSE EN EL TRIBUNAL. Además, se podrá suspender o denegar el Certificado de Uso y Licencia Ocupacional de los negocios que estén situados en la propiedad. Las leyes estatales y municipales disponen que es ilícito operar un negocio sin todas las licencias necesarias, y esto se castiga con arresto por comisión de delito y/o la clausura del negocio.

SA A, SE AVI POU OU OUMENM, POU OU PARÈT LÈ SA A EPI NAN KOTE SA A. SI OU PA PARÈT, SA AP LAKÒZ YO FÈ JIJMAN ANNABSANS OU. SI YO WÈ KE OU KROUPAB EPI OU PA KORJE VYOLASYON YO, KOMITE DEGZEKISYON AN KA PRAN SANKSYON POU FÈ OU PEYE AMANN JISKA \$250 PA JOU, OSNON \$500 PA JOU SI SE YON VYOLASYON KI TE FÈT DEJA.

SI AMANN YO PA PEYE, SA AP VIN LAKÒZ KE YO PASE LÒD POU LETA SEZI KOTE SA A ANSANM AK TOUT LÒT KOTE OU GENYEN, EPI YAP PIBLIYE SA NAN DOSYE PIBLIK DADE KONNTI, FLORID. APRE LÒD POU SEZI KOTE AN, SI TWA (3) PASE EPI AMANN NAN TOUJOU PA PEYE, YO KAPAB ALE NAN TRIBINAL POU SEZI KOTE AN. Lèfini yo kapab sispann osnon kenbe Sètifika pou sèvi (*Certificate of Use*) ansanm ak pèmi pou nan kote an (*Occupational License*) ke nenpòt biznis genyen. Se yon bagay ki ilegal pou moun opere yon biznis san tout pèmi yo dwe genyen dapre lalwa eta florid ak lwa vil lan, epi pinisyon pou sa se arestasyon kriminel ak/oswa fèmen biznis lan.

Name of Inspector: FRANCISCO MARCOS
Office Address: 444 SW 2 AV 7th Floor Miami, FL 33130
Office Phone Number: (305) 329-4800

If you have any questions, please contact the inspector at the above listed office phone number Monday through Friday.

by: _____
FRANCISCO MARCOS
City of Miami Code Enforcement Inspector

APP.4

2:38:07 PM 1/14/2012

Licensee Details

Licensee Information

Name: **ZIMBELMANN JR TRUSTEE (Primary Name)**
15TH ST JOINT VENTURE (THE) (DBA Name)

Main Address: **1497 NW 7 ST**
MIAMI Florida 33125

County: **DADE**

License Mailing: **1497 NW 7 ST**
MIAMI FL 33125

County: **DADE**

LicenseLocation: **123 NW 15 ST**
MIAMI FL 331361913

County: **DADE**

License Information

License Type: **Apartment**

Rank: **Nontran Apt**

License Number: **2303763H**

Status: **Delinquent,Active**

Licensure Date: **01/01/1901**

Expires: **10/01/2004**

Special Qualifications Qualification Effective

[View Related License Information](#)

[View License Complaint](#)

[View Recent Inspections](#)

Contact Us :: [1940 North Monroe Street, Tallahassee FL 32399](#) :: Call.Center@dbpr.state.fl.us :: Customer Contact Center:
 850.467.1395

The State of Florida is an AA/EEO employer. [Copyright 2007-2010 State of Florida. Privacy Statement](#)

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact the office by phone or by traditional mail. If you have any questions regarding DBPR's ADA web accessibility, please contact our Web Master at webmaster@dbpr.state.fl.us.

Dec 29 11

142-20-11
Page 1 of 2



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS
www.flsos.com/dopr

FOLLOW-UP INSPECTION REQUIRED
Inspector determined violations require further review, but are not an immediate threat to the public.

LOGGING INSPECTION REPORT
LEGAL NOTICE

Failure to comply with this Notice may initiate an administrative complaint that may result in suspension or revocation of your license and fines.
 12-29-11 10:00 AM
 Inspection Date and Time
 MARYVIVIAN SERVING LLC
 Owner/Operator Name
 MARYVIVIAN
 Restaurant Name
 12-29-11
 Inspection Number
 12-29-11
 Address/County / State / Zip / etc.

Complaint File
 Inspection Reason
 ADMINISTRATIVE COMPLAINT re: comm
 Inspection Result
 Callback Date/Time

2303783
 License Number
 305-490-4373
 Area Code/Telephone Number
 License Expiration
 MIAMI, 331361913

| | | | |
|-----------------------------|------------------------------------|---|--------------------------------|
| Item 01: Fire Extinguishers | Item 03: Sprinklers and Standpipes | Item 04: Alarm Systems Certification Date: n/a | Item 12: Balcony Certification |
|-----------------------------|------------------------------------|---|--------------------------------|

NOTE: Items searched above with an asterisk (*) indicate a violation
 Inspector's Comments

APARTMENT BUILDING OR HOTEL WHICH HAS THREE FLOORS OR MORE NEEDS A HANDRAIL AND BALCONY CERTIFICATION, WHICH CAN BE OBTAINED FROM DIVISION'S WEBSITE: www.flsos.com/dopr/formslodging-publications.html THE CERTIFICATION HAS TO BE POSTED IN CONSPICUOUS PLACE, YARDS, ALLEYS & DRIVEWAYS NEED TO BE KEPT CLEAN, AND MOVED. ELECTRICAL WIRING NEEDS TO BE KEPT IN GOOD REPAIR, NEED TO PROVIDE ADEQUATE VERMIN CONTROL, NEED TO HAVE THE WATER SOURCE, SAFE

I acknowledge receipt of this inspection form and contents.

12-30-11

Date: _____
 Recipient: _____
 Title: _____
 Phone: _____
 Signature of Recipient
 CERT. MAIL

Inspector Signature
 For further information please contact:
 Mohammed Khan
 6240 NW 52 Terrace #101 Miami, Florida 33166
 850-487-1386

| STATUS | SAFETY | STATUS | SAFETY |
|--------|--|--------|---|
| No | *01 Fire extinguisher/standpipe systems | Yes | *12 Balcony, railing safety; maintained |
| Yes | *02 Fire Hazards | No | 13 Building repair |
| Yes | *03 Sprinkler systems | Yes | 14 Proper locking devices |
| Yes | *04 Smoke detectors; fire alarm systems | STATUS | SANITATION |
| Yes | *05 Smoke detectors; hearing impaired | Yes | 15 Bathrooms; public; guest; supplies |
| Yes | *06 Exits; obstructions; exit signs; emergency exits | Yes | 16 Water source safe; hot/cold provided |
| Yes | *07 Electrical Deficiencies | Yes | 17 Bedding; bed items; towels |
| Yes | *08 Boiler, boiler room | Yes | 18 Household furnishings |
| Yes | *09 Lighting; public; guest rooms | Yes | 19 Plumbing |
| Yes | *10 Adequate Venting | Yes | 20 Ventilation |
| Yes | *11 Appliances properly installed; maintained | Yes | *21 Treads; stairs; use |

Violations marked with an asterisk are critical violations. Items marked YES are in compliance. Items marked NO are violations. Specific details of violation are listed on subsequent pages. Items marked N/A are Not Applicable. Items marked as NO are Not Observed, and were not being conducted at the time of inspection.
 DBPR Form HR 6022-014



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS
www.myflorida.com/dbpr

Page 2 of 3
License Number
NAFT 2303763
Business Name
BAYVIEW APTS
Inspection Date
12/30/11 09:08 AM

LODGING INSPECTION REPORT
LEGAL NOTICE

Failure to comply with this Notice may initiate an administrative complaint that may result in suspension or revocation of your license and fines.

| STATUS | SANITATION | STATUS | CONSUMER PROTECTION: |
|--------|--|--------|--|
| Yes | *22 Ice protection | Yes | 36 Telephone surcharge posted |
| Yes | *23 Glassware, tableware; utensils sanitized | Yes | 37 Guest Register |
| Yes | *24 Vermin control | | |
| No | 25 Premises maintained | STATUS | GENERAL |
| Yes | 26 Garbage and refuse disposal | No | *38 Current license, displayed, available upon request |
| Yes | *27 Sewage and waste water disposal | Yes | 39 Housekeeping |
| STATUS | CONSUMER PROTECTION | Yes | 40 Other conditions, safe, sanitary |
| Yes | 28 Guest property; liability, notified | Yes | 41 Posting operator service information |
| Yes | 32 Security deposit | Yes | 42 Blocking operator access |
| Yes | *33 Unethical business practice; overbooking | | |
| Yes | 34 Licenses; criminal conduct | | |
| Yes | 35 Florida Clean Indoor Air Act | | |

Violations marked with an asterisk are critical violations. Items marked YES are in compliance. Items marked NO are violations. Specific details of violation are listed on subsequent pages. Items marked N/A are Not Applicable. Items marked as N/O are Not Observed, and were not being conducted at the time of inspection.

Administrative Complaint(s):

38-02: Observed the establishment operating without a license. *

REFERENCE TEXT: 509.241(1) and (2) FS and 61C-1.002(6) FAC LICENSES; ANNUAL RENEWALS. Each public lodging establishment shall obtain a license from the division. Such licenses may not be transferred from one place or individual to another. Licenses shall be renewed annually.
APPLICATION FOR LICENSE.— Each person who plans to open a public lodging establishment . . . shall apply for and receive a license from the division prior to the commencement of operation. A condominium association, as defined in s. 718.108, which does not own any units classified as resort condominiums under s. 509.242(1)(c) shall not be required to apply for or receive a public lodging establishment license. It is the responsibility of the licensee to renew the license prior to the expiration date. Any public lodging establishment operating on an expired license is deemed to be operating without a license, and subject to the penalties provided for this offense in law and rule.

Violation(s):

25-01: Observed trash/debris on the ground.

25-01: Observed an overgrown lawn with tall grass/woods.

25-02: Observed discarded equipment stored outside the building.

13-01: Observed a broken window.

13-01: Observed rotted wood.

13-01: Observed the ceiling bulging/hanging down.

13-01: Observed a hole in the ceiling.



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS
www.myflorida.com/dbpr

LODGING INSPECTION REPORT
LEGAL NOTICE

Page 3 of 3
License Number
NAPT 2303763
Business Name
BAYVIEW APTS
Inspection Date
12/30/11 09:08 AM

Failure to comply with this Notice may initiate an administrative complaint that may result in suspension or revocation of your license and fines.

13-01:Observed a door in disrepair.

13-01:Observed the floor in disrepair.

01-03-2:Observed an appropriately sized fire extinguisher is missing. For reporting purposes only.

Data Contained In Search Results Is Current As Of 01/14/2012 02:26 PM.

Search Results

Please see our [glossary of terms](#) for an explanation of the license status shown in these search results.

For additional information, including any complaints or discipline, click on the name.

| License Type | Name | Name Type | License Number/ Rank | Status/Expires |
|--------------|------------------------------------|----------------------------------|-------------------------|----------------------------------|
| Apartment | <u>15TH ST JOINT VENTURE (THE)</u> | DBA | 2303763H Nontran Apt | Delinquent, Active 10/01/2004 |
| | License Location Address*: | 123 NW 15 ST MIAMI, FL 331361913 | | |
| | Main Address*: | 1497 NW 7 ST MIAMI, FL 33125 | | |
| | Mailing Address*: | 1497 NW 7 ST MIAMI, FL 33125 | | |
| Apartment | <u>ZIMBELMANN JR TRUSTEE</u> | Primary | 2303763H Nontran Apt | Delinquent, Active 10/01/2004 |
| | License Location Address*: | 123 NW 15 ST MIAMI, FL 331361913 | | |
| | Main Address*: | 1497 NW 7 ST MIAMI, FL 33125 | | |
| | Mailing Address*: | 1497 NW 7 ST MIAMI, FL 33125 | | |

[Back](#) [New Search](#)

* denotes

- Main Address - This address is the Primary Address on file.
- Mailing Address - This is the address where the mail associated with a particular license will be sent (if different from the Main or License Location addresses).
- License Location Address - This is the address where the place of business is physically located.

Contact Us :: [1940 North Monroe Street, Tallahassee FL 32399](#) :: Call.Center@dbpr.state.fl.us :: Customer Contact Center: 850.487.1395

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